

SECTION 00 52 43
AGREEMENT FOR EMERGENCY PROCUREMENT OF
30-INCH WATER MAIN BREAK AT THE LANCASTER AVENUE / COLLIER STREET
INTERSECTION

THIS AGREEMENT is made by and between the City of Forth Worth, a Texas home rule municipality, acting by and through its duly authorized City Manager, (“City”), and William J. Schultz, Inc. d/b/a Circle “C” Construction Company, authorized to do business in Texas, acting by and through its duly authorized representative, (“Contractor”). City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

Contractor shall complete all Work as specified or indicated in the “Contract Documents” attached hereto or specifically referenced herein, for the Project described below.

Article 2. PROJECT

The “Project” is generally as follows: Perform emergency repairs for the 30-inch water main repair at the Lancaster Avenue / Collier Street intersection and replace the 30-inch water main on Collier Street.

The Work is detailed in attached work plan and in city specifications sections 33 05 10, 33 04 40, 33 11 05, 33 11 13, 33 12 25, 33 05 20, 33 05 22.

Article 3. CONTRACT TIME

Time is of the essence.

Contractor recognizes that time is of the essence and the Contractor will be required to remain at each jobsite until the pavement repair is complete. The City expects the Contractor to have a sense of urgency to complete repairs as soon as possible.

Article 4. CONTRACT PRICE

City agrees to pay Contractor for performance of the Work, based on Contractor’s invoices, an amount up to Eight Hundred Thousand Dollars (\$800,000.00). This figure may be adjusted up or down as final invoices are received.

Article 5. CONTRACT DOCUMENTS

5.1 CONTENTS:

- A. The Contract Documents which comprise the entire agreement between City and Contractor concerning the Work consist of the following:
1. This Agreement.
 2. Exhibits to this Agreement:
 - a. Evidence of Current Insurance
 - b. Current Prevailing Wage Rate Table
 - c. Memorandum of Emergency Authority
 3. General Conditions incorporated by reference

OFFICIAL RECORD
CITY SECRETARY
FT. WORTH, TX

Article 6. INDEMNIFICATION

- 6.1 Contractor covenants and agrees to indemnify, hold harmless and defend, at its own expense, the city, its officers, servants and employees, from and against any and all claims arising out of, or alleged to arise out of, the work and services to be performed by the contractor, its officers, agents, employees, subcontractors, licenses or invitees under this contract. This indemnification provision is specifically intended to operate and be effective even if it is alleged or proven that all or some of the damages being sought were caused, in whole or in part, by any act, omission or negligence of the city. This indemnity provision is intended to include, without limitation, indemnity for costs, expenses and legal fees incurred by the city in defending against such claims and causes of actions.
- 6.2 Contractor covenants and agrees to indemnify and hold harmless, at its own expense, the city, its officers, servants and employees, from and against any and all loss, damage or destruction of property of the city, arising out of, or alleged to arise out of, the work and services to be performed by the contractor, its officers, agents, employees, subcontractors, licensees or invitees under this contract. This indemnification provision is specifically intended to operate and be effective even if it is alleged or proven that all or some of the damages being sought were caused, in whole or in part, by any act, omission or negligence of the city.

Article 7. MISCELLANEOUS

7.1 Terms.

Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

7.2 Assignment of Contract.

This Agreement, including all of the Contract Documents may not be assigned by the Contractor without the advanced express written consent of the City.

7.3 Successors and Assigns.

City and Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.

7.4 Severability/No Waiver.

Any provision or part of the Contract Documents held to be unconstitutional, void or unenforceable by a court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CITY and CONTRACTOR.

Failure by City or Contractor to enforce any provision of this Agreement shall not render that provision un-enforceable should there be a future breach.

7.5 Governing Law and Venue.

This Agreement, including all of the Contract Documents is performable in the State of Texas. Venue shall be Tarrant County, Texas, or the United States District Court for the Northern District of Texas, Fort Worth Division.

7.6 Other Provisions.

7.6.1 City Wage Rate. The Contractor agrees to pay at least minimum wage per hour for all labor as the same is classified, promulgated and set out by the City.

7.6.2 Non-appropriation of Funds. In the event no funds or insufficient funds are appropriated by City in any fiscal period for any payments due hereunder, City will notify Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever, except as to the portions of the payments herein agreed upon for which funds have been appropriated.

7.6.3 Prohibition On Contracts With Companies Boycotting Israel. Contractor, unless a sole proprietor, acknowledges that in accordance with Chapter 2271 of the Texas Government Code, if Contractor has 10 or more full time-employees and the contract value is \$100,000 or more, the City is prohibited from entering into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The terms "boycott Israel" and "company" shall have the meanings ascribed to those terms in Section 808.001 of the Texas Government Code. **By signing this contract, Contractor certifies that Contractor's signature provides written verification to the City that if Chapter 2271, Texas Government Code applies, Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.**

7.6.4 Prohibition on Boycotting Energy Companies. Contractor acknowledges that in accordance with Chapter 2274 of the Texas Government Code-(as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more, which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of the contract. The terms "boycott energy company" and "company" have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 13, § 2). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Contractor certifies that Contractor's signature provides written verification to the City that Contractor: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement.**

7.6.5 Prohibition on Discrimination Against Firearm and Ammunition Industries. Contractor acknowledges that except as otherwise provided by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1), the City is prohibited from entering into a contract for goods or services that has a value of \$100,000 or more which will be paid wholly or partly from public funds of the City, with a company (with 10 or more full-time employees) unless the contract contains a written verification from the company that it: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The terms “discriminate,” “firearm entity” and “firearm trade association” have the meaning ascribed to those terms by Chapter 2274 of the Texas Government Code (as added by Acts 2021, 87th Leg., R.S., S.B. 19, § 1). **To the extent that Chapter 2274 of the Government Code is applicable to this Agreement, by signing this Agreement, Contractor certifies that Contractor’s signature provides written verification to the City that Contractor: (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.**

7.6.6 Immigration Nationality Act. Contractor shall verify the identity and employment eligibility of its employees who perform work under this Agreement, including completing the Employment Eligibility Verification Form (I-9). Upon request by City, Contractor shall provide City with copies of all I-9 forms and supporting eligibility documentation for each employee who performs work under this Agreement. Contractor shall adhere to all Federal and State laws as well as establish appropriate procedures and controls so that no services will be performed by any Contractor employee who is not legally eligible to perform such services. **CONTRACTOR SHALL INDEMNIFY CITY AND HOLD CITY HARMLESS FROM ANY PENALTIES, LIABILITIES, OR LOSSES DUE TO VIOLATIONS OF THIS PARAGRAPH BY CONTRACTOR, CONTRACTOR’S EMPLOYEES, SUBCONTRACTORS, AGENTS, OR LICENSEES.** City, upon written notice to Contractor, shall have the right to immediately terminate this Agreement for violations of this provision by Contractor.

7.7 Authority to Sign.

Contractor shall attach evidence of authority to sign Agreement, if other than duly authorized signatory of the Contractor.

SIGNATURE PAGE AND ANY ATTACHMENTS/EXHIBITS TO FOLLOW

IN WITNESS WHEREOF, City and Contractor have executed this Agreement which is effective as of the date signed by the City's Assistant City Manager ("Effective Date").

CONTRACTOR:
WILLIAM J. SCHULTZ, INC. DBA CIRCLE "C"
CONSTRUCTION COMPANY

CITY OF FORT WORTH

By: Keegan Jonkers for
Name: Teri Skelly
Title: President

By: Dana Burghdoff
By: Dana Burghdoff (Aug 31, 2023 10:51 CDT)
Dana Burghdoff
Assistant City Manager

Date: August 25th, 2023

Date: Aug 31, 2023

Address:
500 W. Trammell PO Box 40328
Fort Worth, TX 76140

Attest:
Jannette S. Goodall
Jannette S. Goodall, City Secretary



(Seal)

APPROVAL RECOMMENDED:

M&C N/A (Attached 08/24/23 Emergency Memo)
Date: N/A (Attached 08/24/23 Emergency Memo)

Christopher Harder
Christopher Harder (Aug 25, 2023 15:46 CDT)
Christopher Harder, P.E.
Director, Water Department

Contract Compliance Manager:
By signing, I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.

Tony Sholola
Tony Sholola, P.E.
Assistant Director

Approved as to Form and Legality:
DBlack
DBlack (Aug 29, 2023 18:19 CDT)
Douglas W. Black
Sr. Assistant City Attorney



INTEROFFICE MEMO

Date: August 24, 2023

To: Dana Burghdoff, Assistant City Manager

From: Chris Harder, P.E., Water Director

Subject: EMERGENCY REPAIR – 30-INCH WATER MAIN BREAK AT THE LANCASTER AVENUE / COLLIER STREET INTERSECTION

On Thursday, August 17, 2023, a water main break erupted at the Lancaster Avenue/Collier Street intersection. The break is exacerbated by its proximity to the Holly Water Treatment Plant with water being pushed at over 100 PSI leading to flooding in the Lancaster/Henderson intersection and also onto private property near the intersection. The water main is a shallow 1930s-era 30-inch cast-iron pipe which has deteriorated. The break was repaired the same day by William J. Schultz, Inc. dba Circle C Construction Company (“Circle C”). On Monday, August 22, 2023, the same water main broke apart again very near the vicinity of the earlier break. Water Field Operations immediately mobilized to isolate the break and the City utilized the services of Circle C again to conduct the repairs.

This transmission main is critical to meeting customer summer water demands, and the resulting impact on private property and the water system itself during a rupture, necessitates the Utility to quickly replace the line on Collier in order to prevent further breaks and protect the health and safety of the public who are reliant on a functioning water system.

Water Department staff have analyzed the situation with respect to the water system and has determined that the best long-term solution to preserve the city’s asset and to avoid future service interruptions is to replace the cast iron pipe with new pipe in Collier Street. Sufficient redundancy exists in the water distribution network so residents and business should not notice a loss of water pressure.

Given that the original pipe has now broken twice, this memo is submitted to inform the City Manager’s Office and the City Council that, pursuant to the emergency authority found in City Code Chapter 2, Article I, Section 2-9 of the City’s Code of Ordinances, the Water Department will initiate emergency procurement of the following contractors and consultant for the services and costs as indicated below to perform emergency replacement of an approximately 460-foot segment of the water main and an additional approximately 220-feet of appurtenant 6-inch pipe as shown on the attachment.

- William J. Schultz, Inc. dba Circle C Construction Company (Emergency water main repair/replacement: \$800,000.00)
- Texas Materials Group, Inc. dba Texas Bit (Pavement Repair: \$200,000.00)
- Freese and Nichols, Inc. (Engineering Design \$60,000.00)

The contracts and work will be billed on a task order basis. The total of the contracts is estimated to be \$1,060,000.00.

A traffic control plan will be developed as part of the design work This memo informs the City Manager's Office that emergency closure of Collier Street or a portion of Lancaster Avenue for greater than 10-days to perform the repairs and for the safety of the public is permitted under Chapter 11 of the Transportation Engineering Manual but the Water Department will take measures to keep streets open to traffic, or local traffic only, as the situation may warrant.

Waiting to bid and award a contract to perform this work is not the best interest of the health and safety of the City of Fort Worth. In addition to the citations, above, Section 252.022 of the Local Government Code exempts from normal bidding requirements expenditures that are necessary to preserve or protect public health or safety of the municipality's residents and procurements necessary because of unforeseen damage to public machinery, equipment, or property.

M&C(s) will be circulated to ratify the above contracts after the work has been performed.

APPROVED FOR EMERGENCY PROCUREMENT:

Recommended:


Christopher Harder (Aug 24, 2023 09:42 CDT)
Chris Harder, P.E., Director, Water Department

Approved as to form and Legality:


DBlack (Aug 24, 2023 10:17 CDT)
Douglas W. Black, Sr. Assistant City Attorney

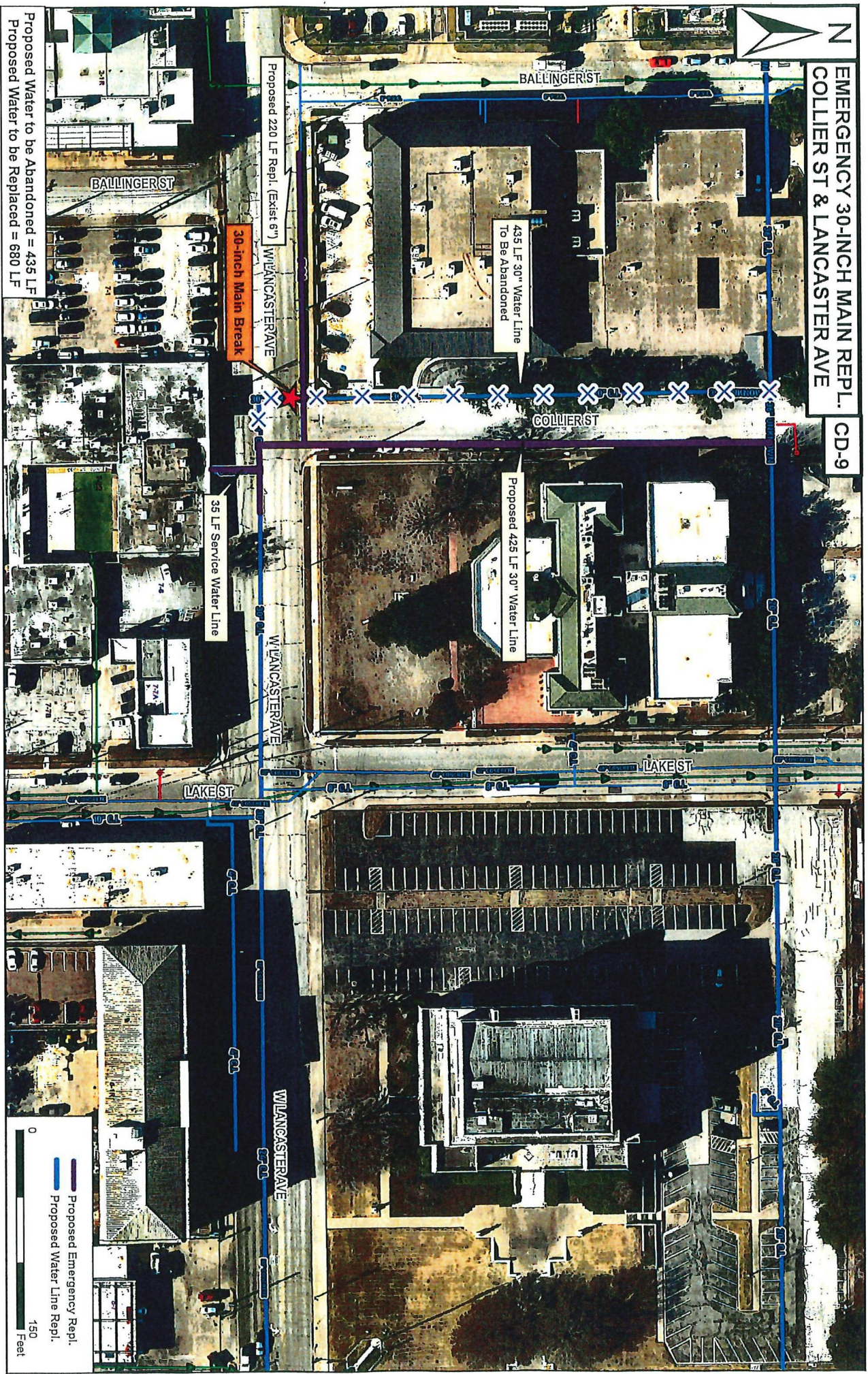
Approve:


Jo Gunn (Aug 25, 2023 08:11 CDT)
Jo Ann Gunn, Chief Procurement Officer, Purchasing

Approve:


Dana Burghdoff (Aug 25, 2023 09:52 CDT)
Dana Burghdoff, Assistant City Manager

EMERGENCY 30-INCH MAIN REPL.
COLLIER ST & LANCASTER AVE CD-9



Proposed Water to be Abandoned = 435 LF
Proposed Water to be Replaced = 680 LF