



BAY CITY

REVISED MINUTES • FEBRUARY 26, 2015

Council Chambers

Regular Meeting

7:00 PM

1901 5TH STREET
BAY CITY, TX 77414

1. CALL TO ORDER & CERTIFICATION OF QUORUM

Attendee Name	Title	Status	Arrived
Chrystal Folse	Councilwoman	Present	
Steven Johnson	Councilman	Present	
Mark Bricker	Mayor	Present	
Carolyn Thames	Mayor Pro-Tem	Present	
Julie Estlinbaum	Councilwoman	Present	
William Cornman	Councilman	Present	

2. INVOCATION & PLEDGE OF ALLEGIANCE - COUNCILMAN STEVEN JOHNSON

Texas State Flag Pledge:

"Honor The Texas Flag; I Pledge Allegiance To Thee, Texas, One State Under God, One And Indivisible."

3. PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

Bay City realtor Elmo Duke informed Mayor and Council that he was there representing developers from Pearland. He explained that the developers wanted a 5 acre tract of land behind the Civic Center that they would like to develop. They would like to build 150 units and connect to 8th Street to have two inlets.

President of Aquacats, Shelly Orsak, commented on Agenda Item 5-6. She explained that she met with Councilman Cornman, Councilwoman Folse, Ms. Penewitt, and Mr. Garr about the Usage Agreement. Mrs. Orsak commended the Council Members on their support. She stated that they had a good a meeting and came to good results. She added that they still had a little ways to go. Mrs. Orsak went on to add that there were some things that still needed to be addressed.

Rachel Ashworth informed Mayor and Council that she had two swimmers. Ms. Ashworth stated that for the person that is in charge of keeping the pool in proper conditions, she asked that the conditions be maintained so that they could swim.

4. CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

The following items may be acted upon in a single motion. No separate discussion or action on any of these items will be held unless requested by a member of the City Council. Public comment on consent agenda items may be heard without removing the item from the consent agenda. Each person providing public comment will be limited to 3 minutes.

MOTION BY COUNCILWOMAN ESTLINBAUM, SECOND BY COUNCILWOMAN FOLSE, TO MOVE REGULAR AGENDA ITEMS 5-18 THROUGH 5-21 TO CONSENT. MOTION CARRIED BY UNANIMOUS VOTE.

Council was polled for item 4-5, the Ordinance calling the election.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

1. Report

CONSIDER AND/OR APPROVE THE MONTHLY FINANCIAL STATEMENTS AS OF JANUARY 31, 2015.

Phill Conner, Finance Director

Enacted and approved this 26th day of February, 2015, at Bay City

2. Budget

Receive report and take action on the following: Accounts Payable dated 11/13 & 20/ 2014, 12/10, 18 & 23/2014 and 1/8, 15 & 22, 2015; Direct Payable dated 12/10/2014 & 1/15/15; and Utility Refunds dated 11/6/14, 12/4/14, 1/8/15, 1/15/15 & 1/22/15

Phill Conner, Finance Director

Enacted and approved this 26th day of February, 2015, at Bay City

3. Appointment

CONSIDER AND/OR APPROVE MAYOR'S APPOINTMENT OF SCOTT PEDEN TO THE BAY CITY HISTORIC COMMISSION.

Mayor, Mark A. Bricker

Enacted and approved this 26th day of February, 2015, at Bay City

4. Appointment

CONSIDER AND/OR APPROVE MAYOR'S APPOINTMENT OF JONNIE MONTALBO TO THE BAY CITY HOUSING AUTHORITY BOARD.

Mayor, Mark A. Bricker

Enacted and approved this 26th day of February, 2015, at Bay City

5. Ordinance

CONSIDER AND/OR APPROVE AN ORDINANCE ORDERING A GENERAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 9, 2015, FOR THE PURPOSES OF ELECTING THREE (3) CITY COUNCIL MEMBERS FOR SAID CITY, AND APPOINTING ELECTION JUDGES; DESIGNATING THE DATE FOR A RUNOFF ELECTION, IF NEEDED; REPEALING ALL OR PART OF ORDINANCES AND RESOLUTIONS WHICH CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

Rhonda Clegg, City Secretary

ORDINANCE

Enacted and approved this 26th day of February, 2015, at Bay City

6. Agreement

CONSIDER AND/OR APPROVE A JOINT ELECTION AGREEMENT BETWEEN THE CITY OF BAY CITY AND THE BAY CITY INDEPENDENT SCHOOL DISTRICT.

Rhonda Clegg, City Secretary

Enacted and approved this 26th day of February, 2015, at Bay City

7. Agreement

CONSIDER AND/OR APPROVE A LEASE BETWEEN THE CITY OF BAY CITY AND MATAGORDA COUNTY FOR THE USE TABULATION EQUIPMENT AND ASSOCIATED PERSONNEL.

Rhonda Clegg, City Secretary

Enacted and approved this 26th day of February, 2015, at Bay City

8. Agreement

CONSIDER AND/OR APPROVE A LEASE AGREEMENT BETWEEN THE CITY OF BAY CITY AND MATAGORDA COUNTY FOR THE USE OF A DIRECT RECORDING ELECTRONIC (DRE) EQUIPMENT.

Rhonda Clegg, City Secretary

Enacted and approved this 26th day of February, 2015, at Bay City

5. REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL:

1. Agreement

DISCUSS, CONSIDER AND/OR APPROVE A MEMBERSHIP AGREEMENT BETWEEN THE CITY OF BAY CITY AND COOPERATIVE TEAMWORK & RECYCLING ASSISTANCE (CTRA).

Rachel Herring, CTRA

Ms. Herring explained the contents of the agreement. She pointed out that the agreement had a 30 day out, and was very clear and transparent.

Council asked if Mrs. Jasek recommended moving forward with the agreement, and Mrs. Jasek stated yes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Julie Estlinbaum, Councilwoman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

2. Presentation

RECEIVE PRESENTATION OF AN AWARD TO THE CITY OF BAY CITY FOR ITS OUTSTANDING RECYCLING EFFORTS IN 2014.

Rachel Herring, CTRA

Ms. Herring informed Mayor and Council that she really liked working with Mrs. Jasek and Brandon. She also informed Mayor and Council that the Recycle Center recycled 1.3 million tons of recyclables. Mrs. Herring presented the award for the City to Mrs. Jasek.

3. Agreement

CONSIDER AND/OR APPROVE RENEWAL AGREEMENT BETWEEN THE CITY OF BAY CITY AND MATAGORDA YOUNG LIFE OF \$500/MONTH FOR THEIR CONTINUED MAINTENANCE OF THE BUILDING AT HARDEMAN PARK AND RECREATION EVENTS THEY OFFER THE YOUTH OF COMMUNITY.

Mayor, Mark A. Bricker

James King thanked Council for their support. He informed Mayor and Council that there were getting up to 1,000 kids that have entered the door. Mr. King spoke of the many activities provided by YoungLife.

Councilman Cornman asked what the cost was to run the program and where did funding come from. Mr. King stated \$120,000. He added that funding came from trust funding, donations, and leaders. Councilman Cornman asked if they paid for utilities or the building, and Mr. King stated that they did not pay for the building. Council encouraged Mr. King to write the City every year to request for funding.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

4. Report

RECEIVE REPORT ON THE AQUATICS FACILITY USAGE AGREEMENT AND PROVIDE DIRECTION TO STAFF TO TAKE ANY NECESSARY ACTION.

Kelly Penewitt, Parks and Recreation Supervisor

Ms. Penewitt informed Mayor and Council that they had a meeting with members of Aquacats. They discussed insurance, health permit, signage and fees.

The Mayor asked if anything had been budgeted for revenues, and Ms. Penewitt stated no.

Councilman Cornman stated that the City did not budget enough for the maintenance of the pool. He added that it cost the City approximately \$60,000 - \$80,000. Councilman Cornman stated that he did not believe the City should add any additional fees. He spoke about a number of issues with the pool, and added that at budget time the City needed to budget money for the pool. Councilman Johnson stated that he had received several emails requesting the City do something about the pool.

It was the consensus of Council not to charge any fees.

The Mayor stated that he was unaware of the conditions of the pools. It was brought to his attention and he was under the impression that it was taken care of and it had not been. He stated that the City would do better.

Councilwoman Folse stated that she would meet with the ISD regarding the agreement. Councilman Cornman believed that the Mayor needed to be involved. The Mayor stated that he did not mind being involved, but he could not lead it because he had too many things on his plate.

5. Report

RECEIVE QUARTERLY UPDATE ON CITY OF BAY CITY HEALTH INSURANCE PLAN.

Rhonda Clegg, City Secretary and Jeff Noyse, The Noble Group

Mr. Noyes reviewed the quarterly data with Mayor and Council. He spoke briefly about the City's large claimants. Mr. Noyes informed Mayor and Council that he and his team would continue to monitor the data provided by the carriers, and will be working towards preparing for the annual renewal.

6. Budget

CONSIDER AND/OR APPROVE A PROPOSAL FOR THE CITY TO FORGIVE THE COST OF THE SEWER IMPACT FEE AND THE WATER METER FOR THE NEW TENARIS TRAINING BUILDING CURRENTLY UNDER CONSTRUCTION.

Councilman Bill Cornman

Councilman Cornman explained to Mayor and Council the City's process for water taps and the associated fees.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Steven Johnson, Councilman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

7. Report

DISCUSS AND PROVIDE DIRECTION TO STAFF ON POSSIBLE REFURBISHING THE FIELDS AT THE SPORTS COMPLEX.

Councilwoman Chrystal Folse

Councilwoman Estlinbaum asked her brother-in-law to look at the Sports Complex. She pointed out that he did not look at the concession stand, fencing or bleachers. He only looked at the fields. He informed Councilwoman Estlinbaum that the fields did not look like that would be playable until next spring. He would be glad to provide a cost estimate, at no cost to the City. She stated that he did add that the City needed to look at the bleachers, fencing, concession stand, and probably the bathrooms.

Councilman Johnson stated that he did not feel that the City should abandon the Sports Complex; however, he would like to see what the cost would be. Councilwoman Estlinbaum believed that there was an issue with the irrigation system. She stated that she spoke with the Mayor and Mr. Garr and it was an electrical issue. Ms. Penewitt added that it should be on an 110 amp, but is on a 70.

The Mayor stated that they should use a different kind of grass to choke out the weeds, and it would allow the City to start the program sooner. Mr. Garr informed Mayor and Council that there was a lot of interest from the community to get the program started. He added that the biggest issue with the Sports Complex was vandalism. Councilwoman Folse stated that the City needed lights, security lights, because you go out there and it is dark. Councilman Johnson suggested that they go with the Mayor's plan, since there was some interest in the Sports Complex.

MOTION BY COUNCILMAN JOHNSON, SECOND BY MAYOR PRO TEM THAMES, TO LEAVE OUT THE ST. AUGUSTINE GRASS, LEVEL OUT THE FIELDS, AND GET TEAMS TOGETHER. MOTION CARRIED BY UNANIMOUS VOTE.

8. Report

CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING CITY CODE OF ORDINANCES CHAPTER 18 AVIATION, BY AMENDING DIVISION 2 OPERATIONS AND DIVISION 3 PUBLIC AND TENANT USE, SETTING FORTH UNIFORM REQUIREMENTS OF USERS OF THE BAY CITY REGIONAL AIRPORT; PROVIDING RULES AND REGULATIONS FOR THE EFFICIENT AND SAFE OPERATION OF THE AIRPORT; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

John Garr, Community Services Director

Mr. Garr provided background on the agenda item. He stated that if the ordinance was passed it would replace division's 2 and 3 in the Code.

MOTION BY COUNCILMAN JOHNSON, SECOND BY COUNCILWOMAN ESTLINBAUM, TO APPROVE AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING CITY CODE OF ORDINANCES CHAPTER 18 AVIATION, BY AMENDING DIVISION 2 OPERATIONS AND DIVISION 3 PUBLIC AND TENANT USE, SETTING FORTH UNIFORM REQUIREMENTS OF USERS OF THE BAY CITY REGIONAL AIRPORT; PROVIDING RULES AND REGULATIONS FOR THE EFFICIENT AND SAFE OPERATION OF THE AIRPORT; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE. MOTION CARRIED BY UNANIMOUS VOTE. COUNCIL WAS POLLED.

9. Policy

DISCUSS, CONSIDER AND/OR APPROVE CHANGING THE NAME OF THE BAY CITY MUNICIPAL AIRPORT TO THE BAY CITY REGIONAL AIRPORT.

John Garr, Community Services Director

Councilman Johnson stated that it was already a regional airport by FAA Standards.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

10. Contract

DISCUSS, CONSIDER AND/OR APPROVE THE MAYOR AMENDING THE CURRENT EXECUTED CONTRACT BETWEEN THE CITY OF BAY CITY AND BUREAU VERITAS TO INCLUDE FIRE INSPECTIONS AND FIRE SYSTEM PLAN REVIEWS.

Barry Calhoun, Director of Public Works

Mr. Calhoun informed Mayor and Council that the original agreement with Bureau Veritas did not include Fire Inspections or Fire System Plan reviews.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

11. Presentation

DISCUSS, CONSIDER AND/OR DIRECT STAFF TO PARTICIPATE IN THE TEXAS DEPARTMENT OF TRANSPORTATION (TxDOT) 2015 TRANSPORTATION ALTERNATIVES PROGRAM (TAP).

Barry Calhoun, Director of Public Works

Mr. Calhoun yielded to Matt Breazeale with Jones & Carter.

Mr. Breazeale explained the TAP Program and that it was for transportation funds. The City would be able to apply for the program. The cost for the program would be \$512,325; the tap portion would be \$445,723. The City's cost would be \$123,602. Mr. Breazeale informed Mayor and Council that there were no participants in the program just yet, but they were looking for some. He added that the City would have to submit an application by May 4th. Mr. Breazeale verified that the City would be able to participate.

The Mayor asked what the criteria was for funding. Mr. Breazeale stated it was usership. If there was a school on the route, the City would receive extra points. Councilman Cornman pointed out that it was for populations of 250,000 or less. If you ran over, the extra cost would be on the City. Councilman Cornman asked if we could have it ready by the deadline. Mr. Breazeale stated that they could have a shovel ready design by that time. He added that it had to be ADA compliant. The Mayor asked if the item had been brought to the Planning Commission, and Mr. Calhoun stated no. Councilman Cornman stated that Mr. Calhoun needed to bring it to their attention. Councilman Cornman asked if the City would be willing to put under \$200,000 toward this. The consensus of Council was yes. Mr. Calhoun informed Mayor and Council that he had already asked Mr. Conner if the City could afford \$200,000.

Councilwoman Folse asked if this program had been included in the Streets Plan, and Mr. Calhoun stated no.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

12. Report

RECEIVE AND DISCUSS AN UPDATE ON ONGOING PUBLIC WORKS PROJECTS.

Barry Calhoun, Director of Public Works

Mr. Calhoun provided an update on the on-going Public Works Projects.

Dunn Heat Exchangers

The project was very close to being complete. The City will go out for bids in March. Mr. Calhoun stated that he would hope to award it in April. Councilman Cornman asked if Mr. Calhoun had received any updates from Dunn, and Mr. Calhoun stated no. Councilman Cornman asked if the plat had been approved, and Mr. Calhoun stated no.

CP Homes

The project is very close on designing work. The bid for the project was completed last year, but it came in too high. Mr. Calhoun stated that they would bid it again. He added that he had learned that they had been having trouble getting construction started. Mr. Calhoun informed Mayor and Council that the project may be in danger of failing.

Tenaris

Mr. Calhoun stated that they would go out for bids in March for Phase II Sewer and Lift Station, and award in April. Councilman Cornman asked if Mr. Calhoun had received any communication from Tenaris as to when they would receive water, and Mr. Calhoun stated no.

M.O.S

Mr. Calhoun explained that the redirecting of the water line was complete for a total cost of \$16,000. He stated that the design for the sewer was 90% ready.

Phase I Streets

Mr. Calhoun stated that he had hoped to be finished in May.

Phase II Streets

Mr. Calhoun stated that this project was not moving as fast as he like. He stated that some roads would receive seal coat or overlay. Other roads would be full construction.

It was the consensus of Council that they preferred to receive the longer more detailed project updates from Public Works.

13. Contract

CONSIDER AND/OR APPROVE A CONTRACT BETWEEN THE CITY OF BAY CITY AND CIVILCORP, LLC TO PERFORM ENGINEERING SERVICES FOR PHASE II OF THE STREET REHAB PROJECT.

Barry Calhoun, Director of Public Works

Mr. Calhoun informed Mayor and Council that the estimated cost was \$232,000.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

14. Bid

CONSIDER AND/OR APPROVE AWARDING THE CONSTRUCTION BID FOR THE 2013 TEXAS CAPITAL FUND MAIN STREETS SIDEWALK PAVERS PROJECT CONTRACT 713252 TO THE LOWEST RESPONSIBLE BIDDER, PRECISE SERVICES, INC., IN THE AMOUNT OF \$156,062.32, AND THE CITY OF BAY CITY COMMITTING 11% FOR OVERAGES IN THE AMOUNT OF \$9,062.32, AND AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH SAID BIDDER FOR SAID SERVICES.

Barry Calhoun, Director of Public Works

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 26th day of February, 2015, at Bay City

15. Ordinance

DISCUSS, CONSIDER AND/OR APPROVE ADJUSTING CITY FEES FOR FIRE INSPECTIONS AND FIRE SYSTEM PLAN REVIEWS.

Barry Calhoun, Director of Public Works

Mr. Calhoun explained that the agenda item was in relation to the amendment to the Bureau Veritas Contract.

Councilman Johnson asked for clarification on a couple of the proposed fees.

MOTION BY COUNCILMAN JOHNSON, SECOND BY COUNCILMAN CORNMAN TO APPROVE ADJUSTING CITY FEES FOR FIRE INSPECTIONS AND FIRE SYSTEM PLAN REVIEWS AND TO APPROVE AN ORDINANCE AT A LATER DATE. MOTION CARRIED BY UNANIMOUS VOTE.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	William Cornman, Councilman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

ORDINANCE

Enacted and approved this 26th day of February, 2015, at Bay City

16. Report

DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION OPPOSING SENATE BILL 343 AND ANY OTHER LEGISLATION WHICH WOULD ERODE THE AUTHORITY OF A HOME RULE MUNICIPALITY.

George Hyde, DNRBHZ, P.C., City Attorney

Mr. Hyde explained that the passage of the bill would take away a Home Rule City's ability to make laws.

MOTION BY COUNCILMAN CORNMAN, SECOND BY COUNCILWOMAN FOLSE, TO APPROVE A RESOLUTION OPPOSING SENATE BILL 343 AND ANY OTHER LEGISLATION WHICH WOULD ERODE THE AUTHORITY OF A HOME RULE MUNICIPALITY.

Councilman Cornman asked what happens to the resolution. Mr. Hyde stated that the City Secretary would send it to TML and Senator Huffins.

17. Report

PROVIDE DIRECTION TO STAFF REGARDING THE ELECTION TO BE HELD MAY 9, 2015, INCLUDING A POSSIBLE SPECIAL ELECTION FOR THE PURPOSES OF AUTHORIZING THE SALE OF CERTAIN CITY PARKLAND.

Mayor Mark A. Bricker

Mr. Hyde explained that since adding the ordinance, there had been four (4) properties identified to be removed from the ordinance. He stated that he needed direction from Council on whether to list the properties as individual measures, or as a whole; and if Council wanted to list the properties as they were listed. The Mayor asked that they leave the last Bay Ridge Blvd off the list to sell. Councilman Cornman reminded Council that the rest of the parks were just vacant lots, and that the purpose of this was to minimize the maintenance on the City.

Mayor Pro Tem Thames clarified that if the proposed property was removed the City would only sell five (5) lots.

It was the consensus of Council to list the properties together.

MOTION BY COUNCILWOMAN FOLSE, SECOND BY COUNCILWOMAN ESTLINBAUM, TO CALL A SPECIAL ELECTION IN ORDER TO SELL PARKLAND AT 4405 ARECA, PALM VILLAGE; 220 SAGO, PALM VILLAGE; 4520 PALM VILLAGE; 4621 HIRAM BRANDON, BAY RIDGE, SECTION 1; 4708 HIRAM BRANDON, BAY RIDGE, SECTION 1; AND ONE MEASURE FOR THE ELECTION. MOTION CARRIED BY UNANIMOUS VOTE. COUNCIL WAS POLLED.

6. ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilman Cornman discussed the milestones of the FEMA Dome. Councilman Cornman stated that he was waiting on the organizational chart; he was upset that Vision 2040 was not on the agenda; and thought that there would be an item on the agenda about the final presentation. Mrs. Clegg informed Councilman Cornman that it was her fault the Vision 2040 item did not the agenda. She believed that it was set in the system to be reoccurring, but it was not. Councilman Cornman stated that he would like the items on the next agenda.

The Mayor informed Council that he would be meeting with a committee to present the 2040 Plan.

Councilwoman Folse thanked those that sponsored a hole. They were able to raise \$4,100 for Relay for Life.

7. ADJOURNMENT

AGENDA NOTICES:

Action by Council Authorized:

The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right

to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code Section 551.071, to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The City Attorney may appear in person, or appear in executive session by conference call in accordance with applicable state law.

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be Agenda City Council August 8, 2013 in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

Executive Sessions Authorized:

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

This is to certify that the above notice of a Workshop Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on Monday, February 23, 2015, before 7:00 p.m. Any questions concerning the above items, please contact Mayor Mark A. Bricker at (979) 245-2137.

Rhonda Clegg
City Secretary



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1793)

Meeting: 02/26/15 07:00 PM
Department: Finance
Category: Report
Prepared By: Phill Conner
Initiator: Phill Conner
Sponsors:
DOC ID: 1793

CONSIDER AND/OR APPROVE THE MONTHLY FINANCIAL STATEMENTS AS OF JANUARY 31, 2015.

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

**City of Bay City
Financial Statement
As of January 31, 2015**

General Fund (Fund 11)

Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 3,815,453	1,271,818	\$ 1,948,617	\$ 676,799	51%
Other Local Taxes	4,901,681	1,633,894	1,597,996	(35,898)	33%
Fines & Penalties	307,700	102,567	82,669	(19,897)	27%
Licenses & Permits	263,750	87,917	42,120	(45,797)	16%
Miscellaneous	3,427,124	1,142,375	963,707	(178,668)	28%
Transfers	113,126	37,709	36,130	(1,579)	32%
Other Revenue	55,600	18,533	5,782	(12,751)	10%
Total Revenues	\$ 12,884,434	\$ 4,294,811	\$ 4,677,020	\$ 382,208	36%
<u>Expenditures</u>					
City Secretary	\$ 318,209	\$ 106,070	\$ 100,663	\$ (5,407)	32%
City General Services	2,437,507	812,502	937,220	124,718	38%
Administrative Council	257,510	85,837	83,659	(2,178)	32%
Main Street	40,391	13,464	14,104	640	35%
Municipal Court	305,621	101,874	96,017	(5,857)	31%
Finance	269,606	89,869	85,672	(4,197)	32%
Code Enforcement	186,083	62,028	52,669	(9,359)	28%
Police	4,052,505	1,350,835	1,417,222	66,387	35%
Animal Impoundment	155,221	51,740	46,206	(5,535)	30%
Volunteer Fire Dept.	187,013	62,338	33,945	(28,393)	18%
Public Works	3,140,148	1,046,716	800,975	(245,741)	26%
Service Center	64,390	21,463	20,143	(1,320)	31%
Parks	523,816	174,605	170,992	(3,613)	33%
Riverside Park	165,765	55,255	57,881	2,626	35%
Recreation	128,671	42,890	24,706	(18,184)	19%
Aquatics	242,931	80,977	45,677	(35,300)	19%
Teen Center	4,544	1,515	1,466	(49)	32%
Total Expenditures	\$ 12,479,931	\$ 4,159,977	\$ 3,989,216	\$ (170,761)	32%
Net Revenue (Expenditures)	\$ 404,503	\$ 134,834	\$ 687,803	\$ 552,969	
Beginning Fund Balance	\$ 3,090,353	\$ 3,090,353	\$ 2,529,875		
Ending Fund Balance	\$ 3,494,856	\$ 3,225,187	\$ 3,217,678		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Emergency & Disaster Recovery Fund (Fund 23)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Utility Fees	\$ -	\$ -	\$ -	\$ -	N/A
Interest	-	-	80	80	N/A
Total Revenues	\$ -	\$ -	\$ 80	\$ 80	N/A
<u>Expenditures</u>					
Bad Debt	\$ -	\$ -	\$ (17)	\$ (17)	N/A
Total Expenditures	\$ -	\$ -	\$ (17)	\$ (17)	
Net Revenue (Expenditures)	\$ -	\$ -	\$ 97	\$ 97	
Beginning Fund Balance	\$ 555,316	\$ 555,316	\$ 554,735		
Ending Fund Balance	\$ 555,316	\$ 555,316	\$ 554,831		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Civic & Cultural Arts Fund (Fund 25)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Hotel Occupancy Tax	\$ 475,000	158,333	\$ 171,171	\$ 12,838	36%
Miscellaneous	66,650	22,217	20,329	(1,888)	31%
Total Revenues	\$ 541,650	\$ 180,550	191,500	\$ 10,950	35%
<u>Expenditures</u>					
Civic & Cultural Art	\$ 46,471	\$ 15,490	\$ 13,911	\$ (1,579)	30%
Convention & Visitors Bureau	201,300	67,100	47,947	(19,153)	24%
Civic Center	240,750	80,250	96,781	16,531	40%
Matagorda County Museum	48,000	16,000	49,000	33,000	102%
Total Expenditures	\$ 536,521	\$ 178,840	\$ 207,639	\$ 28,799	39%
Net Revenue (Expenditures)	\$ 5,129	\$ 1,710	\$ (16,139)	\$ (17,849)	
Beginning Fund Balance	\$ 270,197	\$ 270,197	\$ 244,765		
Ending Fund Balance	\$ 275,326	\$ 271,907	228,626		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Police Forfeiture Fund (Fund 24)
Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ 25	\$ 8	\$ 13	\$ 5	52%
Forfeiture Revenue	5,000	\$ 1,667	-	(1,667)	0%
Total Revenues	\$ 5,025	\$ 1,675	\$ 13	\$ (1,662)	0%
<u>Expenditures</u>					
Personnel	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Supplies & Materials	10,000	3,333	(1,748)	(5,082)	-17%
Other Charges & Services	-	-	-	-	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	-	-	-	-	#DIV/0!
Total Expenditures	\$ 10,000	\$ 3,333	(1,748)	\$ (5,082)	-17%
Net Revenue (Expenditures)	\$ (4,975)	\$ (1,658)	\$ 1,761	\$ 3,420	
Beginning Fund Balance	\$ 49,780	\$ 49,780	\$ 47,733		
Ending Fund Balance	\$ 44,805	\$ 48,122	\$ 49,494		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Municipal Court Technology Fund (Fund 29)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Court Technology Fee	\$ 8,000	\$ 2,666.67	\$ 1,649	\$ (1,018)	21%
Interest	-	-	8	8	N/A
Total Revenues	\$ 8,000	\$ 2,667	\$ 1,657	\$ (1,010)	21%
<u>Expenditures</u>					
Supplies & Materials	\$ 700	\$ 233.33	\$ -	\$ (233)	N/A
Other Charges & Services	12,500	4,166.67	(299)	(4,465)	-2%
Repairs & Maintenance	-	-	-	-	N/A
Total Expenditures	\$ 13,200	\$ 4,400	\$ (299)	\$ (4,699)	-2%
Net Revenue (Expenditures)	\$ (5,200)	\$ (1,733)	\$ 1,956	\$ 3,689	
Beginning Fund Balance	\$ 50,623	\$ 50,623	\$ 52,655		
Ending Fund Balance	\$ 45,423	\$ 48,890	54,611		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Municipal Court Building Security Fund (Fund 27)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Building Security Fee	\$ 6,000	\$ 2,000	\$ 1,237	\$ (763)	21%
Interest	-	-	6	6	N/A
Total Revenues	\$ 6,000	\$ 2,000	1,243	\$ (757)	21%
<u>Expenditures</u>					
Personnel	\$ 12,500	\$ 4,167	\$ 382	\$ (3,785)	3%
Total Expenditures	\$ 12,500	\$ 4,167	382	\$ (3,785)	3%
Net Revenue (Expenditures)	\$ (6,500)	\$ (2,167)	\$ 861	\$ 3,028	
Beginning Fund Balance	\$ 39,085	\$ 39,085	\$ 43,607		
Ending Fund Balance	\$ 32,585	\$ 36,918	44,468		

**City of Bay City
Financial Statement
As of January 31, 2015**

Donation Fund (Fund 21)

Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 24	\$ 24	N/A
Grants	-	-	47,467	47,467	#DIV/0!
USO Restoration Donations	-	-	5,698	5,698	#DIV/0!
KBCB Donations	-	-	-	-	N/A
Train Depot Donations	-	-	-	-	N/A
Animal Impoundment Donations	-	-	125	125	N/A
Total Revenues	\$ -	\$ -	53,314	\$ 53,314	
<u>Expenditures</u>					
USO Restoration	\$ -	\$ -	\$ 4,235	\$ 4,235	N/A
KBCB	-	-	-	-	N/A
Transfer to Other Funds	-	-	-	-	N/A
Animal Impoundment	-	-	-	-	N/A
Total Expenditures	\$ -	\$ -	4,235	\$ 4,235	N/A
Net Revenue (Expenditures)	\$ -	\$ -	\$ 49,079	\$ 49,079	
Beginning Fund Balance	\$ 77,693	\$ 77,693	\$ 82,494		
Ending Fund Balance	\$ 77,693	\$ 77,693	131,572		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Library Fund (Fund 26)

Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Fines	\$ 7,000	\$ 2,333.33	\$ 1,686	\$ (647)	24%
Interest	-	-	17	17	N/A
Rental Proceeds	78,840	26,280	26,280	-	33%
Grants	-	-	-	-	N/A
Donations	10,000	3,333	-	(3,333)	0%
County Funding	200,000	66,667	100,000	33,333	50%
Other Income-Other Entitiy	-	-	-	-	#DIV/0!
Other Income	16,000	5,333	22,404	17,071	140%
Transfer from General Fund	131,480	43,827	43,827	0	33%
Total Revenues	\$ 443,320	\$ 147,773	194,214	\$ 46,441	44%
<u>Expenditures</u>					
Personnel	\$ 251,542	\$ 83,847	\$ 75,691	\$ (8,156)	30%
Supplies & Materials	57,250	19,083	11,722	(7,361)	20%
Other Charges & Services	118,500	39,500	42,671	3,171	36%
Repairs & Maintenance	13,000	4,333	4,752	419	37%
Total Expenditures	\$ 440,292	\$ 146,764	134,836	\$ (11,928)	31%
Net Revenue (Expenditures)	\$ 3,028	\$ 1,009	\$ 59,378	\$ 58,368	
Beginning Fund Balance	\$ 87,296	\$ 87,296	\$ 74,678		
Ending Fund Balance	\$ 90,324	\$ 88,305	134,055		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Police Task Force Fund (Fund 30)
Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 55	\$ 55	N/A
County Funding	5,000	1,667	-	(1,667)	N/A
Miscellaneous	5,000		1,927		
City Funding	5,000	1,667	-	(1,667)	N/A
Total Revenues	\$ 15,000	\$ 3,333	\$ 1,982	\$ (3,278)	N/A
<u>Expenditures</u>					
Personnel	\$ 2,500	\$ 833	\$ -	\$ (833)	N/A
Supplies & Materials	10,000	3,333	-	(3,333)	N/A
Other Charges & Services	5,000	1,667	103	(1,563)	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	-	-	-	-	N/A
Total Expenditures	\$ 17,500	\$ 5,833	103	\$ (5,730)	N/A
Net Revenue (Expenditures)	\$ (2,500)	\$ (2,500)	\$ 1,879	\$ 2,452	
Beginning Fund Balance	\$ 13,568	\$ 13,568	\$ 12,119		
Ending Fund Balance	\$ 11,068	\$ 11,068	\$ 13,998		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Utility Fund (Fund 61)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Charges for Services	\$ 7,282,170	\$ 2,427,390	\$ 2,303,736	\$ (123,654)	32%
Fines & Penalties	-	-	-	-	N/A
License & Permits	-	-	-	-	N/A
Miscellaneous	1,000	333	101,163	100,829	10116%
Total Revenues	\$ 7,283,170	\$ 2,427,723	2,404,899	\$ (22,825)	33%
<u>Expenditures</u>					
General Operation	\$ 3,996,106	\$ 1,332,035	\$ 1,263,630	\$ (68,405)	32%
Water	1,471,688	490,563	367,851	(122,712)	25%
Sewer	1,360,492	453,497	439,837	(13,660)	32%
Warehouse Operations	50,200	16,733	25,741	9,008	51%
Total Expenditures	\$ 6,878,486	\$ 2,292,829	2,097,059	\$ (195,769)	30%
Net Revenue (Expenditures)	\$ 404,684	\$ 134,895	\$ 307,839	\$ 172,945	
Beginning Fund Balance	\$ 2,507,007	\$ 2,507,007	\$ 22,135,807		
Ending Fund Balance	\$ 2,911,691	\$ 2,641,902	\$ 22,443,646		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Utility Debt Service Fund (Fund 63)
Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 232	\$ 232	N/A
Transfer from General Fund	86,312	28,771	28,771	0	33%
Transfer from Utility Fund	698,339	232,780	232,780	0	33%
Transfer from Const. Fund	-	-	-	-	N/A
Total Revenues	\$ 784,651	\$ 261,550	261,783	\$ 232	33%
<u>Expenditures</u>					
Other Charges & Services	\$ -	\$ -	\$ -	\$ -	#DIV/0!
Debt Service	785,150	261,717	-	(261,717)	0%
Total Expenditures	\$ 785,150	\$ 261,717	\$ -	\$ (261,717)	0%
Net Revenue (Expenditures)	\$ (499)	\$ (166)	\$ 261,783	\$ 261,949	
Beginning Fund Balance	\$ 145,223	\$ 145,223	\$ 47,074		
Ending Fund Balance	\$ 144,724	\$ 145,057	308,856		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Municipal Airport Fund (Fund 64)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Miscellaneous	\$ 133,000	\$ 44,333	\$ 37,488	\$ (6,845)	28%
Transfers	120,464	40,155	40,155	0	33%
Other Revenue	221,000	73,667	65,632	(8,035)	30%
Cost of Fuel	(148,067)	(49,356)	(56,686)	(7,331)	38%
Total Revenues	\$ 326,397	\$ 108,799	86,588	\$ (22,211)	27%
<u>Expenditures</u>					
Personnel	\$ 98,525	\$ 32,842	\$ 31,486	\$ (1,356)	32%
Supplies & Materials	41,000	13,667	4,117	(9,550)	10%
Other Charges & Services	33,000	11,000	20,222	9,222	61%
Repairs & Maintenance	18,500	6,167	47,560	41,393	257%
Capital Expenditures	40,000	13,333	21,168	7,835	53%
Total Expenditures	\$ 231,025	\$ 77,008	124,553	\$ 47,544	54%
Net Revenue (Expenditures)	\$ 95,372	\$ 31,791	\$ (37,965)	\$ (69,756)	
Beginning Fund Balance	\$ 236,164	\$ 236,164	\$ 117,469		
Ending Fund Balance	\$ 331,536	\$ 267,955	79,504		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Debt Service Fund (Fund 80)
Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 404,970	\$ 134,990	\$ 209,173	\$ 74,183	52%
Miscellaneous	-	-	39	39	N/A
Transfers	1,578,000	526,000	526,000	-	33%
Total Revenues	\$ 1,982,970	\$ 660,990	735,212	\$ 74,222	37%
<u>Expenditures</u>					
Debt Service	\$ 1,975,488	\$ 658,496		\$ (658,496)	0%
Total Expenditures	\$ 1,975,488	\$ 658,496	\$ -	\$ (658,496)	0%
Net Revenue (Expenditures)	\$ 7,482	\$ 2,494	\$ 735,212	\$ 732,718	
Beginning Fund Balance	\$ 84,001	\$ 84,001	\$ (146,492)		
Ending Fund Balance	\$ 91,483	\$ 86,495	\$ 588,720		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Information Services Fund (Fund 81)

Percent of Fiscal Year Complete 33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 111	\$ 111	N/A
Transfers	610,449	203,483	152,495	(50,988)	25%
Other Revenue	-	-	-	-	N/A
Total Revenues	\$ 610,449	\$ 203,483	\$ 152,606	\$ (50,877)	25%
<u>Expenditures</u>					
Personnel	\$ 256,249	\$ 85,416	\$ 68,760	\$ (16,656)	27%
Supplies & Materials	20,200	6,733	1,982	(4,751)	10%
Other Charges & Services	273,000	91,000	70,641	(20,359)	26%
Repairs & Maintenance	36,000	12,000	3,354	(8,646)	9%
Capital Outlay	25,000	8,333	10,485	2,152	42%
Total Expenditures	\$ 610,449	\$ 203,483	155,222	\$ (48,261)	25%
Net Revenue (Expenditures)	\$ -	\$ -	\$ (2,616)	\$ (2,616)	
Beginning Fund Balance	\$ 108,248	\$ 108,248	73,488		
Ending Fund Balance	\$ 108,248	\$ 108,248	70,872		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Financial Statement
As of January 31, 2015**

Maintenance Fund (Fund 82)
Percent of Fiscal Year Complete

33%

	Total Budget	Budget as of 1 - 15	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 366	\$ 366	N/A
Transfers	903,979	301,326	160,692	(140,635)	18%
Other Revenue	-	-	-	-	N/A
Total Revenues	\$ 903,979	\$ 301,326	\$ 161,057	\$ (140,269)	18%
<u>Expenditures</u>					
Equipment Maintenance	\$ 242,836	\$ 80,945	\$ 73,488	\$ (7,457)	30%
Facility Maintenance	652,553	217,518	93,950	(123,568)	14%
Total Expenditures	\$ 895,389	\$ 298,463	167,438	\$ (131,025)	19%
Net Revenue (Expenditures)	\$ 8,590	\$ 2,863	\$ (6,381)	\$ (9,244)	
Beginning Fund Balance	\$ (2,687)	\$ (2,687)	537		
Ending Fund Balance	\$ 5,903	\$ 176	(5,843)		

Attachment: Financial Reports 1-31-15 (1793 : January 2015 Financials)

**City of Bay City
Analysis of Legal Fees
YTD as of 1/31/15**

Dept	Vendor	Total
City Secretary		
City Secretary Total		0.00
City General	Denton, Navarro, Rocha	44,076.43
	Bracewell & Giuliani	31,064.67
City General Total		75,141.10
Municipal Court	Deadrick Post, LLC	6,750.00
Municipal Court Total		6,750.00
Finance		
Finance Total		
Public Works	Foss, Hardy and Arbuckle	71.00
	Cardmember Services	34.00
Public Works Total		105.00
Economic Development		
Economic Develop. Total		0.00
PD Forfeiture		
PD Forfeiture Total		
PD Pending Forfeiture	Court Costs	6,138.00
PD Pending Forfeiture Total		6,138.00
PD Task Force Fund	Court Costs	2,002.00
PD Task Force Fund Total		2,002.00
Capital Projects		
Capital Projects Total		
Utility General	Denton, Navarro, Rocha	19.50
Utility General Total		19.50
Airport	Denton, Navarro, Rocha	8,210.50
Airport Total		8,210.50
Information Tech		
Information Tech Total		
		98,366.10

Engineering Fees Analysis

Department:	2013-2014	2014-2015
City General (11-410)	\$ 1,415.00	\$ -
Municipal Court (11-425)	\$ 4,210.00	\$ -
Public Works (11-475)	\$ 121,936.00	\$ 10,451.10
BC Civic Ctr (25-415)	\$ 500.00	\$ -
Street Maint. & Const. (28-475)	\$ (1,420.00)	\$ 5,373.00
Capital Projects (31-405)	\$ -	\$ 29,700.00
Paving Projects (34-405)	\$ 28,250.00	\$ -
Utility General (61-405)	\$ 31,229.18	\$ -
Water Division (61-410)	\$ 59,665.80	\$ 9,023.25
Sewer Division (61-415)	\$ 172,445.28	\$ 41,340.00
Water Meter Repl. (62-415)	\$ 8,549.90	\$ -
Airport (64-405)	\$ 4,575.00	\$ 2,365.00
Facility Maint. (82-410)	\$ 1,000.65	
Totals:	<u>\$ 432,356.81</u>	<u>\$ 98,252.35</u>

As of 12/31/2014 in total have received \$639,259.70 from Tenaris

As of 12/31/2014 in total have billed Tenaris \$684,687.82 for reimbursement



City Council
1901 5Th Street
Bay City, TX 77414

Meeting: 02/26/15 07:00 PM
Department: Finance
Category: Budget
Prepared By: Phill Conner
Initiator: Phill Conner
Sponsors:
DOC ID: 1792 A

ADOPTED

AGENDA ITEM (ID # 1792)

Receive report and take action on the following: Accounts Payable dated 11/13 & 20/ 2014, 12/10, 18 & 23/2014 and 1/8, 15 & 22, 2015; Direct Payable dated 12/10/2014 & 1/15/15; and Utility Refunds dated 11/6/14, 12/4/14, 1/8/15, 1/15/15 & 1/22/15

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

AGENDA ITEM REQUEST FOR CITY COUNCIL APPROVAL

THE FOLLOWING ACCOUNTS PAYABLE ITEMS HAVE BEEN APPROVED BY THE FINANCE COMMITTEE. PLEASE PLACE THESE ITEMS ON THE AGENDA OF THE NEXT SCHEDULED CITY COUNCIL MEETING AND REQUEST APPROVAL BY CITY COUNCIL.

ACCOUNTS PAYABLE	11/13/14
ACCOUNTS PAYABLE	11/20/14
ACCOUNTS PAYABLE	12/10/14
ACCOUNTS PAYABLE	12/18/14
ACCOUNTS PAYABLE	12/23/14
ACCOUNTS PAYABLE	01/08/15
ACCOUNTS PAYABLE	01/15/15
ACCOUNTS PAYABLE	01/22/15
 DIRECT PAYABLES	 12/10/14
DIRECT PAYABLES	01/15/15
DIRECT PAYABLES	01/15/15
 UTILITY REFUNDS	 11/06/14
UTILITY REFUNDS	12/04/14
UTILITY REFUNDS	01/08/15
UTILITY REFUNDS	01/15/15
UTILITY REFUNDS	01/15/15
UTILITY REFUNDS	01/22/15

RESPECTFULLY SUBMITTED



PHILL CONNER
FINANCE DIRECTOR

2/22/15

DATE

Attachment: Accounts Payable for 2-26-15 Agenda (1792 : Accounts Payable)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1790)

Meeting: 02/26/15 07:00 PM
Department: Mayor's Office
Category: Appointment
Prepared By: Dustin Hodges
Initiator: Dustin Hodges
Sponsors:
DOC ID: 1790

CONSIDER AND/OR APPROVE MAYOR'S APPOINTMENT OF SCOTT PEDEN TO THE BAY CITY HISTORIC COMMISSION.

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1789)

Meeting: 02/26/15 07:00 PM
Department: Mayor's Office
Category: Appointment
Prepared By: Dustin Hodges
Initiator: Dustin Hodges
Sponsors:
DOC ID: 1789

**CONSIDER AND/OR APPROVE MAYOR'S APPOINTMENT OF
JONNIE MONTALBO TO THE BAY CITY HOUSING
AUTHORITY BOARD.**

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



CITY OF BAY CITY VOLUNTEER INTEREST FORM

Dear Resident:

This form will let the City Council know of your interest and qualifications to serve on a City board or commission. You are encouraged to contact the Mayor concerning your nomination. You may also submit a resume or brief background information regarding your qualifications. This form will be kept on file for a period of two years in the City Secretary's office.

PLEASE TYPE OR PRINT:

Date: 2.24.15
 Name: JOHNNIE MONTALBO Home Address: 2900 Live Oak Ave
 City: Bay City State: TX Zip: 77414
 Home Phone: 979-245-5555 Business Phone: 979-479-5055
 Employer: BC TRIBUNE Occupation: REPORTER - Columnist
 E-mail: reporter@baycitytribune.com
 Resident of the Bay City Corporate City Limits: (circle one) ☒ Yes ☐ No
 Resident of City for 43 years

I am interested in serving on the following boards:

(Boards and Committees include: Bay City Community Development Corporation (BCCDC), Main Street, Planning Commission, Historic Commission, Convention and Visitor Bureau (CVB), and Housing Authority)

- | | |
|------------------|-----------|
| 1.) <u>BC HA</u> | 3.) _____ |
| 2.) _____ | 4.) _____ |

Please list any involvement in civic groups or clubs, current or past service on city boards, or other information qualifying you for service:

BC HA
BACODA - TRL - County Coalition
VICTORIOUS WARRIORS OF LIFE
BC Recovery Resource Center
E4E2 Adult Education
NARCOTICS Anonymous

Jonnie Montalbo
 Signature

Return completed form to the City Secretary's Office: 1901 5th Street, Bay City, Texas 77414



City Council
1901 5Th Street
Bay City, TX 77414

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Policy
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1780

ADOPTED

ORDINANCE (ID # 1780)

CONSIDER AND/OR APPROVE AN ORDINANCE ORDERING A GENERAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 9, 2015, FOR THE PURPOSES OF ELECTING THREE (3) CITY COUNCIL MEMBERS FOR SAID CITY, AND APPOINTING ELECTION JUDGES; DESIGNATING THE DATE FOR A RUNOFF ELECTION, IF NEEDED; REPEALING ALL OR PART OF ORDINANCES AND RESOLUTIONS WHICH CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

ORDINANCE NO. _____

AN ORDINANCE ORDERING A GENERAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 9, 2015, FOR THE PURPOSES OF ELECTING THREE (3) CITY COUNCIL MEMBERS FOR SAID CITY, AND APPOINTING ELECTION JUDGES; DESIGNATING THE DATE FOR A RUNOFF ELECTION, IF NEEDED; REPEALING ALL OR PART OF ORDINANCES AND RESOLUTIONS WHICH CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BAY CITY, TEXAS:

1. In compliance with the Texas Election Codes, Texas Local Government Code, Bay City Home Rule Charter, and Constitution of the State of Texas, a General be and the same is hereby called and ordered for the second Saturday in May, 2015, the same being the 9th day of said month, at which election all qualified voters may vote for the purpose of electing two (2) Council members; and

2. That the City Secretary of said city shall prepare optical scan ballots to be used in said election and shall stamp same "official ballot" on which ballot shall be printed the names of the candidates for each position. The places of the different Council members shall be designated on the official ballot Council Position No. 3, 4 and 5.

Section 61.012 of the Texas Election Code requires that the City of Bay City must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.

The Office of the Texas Secretary of State has certified that the 24 HAVA ADA AutoMARK Voter Assistance machine provided by Election Systems & Software (ES&S) is an accessible voting system that may legally be used in Texas elections.

Sections 123.032 and 123.035 of the Texas Election Code authorize the acquisition of voting systems by local political subdivisions and further mandate certain minimum requirements for contracts relating to the acquisition of such voting systems.

As chief elections officer of the City of Bay City, the City Secretary shall provide at least one 24 HAVA ADA AutoMARK Voter Assistance machine in each polling place in every polling location used to conduct any election ordered on or after January 1, 2006. The 24 HAVA ADA AutoMARK Voter Assistance machine may be acquired by any legal means available to the City of Bay City, including but not limited to lease or

rental from the County of Matagorda or from any other legal source, as authorized or required by Sections 123.032 and 123.035, Texas Election Code.

3. That no person's name shall be placed upon the official ballot as a candidate for any position unless such person has filed a sworn application, as provided by the laws of Texas, with the City Secretary at least sixty-seven (67) days prior to the election date, and it must appear on the face of said application, the position and the number of the place that said candidate is seeking.

4. That in the event that there are two or more candidates for the same position and place, the position of such candidates names on the ballot shall be determined by drawing names according to the laws of Texas and placing them on such ballot in the order determined by the draw.

5. That each voter shall vote for his choice for candidate for each position or place by placing an "X" in the square beside the name and shall vote for one candidate only for each position or place.

6. That any candidate receiving a majority of all the votes cast for the office for which he is a candidate shall be elected to such office. In the event of a lack of a majority, the Mayor shall, not later than the fifth day after the completion of the official count of ballots, issue a call for a second election, to be held on June 13, 2015, at which second election the two candidates receiving the most votes in the first election shall again be voted for, and the candidate receiving the majority of all votes cast for that office shall be elected to such office.

7. The polling place shall be kept open from 7:00 a.m. until 7:00 p.m. and that due return be made to the City Council showing the number of votes cast for each candidate for each of the positions.

8. That this Ordinance, signed by the Mayor and attested by the City Secretary, shall constitute the proclamation of the City Council calling and ordering said election. The notice for the General Election shall be published in a newspaper of general circulation in the City of Bay City at least one (1) time, not more than thirty (30) days nor less than ten (10) days before the election, and that the said City Secretary is hereby directed to post or cause to be posted in a public place within the City limits, said proclamation at least twenty-one (21) days before said election.

9. There shall be only one polling place on Election Day, which shall be the Service Center, 2105 Ave. M, Bay City, Texas and the personnel and officers who are to hold that same, except insofar as they may be changed by the City Council of the City of Bay City, Texas shall be as follows:

NAME

POSITION

Carolyn Scott

Presiding Judge

10. That the Election Judge shall appoint at least four (4) clerks to assist her in the election. Additional clerks may be appointed as necessary.

11. There shall be an Early Voting Ballot Board (EVBB), which shall comprise of an Early Voting Ballot Board Judge and two clerks. The EVBB Judge shall appoint clerks for the EVBB.

There shall be a Resolution Board which shall be the same members that comprise the EVBB.

12. There shall be only one polling place for early voting ballots, which shall be at City Hall, 1901 5th Street, Bay City, Texas. The City Secretary appoint at least four Temporary Deputy Early Voting Clerks for the General Election to be held May 9, 2015, and the City Council hereby approves that appointment and does authorize compensation for work.

The City Council of the City of Bay City, Texas will appoint a qualified individual for the position of Chairman of the Early Voting Ballot Board. The Chairman of the Early Voting Ballot Board shall appoint the three Early Voting Ballot Board members.

As required under Section 85.005(d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays; therefore, early voting by personal appearance shall be conducted for 12 hours on the last two days of early voting (May 4, 2015 and May 5, 2015).

13. Repealing Clause: That all Ordinances, Resolutions, or part thereof, in conflict herewith are repealed to the extent of such conflict.

14. Severability Clause: If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, and the validity of the remaining portions or sets of circumstances shall not be affected hereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of an unconstitutionality and all provisions of this Ordinance are declared to be severable.

15. Effective Date: This Ordinance was passed, approved and effective on the 26th day of February, 2015.

COUNCIL MEMBER	VOTED AYE	VOTED NO	ABSENT
William Cornman	_____	_____	_____
Julie Estlinbaum	_____	_____	_____
Chrystal Folse	_____	_____	_____
Steven Johnson	_____	_____	_____
Carolyn Thames, Mayor Pro Tem	_____	_____	_____

Mark A. Bricker, Mayor
City of Bay City, Texas

ATTEST:

Rhonda Clegg, City Secretary

APPROVED AS TO FORM:

George Hyde, City Attorney
City of Bay City
DENTON, NAVARRO, ROCHA,
BERNAL, HYDE & ZECH, P.C.

Attachment: ORDINANCE NO. - General Election (1780 : Ordinance to Order Election)

AW1-2
Prescribed by Secretary of State
Sections 3.004, 3.006, 4.008, 85.004, 85.007 Texas Election Code
9/2009

ORDER OF ELECTION FOR CITY OF BAY CITY
ORDEN DE ELECCION PARA CIUDAD DE BAY CITY, TEXAS

An election is hereby ordered to be held on May 9, 2015 for the purpose of:
(date)
Por la presente se ordena que se llevará a cabo una elección el 9 de Mayo 2015 con el propósito de:
(fecha)

Electing Council Member Positions: 3, 4 and 5
Elección Conciliar Puestos: 3, 4 y 5

Early voting by personal appearance will be conducted each weekday at
La votación adelantada en persona se llevará a cabo de lunes a viernes en

City Hall Council Chambers, Room 108, 1901 5th Street, Bay City, Texas
Sala del Conciliar en Palacio Municipal, Cuarto 108, 1901 5th Street, Texas

(location)
(sitio)

Recommended but not required
Recomendado pero no necesario

between the hours of 8 a.m. and 5 p.m. beginning on April 27, 2015 and ending on May 1, 2015; and 7 a.m. to 7 p.m. on May 4, 2015 and May 5, 2015.
entre las horas de 8 mañanas y principio de 5 P.M. el 27 de Abril de 2015 y conclusión el 1 de mayo de 2015; y 7 mañanas a 7 P.M. el 4 de mayo de 2015 y el 5 de mayo de 2015.

Applications for ballot by mail shall be mailed to:
Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a:

RHONDA CLEGG

(Name of Early Voting Clerk)
(Nombre del Secretario(a) de Votación Adelantada)

1901 5TH STREET

(Address)
(Dirección)

BAY CITY	77414
_____ (City) <i>(Ciudad)</i>	_____ (Zip Code) <i>(Zona Postal)</i>

Applications for ballots by mail must be received no later than the close of business on
Las solicitudes para boletas que se votarán en ausencia por correo deberán recibirse para el fin de las horas de las horas de negocio el
April 30, 2015 *30 de Abril 2015.* (date)(fecha)

Issued this the 26th day of February, 2015.
Issued esta 26th day of February 2015.

Signature of Mayor
Firma del Alcalde

Signature of Councilperson
Firma de la Persona del Concilio

Signature of Councilperson
Firma de la Persona del Concilio

Signature of Councilperson
Firma de la Persona del Concilio

Signature of Councilperson
Firma de la Persona del Concilio

Signature of Councilperson
Firma de la Persona del Concilio

Instruction Note: A copy of this election order must be delivered to the County Clerk/Elections Administrator and Voter Registrar not later than 60 days before election day. *Nota de instrucción: Se deberá entregar una copia de esta orden de elección al/a la Secretario(a) del Condado/Administrador(a) de Elecciones y el/la Registrador(a) de Votantes a más tardar 60 días antes del día de elección.*

Attachment: Order of Election (1780 : Ordinance to Order Election)

NOTICE OF GENERAL ELECTION
(AVISO DE ELECCION GENERAL)

To the Registered Voters of the City of Bay City, Texas:
(A los votantes registrados del Ciudad de Bay City, Texas:)

Notice is hereby given that the polling places listed below will be open from 7:00 a.m. to 7:00 p.m. on Saturday, May 9, 2015

for voting in a general election to elect:

COUNCIL MEMBER POSITIONS #3, 4 AND 5

Notifiquese, por las presente, que las casillas electorales sitados abajo se abrirán las 7:00 a.m. hasta las 7:00 p.m. el sábado, 9 de Mayo, 2015

para votar en la Elección General para elegir:

CONCILIAR PUESTOS #3, 4 Y 5

LOCATION(S) OF POLLING PLACES
(DIRECCION(ES) DEL LAS CASILLAS ELECTORALES)

SERVICE CENTER 2105 AVENUE M BAY CITY, TEXAS 77414
SERVICE CENTER 2105 AVENIDA M BAY CITY, TEXAS 77414

Early voting by personal appearance will be conducted each weekday at
(La votación adelantada en persona se llevará a cabo de lunes a viernes en)

City Hall Council Chambers, Room 108, 1901 5th Street, Bay City, Texas
(Sala del Conciliar en Palacio Municipal, Cuarto 108, 1901 5th Street, Texas)

between the hours of 8:00 a.m. and 5:00 p.m. beginning on Monday, April 27, 2015 through Friday, May 1, 2015
(entre las 8:00 de la mañana y las 5:00 de la tarde empezando el lunes, 27 de Abril, 2015 a viernes, 1 de Mayo, 2015)
and between the hours of 7:00 a.m. and 7:00 p.m. on Monday, May 4, 2015 and ending Tuesday, May 5, 2015
(y entre las 7:00 de la mañana y las 7:00 de la tarde empezando el lunes, 4 de Mayo, 2015 y terminado el martes, 5 de Mayo, 2015)

Applications for ballot by mail shall be mailed to:
(Las solicitudes para boletas que se votarán en ausencia por correo deberán enviarse a:)

EARLY VOTING CLERK
1901 5TH STREET
BAY CITY, TEXAS 77414

Application for ballot by mail must be received no later than the close of business on April 30, 2015, 5:00 p.m.
(Las solicitudes para boletas que se votarán en ausencia por correo deberán recibirse para el fin de las horas de negocio el 30 de Abril, 2015, 5:00 p.m.)

Issued this the _____ day of _____, 2015
(Emitada este día _____ de _____, 2015)

Signature of Mayor, City of Bay City, Texas
(Firma del Alcalde, Ciudad de Bay City, Texas)

Attachment: Notice of General Election (1780 : Ordinance to Order Election)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1778

AGENDA ITEM (ID # 1778)

**CONSIDER AND/OR APPROVE A JOINT ELECTION
AGREEMENT BETWEEN THE CITY OF BAY CITY AND THE
BAY CITY INDEPENDENT SCHOOL DISTRICT.**

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

JOINT ELECTION AGREEMENT BETWEEN THE CITY OF BAY CITY AND THE BAY CITY INDEPENDENT SCHOOL DISTRICT

This joint election agreement is made this ____ day of _____, 2015, by and between the *City of Bay City, a Texas home rule municipality, ("City") and the Bay City Independent School District, a Texas Independent School District, ("District") (collectively "Entities" or "Participating Entities")*.

WHEREAS, the **City** plans to hold a General Election on May 9 2015, for the purpose of electing three (3) city council members for Place 3, Place 4 and Place 5;

WHEREAS, the **District** plans to hold a General Election on May 9, 2015, for the purpose of electing ____ (__) trustees for Place _____;

WHEREAS, Texas Election Code section 271.002 authorizes the governing bodies of political subdivisions to enter into an agreement to hold joint elections in election precincts that can be served by common polling places;

WHEREAS, the parties to this agreement serve voters within the same boundaries, and it would be to the benefit of the City and the District, and the citizens and voters thereof to hold the elections jointly.

NOW, THEREFORE, IT IS AGREED that a joint election will be held by City and District under the following terms and conditions:

THIS AGREEMENT is subject to the written approval of all parties and shall not be binding on the parties until such written approval is obtained.

THIS AGREEMENT will require **the City of Bay City's Deputy City Secretary** to be appointed as the Joint Early Voting Clerk.

THIS AGREEMENT requires the City and the District to share costs associated with this joint election proportionally as more specifically stated in Section B.2., of this agreement.

THIS AGREEMENT requires the City and the District to be responsible for ordering its own election and each Party shall be responsible for the following:

1. Publishing notice of their respective elections, which shall be published separately;
2. The production of respective elections ballots;
3. Issuance of their own certificate of election to the candidates.

THIS AGREEMENT will require joint Early Voting and Election Day locations, dates, and times to be used by the City and the District.

THIS AGREEMENT will require the City of Bay City Elections Administrator to tabulate the precinct results and canvassing separately for the City and the District. The results will be delivered to each entity by facsimile.

THIS AGREEMENT will require the City of Bay City Elections Administrator to be responsible for the safekeeping of election records for this joint election.

THIS AGREEMENT will require the City of Bay City Elections Administrator to be responsible for performing the following duties and to furnish the following services and equipment:

1. Recommend election judges, alternate judges and clerks.
2. Pay election judges and other election workers.
3. Procure and distribute all necessary election supplies.
4. Supply all necessary voting equipment; transport equipment to and from the polling places, and prepare the voting equipment for use at the polling places.
5. Issue Writs of Election to the election judges appointed.
6. Perform early voting clerk duties.
7. Publish the legal notice of the date, time, and place of the electronic tabulating equipment test and conduct such test and provide copies to entities.
8. Arrange for the use of a central counting station and for the tabulating personnel needed at the counting station and assist in the preparation of programs and the test materials for tabulation of the ballots to be used with electronic voting equipment.
9. Assist in providing the general overall supervision of the election and will provide to the Canvassing Authority the prescribed election records and reports as required when a central counting station is used:
 - (a) Canvassing Summary Report,
 - (b) Accumulated Totals Report of early voting and Election Day, and
 - (c) Electronically submit results to the Secretary of State.
10. Ballot type: (For use with mail ballots.) Optical scan.
11. Ballot tabulating equipment to be used:
 - Premier Touch Screens,
 - Premier Optical Scan for paper ballots.

GENERAL CONDITIONS

A. Common Early Voting and Election Day Polling Locations

Early voting by personal appearance will be conducted at the following location at the specified dates and times:

City of Bay City - City Hall
1901 5th Street
Bay City, Texas
Dates: Monday, April 27, 2015 - Tuesday, May 5, 2015

Hours: 7:00 a.m. – 7:00 p.m.

Election Day Locations: The polling places listed below will be open from 7:00 a.m. to 7:00 p.m. on May 9, 2015.

**Bay City Service Center
2107 Avenue M.
Bay City, Texas**

B. Joint Election Costs: Payment

1. Costs. Access to the common polling location(s) set out herein will be provided at no charge. However, each Entity remains responsible for all costs associated with their respective elections (including but not limited to production of ballots and posting of notices), save and except those costs specified in Section B.2., immediately below.

All funds expended by each Entity will be from current revenues.

2. Shared costs. The District shall reimburse the City for one-half (1/2) of costs incurred by the City for the following:
 - a) Salaries of election workers, including hours of City employees for work directly related to this election; and
 - b) All cost associated with use of leasing Matagorda County's Automark DRE and counting machine; and
 - c) All cost associated with use of City's ePollbooks (District's obligation for this item is estimated to be \$3,312.00); and
 - d) Miscellaneous Costs (i.e. election worker breakfast and lunch).

Cancellation. In the event any of the parties to this Agreement cancel their election because of unopposed candidates under Subchapter C of Title I of the Texas Election Code, the remaining parties shall be responsible for their respective elections, including all associated costs. The canceling party shall be responsible for its respective share of election expenses incurred through the date that the election is canceled as allocated to that Entity. In the event that a party cancels its election, the other parties shall continue to have access to the polling locations at no charge.

If an election is to be canceled by one of the parties, notice will be given within two (2) days of cancellation.

Run-Off Election. This agreement shall not extend to run-off elections. If District requires a run-off election, District shall be responsible for arranging all matters necessary for the conduct and administration of a run-off election.

C. General Provisions

- A. Communications. Throughout the term of this Agreement, the Participating Entities will engage in ongoing communications concerning the conduct of the Joint Election and discuss and resolve any problems which might arise regarding the Joint Election.
- B. Effective Date. This Agreement takes effect upon the complete execution of this Agreement by all Participating Entities.
- C. Custodian of Records. Each Participating Entity will serve as their individual custodian for purposes of election records as required by law. Each Participating Entity shall appoint a qualified person to act as Custodian of Records for the Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.

D. Miscellaneous Provisions

- A. Venue and Choice of Law. The Entities agree that venue for any dispute arising under this Agreement will lie in the appropriate courts of Matagorda County, Texas. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the United States of America.
- B. Entire Agreement. This Agreement contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed and supersedes all prior agreements, including prior election services contracts relating to each Entity's May 9, 2015 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this Agreement are of no force and effect. Any oral representations or modifications concerning this Agreement shall be of no force or effect, excepting a subsequent modification in writing as provided herein.
- C. Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect the remaining provisions of this Agreement; and, parties to this Agreement shall perform their obligations under this Agreement in accordance with the intent of the parties to this Agreement as expressed in the terms and provisions of this Agreement.
- D. Breach. In the event that any Participating Entity breaches any of its obligations under this Agreement, the non-breaching party shall be entitled to

pursue any and all rights and remedies allowed by law. Nothing in this Agreement shall be construed as a waiver of any immunity or defense to which any Participating Entity is entitled under statutory or common law.

- E. Other Instruments. The Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out the purposes of this Agreement.
- F. Mediation. When mediation is acceptable to both parties in resolving a dispute arising under this Agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless both parties are satisfied with the result of the mediation, the mediation will not constitute a final and binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in Section 154.023 of the Texas Civil Practice and Remedies Code, unless both parties agree, in writing, to waive the confidentiality. Notwithstanding the foregoing, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act, whenever applicable. The term “confidential” as used in this Agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act.
- G. Amendment/Modification. Except as otherwise provided, this Agreement may not be amended, modified, or changed in any respect whatsoever, except by a further Agreement in writing, duly executed by the parties hereto. No official, representative, agent, or employee of any Participating Entity has any authority to modify this Agreement except pursuant to such expressed authorization as may be granted by the governing body of the respective Participating Entity.
- H. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals and with the same effect as if all parties hereto had signed the same document. All of such counterparts shall be construed together and shall constitute one and the same Agreement.

*****REMAINDER OF PAGE INTENTIONALLY LEFT BLANK***

The undersigned are the duly authorized representatives of the parties' governing bodies, and their signatures represent adoption and acceptance of the terms and conditions of this agreement.

APPROVED, this _____ day of _____, 2015, by the City Council of the
CITY OF BAY CITY.

Mark A. Bricker, Mayor
City of Bay City

ATTEST:

Rhonda Clegg, City Secretary

APPROVED AS TO FORM:

DNRBH&Z P. C,

APPROVED, this _____ day of _____, 2015, by the Board of Trustees
for the Bay City Independent School District

Name, Title
Bay City Independent School District

Attachment: Joint Election Agreement 2015 (1778 : Joint Election Contract)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1779

AGENDA ITEM (ID # 1779)

**CONSIDER AND/OR APPROVE A LEASE BETWEEN THE CITY
OF BAY CITY AND MATAGORDA COUNTY FOR THE USE
TABULATION EQUIPMENT AND ASSOCIATED PERSONNEL.**

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

2015 UNIFORM ELECTION SERVICES CONTRACT
WITH THE COUNTY ELECTIONS OFFICER
STATE OF TEXAS, CITY OF BAY CITY

THIS CONTRACT is made and entered into this ____ day of _____, 20____, by and between the City of Bay City, acting by and through the Mayor of Bay City, Mark Bricker, hereinafter referred to as "Party", and Janet Hickl, County Election Officer of Matagorda County, Texas, hereinafter referred to as the "Contracting Officer", under the authority of Section 31.092(b), Texas Election Code and relating to the conduct and supervision of the Uniform Election on May 10, 2014 (hereinafter referred to as the "election").

THIS CONTRACT is entered into for and in consideration of the mutual covenants and promises hereinafter set out, and for the purpose of ensuring that the Contracting Officer and the Party understand the tasks each is to perform in connection with the election:

1. Duties and services of the Contracting Officer. The Contracting officer shall be responsible for performing the following duties and furnish the following services and equipment *(strike out any not being performed by the C.O.)*

- 1.1 Arrange for the use of a central counting/central accumulation station and for the central counting station manager and tabulating personnel and equipment needed at the counting/accumulation station and assist in the preparation of programs and the test materials for the tabulation of ballots to be used with electronic voting equipment.
- 1.2 Arrange for the publication of the required notices for all logic and accuracy testing in Section 1.1.
- 1.3 If requested by the Party, prepare the unofficial tabulation of precinct results on election night in accordance with Section 172.113, Texas Election Code.

2. Duties and services of the Party. The Party shall be responsible for performing the following duties in connection with the election.

Attachment: Uniform Election Services Contract 2015 (1779 : County Tabulation Equipment Lease)

- 2.1 Appoint a presiding and an alternate judge for each Election Day polling place, a presiding and an alternate judge for the central counting station, and a presiding judge for the early voting ballot board and promptly provide the names and contact information to the Contracting Officer. (It is the responsibility of the presiding judges to appoint the appropriate number of election clerks).
- 2.2 In accordance with Section 172.1112, Texas Election Code, post a notice of the election and a notice of any consolidated precincts, if applicable, on the bulletin board used for posting notices of meetings of City Council. The notice must contain the information set forth in Section 4.004, Texas Election Code and be posted within the time frame set forth in Section 4.003(b), Texas Election Code.
- 2.3 As soon as possible after the final candidate filing deadline, to allow sufficient time to prepare the ballot and to conduct any necessary logic and accuracy testing so that ballots going overseas may be mailed no later than 45 days before the election dates for the election, certify in writing to the Contracting Officer (i) the candidates' names (as they are to appear on the ballot) and offices, and (ii) any referenda under Section 172.087, Texas Election Code (in English, Spanish, and any other required languages) that are to appear on the ballot.

3. Compensation, Billing, and Payment

- 3.1 For the performance of duties and services under Paragraph 1 above, the Party shall pay the Contracting Officer for the actual expenses he/she incurs in accordance with Section 31.100, Texas Election Code and the leasing fees allowed under Section 123.033(e) and (f), Texas Election Code, including without limitation, the costs and expenses of newspaper publication of the testing notice only; use of equipment; wages and salaries of the central counting station personnel. Provided, that nothing herein shall be construed as permitting the Contracting Officer to be paid for costs or expenses for which reimbursement is not allowed under Section 31.100 or other sections of the Texas Election Code or under the SOS administrative rules or advisories relating to fund.

- 3.2 Notwithstanding anything to the contrary in this Contract, the Contracting Officer may request the Party to pay directly to the clerks of the central counting station the wages and salaries earned by them in connection with the election.
- 3.3 A cost estimate for the services, equipment, and supplies provided by the Contracting Officer for the election is attached to and made a part of this Contract as Exhibit A. The cost estimate should express costs in the categories set forth in the Party's Uniform Cost Estimate. The Party and the Contracting Officer acknowledge that the cost of the election is paid for from the City of Bay City Election fund described in Section 173.031, Texas Election Code, with the City of Bay City paying for the cost of early voting in accordance with Section 173.003, Texas Election Code. The Contracting Officer and the Party also acknowledge their responsibility to comply with the administrative rules issued by the SOS relative to uniform financing, 1 T.A.C. §§81.101-81.157.
- 3.4 As soon as reasonably possible after the election, the Contracting Officer will submit an itemized invoice to the Party (i) for the actual expenses he/she incurred as described in Paragraph 3.1 above. The Contracting Officer will use his/her best efforts to submit the invoice within 30 days after the election.
- 3.5 The Contracting Officer's invoice shall be due and payable by the Party to the address set forth in the invoice within 30 days after its receipt by the Party. If the Party disputes any portion of the invoice, the Party shall notify the Contracting Officer within such 30-day period or the invoice will be deemed to be a true and accurate rendering of the amount that is due.

4. Voting System. The voting system to be used in the election is Votesafe.

5. General Provisions.

- 5.1 Nothing contained in this Contract shall authorize or permit a change in the Officer with whom or the place at which any document or record relating to the election is to be filed, the place at which any function is to be carried out, the Officers who conduct the official canvass of the election returns, the Officer to serve as custodian of the voted ballots or

other election records, or any other nontransferable functions specified by Section 31.096, Texas Election Code.

- 5.2 The Contracting Officer shall file copies of this Contract with the City Finance Director and the City Audit Committee of Bay City, Matagorda County, Texas.
- 5.3 For purposes of implementing this Contract, the Contracting Officer and the Party Designate the following individuals, and whenever the Contract requires submission of information or notice to the Contracting Officer or the Party, submission or notice shall be made to these individuals:

For the Contracting Officer:

Name _____

Mailing address _____

Tel.: _____

Fax: _____

Email: _____

For the Party:

Name: *City of Bay City*

Mailing address: *1901 5th Street*

Bay City, Texas 77414

Tel.: *979-245-5311*

Fax: *979-323-1681*

Email: *mayorsoffice@cityofbaycity.org*

- 5.4 By their signatures below, the Contracting Officer and the Party warrant and represent That they are authorized to enter into this Contract.

WITNESS THE FOLLOWING SIGNATURES AND SEALS ON THE RESPECTIVE DATES
SHOWN BELOW:

The Contracting Officer

By _____

Title _____

Date _____

(Seal)

The Party

By _____

Title _____

Date _____

Exhibit “A”

JANET HICKL**MATAGORDA COUNTY CLERK**

1700 7th Street
 Bay City, TX 77414
 Phone (979) 244-7680 Fax (979) 244-7688

INVOICE

INVOICE #1-2015
 DATE: MAY 9, 2015

TO:
 Rhonda Jones, City Secretary
 City of Bay City
 1901 5th Street
 Bay City, TX 77414
 (979) 245-5311

FOR:
 May 9, 2015 Estimated Expenses

DESCRIPTION			AMOUNT
Central Count Station Workers – County Clerk’s Office 8 workers @ \$8/hour x 13 hours	\$ 832.00	÷2	\$ 416.00
Lease of Automark from 4/24-5/11, 2015 @ \$5 per day	\$ 85.00		\$ 85.00
Total			\$ 501.00
Fee for General Supervision of Election (Sec. 31.100 Election Code: County Election Services for General Supervision of Election (A fee charged by the officer for general supervision of the election may not exceed 10 percent of the total amount of the contract, but may not be less than \$75.00))			\$ 50.10
The City will be responsible to appoint your own Early Voting Ballot Board and Resolution Board			
Make all checks payable to Janet Hickl, Matagorda County Clerk			
GRAND TOTAL			\$551.10

Attachment: Uniform Election Services Contract 2015 (1779 : County Tabulation Equipment Lease)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1777

AGENDA ITEM (ID # 1777)

**CONSIDER AND/OR APPROVE A LEASE AGREEMENT
BETWEEN THE CITY OF BAY CITY AND MATAGORDA
COUNTY FOR THE USE OF A DIRECT RECORDING
ELECTRONIC (DRE) EQUIPMENT.**

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

**Equipment Lease
Direct Recording Electronic (DRE) Voting Machines**

THIS EQUIPMENT LEASE (Lease) is made and effective this _____th day of February, 2015, by and between Matagorda County, Texas, a body corporate and politic, (Lessor), and City of Bay City (Lessee).

WHEREAS Lessor desires to lease to Lessee, and Lessee desires to lease from Lessor, Direct Recording Electronic (DRE) Voting Machines.

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the parties hereto agree as follows:

I. LEASE

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor, the following described equipment (Equipment):

Automark Direct Recording Electronic (DRE) Voting Machines Quantity: 1

II. TERM

The term of this Lease shall commence on the 24th day of April, 2015, and shall expire 17 days thereafter, on the 11th day of May, 2015.

III. RENT

The rent for the Equipment shall be \$5.00 per day, per machine for the rental term. Payment shall be sent to Lessor at the following address:

Matagorda County Clerk
1700 Seventh Street, Rm. 202
Bay City, Texas 77414

IV. USE

Lessee shall use the Equipment in a safe and appropriate manner and shall comply with and conform to all national, state, municipal, and other laws, ordinances and regulations in any way relation to the possession, use or maintenance of the Equipment.

LESSOR DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Attachment: County Equipment Lease (1777 : County DRE)

V. PROGRAMMING

Lessee shall, at Lessee's expense, contract with E S & S, the vendor of the Automark DREs, to perform all programming necessary for their ballot. Lessee will be allowed to access the Automark DREs during normal business hours of the Matagorda County Clerk for testing prior to Election Day.

VI. PICK UP AND DELIVERY

Lessee shall be responsible for picking up the Automark DREs and returning them to the County Clerk at the County Courthouse. Lessee shall contact the Matagorda County Clerk and coordinate a mutually convenient time for the pickup and delivery of the Automark DREs.

VII. REPAIRS

Lessee, at its own cost and expense, shall keep the Equipment in good repair, condition and working order and shall furnish any and all parts, mechanisms and devices required to keep the Equipment in good mechanical working order.

VIII. LOSS AND DAMAGES

Lessee hereby assumes and shall bear the entire risk of loss and damage to the Equipment from and every cause whatsoever. No loss or damages to the Equipment or any part thereof shall impair any obligation of Lessee under this Lease. Lessee shall not be responsible for any expenses for repair that are covered under the vendor's warranty. In the event of loss or damage of any kind whatsoever to the Equipment, Lessee shall, at Lessor's option:

- a. Place the same in good repair, condition and working order; or
- b. Replace the same with the equipment in good repair, condition and working order; or
- c. Pay to Lessor the replacement cost of the Equipment of the insurance deductible required by the insurance company for replacement under the policy.

IX. OWNERSHIP

The Equipment is, and shall at all times be and remain, the sole and exclusive property of Lessor; and the Lessee shall have no right, title or interest therein or thereto except as expressly set forth in the Lease.

X. ENTIRE AGREEMENT

This instrument constitutes the entire agreement between the parties on the subject matter hereof and it shall not be amended, altered or changed except by a further writing signed by the parties hereto.

XI. NOTICE

Service of all notices under this Agreement shall be sufficient if given personally or by certified mail, return receipt requested, postage prepaid, at the address hereinafter set forth, or to such address as such party may provide in writing from time to time.

If to Lessor:

Matagorda County Clerk
1700 Seventh Street, Rm. 202
Bay City, Texas 77414

If to Lessee:

City of Bay City
1901 5th Street
Bay City, Texas 77414

XII. ASSIGNMENTS

Lessee shall not assign this Lease or its interest in the Equipment without the prior written consent of Lessor.

XIII. GOVERNING LAW

This Lease shall be construed and enforced according to laws of the State of Texas.

XIV. HEADINGS

Headings used in this Lease are provided for convenience only and shall not be used to construe meaning of intent.

EXECUTED by Parties hereto, each respective entity acting by and through its duly authorized official as required by law, on multiple counterparts each of which shall be deemed to be an original, on the date specified.

AGREED to and ADOPTED by the Commissioners Court of Matagorda County, Texas on the _____ day of _____ 20_____.

ATTEST:

LESSOR:

MATAGORDA COUNTY

JANET HICKL,
County Clerk

By: NATE McDONALD,
County Judge

AGREED to and ADOPTED by governing body of City of Bay City on the ____th day of February, 201__.

ATTEST:

LESSEE:

Rhonda Clegg,
City Secretary

Mark A. Bricker,
Mayor

Attachment: County Equipment Lease (1777 : County DRE)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Agreement
Prepared By: Marla Jasek
Initiator: Marla Jasek
Sponsors:
DOC ID: 1769

AGENDA ITEM (ID # 1769)

**DISCUSS, CONSIDER AND/OR APPROVE A MEMBERSHIP
AGREEMENT BETWEEN THE CITY OF BAY CITY AND
COOPERATIVE TEAMWORK & RECYCLING ASSISTANCE
(CTRA).**

The City currently has a two year agreement with CTRA for the marketing and sale of our plastic (#1 and #2) and paper (mixed and OCC). This new 2 year agreement will continue from year to year unless either party opts out.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Julie Estlinbaum, Councilwoman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Membership Agreement Cooperative Teamwork & Recycling Assistance and City of Bay City

This agreement is entered by and between the Cooperative Teamwork & Recycling Assistance ("CTRA") and City of Bay City as Parties. **The terms of this agreement will apply to the recyclable materials, which are checked below:**

METAL

☐ Aluminum Used Beverage Cans (UBC)
☐ Steel/Tin Cans

☐ RECHARGEABLE BATTERIES
☐ ELECTRONICS

PLASTICS

☐ PET #1
☐ HDPE #2 Natural
☐ HDPE #2 Colored
☐ HDPE #2 and PET #1(Mixed)
☐ LDPE #4

PAPER

☐ Corrugated (OCC)
☐ Newspaper #8
☐ High-grade SOP (Sorted Office Paper)
☐ White Ledger
☐ Mixed Paper (Catalogs, Phone Books, Magazines, Junk Mail)

The following is understood and agreed by both parties:

CTRA shall be the exclusive agent for the City of Bay City in the marketing and sale of the recyclable materials as indicated above. Monthly prices offered by CTRA shall be based on an index amount defined by standard regional prices published in the first monthly issue of *Recycling Manager, The Yellow Sheet, or other indices identified through contractual arrangements with the Recycling Contractor*. The price of certain baled recyclable material will not drop below indicated floor prices during the life of the contract. If volumes of plastic, paper or steel are sufficient, CTRA may market those commodities separately to receive the best prices. In return for the marketing and sale of the City of Bay City's commodities and other member services, CTRA will receive ten percent of the total revenue received through the sale of any recyclable materials under this agreement.

When available from the Recycling Contractor, CTRA will provide, at no charge, Gaylord boxes and pallets for the transportation of loose materials to be marketed and sold under this agreement. Should the City of Bay City require additional Gaylord boxes for collection, storage, staging of recyclable materials, and/or shipping CTRA will attempt to facilitate such arrangements at a minimal cost to City of Bay City.

City of Bay City will be responsible for meeting standard contamination requirements, as described in Appendix A, in the collection of recyclable materials and for keeping all fiber recyclable materials (except corrugated cardboard) dry.

City of Bay City will be responsible for transporting all recyclable commodities to the pickup point designated and agreed upon by City of Bay City and CTRA, at its expense. CTRA will be responsible for scheduling transportation for the selected recycling commodities from the designated pickup point to the buyer.

City of Bay City will notify CTRA one week before a desired pickup date. Pickups will be scheduled by CTRA based on achieving full loads and shared transportation costs with other CTRA members. Every effort will be made through scheduling to avoid a negative revenue situation where the transportation costs exceed the revenue generated from the sale of recyclable materials. If the recyclables loaded from City of Bay City do not constitute a full load the transportation cost will be shared proportionately between all customers whose recycling materials are being transported. If transportation costs are incurred which exceed the revenue from the sale of the recyclable materials, the responsibility for paying these costs shall be the City of Bay City.

CTRA shall reimburse City of Bay City for the total revenue received from the sale of any recyclable materials under this agreement minus the above referenced administrative fee and any agreed upon transportation costs. The cost to City of Bay City shall be calculated based on actual CTRA transportation costs and the amount of recyclable materials loaded from City of Bay City proportionate to the total truckload to be sold.

CTRA will perform all negotiations regarding the above referenced recyclable materials for the City of Bay City and shall pay the City of Bay City for said recyclable materials according to shipping records and this agreement. Such payment shall be made to City of Bay City within forty-five (45) days from the end of the month in which City of Bay City's commodities were sold. CTRA will, upon request, provide a certificate of destruction for all confidential papers.

The term of this agreement shall be two years (the "initial term"). After the initial term, the agreement will continue from year to year. Either party may discontinue this agreement with thirty (30) days written notice stating the reasons for cancellation.

The parties agree that CTRA is undertaking obligations set forth in this agreement for, and on behalf of City of Bay City. City of Bay City shall hold CTRA harmless and indemnify CTRA, to the extent permitted by law, against any and all claims, damages, demands, losses, or liabilities of any kind or nature, including but not limited to negligence, including all expenses of litigation, which the CTRA or its officers, agents, employees, or representatives may sustain or incur, or which may be imposed upon CTRA because of, or arising out of or in any manner connected with action(s) attributed to the City of Bay City.

CTRA shall hold the City of Bay City harmless and indemnify City of Bay City, to the extent permitted by law, against any and all claims, damages, demands, losses, or liabilities of any kind or nature, including but not limited to negligence, including all expenses of litigation, which City of Bay City or its officers, agents, employees, or representatives may sustain or incur, or which may be imposed upon City of Bay City as a result of, or arising out of or in any manner connected with action(s) attributed to CTRA.

Any amendments or changes to this agreement must be mutually agreed upon by both parties and must be in writing.

In the event CTRA or City of Bay City shall be prevented from collecting, receiving, transporting, selling or buying any recyclable materials, or in the event CTRA or City of Bay City shall be prevented from complying with the terms and conditions of this agreement due to governmental or administrative prohibitions, labor difficulties, acts of God, acts of public enemy, riot, accidents, breakdown of equipment, weather conditions, delivery interruptions or other causes beyond the control of CTRA or City of Bay City as the case may be, the party so prevented shall, upon notice to the other party, be thereafter released from its obligations hereunder so long as such causes continue.

Should the final judgment of a court of competent jurisdiction invalidate any part of this agreement, the remaining parts of this agreement shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this agreement. This agreement is binding upon and shall inure to the benefit of the successors and assigns of the parties.

This agreement constitutes the entire agreement and understanding of the parties, it being understood that all other prior or contemporaneous agreements, negotiation memoranda, correspondence, and conversations between the parties hereto are terminated and superseded by this agreement. No subsequent modifications or amendments to this agreement shall be effective unless by written consent and signed by the parties.

Authorized representatives of the Parties hereby execute this agreement.

Authorized Representative of
City of Bay City

Date

Print Name, Title



Rachel M. Hering, Executive Director
Cooperative Teamwork & Recycling Assistance

1/13/15

Date

Attached: Appendix A

City of Bay City Contact Information:

Name

Email

Phone/Fax#

Address/Mailstop

APPENDIX A

FIBER GRADE DESCRIPTIONS

COMPUTER PRINTOUT PAPER (CPO)

Consists of one-part, continuous form sulphite paper printed on an impact printer (dot matrix, not laser or ink jet). Typically solid white paper but may include green, blue, or orange bars. Does not include carbonless (NCR), carbon interleaf, groundwood (recycled) papers, or pre-printed forms. Must be free of binders, Post-It notes, tapes, tabs, and any other papers. Paper clips and staples are OK.

WHITE LEDGER (Post Consumer)

Consists of typical single sheet, white bond office letterhead and copy paper. May contain laser printing and colored printing. This grade should be free of coated, treated, groundwood, carbonless, carbon interleaf, padded, or heavily printed stock. Computer paper may be included in the grade. Must be free of binders, Post-It notes, tapes, tabs, and colored papers. Paper clips and staples are OK.

SORTED OFFICE PAPER/WASTE (High Grade Office)

Consists of paper typically generated in offices. Contains primarily white and colored groundwood free paper, free of unbleachable fibers, (not brown boxes & wrappers & dark colored file folders). Includes carbonless paper, fax paper, envelopes, brochures, and manila file folders. May include 1% or less groundwood computer paper and newspaper. Must be free of binders, tapes, tabs, and plastic sheets. Paper clips and staples are OK. Pressure sensitive labels (postage stamps, post-it-notes) limited to trace amounts.

NEWSPAPER (DE-INK QUALITY #8)

Dry newspapers, not sunburned, including advertising inserts that are natural to newspaper distribution. Does not include magazines, junk mail, or other papers. No plastic or Kraft (grocery) bags, string, or tape.

MIXED PAPER

Old newspapers include those newspapers that are sunburned, old, or have been wet. May include magazines, junk mail, office/copy paper, and Kraft (brown grocery) bags.

OLD CORRUGATED CONTAINERS (OCC)

Empty Kraft corrugated boxes, including the staples, tape, and labels that may be on them. Does not include waxed boxes. May include other Kraft papers such as brown wrapping paper and Kraft envelopes. Minimum amounts of chipboard (like shoeboxes) are acceptable and less than 10% of in-ported containers.

CONTAMINANTS

The following items should not be included in any grade:

Paper Food Containers	Carbon Paper	Plastic (all)	Household Garbage
Paper Food Wrap	Paper Cups	Plastic Food Wrap	Metal
Photographs	Plastic Cups	Glass	Paper Towels
Plastic Food Containers	Tyvek Envelopes	Tissue Paper	Wood

PLASTIC GRADE DESCRIPTIONS

POLYETHYLENE TERAPHTHALATETE (PET #1)- Clear soft drink & water bottles, some shampoo

HIGH DENSITY POLYETHYLENE(HDPE Colored #2)- Thick colored plastic, examples- detergent bottles, household cleaners

HIGH DENSITY POLYETHYLENE (HDPE Natural #2)- Milk bottles/gallon jugs

LOW DENSITY POLYETHYLENE (LDPE #4)- CLEAN grocery, produce, dry cleaning, ice and bread bags



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Presentation
Prepared By: Marla Jasek
Initiator: Marla Jasek
Sponsors:
DOC ID: 1768

DISCUSSION ITEM (ID # 1768)

**RECEIVE PRESENTATION OF AN AWARD TO THE CITY OF
BAY CITY FOR ITS OUTSTANDING RECYCLING EFFORTS IN
2014.**

Ms. Herring will present an award to the City for recycling efforts in 2014.



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: Mayor's Office
Category: Agreement
Prepared By: Dustin Hodges
Initiator: Dustin Hodges
Sponsors:
DOC ID: 1791

AGENDA ITEM (ID # 1791)

**CONSIDER AND/OR APPROVE RENEWAL AGREEMENT
BETWEEN THE CITY OF BAY CITY AND MATAGORDA
YOUNG LIFE OF \$500/MONTH FOR THEIR CONTINUED
MAINTENANCE OF THE BUILDING AT HARDEMAN PARK
AND RECREATION EVENTS THEY OFFER THE YOUTH OF
COMMUNITY.**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

Contract Number: _____

AGREEMENT TO USE FUNDS AND BUILDING of the City of Bay City

THIS AGREEMENT is entered into by and between the City of Bay City, a Texas Municipal Corporation ("CITY") acting by and through its Mayor, and the Young Life, a Monprofit, Adolescent Relational Mentoring Organization, acting through James King ("Recipient");

WITNESSETH:

WHEREAS, Recipient provides services that promote the health, safety morals and or general welfare of the residents of Bay City; and

WHEREAS, City has provided certain funds from its general fund to promote the type of public services provided by Recipient; and

WHEREAS, Recipient has submitted an application to CITY for funding for the Young Life Programs ("Project"), as described in **Attachment I** –Scope of Work; and

WHEREAS, on May 9, 2013, City Council authorized the execution of this Agreement with Recipient, for Recipient's receipt of funding and use of a City Building,

NOW THEREFORE:

For and in consideration of the following mutual promises and obligations, and for the benefit of the City of Bay City and health, safety morals and or general welfare of its residents, the parties agree as follows:

1. In consideration of the payment of the sum of **\$500.00** per month to Recipient by the CITY, Recipient agrees to spend these funds only as described in **Attachment I** - Scope of Work and use of a City Building as described in **Attachment 2**. Recipient agrees to provide CITY with invoices to support the expenditures under this Agreement no later than thirty (30) days from the date that Recipient makes such expenditures. Accounting records for all expenditures shall be maintained by Recipient in accordance with generally accepted accounting practices, and shall be subject to audit by the CITY or its contracted auditor. These records shall be maintained for a period of four years from the termination date of this Agreement.
2. This Agreement will commence immediately upon execution hereof and terminate upon the completion of all obligations herein contained or September 30, 2013, whichever is sooner.
3. This Agreement is not assignable and funds received as a result hereof shall only be used by the parties stated herein.
4. In the event that all of the above-described funds are not used for the purposes set out in Section 1 of this Agreement and in accordance with all terms and provisions hereof,

Contract Number: _____

Recipient agrees to refund any amounts to the CITY which were not used in accordance with these terms within thirty (30) days of the end of the Project or **September 30, 2013**, whichever occurs earlier.

5. None of the performance rendered hereunder shall involve, and no portion of the funds received hereunder shall be used, directly or indirectly, for the construction, operations, maintenance or administration of any sectarian or religious facility or activity, nor shall said performance rendered or funds received be utilized so as to benefit, directly or indirectly, any such sectarian or religious facility or activity.

6. INSURANCE

Recipient agrees to comply with the following insurance provisions:

- (A) Prior to the commencement of any work under this Agreement, Recipient shall furnish copies of all required endorsements and a completed Certificate(s) of Insurance to the City's Finance Department, which shall be clearly labeled "the Young Life Program" in the Description of Operations block of the Certificate. The Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The certificate(s) or form must have the agent's signature and phone number and be mailed with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to pay or perform under this Agreement until such certificate and endorsements have been received and approved by the City's Office of Cultural Affairs. No officer or employee, other than the City's Mayor, shall have authority to waive this requirement.
- (B) The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by City's Mayor based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.
- (C) A contractor's financial integrity is of interest to the City; therefore, subject to Recipient's right to maintain reasonable deductibles in such amounts as are approved by the City, Recipient shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Recipient's sole expense, insurance coverage written on an occurrence basis, unless otherwise indicated, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of no less than A- (VII), in the following types and for an amount not less than the amount listed:

Contract Number: _____

<u>TYPE</u>	<u>AMOUNTS</u>
Broad Form Commercial General Liability Insurance to include coverage for the following: - Premises operations - Independent Contractors - Products/completed operations - Personal Injury - Contractual Liability	For <u>Bodily Injury</u> and <u>Property Damage</u> of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage
Business Automobile Liability - Owned/leased vehicles - Non-owned vehicles - Hired Vehicles ** if transportation of participants is conducted	Not required as no use of motor vehicles under this program

- (D) The City shall be entitled, upon request and without expense, to receive copies of the policies, declarations page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Recipient shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. Recipient shall pay any costs incurred resulting from said changes.

Cathy Ezell
 Finance Director
 City of Bay City
 1901 5th Street
 Bay City, Texas 77414

- (E) Recipient agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:

- Name the City and its officers, officials, employees, volunteers, and elected representatives as additional insureds by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City

Contract Number: _____

- Provide for an endorsement that the “other insurance” clause shall not apply to the City of Bay City where the City is an additional insured shown on the policy;
 - Provide advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- (F) Within five (5) calendar days of a suspension, cancellation, or non-renewal of coverage, Recipient shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Recipient’s performance should there be a lapse in coverage at any time during this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
- (G) In addition to any other remedies the City may have upon Recipient’s failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Recipient to stop work hereunder, and/or withhold any payment(s) which become due to Recipient hereunder until Recipient demonstrates compliance with the requirements hereof.
- (H) Nothing herein contained shall be construed as limiting in any way the extent to which Recipient may be held responsible for payments of damages to persons or property resulting from Recipient’s or its subcontractors’ performance of the work covered under this Agreement.
- (I) It is agreed that Recipient’s insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Bay City for liability arising out of operations under this Agreement.
- (J) It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement and that no claim or action by or on behalf of the City shall be limited to insurance coverage provided.
- (K) Recipient and its subcontractors are responsible for all damage to their own equipment and/or property.

7. INDEMNITY

RECIPIENT covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, the CITY and the elected officials, employees, officers, directors, volunteers and representatives of the CITY, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the CITY

Contract Number: _____

directly or indirectly arising out of, resulting from or related to RECIPIENT'S activities under this AGREEMENT, including any acts or omissions of RECIPIENT, any agent, officer, director, representative, employee, consultant or subcontractor of RECIPIENT, and their respective officers, agents employees, directors and representatives while in the exercise of performance of the rights or duties under this AGREEMENT. The indemnity provided for in this paragraph shall not apply to any liability resulting from the negligence of CITY, its officers or employees, in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT RECIPIENT AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

The provisions of this INDEMNIFICATION are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

RECIPIENT shall advise the CITY in writing within 24 hours of any claim or demand against the CITY or RECIPIENT known to RECIPIENT related to or arising out of RECIPIENT'S activities under this AGREEMENT.

Defense Counsel - City shall have the right to select or to approve defense counsel to be retained by Recipient in fulfilling its obligation hereunder to defend and indemnify City, unless such right is expressly waived by City in writing. Recipient shall retain City approved defense counsel within seven (7) business days of City's written notice that City is invoking its right to indemnification under this Agreement. If Recipient fails to retain Counsel within such time period, City shall have the right to retain defense counsel on its own behalf, and Recipient shall be liable for all costs incurred by City. City shall also have the right, at its option, to be represented by advisory counsel of its own selection and at its own expense, without waiving the foregoing.

Employee Litigation – In any and all claims against any party indemnified hereunder by any employee of Recipient, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein provided shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Recipient or any subcontractor under worker's compensation or other employee benefit acts.

8. Recipient shall not engage in practices which have the effect of discriminating against any participants, employee or applicant for employment, and, will take affirmative steps to ensure that participants employees are treated equally without regard to their race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.

Contract Number: _____

9. Recipient shall provide services as described in Attachment I, in a non-discriminating manner without regard to a person's race, color, religion, national origin, sex, age, handicap, or political belief or affiliation.
10. Recipient shall receive prior written approval from the CITY before committing these funds as a match for any local funding.
11. Recipient agrees and understands that, it and all persons designated by it to provide services in connection with this Agreement, is (are) and shall be deemed to be an independent contractor(s), responsible for its (their) respective acts or omissions, and that CITY shall in no way be responsible for Recipients actions, and that none of the parties hereto will have authority to bind the others or to hold out to third parties, that it has such authority.
12. For purposes of this Agreement, all official communications and notices among the parties shall be deemed sufficient if in writing and mailed, registered or certified mail, postage prepaid, to the addresses set forth below:

CITY:

Mayor Mark Bricker
 City of Bay City
 1901 5th Street
 Bay City, Texas 77414

RECIPIENT:

James King, Area Director, Matagorda County Young Life

Notices of changes of address by either party must be made in writing delivered to the other party's last known address within five (5) business days of the change.

14. If any provision of this Agreement is for any reason held to be unconstitutional, void, or invalid, the remaining provisions or sections contained herein shall remain in effect and the section so held shall be reformed to reflect the intent of the parties.
15. The signer of this Agreement for Recipient represents, warrants, assures and guarantees that the he or she has full legal authority to execute this Agreement on behalf of Recipient and to bind Recipient to all of the terms, conditions, provisions and obligations herein contained.

Signature page to follow:

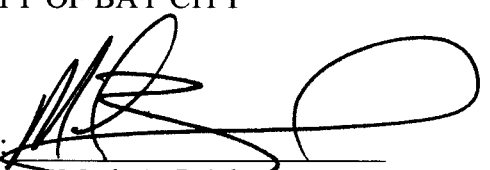
Attachment: Young Life Agreement (1791 : Consider and/or Approve Renewing Agreement with Matagorda Young Life of \$500/month)

Contract Number: _____

IN WITNESS OF WHICH this Agreement has been executed on this 9th day of May 2013.

CITY OF BAY CITY

AGENCY

By: 

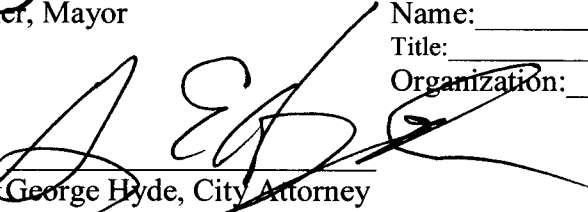
Mark A. Briker, Mayor

By: _____

Name: _____

Title: _____

Organization: _____

Approved as to Form: 

George Hyde, City Attorney

Attachment I: Scope of Services

Attachment II: Use of Building

Attachment: Young Life Agreement (1791 : Consider and/or Approve Renewing Agreement with Matagorda Young Life of \$500/month)

Contract Number: _____

Attachment I

Scope of Services:

Recipient agrees to abide by the following provisions and provide the following services:

Mentor adolescences and young adults in Matagorda County

Special Events: Weekly, Monday night, Young Life Club meeting
 Movie Nights
 Game Nights
 Video Game Tournaments
 Etc.

- Tutoring
- Mentoring
- Young Lives (Teen Moms and pregnant teens) mentoring and cooking classes
- Opening and supervising building use by Teens as a safe place to hang out.
- Recreational activities (Flag Football, Ultimate Frisbee, etc.)
- Music lessons
- Drama presentations
- Video creating and presenting

Attachment: Young Life Agreement (1791 : Consider and/or Approve Renewing Agreement with Matagorda Young Life of \$500/month)

Contract Number: _____

Attachment II**LICENSE AGREEMENT****STATE OF TEXAS**

§

MATAGORDA

§

§

KNOW ALL PERSONS BY THESE COUNTY OF PRESENTS:

This Agreement is made this 9th day of May, 2013, by and between the City of Bay City, a municipal corporation located in Matagorda County, Texas, acting by and through its Mayor, (hereinafter called "LICENSOR"), and Young Life a nonprofit, adolescent relational mentoring organization, acting by through James King (herein called "LICENSEE").

Recitals

1. Licensor is the owner of the following described real Property (the "PROPERTY"):

Being the Main Building located on 6.0 acres of land out of the R. P. T. STONE SURVEY, Abstract No. 92, Matagorda County, Texas, being the same land described in Deed dated November 19, 1917 from Robert T. Burgess and wife, Martha A Burgess, to Gus Hardeman, recorded in Vol. 71, Page 13, Deed Records, Matagorda County, Texas

2. LICENSEE desires to exercise certain rights and privileges upon the PROPERTY.

3. This License Agreement is authorized by that certain Agreement between the Parties to use funds and building of even date, (the "Fund Agreement"), passed and approved by City Council on May 9, 2013.

NOW, THEREFORE, it is agreed as follows:

License

1. LICENSEE shall have the right conduct operations in accordance with the terms of that certain Agreement between the Parties to use funds and building of even date and this License Agreement. Hours and days of operation must be approved by LICENSOR. LICENSEE may only use those areas of the PROPERTY designated by LICENSOR, in its sole discretion. LICENSEE shall not be authorized to use the building for any use or during any times or days other than such uses and such times and days authorized by LICENSOR, subject to the limitations set out below.

2. LICENSEE is aware that LICENSOR currently allows other organizations to use the PROPERTY and may allow additional organizations to use the PROPERTY in the future. LICENSOR may modify the location within the PROPERTY, and the times and dates LICENSEE may use the PROPERTY under this License.

Contract Number: _____

Consideration

2. In consideration for this license, LICENSEE shall provide public services as described in agreement between the Parties to use funds and building of even date.

Maintenance and repairs

3. LICENSEE shall, at all times, keep or cause to kept, the PROPERTY free of litter, trash, paper, and other waste and shall place same in standard trash containers in the immediate vicinity or in other appropriate locations and shall conform with all applicable garbage, sanitary, and health regulations of the CITY.

5. Other than as provided herein, LICENSOR shall be responsible for the condition of the PROPERTY. LICENSEE shall repair any damage to the PROPERTY caused by LICENSEE, and shall maintain, or caused to be maintained, the PROPERTY in a clean, neat, attractive, and sanitary condition and LICENSEE shall not bind or attempt to bind CITY for the payment of any money for the construction, repair, alteration, addition, or reconstruction in, on or about the PROPERTY.

6. LICENSEE will, at the termination of this Agreement, return the PROPERTY to CITY in as good condition as at the commencement of the term hereof, usual wear and tear, acts of God, or unavoidable accident only excepted.

7. LICENSEE agrees to hold CITY harmless for any theft, damages or destruction of signs, goods and/or other property of LICENSEE both during the term of this Agreement and as so left on the PROPERTY after LICENSEE vacates the PROPERTY. If said signs, goods, and any other property placed by LICENSEE upon the PROPERTY are not removed by it within thirty (30) days after the PROPERTY are vacated, then the CITY may remove same without further notice or liability therefore.

Insurance

8. As required in the Agreement between the Parties to use funds and building of even date.

Nonassignable

9. This license is personal to the LICENSEE. It is not assignable, and any attempt to assign this license will terminate the license.

Terminable at Will

10. This agreement is terminable by either party at will by the giving of actual notice to the other party. LICENSEE shall vacate premises within ten days of receipt of termination notice.

Indemnity

Attachment: Young Life Agreement (1791 : Consider and/or Approve Renewing Agreement with Matagorda Young Life of \$500/month)

Contract Number: _____

11. LICENSEE SHALL HOLD HARMLESS, DEFEND, AND INDEMNIFY LICENSOR AGAINST ANY SUITS, LIABILITIES, CLAIMS, DEMANDS, OR DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURIES AND ATTORNEYS' FEES, ARISING FROM LICENSEE'S EXERCISE OF THE LICENSE UNDER THIS AGREEMENT.

Attachment: Young Life Agreement (1791 : Consider and/or Approve Renewing Agreement with Matagorda Young Life of \$500/month)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1787

DISCUSSION ITEM (ID # 1787)

**RECEIVE REPORT ON THE AQUATICS FACILITY USAGE
AGREEMENT AND PROVIDE DIRECTION TO STAFF TO TAKE
ANY NECESSARY ACTION.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1781 A

DISCUSSION ITEM (ID # 1781)

**RECEIVE QUARTERLY UPDATE ON CITY OF BAY CITY
HEALTH INSURANCE PLAN.**



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1770)

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Budget
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1770

**CONSIDER AND/OR APPROVE A PROPOSAL FOR THE CITY
TO FORGIVE THE COST OF THE SEWER IMPACT FEE AND
THE WATER METER FOR THE NEW TENARIS TRAINING
BUILDING CURRENTLY UNDER CONSTRUCTION.**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Steven Johnson, Councilman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1786

DISCUSSION ITEM (ID # 1786)

**DISCUSS AND PROVIDE DIRECTION TO STAFF ON
POSSIBLE REFURBISHING THE FIELDS AT THE SPORTS
COMPLEX.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1788

DISCUSSION ITEM (ID # 1788)

CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING CITY CODE OF ORDINANCES CHAPTER 18 AVIATION, BY AMENDING DIVISION 2 OPERATIONS AND DIVISION 3 PUBLIC AND TENANT USE, SETTING FORTH UNIFORM REQUIREMENTS OF USERS OF THE BAY CITY REGIONAL AIRPORT; PROVIDING RULES AND REGULATIONS FOR THE EFFICIENT AND SAFE OPERATION OF THE AIRPORT; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING CITY CODE OF ORDINANCES CHAPTER 18 AVIATION, BY AMENDING DIVISION 2 OPERATIONS AND DIVISION 3 PUBLIC AND TENANT USE, SETTING FORTH UNIFORM REQUIREMENTS OF USERS OF THE BAY CITY REGIONAL AIRPORT; PROVIDING RULES AND REGULATIONS FOR THE EFFICIENT AND SAFE OPERATION OF THE AIRPORT; PROVIDING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Bay City, Texas, owns and operates the Bay City Regional Airport (“Airport”); and

WHEREAS, the City Council of the City of Bay City, Texas, is authorized by Texas Transportation Code, Chapter 22 County and Municipal Airports to adopt ordinances necessary to regulate, manage and govern the use of its airports and related facilities; and

WHEREAS, the City Council of the City of Bay City, Texas desires to serve the public interest, convenience and necessity by promoting the efficient, safe and economic handling of air travel and commerce; and

WHEREAS, the City Council of the City of Bay City, Texas, finds that the public safety, health and welfare of the citizens of the City and other members of the traveling public requires the adoption of airport minimum standards.

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS.

Section 1. Amendment to Municipal Code of Ordinances Chapter 18

The City of Bay City’s Code of Municipal Ordinances, Chapter 18 (entitled “Aviation”), is hereby amended by repealing Article III, Division 2 Operations, Sections 18-131 through 18-141 and Article III, Division 3 Public and Tenant Use, Sections 18-166 through 18-181 and replacing Division 2 Operations and Divisions 3 Public and Tenant Usage, with the following sections which shall read as follows:

DIVISION 2 - OPERATIONS

Section 18-131. General Airport and Aeronautical Rules

The following rules and regulations shall be observed in the use and operation of the Airport:

Rule 131-1. Federal Air Traffic Rules of the Federal Aviation Administration (FAA) for aircraft operated within the United States, and presently or hereafter effective, are hereby referred to, adopted, and made a part hereof as though fully set forth and incorporated herein.

Rule 131-2. Safeguard of Persons and Property – The Airport Manager shall at all times have authority to take necessary and legal actions to safeguard any person, aircraft, equipment, or property at the Airport.

Rule 131-3. Through-the-Fence Operations Prohibited – No private individual, partnership, FBO, company, or corporation shall be permitted direct ground access to the Airport by their aircraft, customers' aircraft, or private vehicle from property adjacent to or in the immediate vicinity of the Airport. Furthermore, no private individual, partnership, company, corporate, or customers' aircraft or vehicle shall be permitted direct ground access to property from the Airport – a practice commonly known as a “through-the-fence operation.” Under extenuating circumstances, the City of Bay City may request approval from TxDOT Aviation Division for certain through-the-fence operations on a case by case basis.

Rule 131-4. Lien for Charges – To enforce the payment of any charge for repairs, improvements, storage, or care of any personal property by the City of Bay City or its agents in connection with the operation of the Airport, the City of Bay City may place a lien upon such personal property, which shall be enforceable as provided by law.

Rule 131-5. Lien Possessory Right- To enforce the payment of any such charge, the Airport Manager may retain possession of such personal property until all reasonable, customary, and usual compensation has been paid in full.

Rule 131-6. Unauthorized Signs, Equipment and Advertisement – No signs, non-aeronautical equipment, portable buildings, or trailers may be erected, moved-in, or installed on Airport property, except as may be specifically authorized by the Airport Manager.

Rule 131-7. Surreptitious Activities – Any person observing suspicious, unauthorized or criminal activities should report such activities immediately to the Airport Manager, local police, officers of the Texas Department of Public Safety, and the Transportation Security Administration General Aviation Information Hotline at 1-866-GA SECUR(E) or 1-866-427-3287.

Rule 131-8. Wrecked Aircraft – Every aircraft owner, his/her pilot or agents, shall be responsible for notifying FAA and promptly removing disabled or wrecked aircraft from the operational areas of the Airport, under the direction of the Airport Manager.

Rule 131-9. Repairs to Aircraft – No aircraft shall be repaired on any part of the landing or takeoff area. All outside repairs shall be made only at places designated by the Airport Manager for such purpose. Major engine, airframe, or avionics repairs shall be conducted by a properly licensed mechanic or other person authorized by the FAA within a hangar or building rented, leased, or owned for such commercial purposes. Any preventative maintenance authorized by FAR Part 43 may be made by the owner or operator of any aircraft, but only within a hangar leased or owned by that aircraft owner or operator or at places designated by the Airport Manager for such purpose.

Rule 131-10. Damage to Airport – Any person, individual, or corporation or the owner of any aircraft causing damage of any kind to the Airport, whether through violation of any of these rules, through vandalism, or any act of negligence, shall be liable therefore in and to the City / County.

Rule 131-11. Injury to Person – Persons entering the Airport groundside property by automobile, other vehicular conveyance, or on foot (does not include persons in aircraft using approved airside facilities) do so at their own risk and with no liability incurring to the City of Bay City for any injury or damage to person or property. Further, any person desiring to use the Airport shall observe and obey all laws, resolutions, orders, rules, and regulations promulgated and enforced by the City of Bay City or by any other Authority having jurisdiction over the operation of the Airport.

Rule 131-12. Licensed Pilots – Only aircraft with current and correct FAA Certificates of Registration and Airworthiness and persons holding valid and current airman and medical certificates issued by the FAA, for those flight operations requiring medical certificates, shall be authorized to operate aircraft upon the Airport except as provided in this ordinance. This limitation shall not apply to students-in-training under licensed instructors or to public aircraft of the Federal government or of a State, Territory, or political subdivision thereof, or to aircraft licensed by a foreign government with which the United States has a reciprocal agreement covering the operation of such licensed aircraft. Use of the Airport by ultralight aircraft (FAR 103) and light sport aircraft in the weight shift control and powered parachute class shall be subject to approval by the City Council and shall be in accordance with FAA Order 5190.6 (latest change) and appropriate FARs Part 61 and 103 and any other rules established by the City of Bay City.

Rule 131-13. Registration – Each person owning an aircraft based at the Airport, or any person based and receiving flight instruction toward an FAA rating at the Airport shall register at the office of the Airport Manager their name, address, telephone number, aircraft model, aircraft registration “N” number, and the name, address, and telephone number of their next of kin or person to be notified in case of an accident or emergency.

Rule 131-14. Animals - No person shall enter the Airport with a dog, cat, or other animal unless the animal is, and remains, restrained by a leash or properly confined as determined by the Airport Manager.

Rule 131-15. Living Quarters - No person may make permanent living quarters on Airport.

Rule 131-16. Intoxicants and Narcotics Prohibited – No person under the influence of any intoxicant, alcohol, narcotic, or other illicit drug shall operate a motor vehicle or aircraft at the airport or fly in any aircraft to or from the Airport. Such prohibition shall not apply to a passenger under the care of a medical doctor and accompanied by a doctor, nurse, or caretaker.

Rule 131-17. Foreign Objects – No foreign objects, including bottles, cans, scrap, nuts, bolts, nails, or any object that may cause damage to an aircraft, shall be left upon the floor of any building or upon any part of the surface area of the Airport. Individuals are

encouraged to pick up such foreign objects when observed and place them in a trash receptacle.

Rule 131-18. Litter - No boxes, crates, cans, bottles, paper, tall grass, weeds, unusable airplane parts or wreckage, scrap wood or metal, discarded airplane or automobile tires, trash, or other litter shall be permitted to accumulate in or about a hangar, building, or other leased space. If such trash and litter is permitted to accumulate around a privately owned, rented, or leased hangar / building, the Airport Manager shall notify the hangar / building owner, renter or lessee by registered letter to remove the offending litter. If within ten (10) work days after receipt of the letter the hangar/building owner, renter, or lessee has not removed the trash and litter as directed, the Airport Manager may have the area cleaned and the cost for such cleaning shall be charged to the hangar/building owner, renter, or lessee.

Section 18-132. Ground Operations

Rule 132-1. Air, Ground & Vehicular Traffic – No person shall operate a vehicle on the Airport except in accordance with the following rules, and all federal, state, and local law:

- A. All vehicles shall yield right of way to aircraft in motion and emergency vehicles.
- B. No vehicle except ground service and emergency vehicles shall approach so close to any aircraft with running engine(s) as to create a hazard.
- C. All vehicles entering or exiting an operating Airport access gate shall wait for the gate to completely close behind them before proceeding to their destination so as to not allow the entry of any other vehicle.
- D. Any vehicle authorized to operate on the Airport runways or taxiways shall display a rotating or steady beacon that complies with FAA Advisory Circular 150/5210 (latest change).
- E. All vehicles that are authorized to operate on taxiways or the runways must be equipped with a two-way aviation radio, and must receive a clearance from, and remain in continuous communications with, the Airport Traffic Control Tower (ATCT) when the ATCT is operating. When the ATCT is not operating, or at airports that do not have an ATCT, any vehicle authorized to access the taxiways or runways is required to monitor the published Common Traffic Advisory Frequency (CTAF) for the Airport, and have the ability to communicate with aircraft via a two-way aviation radio.

Rule 132-2. Speed Limits - All vehicles shall be operated within the posted speed limits at the Airport. With the permission of the Airport Manager or his designated agent for a privately owned vehicle to operate in the Aircraft Movement Area, the maximum speed limit for all vehicles in the AMA, with the exception of authorized municipal vehicles in the performance their official duties, is fifteen (15) miles per hour, unless posted otherwise.

Section 18-133. Airport Security

Rule 133-1. Security - The Transportation Security Administration publication “Security Guidelines for General Aviation Airports”, Information Publication A-001 dated May 2004, is available for reference at their website - www.tsa.gov/.

This document is used by the Airport as a guideline to security on the Airport and is incorporated as a working document.

Rule 133-2. Access Codes/Devices - Persons who have been provided either a code or device for the purpose of obtaining access to the Airport shall not divulge, duplicate, or otherwise distribute the same to any other person, unless otherwise approved in writing by the Airport Manager

Rule 133-3. Airport Entrance - The Entry Gate to the Airport Property shall remain closed and latched between the hours of 5:00 PM and 8:00 AM. Access onto Airport Property between the hours of closure will require the gate to be secured upon entry and exit of the Airport property. Failure to comply with this rule may result in fines or eviction from the Airport.

Section 18-134. Aircraft Operation Rules

Rule 134-1. Aircraft Tie Downs

- A.** All aircraft not hangared shall be tied down and additionally should have the wheels chocked when remaining overnight and during inclement weather.
- B.** All aircraft owners or their agents are responsible for the tie down or security of their aircraft at all times and particularly during inclement weather.
- C.** Aircraft parked overnight on the transient apron shall pay a tie down fee as posted for each night, except that such fee may be waived upon purchase of fuel or services.

Rule 134-2. Running Aircraft Engines

- A.** Aircraft not equipped with adequate brakes shall not be started until the wheels have been set with chocks attached to ropes or other suitable means of removing them.
- B.** No aircraft will be left running without a qualified person at the controls.
- C.** No aircraft engine shall be started or run inside any building or hangar.
- D.** No engine shall be started, run up, or warmed up until and unless the aircraft is in such position that the propeller stream or jet blast will clear all buildings, other aircraft, and groups of people.

Rule 134-3. Damage to Airport Lighting – Any person damaging any runway, ramp, or taxiway light or fixture by operation of aircraft or otherwise, shall immediately report such damage to the Airport Manager. Persons causing damage to runway and taxiway lights as a result of negligent operation of an aircraft or willful acts will be liable for replacement cost of the light(s) and/or fixture(s) and may be charged with a misdemeanor as provided in Section 10 of this order.

Rule 134-4. Taxiing Aircraft

- A.** No person shall taxi an aircraft until it is reasonably ascertained there will be no danger of collision with any person or object in the immediate area.
- B.** Aircraft will be taxied at a safe and prudent speed and in such manner as to be under the control of the pilot in command at all times.
- C.** Aircraft not equipped with adequate brakes will not be taxied near buildings or parked aircraft unless an attendant (wing-walker) is at a wing of the aircraft to assist the pilot.
- D.** Aircraft shall not taxi onto the runway from the ramp and taxiway area if there is an aircraft approaching to land or on the ground in takeoff position. Aircraft waiting on the taxiway for another aircraft to take off or land will remain behind the runway holding position markings.
- E.** Aircraft shall not be taxied by engine power into or out of any hangar.
- F.** ATCT Airports – Taxi operations in the movement area will be as directed by the ATCT, when the Tower is operating. When the ATCT is not operating, and for taxiing operations in other than the movement area, these operations shall be as stated in rule 5-4, A to E.

Rule 134-5. Parking Aircraft

- A.** Unoccupied aircraft shall not be parked or tied down within any protected area (object free area, runway safety area, etc.) as described in FAA AC 150/5300-13 (latest change) and all aircraft not hangared shall be parked in the areas designated by the Airport Manager for that purpose.
- B.** Aircraft shall not be parked within fifty (50) feet of an aircraft fuel pump or fuel service truck parking area.
- C.** Aircraft shall not be parked in such a manner as to hinder the normal movement of other aircraft and traffic unless specifically authorized by the Airport Manager as an emergency measure.
- D.** It is the responsibility of the pilot in command when leaving a parked aircraft unattended to see that the brakes are set and / or it is properly chocked and / or tied down.

Rule 134-6. Wash Racks - Wash racks shall be used for purposes of washing and polishing aircraft, and any other purpose approved by the Airport Manager. Washing / cleaning materials and run-off shall be used and disposed of in compliance with all applicable federal, state, county and local laws and regulations. In the absence of an approved Wash Rack System dry wash products will be used. Wet washing is strictly prohibited. Wet washing could result in fines and/or eviction from the airport.

Rule 134-7. Loading and Unloading Aircraft – Loading or unloading aircraft with the engine running is prohibited. Exception will be approved by the Airport Manager.

Rule 134-8. Authority to Suspend Operations – The Airport Manager may suspend or restrict any or all operations whenever such action is deemed necessary in the interest of safety.

Rule 134-9. Emergency Locator Transmitter (ELT) - At a safe and appropriate time after takeoff and after landing prior to engine shutdown, pilots should tune their aircraft radios to the emergency frequency (121.5 or 243.0) and listen to determine if their, or any, aircraft ELT is transmitting. If your ELT is transmitting after takeoff or landing, turn off the ELT and advise the FAA Automated Flight Service Station for the area via radio or telephone (800-WX-BRIEF or 800-992-7433) that your ELT was accidentally turned on. Provide the time and location of activation, if known, and the time and location of deactivation. 406 Mhz ELTs should be checked for normal operation as part of the preflight / post flight checks.

Rule 134-10. Standard Traffic Pattern and Altitude, Non Towered Airports – All flight activity will adhere to FAA Advisory Circular 90-66 (latest change) "Recommended Standard Traffic Patterns and Practices for Aeronautical Operations at Airports without Operating Control Towers"; also depicted in the Aeronautical Information Manual. Recommended traffic pattern altitudes are 1000 feet Above Ground Level (AGL) for piston powered airplanes and 1500 feet AGL for turbine powered airplanes. Helicopters will operate as to not obstruct the normal traffic pattern. The use of standard traffic patterns does not alter the responsibility of each pilot to see and avoid other aircraft.

Rule 134-11. Clearing Public Right of Ways – No aircraft shall takeoff or land in such manner as to clear any public street or highway at an altitude of less than fifteen (15) feet, or seventeen (17) feet over an interstate highway, twenty-three (23) feet over a railroad, or twenty-seven (27) feet over a coastal water way, or the clearance height of the tallest bridge over the waterway, nor land or take off on the taxiway or over hangars or other structures, automobile parking areas, or groups of spectators. (Ref: FAR 77).

Rule 134-12. Takeoffs on Other Than Runways – Takeoffs or landings shall not be made on the apron, parking ramp, taxiway, or any area other than designated runways by airplanes, gyroplanes, powered lift, balloons, airships, ultralight, or light sport aircraft except by prearranged permission from the Airport Manager. Helicopters may operate to and from designated helicopter landing areas.

Rule 134-13. Takeoffs

A. Takeoffs Allowed, Non Towered Airports – Low approach, full stop, touch and go, or stop and go landings may be made at the discretion of the pilot in command. Pilots remaining in the traffic pattern making landings should broadcast on the CTAF their pattern direction of turn and their landing (low approach, full stop, touch and go, stop and go) intentions at least by the final segment leg. All aircraft departing shall clear the traffic pattern for traffic before taxiing into takeoff position. See FAR 91.113 (g).

B. Tower Controlled Airports – In the event a control tower is constructed and put into service, the tower controller will direct traffic. When the tower is not operating,

the guidelines of Rule 134-13(A) will be used. If applicable, the tower controller will establish the movement areas and other than movement areas in a diagram.

Rule 134-14. Preferred Runway, Non Towered Airport or Towered Airports, Tower Not Operating - If the winds are calm or at a ninety (90) degree crosswind to Runway 13-31, the preferred take off and landing runway is 13.

Rule 134-15. Student Training, Local Operations

A. Flight instructors shall avail themselves and their students of all rules and regulations, including local rules and FARs in effect at the Airport.

B. The Airport Manager may designate and advise airport users via public posting and electronic transmission of limited areas of the Airport and local areas sanctioned by the FAA for practice flying and student training.

C. No commercial flight schools shall operate on or from the airport except under contract with the city.

Rule 134-16. Agricultural Spraying Operations – Agricultural (Ag) spraying operations will be conducted in accordance with procedures approved by the Airport Manager and made known to all persons conducting agricultural spraying operations. Ag operations shall be accomplished in accordance with the standards of the Environmental Protection Agency and the Texas Commission on Environmental Quality in an area so designated by the Airport Manager. Each Ag operator shall carry liability insurance in the amount of \$1,000,000.00 dollars, payable to the City of Bay City for the cleanup of any hazardous chemical spills on Airport property caused by the Ag operator.

Rule 134-17. Special Procedures, Parachuting

A. The Airport Manager may, in the interest of safety, designate special traffic procedures for certain operations, such as helicopters, air shows or aviation fly-ins, agricultural operations, gyroplanes, powered lift, gliders, balloons, airships, ultralights, and light sport aircraft in the weight shift control or powered parachute class. Any such change from standard procedures shall be published in the FAA's Airport / Facility Directory if of a permanent nature or the Airport Manager shall issue a NOTAM if such change is if a temporary nature. Permanent changes require filing through TxDOT Aviation Division to the FAA. Temporary closing of a portion of the airport for special events will be approved by the FAA, through TxDOT Aviation Division. See FAA Order 5190.6 (latest change).

B. Parachute descent onto the Airport property shall not be permitted without the recommendations of the City of Bay City and the written approval of the City Council. The Airport Manager may develop operating procedures and designated landing areas for parachute operations.

Rule 134-18. Model Aircraft – Model aircraft not capable of carrying a person shall not be permitted to operate, take off or be launched from, flown over or land at the Airport. Model A/C operations for specific aeronautical events such as fly-ins or air shows may be approved for specific times by the City Council.

Section 18-135. Fueling, Flammable Fluids, and Fire Safety

Rule 135-1. Fueling Aircraft

- A.** All aircraft fueling, fuel equipment, and procedures will be in accordance with Manual 407 – “Standard for Aircraft Fuel Servicing, 2007 edition,” (or as revised) published by the National Fire Protection Association, 1 Batterymarch Park, Quincy MA 02169-7471, 800-344-3555, <http://catalog.nfpa.org>
- B.** All transportation, storage and other handling of aircraft and vehicle fuel shall comply with the International Fire Code, 2000 Edition, (or current edition) as published by the International Code Council, Inc. and FAA Advisory Circular 150/5230-4, (latest change).
- C.** All aircraft shall be fueled clear of all hangars, other buildings, and aircraft by at least fifty (50) feet.
- D.** Fueling trucks shall not be parked within any building or hangar or within 50 feet of any building, hangar, or parked aircraft, as determined by the local Fire Marshall. Fuel trucks shall be parked with at least ten (10) feet separation between vehicles.
- E.** Aircraft fuel storage tanks for below-ground or above-ground use will be constructed and installed, registered as required, monitored for leakage, operated, and maintained in accordance with Federal and State statutes, rules, and regulations promulgated by the Environmental Protection Agency and the Texas Commission on Environmental Quality.
- F.** Aviation or auto fuels shall not be stored within a hangar or building except in approved five (5) gallon or smaller containers manufactured and marked for such purpose and only with the approval of the local Fire Marshal.
- G.** Persons or businesses wishing to dispense fuel into their privately owned aircraft shall not be denied; however, they must meet all reasonable requirements the City of Bay City places on other fuel suppliers, public or private. Private fueling facilities located on leased or private property must be installed and the fuel dispensed in accordance with all rules applicable to aircraft fueling and fire safety contained herein.
- H.** Public sale of automobile gasoline for use in aircraft will not be permitted on the Airport without written approval of the Airport Manager. Aircraft authorized by the FAA to use auto gasoline may be privately fueled by the owner in a location designated by the Airport Manager in accordance with all rules appertaining to aircraft fueling and fire safety contained herein.
- I.** All aviation fuel storage tanks, aviation fuel pumps, hydrant fuel services, and aircraft fuel service vehicles, whether publicly or privately owned, shall have the type of aviation fuel dispensed printed in large block letters, including octane if aviation gasoline, plus the fuel I.D. number, and “NO SMOKING” signs. This information shall be printed on all sides of the fueling tanks, pumps, etc. so the information is visible from any direction on the ground.

J. Fuel spills in excess of one gallon must be reported to the Airport Manager and immediate action taken by the spilling entity to clean up the spill in accordance with all local, state, and federal regulations

Rule 135-2. Fuel Flowage Fee - Any person, corporation, partnership, association, or business entity of any kind, or any person acting for or through them, including, but not limited to, any wholesale fuel distribution company, who delivers fuel to a fuel storage tank or who delivers fuel obtained from a source not on the Airport directly into any aircraft on the Airport must pay the amount of \$0.15 per gallon of fuel delivered.

Payment to the City of Bay City of all fuel flowage fees due must be made not later than the fifteenth (15th) day of the month following the date of the fuel delivery.

Payment of fuel flowage fees shall be accompanied by a report in a form approved by the Airport Manager that indicates the amount of fuel delivered to the airport during the preceding month.

Military aircraft conducting operations which require fueling from U.S. Government facilities are exempt from fuel flowage fees.

Rule 135-3. Fire Safety

A. Every person using the Airport or its facilities in any manner shall exercise the greatest care and caution to avoid and prevent fire.

B. Smoking or open flame within fifty (50) feet of any fuel tank, fuel pump, or fuel truck is prohibited.

C. Compressed flammable gas shall not be kept or stored upon the Airport, except at such place as may be designated by the Airport Manager.

D. No flammable substance shall be used for the cleaning of any aircraft part or anything inside a hangar, T-hangar, or other building upon the Airport.

E. No one shall smoke or ignite a match or lighter in any building, hangar, or public ramp area except in posted "Designated Smoking Areas" identified by the Airport Manager.

F. Hangar entrances must be clear in a manner such that emergency or fire / rescue personnel and equipment can immediately access the hangar without hindrance.

G. The floors in all buildings shall be kept clean and free of oil. Volatile or flammable substances shall not be used to clean floors, walls or any portion of a hangar structure.

H. All Airport tenants and lessees shall supply and maintain such adequate and readily accessible fire extinguishers as may be required by applicable fire codes and regulations. Each fire extinguisher shall carry a suitable tag showing the date of most recent inspection.

Division 3. PUBLIC AND TENANT USAGE

Section 18-166. Leases

Hangars and other buildings or structures owned by the City of Bay City may be leased to private individuals, companies, or corporations on a monthly or yearly basis for the storage of aircraft and ancillary equipment or to conduct a commercial Fixed Base Operation (FBO).

The City of Bay City may lease property within the building area or other portions of the Airport for the construction of hangars, buildings, lean-tos, aprons, taxiways, and auto parking lots in accordance with an approved Airport Master Plan/Airport Layout Plan and design guidelines. Aviation related use must be given priority in the use of all leased or privately owned property, buildings or structures. If the aviation needs of the Airport are sufficiently met, the City Council may authorize non-aviation use of any portion of the Airport or any building on the Airport on a case-by-case basis. Application of such non-aviation use shall be made to the City of Bay City; and approval from TxDOT Aviation Division must be received prior to granting authorization for non-aviation use.

Rule 166-1. Lease Term –No lease of airport property or facilities shall be granted for a term exceeding (20) years, however the initial term of a lease of airport property or facility may exceed twenty (20) years but in no case more than forty (40) years if a loan or deed of trust lien is obtained expressly for construction of the facility which will become property of the City of Bay City at the end of the lease term, free and clear of all liens and encumbrances. Non-aviation leases shall not exceed eighteen (18) months.

Rule 166-2. Construction on Leased Property

A. The FAA Form 7460-1, “Notice of Proposed Construction or Alteration,” (or most current FAA approved form) will be completed for all construction and submitted to the airport manager to forward to TxDOT Aviation Division. TxDOT Aviation Division will review the form for completeness and accuracy, then forward to the FAA for the air space study. A favorable determination must be received from the FAA prior to any construction on the Airport. No hangar or structure may be erected beyond the building restriction line or in conflict with the approved Airport Layout or Development Plan.

B. All plans and specifications for construction, renovation, remodeling, or refurbishing of the leased premises shall meet all current Standard Fire and Building Codes published by the Southern Building Code Congress and the National Electrical Code, and shall provide for the construction to be from material satisfactory and acceptable to the City Council. All construction must be of a compatible standard capable of withstanding winds of a wind load rating applicable to airport location as determined by a windstorm engineer.

C. The City Council’s written approval of the plans and specifications must be obtained prior to construction of the improvements.

D. Construction must begin within one hundred twenty (120) days after the effective date of the lease or final comment from TxDOT and the FAA for the filed air space study as required by FAR Part 77, whichever date is later. Construction must be

substantially completed within one hundred eighty (180) days of start of construction. Projects anticipated to exceed 180 construction days require approval of the Airport Manager. The Improvements on the leased premises shall remain the tenant's property until expiration or termination of the lease and its covenants or as otherwise agreed to in the contract between the City Council and the tenant.

E. Any privately owned structure or hangar not in use for aviation purposes for a period in excess of ninety (90) days or not available for lease or sublease for aviation purposes, unless so authorized for non-aviation uses by the City Council, must be removed after due notice to the owner in writing or the City Council will consider such structures or hangars abandoned and will seek title to such structure or hangar.

F. Leased land from which any building, hangar, or structure is removed, after due notice will be cleared, cleaned, and put back in its original or acceptable condition.

Rule 166-3. Assignment and Sub-letting -- Without the prior written consent of City Council, the leased premises or any rights there under (except to a leasehold mortgagee as herein provided) may not be assigned. Any assignment or subletting shall be expressly subject to all the terms and provisions of the original lease.

Rule 166-4. Flying Clubs - A Flying Club ("Club") shall meet the following standards:

A. At the time of applying for a lease, license, permit or agreement to operate at the Airport, the Club shall furnish the Airport Manager with a copy of its documents of organization; the Club's list of members, including names of officers and managers; evidence of required insurance; a description of all aircraft used; evidence that such aircraft are properly certificated; evidence of ownership of such aircraft; and any operating rules of the Club.

B. All aircraft used by the Club shall be owned by the Club or leased exclusively by written agreement to the Club, and all ownership or lease rights to such aircraft must be vested on a pro-rata basis in all of the Club's members. The property rights of the Club members shall be equal, and no part of any revenues received by the Club shall inure to the direct benefit of any member (e.g., by salary or bonus). The Club shall not derive greater revenue from the use of its aircraft than the amount necessary for the operation, maintenance and replacement of its aircraft and facilities.

C. The Club's aircraft shall not be used by any person other than the Club's members and shall not be used by any person for hire, charter, or air taxi. Flight instruction may be given in Club aircraft.

Rule 166-5. Environmental Issues and Indemnification - Any tenant of the Airport, its agents, employees, independent contractors, or sub lessee shall not install, store, use, treat, transport or dispose of any:

A. Asbestos in any form

B. Urea formaldehyde foam insulation.

C. Transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million; or

D. Any other chemical, material, air pollutant, toxic pollutant, waste, or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by the Resource Conservation Recovery Act, the Comprehensive and Environmental Response Compensation and Liability Act, the Hazardous Materials Transportation Act, the Toxic Substances Control Act, the Clean Air Act, and/or the Clean Water Act or any other federal, state, county, regional, local or other governmental authority or which, even if not so regulated, may or could pose a hazard to the health and safety of the occupants of the Leased Premises, and which is either:

1. in amounts in excess of that permitted or deemed safe under applicable law;
2. or in any manner which is prohibited or deemed unsafe under applicable law. (The substances referred to in (A), (B), (C) or (D) are collectively referred to hereinafter as "Hazardous Materials").

Rule 166-6. Environmental Cleanup Laws – An Airport tenant will, at their own expense, comply with all existing or hereafter enacted laws relating to Hazardous Materials (collectively, "Cleanup Laws") in effect at the time of the lease, and all future laws thereafter. An Airport tenant will, at their own expense, make all submissions to provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Cleanup Laws. Should any Authority require that a cleanup plan be prepared and that a cleanup be undertaken because of the existence of Hazardous Materials which were installed, stored, used, treated, transported, disposed of or discharged on the leased premises, by an airport tenant, its agents, employees, independent contractors or sub lessees during the term of a lease, the Airport tenant will prepare and submit the required plans and financial assurances in accordance with such Cleanup Laws. The Airport shall be indemnified and held harmless from and against all obligations, damages, injunctions, fines, penalties, demands, claims, costs, expenses, actions, liabilities, suits, proceedings and losses of whatever nature (including, without limitation, attorneys' fees and court costs), and all cleanup or removal costs and all actions of any kind arising out of or in any way connected with the installation, storage, use, treatment, transporting, disposal or discharge of Hazardous Materials in or on the leased premises by an Airport tenant.

Rule 166-7. Environmental Notices – An Airport tenant shall promptly supply the City Council with copies of any notices, correspondence and submissions made or received from any governmental authorities of the United States Environmental Protection Agency, the United States Occupational Safety and Health Administration, or any other local, state or federal authority that requires submission of any information concerning environmental matters or Hazardous Materials.

Rule 166-8. Environmental Survival – An Airport tenant's liability pursuant to any environmental issue shall survive the expiration or earlier termination of their lease.

Rule 166-9. Storm Water Compliance

A. The Airport is subject to federal storm water regulations, 40 C.F.R. Part 122 for "vehicle maintenance shops" (including vehicle rehabilitation, mechanical repairs, painting, fueling and lubrication), equipment cleaning operations and/or deicing operations that occur at the Airport as defined in these regulations and, if applicable,

state storm water regulations. Each Airport tenant shall become familiar with these storm water regulations if it conducts “vehicle maintenance” or operates equipment cleaning operations and/or deicing activities as defined in the federal storm water regulations.

B. The City shall take steps necessary to apply for or obtain a storm water discharge permit as required by the applicable federal and/or state regulations, including the leased property occupied or operated by an Airport tenant. A storm water discharge permit issued to the City may name an Airport tenant as a co-permittee.

C. An Airport tenant’s close cooperation is necessary to ensure compliance with any storm water discharge permit terms and conditions, as well as to ensure safety and to minimize costs. An Airport tenant may have to implement and maintain “Best Management Practices” to minimize the exposure of storm water (and snow melt) to “significant materials” generated, stored, handled or otherwise used as defined in the federal storm water regulations.

D. The City’s storm water discharge permit is incorporated by reference into each lease and any subsequent renewals.

E. The City or County will provide an Airport tenant with a written notice of those storm water discharge permit requirements that are in the City’s storm water permit, that a tenant will be obligated to perform from time to time, including, but not limited to:

1. certification of non-storm water discharges;
2. collection of storm water samples
3. preparation of storm water pollution prevention or similar plans
4. implementation of “good housekeeping” measures or best management practices; and maintenance of necessary records.

Such written notice shall include applicable deadlines and an opportunity to dispute any of the storm water discharge permit requirements.

F. Each Airport tenant shall participate in any organized task force or other work group established to coordinate storm water activities of the Airport.

Rule 166-10. Non Discrimination Covenants

A. Each lease will include as a covenant running with the land to insure that:

1. no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the leased property;
2. that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person, on the grounds of race, color, sex or national origin, shall be excluded from participation in, denied benefits of, or otherwise be subjected to discrimination.

B. The right to conduct aeronautical activities for furnishing services to the public is granted to an Airport tenant subject to the agreement:

1. To furnish said services on a fair, equal and not unjustly discriminatory basis to all users.

2. To charge fair, reasonable, and not unjustly discriminatory prices for each unit or service provided an allowance may be made to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchasers.

Rule 166-11. Insurance – An Airport tenant shall during the term of lease maintain at their cost and expense insurance relating to the leased premises as follows:

- A.** Insurance against loss or damage to improvements by fire, lightning, and other risks included under standard extended coverage policies.
- B.** General public liability insurance against claims for bodily injury, death or property damage occurring on, in, or about the leased premises, such insurance to afford protection to City of not less than \$500,000.00 with respect to any one person, \$1,000,000.00 with respect to any one accident and not less than \$200,000.00 with respect to property damage.
- C.** Hangar keeper's liability insurance providing coverage for aircraft not owned by the tenant in the following limits: \$200,000.00 per aircraft and \$400,000.00 per occurrence on property damage to aircraft in the care, custody, or control of tenant.
- D.** All such policies of insurance shall be issued by insurance companies acceptable to the City, shall name the City of Bay City as an additional insured or loss payee, as the case may be, and shall provide for at least ten (10) days written notice prior to cancellation or modification.

Rule 166-12. Hold Harmless – The City of Bay City shall not be liable to an Airport tenant's employees, agents, servants, customers, invitees, or to any other person whomsoever, for any injury to persons or damages to property on or about the leased premises or any adjacent area owned by the City or County.

Airport Users and Tenant shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a willful or negligent act or omission of the Airport Tenant, its officers, agents, and employees. It is understood and agreed that the Airport Tenant and any employee or sub-contractor of contractor shall not be considered an employee of the City. The Airport Tenant shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all Airport Tenant's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

Section 2. Knowledge of Rules Implied

By publication and adoption of this ordinance, all persons shall be deemed to have knowledge of its contents. However, the Airport Manager is directed to have copies of the ordinance posted in paper or electronically, where appropriate. Copies shall be available at all times in the Airport Manager's office, and copies shall be furnished to all owners and operators of aircraft based at the airport.

Section 3. Conflict of Rules and Regulations

If and where there are conflicts in the rules and regulations prescribed herein and the FAA's Federal Aviation Regulations (FAR), the latter shall prevail. If and where there exists a conflict between any of the rules or regulations prescribed herein and any other City rules applicable to the same area, the more stringent limitation, or requirement shall govern and prevail.

Section 4. Penalty for Violation

The Airport Manager may deny use of the Airport for a period not exceeding fifteen (15) days for any person violating or refusing to comply with any of the rules or regulations prescribed herein pending a hearing by the City Council. Upon such hearing, such person may be deprived of the further use of the Airport and its facilities for a period of time as may appear necessary for the protection of life and property. Any violation of this ordinance shall be a misdemeanor, and upon conviction, be punishable by a fine pursuant to Section 1-16 of the City's Code of Ordinances, and each day a violation continues to exist shall constitute a separate offense. This section is cumulative of all other penalties for violation of Federal, State, and local laws, rules, regulations, ordinances, and orders. Citation for violation or issuance of a violation ticket of any of the rules and regulations prescribed herein may be made by any authorized police officer. The Airport Manager or City Council may request authorized police officers to investigate any suspected violation of these rules.

Section 5. Severability

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6. Cumulative and Conflicts

This Ordinance shall be cumulative of all provisions of ordinances of the City of Bay City, Texas, except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the more stringent limitation, or requirement shall govern and prevail.

Section 7. Effective Date

This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

Mark Bricker, Mayor
City of Bay City

ATTEST:

Rhonda Clegg, City Secretary
City of Bay City

APPROVED AS TO FORM:

George Hyde, City Attorney
Denton Navarro Rocha Bernal Hyde & Zech, P.C.



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1785)

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Policy
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1785

**DISCUSS, CONSIDER AND/OR APPROVE CHANGING THE
NAME OF THE BAY CITY MUNICIPAL AIRPORT TO THE BAY
CITY REGIONAL AIRPORT.**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Carolyn Thames, Mayor Pro-Tem
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1772)

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Contract
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1772

**DISCUSS, CONSIDER AND/OR APPROVE THE MAYOR
AMENDING THE CURRENT EXECUTED CONTRACT
BETWEEN THE CITY OF BAY CITY AND BUREAU VERITAS
TO INCLUDE FIRE INSPECTIONS AND FIRE SYSTEM PLAN
REVIEWS.**

Additional services will include:

1. Fire Alarm and Fire Sprinkler System Plan Review
2. Fire Alarm and Fire Sprinkler System Inspections
3. Annual Fire Safety Inspections
4. Fire Certificate of Occupancy Inspections

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



The following is hereby accepted as an amendment to the Standard Professional Services Agreement between Bureau Veritas North America, Inc. and the City of Bay City, Texas, dated November 17, 2014 by adding the following scope of services and their accompanying fees.

ATTACHMENT A Scope of Services

Fire Alarm and Fire Sprinkler System Plan Review

Fire Alarm and Fire Sprinkler System Plan Review shall be conducted as required by the Jurisdiction's Fire Code, and other provided code related documents, as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction.

Fire Alarm and Fire Sprinkler System Inspections

Fire Alarm and Fire Sprinkler System Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority.

Annual Fire Safety Inspections

Annual Fire Safety Inspections will be conducted in accordance with the city adopted fire code for commercial establishments and public buildings subject to an annual operation permit. Provide tracking of commercial properties in Bureau Veritas web-based tracking system.

Fire Certificate of Occupancy Inspections

Fire Certificate of Occupancy Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority.



ATTACHMENT B Fee Schedule

Fire Code Plan Review Services (fire alarm and sprinkler system)

Valuation	Fee
Up to \$250,000	\$500
\$251,000 to \$500,000	\$850
\$501,000 to \$1,000,000	\$1,100
\$1,001,000 to \$3,000,000	\$1,600
\$3,001,000 to \$6,000,000	\$2,400
\$6,000,000 and up	\$2,400 plus \$0.25 for each additional \$1,000

Fire Code Inspection Services (fire alarm and sprinkler system)

Valuation	Fee
Up to \$250,000	\$750
\$251,000 to \$500,000	\$1,050
\$501,000 to \$1,000,000	\$1,350
\$1,001,000 to \$3,000,000	\$1,900
\$3,001,000 to \$6,000,000	\$2,850
\$6,000,000 and up	\$2,850 plus \$0.25 for each additional \$1,000

Valuation is based on construction valuation for project

Annual Fire Safety Inspections

Annual Fire Safety Inspection and each re-inspection (per location)	\$150.00
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Fire Certificate of Occupancy Inspections

Fire Certificate of Occupancy inspections * Minimum one hour per inspection	\$150.00 per hour
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City of Bay City, Texas

By: _____
 Title: _____
 Signature: _____
 Date: _____

Bureau Veritas, North America, Inc.

By: _____
 Title: _____
 Signature: _____
 Date: _____
 DTQRR: _____
 Date: _____



STANDARD PROFESSIONAL SERVICES AGREEMENT

This STANDARD PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 17 day of Nov., 2014, by and between Bureau Veritas North America, Inc., (herein called "BVNA"), and the City of Bay City, Texas (herein called "Client").

RECITALS

WHEREAS, the Client desires that BVNA provide independent professional services for Client under the terms of a Standard Professional Services Agreement;

WHEREAS, BVNA represents that it is a professional independent consulting firm and is willing and able to perform such services upon terms and conditions hereinafter set forth;

WHEREAS, all services will be conducted in accordance with these terms and conditions and the agreed upon Scope of Services and Fee Schedule the forms of which are attached as Attachments "A" and "B" respectively.

NOW, THEREFORE, in consideration of the foregoing and of the benefits to each of the parties accruing, the parties hereto do mutually agree as follows:

AGREEMENT

1. **Scope of Services.** During the term of this Agreement, Client may call upon BVNA to perform specific work from the scope to be defined per project in accordance with the agreed upon fees. Individual projects may be delineated via a specific proposal in accordance with the terms and conditions set forth in this Agreement. BVNA agrees to furnish services in conformity with the terms hereof and the following documents which are incorporated by reference and made a part hereof. No subsequent amendment to this Agreement shall be binding on either BVNA or Client unless reduced to writing and signed by an authorized Representative of BVNA and Client. Any pre-printed forms including, but not limited to: purchase orders, shipping instructions, or sales acknowledgment forms of either party containing terms or conditions at variance with or in addition to those set forth herein shall not in any event be deemed to modify or vary the terms of this Standard Professional Services Agreement.

2. **Term.** This Agreement shall remain in effect for four (4) years from the effective date of the Agreement unless terminated by written notice to the other party at least thirty (30) days prior to termination. Fees may be adjusted annually.

3. **Compensation.** Client shall pay, and BVNA shall accept in full consideration for the performance of the Services, the sum of the reimbursable costs submitted per proposal in accordance with the agreed upon fee schedule per project.

4. **Terms of Payment.** BVNA shall invoice Client and Client shall pay to BVNA for its consulting services as follows:

- (a) Fees and all other charges will be billed to Client monthly.
- (b) Fees shall be paid by Client within thirty (30) days of being invoiced by BVNA.

5. **Responsibilities of Client.** Client shall, at such times as may be reasonably required by BVNA for the successful and continuous prosecution of the services set forth in Attachment A (referred to as "Services"), do the following:

- (a) Where the performance of the Services require BVNA's presence on the Client's premises, provide adequate space on or in the immediate vicinity of where the Services are to be performed ("Site") to accommodate BVNA's needs;

- (b) Provide and maintain suitable access to the Site for BVNA's personnel, equipment and materials;
- (c) Supply permits and licenses required to be taken out in Client's name which are necessary to the completion of the Services;
- (d) Appoint an individual hereafter referred to as "Client's Project Manager" who shall be authorized to act on behalf of Client and with whom BVNA may consult at reasonable times.

6. Ownership of Documents. All plans, studies, documents and other writings prepared by BVNA, its officers, Employees, agents and subcontractors in the course of implementing this Agreement shall become the property of the City. In the event of any re-use or alteration of the documents, such re-use or alteration shall be the responsibility of City.

7. Use of Data or Services. BVNA shall not be responsible for any loss, liability, damage, expense or cost arising from any use of BVNA's analyses, reports, certifications, advice or reliance upon BVNA's services, which is contrary to, or inconsistent with, or beyond the provisions and purposes set forth therein or included in these Terms and Conditions.

8. Relationship of Parties. BVNA is an independent contractor, and nothing contained herein shall be construed as constituting any other relationship with Client, nor shall it be construed as creating any relationship whatsoever between Client and BVNA's employees. BVNA shall not be entitled, under this contract or otherwise, to any of the benefits under any employee benefit plan which Client or its affiliates or subsidiaries presently has in effect or may put into effect; nor will BVNA be considered an employee for purposes of any tax or contribution levied by any federal, state or local government. BVNA has sole authority and responsibility to hire, fire and otherwise control its employees, and neither BVNA nor any of its employees are employees of Client. BVNA agrees to comply with laws, rules, regulations and ordinances applicable to it as an employer.

9. Standard of Care. BVNA REPRESENTS THAT THE SERVICES, FINDINGS, RECOMMENDATIONS AND/OR ADVICE PROVIDED TO CLIENT WILL BE PREPARED, PERFORMED, AND RENDERED IN ACCORDANCE WITH PROCEDURES, PROTOCOLS AND PRACTICES ORDINARILY EXERCISED BY PROFESSIONALS IN BVNA'S PROFESSION FOR USE IN SIMILAR ASSIGNMENTS, AND PREPARED UNDER SIMILAR CONDITIONS AT THE SAME TIME AND LOCALITY. CLIENT ACKNOWLEDGES AND AGREES THAT BVNA HAS MADE NO OTHER IMPLIED OR EXPRESSED REPRESENTATION, WARRANTY OR CONDITION WITH RESPECT TO THE SERVICES, FINDINGS, RECOMMENDATIONS OR ADVICE TO BE PROVIDED BY BVNA PURSUANT TO THIS AGREEMENT.

10. Indemnity. Subject to the Limitation of Liability included in this Agreement, BVNA shall indemnify and hold harmless Client from and against losses, liabilities, and reasonable costs and expenses (for property damage and bodily injury, including reasonable attorney's fees), to the extent directly and proximately arising from BVNA's negligent performance of services or material breach under this Agreement.

11. This section intentionally left blank.

12. Insurance. BVNA, at BVNA's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance Policies with insurers possessing a Best's rating of no less than A:VII:

- (a) **Workers' Compensation Coverage:** BVNA shall maintain Workers' Compensation and Employer's Liability Insurance for its employees in accordance with the laws of the state where the services are being performed. Any notice of cancellation or non-renewal of all Workers' Compensation policies will be sent to the Client in accordance with the policy provisions.
- (b) **General Liability Coverage:** BVNA shall maintain Commercial General Liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (c) **Automobile Liability Coverage:** BVNA shall maintain Automobile Liability insurance covering bodily injury and property damage for activities of BVNA employee arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each occurrence.

- (d) **Professional Liability Coverage:** BVNA shall maintain Professional Errors and Omissions Liability for protection against claims alleging negligent acts, errors or omissions which may arise from BVNA's services under this Agreement. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis.

BVNA shall name Client as additional insured and other parties that it deems appropriate to be additionally insured under BVNA's Commercial General Liability policy and Automobile Liability policy, if requested to do so by Client. The Client, on its own behalf and on the behalf of any others that are named as additionally insured at Client's request, agrees that providing such insurance or the additional insured endorsement shall in no way be construed as an assumption by BVNA of any liability for the negligence or willful misconduct or any wrongful behavior on the part of Client or others that are named additionally insured. Client shall name BVNA as additional insured on its Builder's Risk policy.

13. **Cause of Action.** In all disputes arising under this Agreement, the parties agree that the prevailing party shall be entitled to recover its reasonable attorney's fees, court costs and other legal expenses from the other party.

14. **Compliance with Laws.** BVNA shall use the standard of care in its profession to comply with all applicable Federal, State and local laws, codes, ordinance and regulations in effect as of the date services provided.

15. **Resolution of Disputes.** All claims, disputes, controversies or matters in question arising out of, or relating to, this Agreement or any breach thereof, including but not limited to disputes arising out of alleged design defects, breaches of contract, errors, omissions, or acts of professional negligence, except those disputes which arise out of or are related to collection matters or fees alone under this Agreement, (collectively "Disputes") shall be submitted to non-binding mediation before and as a condition precedent to the initiation of legal proceedings. Upon written request by either party to this Agreement for mediation of any dispute, Client and BVNA shall select a neutral mediator by mutual agreement. Such selection shall be made within thirty (30) calendar days of the date of receipt by the other party of the written request for mediation. In the event of failure to reach such agreement or in any instance when the selected mediator is unable or unwilling to serve and a replacement mediator cannot be agreed upon by Client and BVNA within thirty (30) calendar days, a mediator shall be chosen as specified in the Mediation Rules of the American Arbitration Association then in effect, or any other appropriate rules upon which the parties may agree.

16. **Choice of Forum.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas and the venue shall be in Matagorda County, Texas.

17. **Releases.** All lien releases will be limited to payment issues; no additional terms and conditions may be added to a release of lien.

18. a. **Termination for Convenience.** Either party may terminate the Services under this Agreement other than by reason of default, at any time, by sending written notice thereof thirty (30) days in advance of the termination date. Upon such termination, Client shall pay BVNA for the Services performed to and including the date of termination. In addition, Client shall pay BVNA for any materials, supplies or equipment which are in transit or under commitment; all other fees and expenses BVNA incurs because of the termination; and a termination charge which, in the absence of agreement to the contrary, shall be ten percent (10%) of the amount which would be required to compensate BVNA for completing the Services.

b. **Termination for Cause.** Either party may suspend or terminate the Services under this Agreement for cause upon thirty (30) days written notice to the other party in the event the other party fails to substantially perform its obligations under this Agreement. Such failure by Client shall include, but is not limited to, the failure to make payments to BVNA in accordance with the requirements of this Agreement. Client may suspend or terminate the Services under this Agreement for cause upon thirty (30) days written notice to BVNA in the event BVNA fails to substantially perform BVNA's obligations under this Agreement. Such failure shall include, but is not limited to, BVNA's failure to perform the Services under this Agreement in accordance with the standard of care set forth in this Agreement. Upon receipt of written notice, the receiving party shall have thirty (30) days to cure the failure. In the event either party terminates this Agreement for cause and it is later determined or agreed that the non-terminating party had not failed to substantially perform its obligations under the Agreement, the termination shall be treated as a termination for convenience.

c. **Termination by BVNA.** If BVNA terminates without cause, BVNA will provide client with a thirty (30) day transition period from the notice of termination to allow Client sufficient time to secure a new Service Provider. During this transition period, BVNA and Client's responsibilities under this agreement will remain in full force and effect. At the end of the thirty (30) day transition period BVNA will cease all activities. In the event Client shall request BVNA to continue to provide any Services beyond the expiration of the transition period, including any extensions, then BVNA and Client may negotiate in good faith terms of any such extension, including the pricing of Services

19. **Force Majeure.** A delay in, or failure of, performance of either party hereto shall not constitute a default hereunder or give rise to any claim for damage if and to the extent such delay or failure is caused by (an) occurrence(s) beyond the reasonable control of the party affected, including, but not limited to, act(s) of God, or the public enemy, expropriation or confiscation of facilities or compliance with any order or request of governmental authority or person(s) purporting to act therefore affecting to a degree not presently existing the supply, availability, or use of engineering personnel or equipment, act(s) of war, public disorder(s), insurrection(s), rebellion(s), or sabotage, flood(s), riot(s), strike(s), or any cause(s), whether or not of the class or kind of those specifically named above, not within the reasonable control of the party affected, and which, by the exercise of reasonable diligence, said party is unable to prevent. A party who is prevented from performing for any reason shall immediately notify the other party in writing of the cause of such non-performance and the anticipated extent of the delay.

20. **Audit.** Client shall have the right during the course of the Work and until one (1) year after acceptance of the Services to audit BVNA's books and records relating to the costs to be reimbursed pursuant to Article 3. BVNA shall, during the progress of the Services, provide Client with evidence of payment for and records of receipt of materials, supplies and equipment as they become available and are presented for payment, together with such other data as Client may reasonably request.

21. **Waiver.** No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder.

22. **Written Notification.** Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent prepaid, first class mail. Any such notice, demand, etc., shall be addressed to the other party at the address set forth herein below. Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Client:

1901 5th St
 Bay City, TX 77414

If to BVNA:

Bureau Veritas North America, Inc.
Attn: Contract Processing
1000 Jupiter Road, Suite 800
Plano, Texas 75074

With cc to:

Bureau Veritas North America, Inc.
Attention: Legal Department
1601 Sawgrass Corporate Parkway, Suite 400
Fort Lauderdale, FL 33323

23. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties and shall supersede other agreements and representations made prior to the date hereof. No amendments to this contract or changes in the Scope of the Services shall be valid unless made in writing and signed by the parties. Pre-printed terms and conditions (including, but not limited to, waivers of rights and remedies, and variations from any of the warranty, guarantee, standard of care, indemnity, and liability provisions) contained in purchase orders, work orders, invoices or other documents issued by Client with respect to any Services shall have no force or effect and shall be superseded by the terms and conditions herein. The captions in this Agreement are for purposes of convenience only and form no

part of this Agreement. In no event shall they be deemed to limit or modify the text of this Agreement. The invalidity or unenforceability of any portion(s) or provision(s) of this Agreement shall in no way affect the validity or enforceability of any other portion(s) or provision(s) hereof. Any invalid or unenforceable provision(s) shall be severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain a particular portion(s) or provision(s) held to be invalid or unenforceable. In the event the terms and conditions of this Standard Professional Services Agreement conflict with the terms and conditions of any other agreement, this Agreement shall govern and control over any such conflicts.

24. Non-Solicitation / Hiring of Employees.

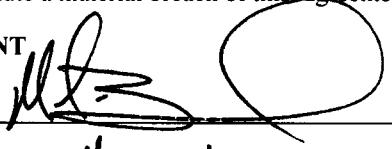
- (a) Non-Solicitation. Throughout the initial Term of this Agreement, any renewals thereof and for the twelve (12)-month period following the expiration or earlier termination of this Agreement, neither party shall directly or indirectly induce or solicit any employee of the other party to leave. Neither party shall directly or indirectly hire or attempt to hire an employee or future employee of the other party for the time period set forth herein.
- (b) BVNA's employees shall not be retained as expert witnesses except by separate written agreement. Client agrees to pay BVNA's legal expenses, administrative costs and fees pursuant to BVNA's then current fee schedule for BVNA to respond to any subpoena.

25. **Interpretation of Agreement.** This Agreement shall be interpreted as though prepared by all parties and shall not be construed unfavorably against either party.

26. **Third Party Beneficiary.** It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to the Client and BVNA. Nothing contained in the agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the Client and BVNA that any such person or entity, other than Client or BVNA, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

27. **Assignment.** Neither party may assign this Agreement or any right or obligation hereunder without the prior written consent of the other party, which shall not be unreasonably withheld or delayed; provided, however, that no consent shall be necessary in the event of an assignment to a successor entity resulting from a merger, acquisition or consolidation by BVNA or an assignment to an Affiliate of BVNA if such successor or Affiliate assumes all obligations under this Agreement. Any attempted assignment, which requires consent hereunder, shall be void and shall constitute a material breach of this Agreement if such consent is not obtained.

CLIENT

By: 

Print Name: MARK A. BECKER

Title: MAYOR

Date: 11/17/14

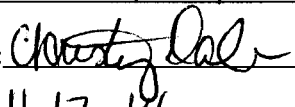
BVNA

By: 

Print Name: VAN TRAN

Title: Vice President

Date: 11-17-14

DTQRR: 

Date: 11-17-14

Attachment A - Scope of Services

Attachment B - Fee Schedule

ATTACHMENT A SCOPE OF SERVICES

BVNA and the representatives of BVNA are charged with the enforcement of the provisions of the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code, acting in good faith and without malice in the discharge of the duties required by these codes or other pertinent law or ordinance shall not thereby be rendered personally liable for damages that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties.

Plan Review

Non-Structural Plan Review services shall be conducted as required by the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code, and other provided code related documents, as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction.

Inspections

Inspection services shall be conducted as required by the Jurisdiction's Building Code, Residential Code, Mechanical Code, Electrical Code, Plumbing Code, Fuel Gas Code and Energy Code. Special inspections as specified in chapter 17 and non-prescriptive structural inspections of the adopted International Building Code are not included and may be required as specified in the International Building Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority and the Certificate of Occupancy will be issued at the discretion of the Jurisdiction.

CLIENT INITIALS: UB

BVNA INITIALS: JF

ATTACHMENT B
FEE SCHEDULE

Commercial and Multi-Family construction plan review

Valuation	Fee
\$1. ⁰⁰ to \$10,000. ⁰⁰	\$50. ⁰⁰
\$10,001. ⁰⁰ to \$25,000. ⁰⁰	\$70.69 for the first \$10,000. ⁰⁰ plus \$5.46 for each additional \$1000. ⁰⁰
\$25,001. ⁰⁰ to \$50,000. ⁰⁰	\$152.59 for the first \$25,000. ⁰⁰ plus \$3.94 for each additional \$1000. ⁰⁰
\$50,001. ⁰⁰ to \$100,000. ⁰⁰	\$251.09 for the first \$50,000. ⁰⁰ plus \$2.73 for each additional \$1000. ⁰⁰
\$100,001. ⁰⁰ to \$500,000. ⁰⁰	\$387.59 for the first \$100,000. ⁰⁰ plus \$2.19 for each additional \$1000. ⁰⁰
\$500,001. ⁰⁰ to \$1,000,000. ⁰⁰	\$1,263.59 for the first \$500,000. ⁰⁰ plus \$1.85 for each additional \$1000. ⁰⁰
\$1,000,001. ⁰⁰ and up	\$2,188.59 for the first \$1,000,000. ⁰⁰ plus \$1.23 for each additional \$1000. ⁰⁰

Single Family Residential construction plan review and inspection
Commercial and Multi-Family construction inspection

Valuation	Fee
\$1. ⁰⁰ to \$10,000. ⁰⁰	\$76. ⁹²
\$10,001. ⁰⁰ to \$25,000. ⁰⁰	\$108.75 for the first \$10,000. ⁰⁰ plus \$8.40 for each additional \$1000. ⁰⁰
\$25,001. ⁰⁰ to \$50,000. ⁰⁰	\$234.75 for the first \$25,000. ⁰⁰ plus \$6.06 for each additional \$1000. ⁰⁰
\$50,001. ⁰⁰ to \$100,000. ⁰⁰	\$386.25 for the first \$50,000. ⁰⁰ plus \$4.20 for each additional \$1000. ⁰⁰
\$100,001. ⁰⁰ to \$500,000. ⁰⁰	\$596.25 for the first \$100,000. ⁰⁰ plus \$3.36 for each additional \$1000. ⁰⁰
\$500,001. ⁰⁰ to \$1,000,000. ⁰⁰	\$1,940.25 for the first \$500,000. ⁰⁰ plus \$2.85 for each additional \$1000. ⁰⁰
\$1,000,001. ⁰⁰ and up	\$3,365.25 for the first \$1,000,000. ⁰⁰ plus \$1.89 for each additional \$1000. ⁰⁰

Back-up inspections

* Backup inspections will be performed during times of inspector absence due to illness, vacation or training at the listed rates. All other project activity will utilize the tables above.

Single Family Residential
Commercial and non-Single Family Residential

\$76.92 per address/building
\$125.00 per address/building/unit

CLIENT INITIALS

BVNA INITIALS:

ATTACHMENT B (Cont.)**FEE SCHEDULE**

The construction valuation is determined by the greater of the declared valuation of the project or the valuation calculated using the International Code Council Building Valuation Data table, first update of each calendar year.

Example:

Square Foot Construction Costs

Group (2012 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B Business	179.29	172.71	166.96	158.70	144.63	139.20	152.43	126.93	121.32

The Square Foot Construction Cost does not include the price of the land on which the building is built. The Square Foot Construction Cost takes into account everything from foundation work to the roof structure and coverings but does not include the price of the land. The cost of the land does not affect the cost of related code enforcement activities and is not included in the Square Foot Construction Cost.

New Building

Group B occupancy

Type VB construction

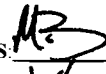
10,000 square feet total building area

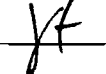
Declared construction valuation \$1,100,000.

Calculated construction valuation - 10,000 square feet X \$121.32 per square foot = \$1,213,200.

The calculated construction valuation is greater than the declared construction valuation so \$1,213,200 is used to calculate the Bureau Veritas fee for the project.

* Note: BVNA fees do not include any taxes, licensing or other fees imposed by governmental or outside agencies.

CLIENT INITIALS: 

BVNA INITIALS: 



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Presentation
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1776

AGENDA ITEM (ID # 1776)

**DISCUSS, CONSIDER AND/OR DIRECT STAFF TO
PARTICIPATE IN THE TEXAS DEPARTMENT OF
TRANSPORTATION (TxDOT) 2015 TRANSPORTATION
ALTERNATIVES PROGRAM (TAP).**

The TAP funding administered by TxDOT will be for construction only and eligible project activities have been limited to pedestrian and bicycle infrastructure projects. The deadline to submit an application is May 4, 2015. Staff is considering a sidewalk project along SH60 South between Hammon Rd and Nile Valley Rd.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



Texas Department of Transportation

125 EAST 11TH STREET | AUSTIN, TEXAS 78701-2483 | (512) 463-8588 | WWW.TXDOT.GOV
403 HUCK STREET | YOAKUM, TEXAS 77995-2973 | (361) 293-4300

January 26, 2015

The Honorable Mark Bricker
Mayor, City of Bay City
1901 Fifth St.
Bay City, TX 77414

Dear Mayor Bricker,

The purpose of this correspondence is to announce the Texas Department of Transportation's 2015 Transportation Alternatives Program (TAP) Call for Candidate Projects. The TAP provides funding for a variety of alternative transportation projects, including on- and off-road pedestrian and bicycle facilities, infrastructure for non-driver access to public transportation, projects that enhance mobility and Safe Routes to School infrastructure projects. TAP funding administered by TxDOT will be for construction only and eligible project activities have been limited to pedestrian and bicycle infrastructure projects.

This Call for Projects is limited to eligible project sponsors and projects from nonurban areas with populations of 5,000 or less and urban areas with populations of 5,001 to 200,000 that are outside 2010 U.S. Census Urbanized Area boundaries with populations over 200,000. An estimated \$52 million in federal resources (federal fiscal years 2013 through 2016) are anticipated to be available to fund authorized TAP projects submitted under this Call for Projects.

The 2015 TAP Call for Candidate Projects begins January 16, 2015 and will end at 5:00 p.m., CDT, on May 4, 2015. TxDOT's 2015 TAP program guide, project nomination form, and program rules are available on TxDOT's website at <http://www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html>.

Local TxDOT district staff members are available to discuss TAP program information and the candidate project nomination process. Eligible project sponsors that desire to nominate a project should review the program guide, nomination form, and rules in consideration of their candidate project prior to contacting TxDOT. The program guide includes a TxDOT district map and a list of TxDOT district TAP coordinators.

Your interest in the Transportation Alternatives Program is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Barbara Grahmann".

Barbara Grahmann
Environmental Specialist/TAP Coordinator, TxDOT-Yoakum District

OUR GOALS

MAINTAIN A SAFE SYSTEM ▪ ADDRESS CONGESTION ▪ CONNECT TEXAS COMMUNITIES ▪ BEST IN CLASS STATE AGENCY

An Equal Opportunity Employer



TRANSPORTATION ALTERNATIVES PROGRAM GUIDE 2015

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A. TAP PROJECT SUBMITTAL DEADLINE AND DELIVERY REQUIREMENTS

On January 16, 2015, the Texas Department of Transportation (the department) announced a Call for Projects under the Transportation Alternatives Program (TAP). The TAP, as administered by the department, provides funding for a variety of alternative transportation projects, including on- and off-road pedestrian and bicycle facilities, infrastructure for non-driver access to public transportation, projects that enhance mobility, and Safe Routes to School infrastructure projects. A project sponsor must submit its project nomination in the form prescribed by the department. The complete nomination package must be received by the department no later than **5:00 p.m., CDT, on Monday, May 4, 2015**, as published in the Texas Register. Project sponsors must complete the TAP 2015 Nomination Form in Microsoft Windows Excel 2010 format (.xslm) available on the department's Public Transportation Division website:

www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html

A TAP Project Nomination Packet must include the following:

1. The original TAP 2015 Nomination Form completed in Microsoft Windows Excel 2010 (.xslm) delivered to the department in its original Microsoft Windows Excel 2010 (.xslm) format.
2. A second copy of the completed TAP 2015 Nomination Form provided in an Adobe Portable Document Format (PDF) plus all attachments in PDF format. (**Note:** The signature page of the TAP 2015 Nomination Form must be printed and signed by a representative from the project sponsoring entity with signature authority, converted to a PDF and included as part of the complete PDF nomination package.)

Note: All original color documents should be converted into a color Adobe PDF format. Attachments must be labeled in the upper right hand corner and be numbered chronologically, where applicable (Example: "Project Information - Attachment B, Page 3 of 10"). A complete nomination form, with attachments, is required for each TAP project proposal.

TAP Project Submissions to the Department

A completed TAP nomination packet must be submitted as outlined above. The department's Drop Box is available at <https://ftp.dot.state.tx.us/dropbox/?action=mainmenu>. (Click the Drop-off tab, enter the information as requested below and follow instructions.) Drop Box submissions must be received by **5:00 p.m., CDT, on Monday, May 4, 2015**. (Updated 1/23/2015 to reflect the correct due date.)

1. Information about the Sender;
2. Information about the Recipient (Name: TAP Manager, Email: **PTN_PlanningandTechSppt@txdot.gov**);
3. Choose the file(s) you would like to Upload;
4. Click the box at the bottom labeled "Drop-off the File(s)";
5. Once you have clicked the "Drop-off the File(s)" box, you will immediately be directed to a completion page with confirmation including the date and time of your drop-off. The confirmation may take a few minutes to process. **Keep a copy of the confirmation page for your records.** This page may be requested in the event there are questions concerning project submission. One project per drop box submission.

A TAP project nomination packet may be submitted on CD/DVD (one TAP project nomination per CD/DVD) via in person delivery, delivery via courier service, or delivery via the United States Postal Service (USPS). All deliveries, regardless of the method of submission, must be received by **5:00 p.m., CDT, on Monday May 4, 2015**. Therefore, project sponsors must allow sufficient time for delivery. Use the following department addresses:

USPS Mailing Address

Texas Department of Transportation
Public Transportation Division
Attn: TAP Program Manager
125 E. 11th Street
Austin, Texas 78701-2483

Courier Service or In-Person Delivery Address

Texas Department of Transportation
Attn: PTN-TAP Program Manager
Camp Hubbard, Building 6 – PTN 5th Floor
3712 Jackson Avenue
Austin, Texas 78731

The department reserves the right to deem a TAP nomination package ineligible for funding if not received by the department on or before 5:00 p.m., CDT, on May 4, 2015.

B. PROGRAM OVERVIEW

The Transportation Alternatives Program (TAP) was authorized under Section 1122 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and is codified at 23 U. S. C. sections 213(b), and 101(a)(29). Section 1105 of MAP-21 provides for the apportionment of funds and is codified at 23 U. S. C. 104(b) from which TAP funding is set aside.

The federally funded TAP provides opportunities to expand transportation choices and enhance the transportation experience through categories of activities related to the surface transportation system. The TAP focuses on non-traditional transportation projects.

Each state develops rules to administer their TAP according its priorities. In Texas, the Statewide TAP operates under rules adopted by the Texas Transportation Commission (Commission), which may be found in 43 Texas Administrative Code (TAC) §§11.300–§11.317 and §§16.153–§16.154. TAP projects must relate to the surface transportation systems and be eligible under one or more of the four Eligible TAP Project Activities outlined in Section C of this guide. Federal TAP funds administered by the department will be available for construction only. This Call for Projects is limited to eligible project sponsors and projects from nonurban areas with populations of 5,000 or less and urban areas with populations of 5,001 to 200,000 that are outside 2010 U.S. Census Urbanized Area boundaries with populations over 200,000. These large urbanized area boundaries are also known as Transportation Management Areas.

An estimated \$52 million (Federal Fiscal Years 2013, 2014, 2015, and 2016) is anticipated to be available to fund authorized TAP projects in this Call for Projects. Depending on the actual amount available and the TAP project nominations received by the department, all or some portion of the estimated amount may be awarded as a result of this Call.

Note: In Texas, TAP funds set aside for the Recreational Trails Program are administered by the Texas Parks and Wildlife Department.

This is the first TAP Call for Projects by the department. Please review the department's TAP rules, the TAP 2015 Nomination Form, and other program information at the department's Public Transportation Division website: www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html. The TAP nomination package must present persuasive evidence of support for the proposed project from the communities in which it would be implemented and include a commitment to provide a local funding match of at least 20% of the allowable costs of the project, subject to any allowable adjustments for projects located in economically disadvantaged counties. The local funding match is a cash match or an approved in-kind contribution provided by or through the project sponsor.

The following list identifies the most basic TAP facts in conjunction with the TAP rules adopted by the commission. This list is not all inclusive, interested project sponsors must review all sections of this guide. Local department staff are available to discuss TAP program information and the project nomination process. Refer to section P. TxDOT DISTRICT MAP and section Q. TxDOT DISTRICT TAP COORDINATORS for assistance.

1. The commission will select TAP projects through a competitive process administered by the department.

2. Projects, or substantially similar projects, submitted in an MPO administered TAP Call for Projects are not eligible for consideration in the department's 2015 TAP Call for Projects if the department's Call is inclusive of the funding year(s) covered by the MPO's TAP Call.
3. Federal TAP funds administered by the department will be available for construction only. The costs of preliminary engineering including planning; design; plans specifications and estimates (PS&E); environmental assessments; environmental mitigation; survey work; acquisition of right of way; and other property purchases are not reimbursable TAP costs.
4. Project Funding Agreements, and reimbursement of eligible costs.
 - a. Federal TAP funds are provided through the FHWA. Compensation for expenditures will be authorized on a cost reimbursement basis. The project must be included in the Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP), have a fully executed Advance Funding Agreement (AFA) (between the project sponsor and the department), and the department must receive the project sponsor's local match for preliminary engineering review in cash before the department will begin any work for which federal reimbursement can be requested (see "i" below). The department will secure the Federal Project Authorization and Agreement (FPAA) from FHWA. Expenditures incurred prior to receiving the FPAA will not be eligible for reimbursement. Projects undertaken with TAP funds may be eligible for reimbursement of up to 80% of the allowable costs.
 - i. All TAP projects are constructed using federal dollars and therefore require department oversight. The department's administrative costs are reimbursable at the same rate as other eligible TAP project costs. Project sponsors are expected to pay for the department's administrative costs associated with preliminary engineering and PS&E review, environmental review, construction administration, and construction oversight prior to the department incurring any of these associated costs. It is for this reason that the TAP 2015 Nomination Form includes a 15% administration cost for the department. The department's administrative cost is automatically calculated into the budget as part of the Project Budget Summary on page 9 of the project nomination form. The project agreement will outline the department's administrative costs based on the estimated cost of the proposed project.
 - b. Acquisition of property for a TAP project must be in accordance with all applicable federal and state statutes and regulations, including the Uniform Relocation Assistance and Real Property Acquisition Act, even when the cost is not reimbursable through the program. For state and federal guidance, refer to the latest version of the department's Local Government Project Procedures Manual at: www.txdot.gov/government/processes-procedures/lgpp-manual.html.
 - c. All TAP project sponsors must execute an Advance Funding Agreement (AFA) with the department and comply with all federal and state procedures and requirements applicable to development of federal-aid transportation projects. The AFA must be executed by the project sponsor within one year from the date of selection by the commission or risk loss of federal funding.
 - d. The federal funding amount authorized by the commission for a TAP project is fixed; no additional funds will be authorized.

- e. The TAP project sponsor will be responsible for any and all cost overruns above the federal funding amount authorized by the commission.
- f. TAP projects must advance to construction within three years from the date of selection by the commission or risk loss of federal funding.

5. Local Match

- a. The local funding match is a cash match or an approved in-kind contribution provided by or through the project sponsor. All in-kind contributions proposed as matching funds must be clearly documented on page 8 of the TAP 2015 Nomination Form with supporting documentation attached. In-kind contribution(s) must be determined eligible by the department and FHWA. If the project sponsor is proposing an in-kind contribution as a portion of the match, it must be included at the time of project submission and the project sponsor must provide evidence of costs incurred or fair market value of costs to be incurred as in-kind contributions. No substitutions or additional in-kind contributions will be authorized after the TAP project nomination deadline has expired.
- b. An in-kind contribution may only include actual and documented pre-construction or construction-related costs previously incurred by the project sponsor that are otherwise eligible for reimbursement under applicable statutes and regulations.
- c. Costs associated with preliminary engineering and plan development may be considered eligible as in kind contributions, contingent upon the project sponsor's ability to provide the department evidence that all required state and federal statutes and regulations have been followed in hiring the consultant, environmental specialist, or other professional service(s).
- d. In-kind contributions cannot be used to match the department's administrative costs.
- e. Funds from other federal programs may be used as a local funding match only when specifically authorized by federal law or regulation.
- f. Donated services may not be accepted as a local funding match, but may be used to reduce the overall cost of the project.
- g. Private cash donations may be acceptable if authorized by law.
- h. If the project is located in a county that has been certified by the commission as economically disadvantaged, the nomination package may include a request for adjustment to the minimum local match requirement. For those projects in which the commission is authorized by law to provide state cost participation, the department may adjust the project sponsor's local match amount required. The commission annually certifies a list of Economically Disadvantaged Counties (EDC), which includes the local match adjustments that may be considered. The Project Budget Summary page of the TAP 2015 Nomination Form includes identification of EDC adjustments that may be considered. If the project is selected for federal funding, the project sponsor would need to complete and submit a separate application to the department's Economically Disadvantage County Program (EDCP) and receive EDCP approval from the department prior to execution of the TAP project agreement. For EDCP information visit: www.txdot.gov/inside-txdot/division/transportation-planning/disadvantaged-county.html

6. A project that will require the acquisition of real property through the exercise of eminent domain or condemnation is not eligible for participation in the TAP
7. Whether proposed as an independent project or as an element of a larger transportation project, the project must be limited to a logical unit of work and be constructible as an independent project.
8. Federal guidance states that projects must be principally for transportation rather than purely recreational and must have logical endpoints. (For example, if a project proposes a looped trail system within a city park, this would be considered recreational and would not be considered TAP eligible.)
9. If any elements in a project nomination fail to meet federal and state requirements, they will not be considered eligible for construction or as in-kind contributions towards the local match. A project must have a minimum of 75% of its cost items eligible for reimbursement in order to remain in competition. Ineligible items will not be funded. The project sponsor will need to demonstrate a willingness and ability to pay ineligible costs or demonstrate that the TAP project is constructible as an independent project without the ineligible items.
10. Projects that include state right-of-way or have a direct effect on an existing state maintained roadway must have a letter of support from the department's local district engineer offering consent for the proposed project.
11. A project sponsor may submit more than one TAP project nomination. The project sponsor will be required to prioritize projects as part of their TAP 2015 Nomination Form.

Incidental costs should be kept to a minimum. For example, in order to implement a bicycle and pedestrian project, it may be necessary to relocate a water line, replace a street light and resurface a crosswalk during construction. These items of work would be considered incidental activities. The total amount necessary for incidental costs may not exceed 30% of the project's total itemized construction budget. Additionally, if a sidewalk project includes pedestrian lighting on state right-of-way, the department policy dictates that such lighting must also be adequate for the adjacent roadway system. It is essential that the project sponsor consult with the department's district personnel to make sure that the project budget allows for this additional cost and that the proposed lighting meets the department's requirement; refer to section P. TxDOT DISTRICT MAP and section Q. TxDOT DISTRICT TAP COORDINATORS for district contact information. Careful consideration should be made before adding excessive incidental cost(s) to a TAP project nomination, as these costs may result in a lesser evaluation of the project.

C. ELIGIBLE TAP PROJECT ACTIVITIES

1. Construction of on-road and off-road trail facilities for pedestrians, bicyclists, and other non-motorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting, and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990;
2. Construction of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities to access daily needs;
3. Conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other non-motorized transportation users; and
4. Construction of infrastructure-related projects to improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.

D. ALLOWABLE COSTS

Costs are allowable only if they are necessary construction-related project expenditures that are eligible for reimbursement under applicable statutes and regulations. The costs of preliminary engineering incurred by the project sponsor (including planning, design, and plans, specifications, and estimates) are not reimbursable TAP costs. Eligible pre-construction costs incurred by the department are reimbursable. All other pre-construction costs are the responsibility of the project sponsor. Expenditures for project operation and maintenance are not allowable TAP costs. Any costs incurred prior to the FPAA approval from FHWA are not federally reimbursable through the TAP.

E. PROJECT EMPHASIS AREAS

Within eligible project categories, the department is particularly interested in those projects that reflect a high degree of collaboration and community consensus while directly contributing to the department's safety and connectivity goals. Projects that enhance bicycle and pedestrian safety, provide access to or between existing community investments in bicycle and pedestrian facilities, public transportation, or other mobility options, propose a direct connection to important community destinations (such as schools, employment, shopping and recreational areas), or contribute as an individual project to a larger investment consistent with Complete Streets design are strongly encouraged.

Complete streets are designed and operated to enable access for all users, including pedestrians, bicyclists, motorists, and transit riders of all ages and abilities.

F. ELIGIBLE TAP PROJECT SPONSORS

The eligible entities to receive TAP funds are:

- Local governments;
- Regional transportation authorities;
- Transit agencies;
- Natural resource or public land agencies;
- School districts, local education agencies, or schools;
- Tribal governments; and
- Any other local or regional governmental entity with responsibility for oversight of transportation or recreational trails (other than a metropolitan planning organization or a State agency) that the state determines to be eligible.

State DOTs and MPOs are not eligible entities as defined under 213(c)(4)(B) and therefore are not eligible project sponsors for TAP funds. However, State DOTs and MPOs may partner with an eligible project sponsor to carry out a project.

The project sponsor, must exercise jurisdiction over the geographic area in which that project is located, be willing to enter into a local agreement with the department, and commit to the project's development, implementation, construction, maintenance, management, and financing.

Nonprofits are **not eligible** as direct recipients of TAP funds unless they qualify through one of the eligible entity categories. Nonprofits are eligible to partner with any eligible entity on an eligible TAP project, if state or local requirements permit.

- Local government entities include any unit of local government below a State government agency, except for a Metropolitan Planning Organization. Examples include city, town, township, village, borough, parish, or county agencies.
- Regional Transportation Authorities are considered the same as Regional Transportation Planning Organizations defined in the statewide planning section (23 U.S.C. 135(m)).
- Transit agencies include any agency responsible for public transportation that is eligible for funds under the Federal Transit Administration.
- Natural resource or public land agencies include Federal, Tribal, State, or local agency responsible for natural resources or public land administration. Examples include:
 - State or local park or forest agencies
 - State or local fish and game or wildlife agencies
 - Department of the Interior Land Management Agencies
 - U.S. Forest Service

G. TAP PROGRAM CALL SEQUENCE OF EVENTS

Announcement

On January 16, 2015, the department's 2015 Call for TAP Projects begins. Downloadable information, including the TAP Program Guide 2015 and project Nomination Form, are available on the department's website at: www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html.

Nomination Submission to the Department

Project nominations must be submitted in the form prescribed by the department and be received by the department no later than **5:00 p.m., CDT, on Monday, May 4, 2015**; refer to section A. TAP SUBMITTAL DEADLINE & DELIVERY REQUIREMENTS. The nomination package must include an official resolution from the project sponsor, signed before the governing body by an appropriate representative, stating the local entities willingness to commit to the project's development, implementation, construction, maintenance, management, and financing.

As part of the nomination package, any proposed TAP project which is located in a single metropolitan area is required to include a letter of support from the Metropolitan Planning Organization (MPO) that states their commitment to include the proposed project in the local TIP, should TAP funding for the proposed project be made available. Early coordination with the MPO is essential to obtain their letter of support in a timely manner.

Interagency coordination may be necessary. Most agencies request a minimum of 30 days to review a project proposal and provide a letter of support, should that be applicable. Be sure and contact agencies early to allow sufficient time to acquire any supporting documentation that may be required as part of a project nomination.

Eligibility Determination, Evaluation and Selection Process

The department and FHWA will review TAP project nominations for eligibility. The department will review each nomination package to ensure that all of the requested information and documentation has been included. A nomination package that fails to include any of the items specified in this guide and the TAP 2015 Nomination Form will be considered to be incomplete and will not be considered for funding. The department will evaluate and score eligible projects through a competitive process. For TAP project evaluation details, refer to section H. PROJECT SCREENING; ELIGIBILITY DETERMINATION; AND REQUEST FOR RECONSIDERATION and section I. PROJECT SELECTION CRITERIA AND EVALUATION of this guide. The department will notify TAP Project sponsors regarding project selection by the commission.

Important Dates:

• January 16, 2015

The department's Transportation Alternatives Program (TAP) Call for Projects published in the Texas Register. The TAP 2015 Program Guide and Nomination Form are available for downloading from the department's website at: www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html.

- **May 4, 2015 (5:00 p.m. CDT)**

Submission deadline for TAP 2015 project nomination(s). A TAP project nomination may be submitted to the department via the department's Drop Box, or placed on a CD/DVD and hand-delivered, delivered through a courier service, or sent via the United States Postal Service. Nominations must be received by the department on or before **May 4, 2015 at 5:00 p.m., CDT**. NO exceptions will be granted. Refer to section A. TAP SUBMITTAL DEADLINE AND DELIVERY REQUIREMENTS of this guide.

- **May – July, 2015**

TAP project evaluation (project ineligibility letters mailed, if necessary)

- **July – September, 2015**

Proposed selection of TAP projects by the commission. The department will evaluate all TAP projects submitted at one time. The department reserves the right to schedule project approvals consistent with project readiness.

H. PROJECT SCREENING; ELIGIBILITY DETERMINATION; AND REQUEST FOR RECONSIDERATION

The executive director of the department will appoint a Project Evaluation Committee consisting of department staff to review, evaluate, and make recommendations on projects submitted during this Call for TAP Projects. The committee will screen each project proposal to determine whether the project is eligible for funding under applicable federal and state law and whether the project meets technical standards established by applicable law and accepted professional practices. The department will determine whether a project proposal submitted in TxDOT's TAP Call for Projects is eligible, based on the department's TAP rules. Those projects considered eligible by the department will then be reviewed by FHWA for federal eligibility.

If a project is determined to be ineligible, the department will by certified mail, return receipt requested, notify the project sponsor of each ineligible activity proposed and the reason for the determination. A request for reconsideration of a finding of ineligibility may be initiated only by a letter from the project sponsor to the department's executive director setting forth reasons in support of a finding of eligibility. The letter requesting reconsideration must be received by the department no later than 15 days after the project sponsor received the department's notification of ineligibility, as established by the return receipt. The determination of the executive director (following consultation with FHWA) in response to the request for reconsideration is FINAL. A new Itemized Budget, reflecting the removal of any ineligible item(s), and a revised project description must be resubmitted to show changes required by the executive director, before the project may continue for consideration in the program Call.

I. PROJECT SELECTION CRITERIA AND EVALUATION

The department and the commission seek to prioritize TAP investments in projects that represent the best use of available TAP funds. All eligible TAP project sponsors shall address the eight criteria categories outlined in the **Evaluation** portion of this section below. Project sponsors are encouraged to document project details and benefits using verifiable means; which may include the use of US Census data and maps, published crash data, final research papers, and other published information as applicable. Photographs, maps and charts are good tools to convey information and are required as part of the project nomination.

Evaluation

The Project Evaluation Committee will evaluate the benefits of each project that is determined to be eligible, based on the specific evaluation criteria found in section H. PROJECT SELECTION CRITERIA of this guide. The TAP evaluation committee will provide project selection recommendations and supporting documentation to the division of the department responsible for administering the TAP. A list of recommended projects will be provided to the commission for consideration.

The department's Project Evaluation Committee will focus on the eight criteria categories, which have been organized into three focus areas, identified numerically as 1) **Department Goals and Project Emphasis Areas**, 2) **Project Readiness**, and 3) **Local Project Funding**, as outlined in the charts on the following pages. While all projects will be evaluated at one time, some projects may be recommended for commission action sooner than others based on project readiness.

The Department's Goals

- Maintain a safe system
- Address congestion
- Connect Texas communities
- Become best in class state agency

1) **Department Goals and Project Emphasis Areas** — Represents 50% of the Total Evaluation Score
(Review the Department's Goals and Section E. PROJECT EMPHASIS AREAS, discussed previously)

CRITERIA	DESCRIPTION	FACTORS
Improving Safety	Provides safer and less intimidating accommodations for pedestrians, bicyclists, and other non-motorized traffic. Constructs Safe Routes to School infrastructure.	- Improves safety in areas with high numbers of crashes (provide crash data and source) - Improves roadway crossings and/or traffic signals for pedestrians and bicyclists - Implements traffic calming measures - Considers persons with special needs - Provides separate facilities for various transportation modes
Implementing Active Transportation and Mobility Plans	Improves ability to walk and bicycle for everyday activities including travel to work, school, and shopping. Increases transportation options for non-motorists.	- Consistent with local and regional plans, including but not limited to On-street Bikeway Plan(s), Pedestrian Facility Plan(s), Safe Routes to School Plan(s), or other related community Master Transportation Plans that have been adopted a city or governing body. - Improves access and/or enhances mobility
Making local and/or Regional Linkages and Connections to Employment, Households, and Activity Centers	Improves Local and/or Regional connections and/or access between residential neighborhoods, cities, counties, and major destinations. Provides multi-modal connections.	- Network continuity (gap closures, extension of regional facilities, linkages between multiple jurisdictions) - Provides direct connections to transit and/or rail (shared use paths, sidewalks, and on-street bikeways) - Proximity to employment districts, schools, households, and other special generators - Links existing transportation modes
Reducing Barriers	Improves access and/or provides safer crossings for non-motorized traffic at an existing travel barrier.	- Provides a grade-separated crossing under or over a barrier (such as a water body, major roadway, or railroad) - Provides needed infrastructure - Improvements for pedestrians and bicyclists at roadway crossings and/or intersections
Providing Environmental Benefits and/or Reducing Congestion	Provides access in underserved communities. Demonstrates public outreach and involvement. Improves air quality or other environmental benefits. Encourages healthy living. Helps reduce congestion.	- Improves non-motorized access for persons in areas with a greater percentages of minorities and low income households compared to the regional average - Demonstrates a measureable benefit in air quality - Other measurable environmental benefits - Identifies the potential for a measureable reduction in congestion - Provides a synopsis of their public outreach plan
Creating Economic Development Opportunities	Results in benefits exceeding project costs. Supports state tourism and interstate bicycling.	- Supports investments that provides an increased benefit to the community and the region through revitalization, redevelopment, and job creation. - Creates transportation facilities that support the state's tourism. - Project is consistent with proposed US bike route system. www.adventurecycling.org/routes-and-maps/us-bicycle-route-system/national-corridor-plan/

2) **Project Readiness** — Represents 25% of the Total Evaluation Score

(Status of Plan Development, Environmental Documentation, and Real Property Acquisitions for the Project)

CRITERIA	DESCRIPTION	FACTORS
Identifying Project Readiness	Ability to initiate construction if selected for funding. Demonstrates strong community support through collaboration, outreach, involvement and partnerships with others. The project is identified on locally approved transportation plans.	• Status of design/engineering • Status of environmental documentation • Status of right-of-way/property acquisitions

3) **Local Project Funding** — Represents 25% of the Total Evaluation Score

(Adequate financial resources including the local match)

CRITERIA	DESCRIPTION	FACTORS
Local Project Funding	Project sponsor demonstrates the ability to pay 100% of the construction cost as work is done and request reimbursement of up to 80% of the allowable costs incurred. Match type: Cash match, In-kind match, Cash with In-Kind, and Over match.	• Project sponsor financial soundness • Local Match • Additional Local Match (exceeds required 20%)

J. SELECTION OF TAP PROJECTS BY THE COMMISSION

The commission, by written order, will select projects for funding under the TAP based on:

1. Recommendations from the director of the division responsible for administering the TAP
2. The potential benefit to the state of the project
3. Whether the project enhances the surface transportation system

The commission is not bound by project recommendations provided by the department. The commission will specify a fixed amount of TAP funds for each project selected. Project costs in excess of this are the responsibility of the project sponsor. The department will notify the project sponsors of the projects selected by the commission.

K. PROJECT IMPLEMENTATION

All TAP projects must be developed to current standards and specifications established or recognized by the federal government and the department; and in accordance with TAC, Chapter 11, Subchapter F.

Placement of TAP projects in the Transportation Improvement Program (TIP) and in the Statewide TIP (STIP)

The department and the local MPO must take the necessary actions to add selected TAP projects to the local TIP, managed by the MPO, and the STIP, managed by the department. The TIP and STIP require FHWA approval and are updated quarterly. All TAP projects must be placed in the local TIP and STIP prior to TxDOT and FHWA approval of the AFA and FPAA for any work which the local entity or the department is seeking federal reimbursement.

Execution of Advance Funding Agreements (AFA) (also known as Local Agreements)

All TAP project sponsors must enter into a local agreement with the department and comply with all federal and state procedures applicable to development of federal-aid transportation projects. The department will work with the project sponsor to develop and execute the TAP project AFA. A determination will be made between the project sponsor and the department as to whether the project's construction advertisement for bids and contract management (letting) will be done by the department or by the project sponsor. In general, TAP projects on the state highway system will be let for construction and managed by the department. However, most TAP projects are not located on the state highway system and the project sponsor may seek the department's authorization for a local construction letting of their project. The department's local district office will make the letting determination in consultation with division staff and the project sponsor. Therefore, it is important to understand that the project sponsor will need to demonstrate adequate cash flow to accommodate the payment of 100% of the project costs until reimbursement from FHWA may be provided.

Regardless of whether the project is let by the department or by the project sponsor, the department will have oversight responsibilities and administrative costs associated with reviewing preliminary engineering (including PS&E), conducting construction administration, and construction oversight. The TAP Project Budget Summary, in the TAP 2015 Nomination Form, includes 15% for the department's administrative expenses. A breakdown of the department's estimated costs for administration, review and oversight responsibilities will be determined during development of the project's AFA. The department's administrative expenses are eligible for federal reimbursement up to 80 percent.

Example: A TAP project that is federally funded 80% with a 20% local match that is estimated to cost \$1,000,000 for construction would include a 15% TxDOT Administration Cost for a total project cost of \$1,150,000. The 20% local match would be \$230,000 (\$200,000 local match for construction and \$30,000 local match for TxDOT administrative costs).

The AFA must be executed within one year of project selection by the commission.

Right-of-Way

If a project is proposed on state right-of-way, the project sponsor is responsible for securing a land-use permit from the department prior to construction.

Local Deposit to the department for Review of Preliminary Engineering (PE)

As outlined in the AFA, the project sponsor will be required to advance their local match for preliminary engineering review in cash within 30 days of signing the project AFA. The department will not begin project review until the cash advance is received.

Federal Project Authorization and Agreement (FPAA)

The department will not request construction funding authorization for the project from FHWA in the form of a FPAA until the PS&E has been reviewed and approved by the responsible office. FPAA approval for construction signifies that plans were checked and all federal and state requirements have been met.

Construction Letting by the Project Sponsor

If the project sponsor is authorized for a local construction letting, the project sponsor will be required to pay 100% of the construction costs as the work is done and request reimbursements of up to 80% of the allowable costs incurred.

To be eligible to administer a federally funded project, the project sponsor's project manager directly responsible for project activities and project implementation must have completed the department's Local Government Project Procedures (LGPP) training taught through the department. Additionally, the project sponsor must have environmental clearance, in accordance with current department procedures, and a State Letter of Authority (SLOA) from the department and a construction FPAA (acquired through the department from FHWA), before advertisement of construction bids. For state and federal guidance, project sponsors should refer to the latest version of the department's Local Government Project Procedures guidance document at: www.txdot.gov/government/processes-procedures/lgpp-manual.html.

Construction Letting by the Department

If the project is let for construction by the department, the outstanding local match and 100% of any estimated cost overages will be due to the department 60 days prior to advertising for construction. The project sponsor is not required to have LGPP training if the department will be advertising and letting the project for construction.

Contractor for Construction

The construction contractor will, in all cases, be chosen through a competitive bidding process approved by the department. The contract will be awarded to the lowest responsive bidder, in accordance with 23 CFR Part 635.

Scope Modifications

Projects must be developed as approved by the commission. Any change in the scope of work that was specified in the nomination package and approved by the commission must have the advance written approval of the executive director. Changes in items of work or project scope that occur without advance departmental approval will not be reimbursed. The department has oversight and monitoring responsibility on transportation projects directly administered by a project sponsor when project costs are wholly or partially paid using FHWA or state funds.

Payment of Costs

The department will submit all requests for reimbursement of allowable costs to FHWA. A project sponsor must use the forms and procedures specified by the department to request reimbursement of allowable costs incurred. For locally administered projects, the entire project cost is borne by the project sponsor until reimbursement can be obtained from FHWA for eligible activities. Costs incurred prior to the inclusion of the project in the STIP, execution of the project agreement, or prior to federal and state approval and authorization to proceed are not eligible for TAP reimbursement.

Project Inspection and Acceptance

The department is responsible for the inspection and final acceptance of all TAP projects selected by the commission and for certification of project completion. If the project sponsor does not complete the project as originally approved by the commission, the department may seek reimbursement of the expended federal funds from the sponsor.

L. MAINTENANCE AND OPERATION; DEDICATION FOR PUBLIC USE

A project selected by the commission shall be maintained and operated by the project sponsor for the purpose for which it was approved and funded and for a period of time that is commensurate with the amount of federal investment in the project. A project selected by the commission shall be dedicated for public use for 10 years, if the amount of federal investment in the project is \$1 million or less, or 20 years, if the amount of federal investment is more than \$1 million. If at any time the project sponsor can no longer maintain and operate the project for its intended purpose, the project sponsor shall consult with the department and FHWA as to the disposal or alternate uses, consistent with the project's original intent.

M. PROJECT ELIMINATION FROM THE TAP

A project will be eliminated from participation in the TAP if at any time prior to the execution of the local agreement, (also known as an Advance Funding Agreement (AFA)), the governing body of a municipality or county in which the project activities are proposed, by resolution, order, or other official action, notifies the department of its opposition to the project.

The executive director may eliminate a project or a portion of a project from participation in the TAP if at any time:

1. The project sponsor fails to meet the requirements established in the TAP rules;
2. Implementation of the project would require a significant deviation from the activities as proposed in the nomination package and approved by the commission;
3. The project sponsor withdraws from participation in the project;

4. A local agreement (AFA) is not executed between the local entity and the department within one year after the date that the commission selected the project;
5. A construction contract has not been awarded or construction has not been initiated by the project sponsor within three years after the date that the commission selected the project;
6. The executive director determines that federal funding may be jeopardized because the project has not been implemented or completed.

N. ADDITIONAL INFORMATION

Information about the department's 2015 TAP Call for Projects, including this program guide, the department's TAC rules, and the TAP nomination form can be found at the department's TAP Program website at: www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html.

Texas Administrative Code, Title 43, Chapter 11, Subchapter F:

[http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC)

FHWA TAP Guidance:

www.fhwa.dot.gov/map21/guidance/guidetap.cfm

U.S. Census Bureau Information:

www.fhwa.dot.gov/planning/census_issues/urbanized_areas_and_mpo_tma/geographic_resources/

National Transportation Alternatives Clearinghouse:

www.fhwa.dot.gov/map21/guidance/guidetap.cfm

AASHTO Guide for the Development of Bicycle Facilities:

www.transportation.org

https://bookstore.transportation.org/item_details.aspx?ID=1943

Texas Accessibility Information-Texas Department of Licensing and Regulation:

www.tdlr.state.tx.us

ADA Standards for Accessible Design:

www.ada.gov

O. BIKEWAY TERMINOLOGY

Shared Roadway: 2012 AASHTO Definition: A roadway that is open to both bicycle and motor vehicle travel. 2011 Texas MUTCD Definition: A roadway that is officially designated and marked as a bicycle route, but which is open to motor vehicle travel and upon which no bicycle lane is designated. A **Signed Shared Roadway** shall include posted bike route signs and may include pavement markings.

Bicycle Lane: 2012 AASHTO and 2011 Texas MUTCD Definitions are the same: A portion of a roadway that has been designated for preferential or exclusive use by bicyclists by pavement markings and, if used, signs. However, AASHTO definition includes: It is intended for one-way travel, usually in the same direction as the adjacent traffic lane, unless designated as a contra-flow lane.

Shoulder: 2012 AASHTO Definition: The portion of roadway contiguous with the travel way that accommodates stopped vehicles, emergency use, and lateral support for sub base, base, and surface course. Shoulders where paved are often used by bicyclists. A **Signed Shoulder Bike Route** shall include posted bike route signs and may include pavement markings.

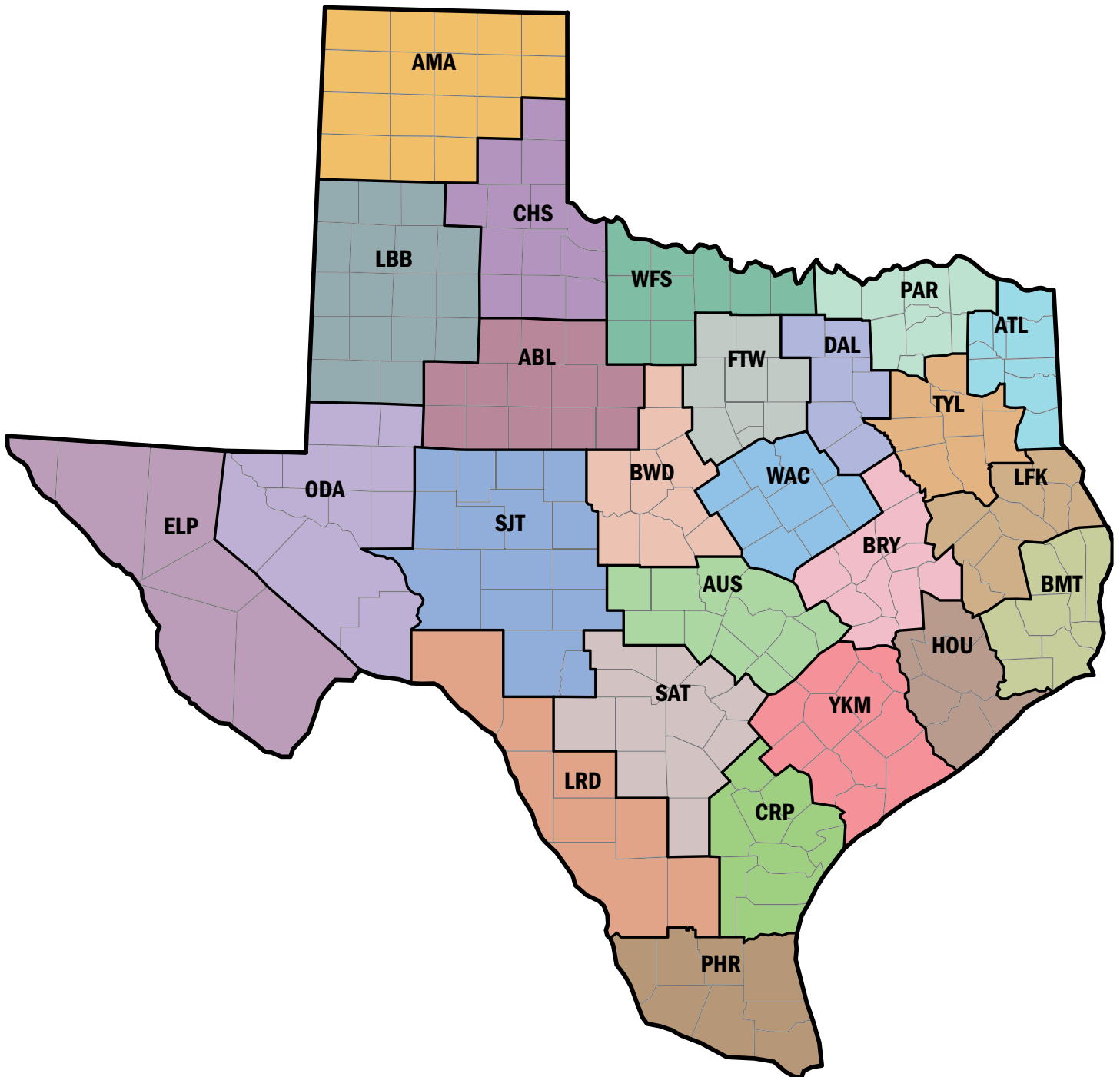
Shared Use Path: 2012 AASHTO and 2011 Texas MUTCD Definitions are basically the same: A bikeway outside the traveled way and physically separated from motor vehicle traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way or within an independent alignment. Shared use paths may also be used by pedestrians (including skaters, users of manual and motorized wheelchairs, joggers) and other authorized motorized and non-motorized users. Most shared use paths are designed for two-way travel.

Cycle Track: Defined by the National Association of City Transportation Officials (NACTO) in 2011: A Cycle Track is an exclusive bicycle facility that has elements of a separated path and on-road bike lane. A Cycle Track, while still within the roadway, is physically separated from motor traffic and is distinct from the sidewalk.



P TxDOT DISTRICT MAP

To locate your TxDOT District Office visit www.txdot.gov/inside-txdot/district.html. The state map at this website includes hyperlinks to TxDOT's 25 District Office websites. Click on your county and the hyperlink will take you to the TxDOT District website that includes that county. Take note of the full name of the TxDOT District Office that appears at the top of the webpage. Use the TxDOT District TAP Coordinators list on the following page to identify the local TAP Coordinator for that District Office. The map below also includes hyperlinks.



Attachment: 2015 TAP Program Guide (1776 : TxDOT TAP Program)

Q. TxDOT DISTRICT TAP COORDINATORS

TxDOT's District TAP Coordinator will be your first point-of-contact to discuss TxDOT's 2015 TAP Call for Projects and the project nomination process

Abilene District Office

Kristi Barron | 325.676.6811
4250 North Clack
Abilene, TX 79604-0150

Dallas District Office

Godfrey Sendawula | 214.789.6266
4777 East Highway 80
Mesquite, TX 75150

Pharr District Office

Stephen Walker | 956.702.6142
600 West Expressway 83
Pharr, TX 78577-1717

Amarillo District Office

John Soto | 806.356.3267
5715 Canyon Drive
Amarillo, TX 79110-7368

El Paso District Office

Blanca Serrano-Rivera | 915.790.4328
13301 Gateway Blvd West
El Paso, TX 79928

San Angelo District Office

Kristan Hereford | 325.947.9242
4502 Knickerbocker Road
San Angelo, TX 76904

Atlanta District Office

Deanne Simmons | 903.799.1308
701 East Main
Atlanta, TX 75551

Fort Worth District Office

Phillip Hays | 817.370.6591
2501 SW Loop 820
Fort Worth, TX 76133

San Antonio District Office

Mark Mosley | 210.615.5812
4615 N.W. Loop 410
San Antonio, TX 78284-3601

Austin District Office

Bonnie Lister | 512.832.7280
7901 North IH 35
Austin, TX 78761-5426

Houston District Office

Ana Ramirez-Huerta | 713.802.5810
7600 Washington Avenue
Houston, TX 77007

Tyler District Office

Mary Fletcher | 903.510.9246
2709 West Front Street
Tyler, TX 75702

Beaumont District Office

Scott Ayres, P.E. | 409.898.5743
8350 Eastex Freeway
Beaumont, TX 77708

Laredo District Office

Gustavo Elizondo | 956.712.7429
1817 Bob Bullock Loop
Laredo, TX 78043

Waco District Office

Jim Reed | 254.867.2733
100 South Loop Drive
Waco, TX 76704-2858

Brownwood District Office

Andrew Chisholm | 325.643.0442
2495 Hwy. 183 North
Brownwood, TX 76802

Lubbock District Office

Jerry Cash | 806.748.4431
135 Slaton Road
Lubbock, TX 79404-5201

Wichita Falls District Office

Darell Johnson, P.E. | 940.720.7840
1601 Southwest Parkway
Wichita Falls, TX 76302-4906

Bryan District Office

Allison Kurwitz | 979.778.9788
2591 N. Earl Rudder Freeway
Bryan, TX 77803-5190

Lufkin District Office

Sam Skrehot, P.E. | 936.633.4397
1805 North Timberland
Lufkin, TX 75901

Yoakum District Office

Barbara Grahmann | 361.293.4371
403 Huck Street
Yoakum, TX 77995-2973

Childress District Office

Gene Garcia | 940.937.7157
7599 US 287
Childress, TX 79201-9705

Odessa District Office

Kelli Williams | 432.498.4752
3901 East US Hwy. 80
Odessa, TX 79761

Corpus Christi District Office

Jason Alvarez | 361.808.2495
1701 South Padre Island Drive
Corpus Christi, TX 78416

Paris District Office

Sydney Newman | 903.737.9285
1365 North Main Street
Paris, TX 75460-2697

TxDOT DIVISION COORDINATION

Public Transportation Division Office (PTN)

Teri Kaplan, TAP Program Manager
3712 Jackson Avenue
Building #6, 5th Floor
Austin, TX 78731
512-374-5230
Teri.Kaplan@txdot.gov

R. PROJECT NOMINATION CHECKLIST

All nominations must utilize the TAP 2015 Nomination Form available in Microsoft Windows Excel 2010 (.xlsm). Download the Nomination Format from the department's website at:
www.txdot.gov/inside-txdot/division/public-transportation/local-assistance.html.

The department strongly recommends completing the following checklist and including the completed checklist as part of the project submission.

- ☐ 1. **Project Sponsor Name:** _____
- ☐ 2. **Project Sponsor** (Type of Organization/Agency/Authority)
*Choose from the drop-down list of eligible project sponsors (refer to Title 23, U.S.C. §213) provided in the TAP project nomination form. A project sponsor must be eligible to receive and manage federal transportation funds. (Note: Metropolitan Planning Organizations and State Agencies are **not** eligible TAP project sponsors.)*
- ☐ 3. **Project Sponsor Contact Information**
The contact person must have the authority to speak on behalf of the project sponsor. This person should have working knowledge of the project and be available to answer questions. Provide the contact person's name, title, mailing address, city, zip code, daytime telephone number, and email address.
- ☐ 4. **Project Name:** _____
It is recommended that you create a project name that reflects the project location as well as the type of project (Examples: Bull Creek Shared Use Path, FM 1342 Bike Lanes, SRTS for Shady Elementary).
- ☐ 5. **Eligible Project Activity**
Choose the appropriate project activity from the drop-down list in the nomination form.
- ☐ 6. **Project Location Information** (If applicable - Attachment A)
Identify the Texas County (drop-down selection) and TxDOT District (drop-down selection) and major project location (text box) within the project nomination form. If multiple locations are proposed include a separate list of the proposed project locations and limits.
- ☐ 7. **Project Description**
This information should be supported by a well-developed narrative of the project, including information describing the eligible activity as defined in the TAP rules and the benefits that the project will provide to the surface transportation system. Detail the work activities to be performed.
- ☐ 8. **Project Details** (Attachment B)
 - **Maps**
Maps must be legible, clearly labeled, and convey adequate information that identifies not only the location of the project, but also its relationship to the area it will serve.
 - **Existing Project Site Photos**
Photographs must be legible, clearly labeled, and convey adequate detail to clearly identify the project area in its current state. It is recommended that the location and date of the photographs be included.
 - **Project Site Plans**
Site plans must be legible, clearly labeled, and drawn to scale, including dimensions that convey adequate detail about all major items of work.
- ☐ 9. **Official Project Sponsor Funding Resolution** (Attachment C)
*This document **MUST** include the following verbiage: The Project Sponsor supports funding this project as described in the TAP 2015 Nomination Form (including the construction budget, the department's 15% administrative costs, and the required local match) and is willing to commit to the project's development, implementation, construction,*

maintenance, management, and financing. The project sponsor is willing and able to enter into an agreement with the department by resolution or ordinance should the project receive TAP funding.

☐ 10. **MPO/COG Letter of Support** (Attachment D)

Any proposed TAP project which is located in a single metropolitan area is required to include a letter of support from the MPO and a commitment from the MPO to include the proposed project in the local TIP, should TAP funding for the proposed project be made available. Early coordination with the MPO is essential for project sponsors to obtain their letter of support in a timely manner.

☐ 11. **Evidence of Public Involvement and Support** (Attachment E)

Include any documentation demonstrating public involvement. Additional evidence could include city council meeting minutes, newspaper articles, public petitions, advocacy meetings, etc. This evidence will help to determine the level of local support for the project. Projects with no evidence of the opportunity for public involvement may be considered ineligible.

☐ 12. **Project Priority Ranking by Project Sponsor** (Examples: 1 of 1, 2 of 3, 3 of 4)

Enter project ranking based on the number of TAP project nominations submitted.

☐ 13. **Property Ownership and Acquisition Information** (Attachment F)

All proposals must provide documentation of the project sponsor's property rights by title of ownership, lease, or easement for all property within the project limits.

Is the property needed for the project already acquired? ☐ Yes ☐ No

If No – Describe how the property will be acquired? (Include commitment letter from the current owner indicating that the property's interest will be transferred upon project selection.)

If Yes – Describe how and when the property was acquired.

☐ 14. **SHPO Certificate of Eligibility – National Register of Historic Places** (Attachment G)

Projects proposing work on Historic Properties must include the required documentation from the State Historic Preservation Officer (SHPO) of the Texas Historical Commission.

☐ 15. **Scenic Easement/ Historic Site Determination** (If applicable - Attachment H)

☐ 16. **Evaluation of Work Involving Environmental Mitigation** (If applicable - Attachment I)

☐ 17. **Railroad Right of Entry Letter/Agreement** (If applicable - Attachment J)

☐ 18. **Local Bicycle Plan** (If applicable - Attachment K)

☐ 19. **Safe Routes to School (SRTS) Plan** (If applicable - Attachment L)

☐ 20. **Project Time Estimate** (Attachment M)

☐ 21. **Maintenance and Operations** (If applicable - Attachment N)

This information is intended to ensure that once federal funds have been expended, adequate funding will be available to satisfy the project sponsor's commitment for long-term maintenance of the project.

☐ 22. **Itemized Budget Section** (All project construction costs must be identified within the Itemized Budget Section of the TAP 2015 Nomination Form)

☐ 23. **In-Kind Contributions** (If applicable - Attachment O)

In-kind contribution(s) may only include actual and documented preconstruction or construction-related costs previously incurred by the project sponsor that are otherwise eligible for reimbursement under applicable statutes and regulations. In-kind contributions CANNOT be used to match the department's administrative costs.

☐ 24. **Project Budget Summary**

Itemized cost totals as seen in the Itemized Budget Section and In-Kind Contribution Section of the nomination form will be used to populate the Project Budget Summary.

☐ 25. **Project Commitment**

In signing the nomination form, the local entity is committing to bring the project to a successful bid award within three years of project selection.

List of Attachments in the TAP 2015 Nomination Form: (The need for an attachment should be determined by the type of project and the activity under which the project sponsor has applied.)

Generally Required Attachments:

Project Details – **Attachment B**

Official Project Sponsor's Funding Resolution – **Attachment C**

MPO/COG Letter of Support – **Attachment D**

Evidence of Public Involvement – **Attachment E**

Property Ownership and Acquisition Information – **Attachment F**

Additional Attachments that May Be Necessary:

Project Location Information – **Attachment A**

SHPO Certificate of Eligibility – **Attachment G**

Scenic Easement/ Historic Site Designation – **Attachment H**

Evaluation of Work Involving Environmental Mitigation – **Attachment I**

Railroad Right of Entry – **Attachment J**

Local Bicycle Plan – **Attachment K**

SRTS Plan – **Attachment L**

Projected Time Estimate – **Attachment M**

Maintenance Plan – **Attachment N**

In-Kind Contributions – **Attachment O**



S. APPENDIX: DEFINITIONS AND TERMINOLOGY

- **AFA** — Advance Funding Agreement
- **Bikeway terminology** — See Section M of this guide
- **Commission** — Texas Transportation Commission
- **COG** — Council of Governments
- **Department** — Texas Department of Transportation (TxDOT)
- **Executive director** — The executive director of the Texas Department of Transportation or his or her designee
- **FHWA** — Federal Highway Administration
- **FPA** — Federal Project Authorization and Agreement
- **Local Agreement** — An agreement between the project sponsor and the department which includes a commitment for the required local funding, describes the total scope and course of project activities, and outlines the responsibilities and duties of the participants.
- **Metropolitan Planning Organization (MPO)** — The organization or policy board of an organization created and designated under 23 U. S. C. §134, and 49 U. S. C. §5303, to make transportation planning decisions for the metropolitan planning area and carry out the metropolitan planning process.
- **Project** — An undertaking to implement or construct an eligible activity at a specific location or locations, or, if the context so implies, the particular activity so implemented or constructed.
- **Project sponsor** — An eligible entity as described by 23 U. S. C. §213, that nominates a particular project for consideration, exercises jurisdiction over the geographic area in which the project is located, and commits to the project's development, implementation, construction, maintenance, management, and financing.
- **State** — The State of Texas or any of its political subdivisions
- **Statewide Transportation Improvement Program (STIP)** — A four year short-range program developed by the department as a compilation of all metropolitan transportation improvement programs, together with rural transportation improvement programs, that include recommendations from rural planning organizations and department districts for the areas of the state that are outside of the boundaries of a metropolitan planning organization, including transportation between cities.
- **Surface transportation system** — An interconnected surface transportation network for moving people and goods using various combinations of transportation modes.
- **Transportation Improvement Program (TIP)** — A short-range program developed by each metropolitan planning organization in cooperation with the department and public transportation operators that covers a four year period and contains a prioritized listing of all projects proposed for federal funding and regionally significant projects proposed for state, federal, and local funding in a metropolitan area.
- **TxDOT** — Texas Department of Transportation



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Report
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1771

DISCUSSION ITEM (ID # 1771)

RECEIVE AND DISCUSS AN UPDATE ON ONGOING PUBLIC WORKS PROJECTS.

Projects to include: Street Rehab Projects, Grant Projects (CP Homes, Dunn Heat Exchangers, Tenaris), and MOS.



6415 Reading Road
Rosenberg, Texas 77471-5655

TEL 281 342 2033
FAX 281 232 9909

ROSENBERG	AUSTIN
SAN ANTONIO	DALLAS
THE WOODLANDS	HOUSTON
BRYAN/COLLEGE STATION	BRENHAM
	GREENSPRING

February 19, 2015

Texas Board of Professional Engineers Registration No. F-439

Mr. Mark Bricker
Honorable Mayor
City of Bay City
1901 5th Street
Bay City, Texas 77414

Re: City of Bay City Engineer's Report
Council Meeting on February 20, 2015

Dear Mayor Bricker:

The following are recommendations and reports to the City of Bay City for the following items:

A. Projects Under Development:

1. 2015 TxDOT TAP Project
 - a. A cost estimate and exhibit will be ready next week for a sidewalk from Hamman north to the LCRA canal.
2. 2015 Facility Inspections
 - a. We have worked up a cost for inspections, reports, and repair cost estimates.
 - b. For the six water plant sites the cost would be \$7,000 for civil/mechanical and an additional \$9,000 if the City wants an electrician to inspect the electrical systems. The on-site inspection by the electrician would test motors, phase imbalance, starters, etc.
 - c. For the Wastewater Treatment Plant and 21 lift stations the cost would be \$15,000 for a civil/mechanical inspection.
3. Water Distribution System Model
 - a. We have a proposal for water modeling services ready for your review. Modeling and calibration of the system is \$25,000. We can utilize this model to master plan the future line sizes, plant expansion, and demand needs of the City for future development for an additional \$15,000.

B. Projects Under Design:

1. Tenaris Lift Station
 - a. Final design is approximately 75% complete and a meeting is needed with Fluor to verify sizing.
 - b. We plan to advertise this project for bid in March. The recommendation of award is scheduled to be presented to council on April 9th.
2. Tenaris Forcemain
 - a. Final design is approximately 75% complete.
 - b. Some additional easement research and documentation is being completed to finalize routing.

Mr. Bricker
February 19, 2015
Page 2

3. Dunn Heat Lift Station

- a. We are nearing completion of this project and plan to advertise it for bid in March. The recommendation of award is scheduled to be presented to council on April 9th.

4. CP Homes Lift Station

- a. We can lower the cost of this lift station by \$100,000 to \$120,000 thru a redesign of the gravity line and changing the lift station to a submersible type station. By bidding this in conjunction with the Tenaris and Dunn Heat lift stations we are hoping to gain some economy of scale above and beyond the \$120,000 in savings from the redesign.
- b. If the City wishes to move forward with the redesign we will work up a change fee proposal for the additional design fees for all new calculations, design report, control settings, modification of the control diagrams, new P&IDs, new structural design, new equipment specs, modified electrical specs, and control panel modifications.

5. MOS Utility Extension

- a. We are 90% complete with the design and will be ready to advertise for bid in March.

C. Projects Under Construction:

1. 2014 Street Improvements

- a. There is some minor cleanup to do to complete the main portion of the contract.
- b. The Contractor plans to return in March to complete the animal shelter drive.

2. Tenaris

- a. This project is substantially complete.
- b. We performed a preliminary inspection on February 17th and noted 11 items that need to be corrected before the final inspection.

Sincerely,



Matthew B. Breazeale, P.E.
Division Manager

MBB/dme

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City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1775)

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Contract
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1775

**CONSIDER AND/OR APPROVE A CONTRACT BETWEEN THE
CITY OF BAY CITY AND CIVILCORP, LLC TO PERFORM
ENGINEERING SERVICES FOR PHASE II OF THE STREET
REHAB PROJECT.**

RESULT:	APPROVED [UNANIMOUS]
MOVER:	William Cornman, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

**Professional Services Agreement between the City of Bay City and CivilCorp, LLC, for
Engineering Services for 2015 Capital Improvement Projects on Various Streets**

OWNER: THE CITY OF BAY CITY, TEXAS, 1901 5th Street, Bay City, TX 77414

OWNER'S REPRESENTATIVE: Barry Calhoun, Director of Public Works, City of Bay City

ENGINEER: CivilCorp, LLC, 4611 E. Airline Rd, Victoria, TX 77904

PROJECT: Professional will prepare plans, specifications and bid documents for: 2015 Capital Improvement Project Including Minor Repair and Surfacing and Full Reconstruction of Various City Streets.

Street	From	To
** See Exhibit "C"		

PAYMENT:

PAYMENT FOR BASIC SERVICES--OWNER agrees to pay the following amounts for Basic Services rendered pursuant to this Agreement, a total fixed amount not to exceed **\$232,959.20** as follows:

Phase	Amount
Preliminary Engineering	\$25,018.40
Final Design	\$72,058.40
Bidding	\$6,959.20
Construction Admin/Project Inspection	\$48,172.00
Materials Testing	\$49,775.20
Field Survey	\$30,976.00
Total Basic Services	\$232,959.20

PAYMENT FOR ADDITIONAL SERVICES--OWNER shall pay ENGINEER for Additional Services requested by Owner's REPRESENTATIVE in writing and rendered as follows:

- (1) Payment for Additional Services of Engineer rendered under this Agreement and or referenced under paragraphs 2.1.1. Through 2.1.17. inclusive shall be paid for at the following rates when supported by invoices:

Senior Project Manager	\$160.00
Registered Professional Engineer	\$130.00
Engineer-in-Training	\$ 90.00
Survey Technician	\$ 80.00
CADD Technician	\$ 75.00
Clerical	\$ 65.00

Mileage Expense (outside 50 mile radius of Bay City) \$0.56/mile

Actual cost of materials required for the job and expenses shall be charged at cost plus 10%. Overnight Expense/man -- Actual Expenses plus 10%.

- (2) For expenses for Additional Services, ENGINEER shall be compensated at the actual cost to ENGINEER based on rates referenced above or as previously agreed

upon in writing. Where field parties are used, expenses shall include charges for the use of any special instruments and equipment, including marine equipment, and expendable items such as stakes and monuments.

PAYMENT SCHEDULE:

ENGINEER shall submit monthly statements for Basic and Additional Services rendered. For Basic Services, the statements will be based upon ENGINEER'S estimate of the proportion of the total services actually completed at the time of billing. OWNER shall pay for all services within 30 days based on the proportion of total services estimated by OWNER to have been actually completed at the time of billing. Upon conclusion of each phase of Basic Services, OWNER shall pay such additional amount as may be necessary to bring total compensation paid on such phase to the percentages of total compensation payable for all phases of Basic Services, as listed above. OWNER agrees to pay a charge of ½% per month on all invoiced and owed amounts not paid within 30 days of the date of the invoice, calculated from the date of the invoice. In addition, after giving seven days' written notice to OWNER, ENGINEER may suspend services under this Agreement until the ENGINEER has been paid in full all amounts due for services and expenses.

1. BASIC SERVICES OF ENGINEER--ENGINEER shall perform professional engineering services as hereinafter stated which include customary incidental engineering services.

1.1. Preliminary Design Phase. ENGINEER shall:

- 1.1.1. Consult with OWNER to clarify and define OWNER'S requirements for the Project and review available data.
- 1.1.2. Advise OWNER of the need to provide or obtain from others data or additional services, and act as OWNER'S representative in connection with any such services acquired from others.
- 1.1.3. Prepare preliminary design documents consisting of final design criteria, preliminary drawings including locations where existing striping will be modified and outline specifications.
- 1.1.4. Based on the information contained in the preliminary design documents; submit a revised opinion of probable Project Cost.
- 1.1.5. Furnish one copy of the above preliminary design documents and review them in person with OWNER'S REPRESENTATIVE.

1.2 Surveying Phase. ENGINEER shall:

- 1.2.1 Providing engineering surveys required to properly design the Project.

1.3. Final Design Phase. ENGINEER shall:

- 1.3.1. Prepare final Drawings and Specifications for incorporation into the Contract showing the character and extent of the Project based on the accepted preliminary design documents and the revised opinion of probable Project Cost.

- 1.3.2. Maintain all relevant Project records for three years after the OWNER has made final payment to the Contractor and all other pending matters are closed.
 - 1.3.3. Assist OWNER'S REPRESENTATIVE in the preparation of required documents so that OWNER may apply for approvals of governmental authorities having jurisdiction over the Project, and assist in negotiations with appropriate authorities.
 - 1.3.4. Advise OWNER'S REPRESENTATIVE of any adjustments to the revised opinion of probable Project Cost caused by changes in the Project and furnish a final opinion of probable Project Cost based on the final Drawings and Specifications.
 - 1.3.5. Prepare agreement forms, general, special and supplementary conditions, bidding documents, and other related documents to create the Contract for the Project (hereinafter the "Contract"). ENGINEER shall use forms provided by OWNER where applicable.
 - 1.3.6. Furnish one copy of the above documents and review them in person with the OWNER'S REPRESENTATIVE.
- 1.4. **Bidding Phase.** ENGINEER shall:
- 1.4.1. Assist OWNER in obtaining bids for the Contract.
 - 1.4.2. Consult with OWNER'S REPRESENTATIVE as to the acceptability of subcontractors proposed by the prime Contractor (hereinafter called "Contractor") when such acceptability is required by the bidding documents.
 - 1.4.3. Consult with OWNER'S REPRESENTATIVE as to the acceptability of substitute materials and equipment proposed by Contractor when substitution prior to the award of the Contract is allowed by the bidding documents.
 - 1.4.4. Assist OWNER'S REPRESENTATIVE in evaluating bids and in assembling and awarding the Contract.
- 1.5. **Construction Phase.** ENGINEER shall:
- 1.5.1. Consult with OWNER and act as its representative as provided in the Construction Contract; act on behalf of the OWNER to the extent provided in the Construction Contract except as otherwise provided herein.
 - 1.5.2. Provide initial staking when necessary to allow Contractor to construct the Project. The ENGINEER shall set vertical and horizontal controls only.
 - 1.5.3. Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the Contractor's work and to determine if the work is proceeding in accordance with the plans and specifications. The frequency of such visits shall be as advised by the owner

and of a duration sufficient to ensure that the contractor is building the project according to plans and specifications. Such visits to the site shall be carried on in the presence of the City Inspector. ENGINEER shall keep OWNER informed of the progress of the work, and shall endeavor to protect the OWNER against defects and deficiencies in the work. ENGINEER does not guarantee the performance of the Contractor and is not responsible for the actual supervision of construction operations or for safety measures that the Contractor takes or should take. ENGINEER shall inform OWNER'S REPRESENTATIVE of any work failing to conform to the Contract, and shall disapprove or reject any such work and require it to be corrected.

- 1.5.4. Review and approve or take other appropriate action regarding Shop Drawings and samples, the results of tests and inspections and other data which Contractor is required to submit, for conformance with the design concept of the Project and compliance with the Contract; determine the acceptability of substitute materials and equipment proposed by Contractor; and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are provided by Contractor in accordance with the plans and specifications.
- 1.5.5. Assist owner issue instructions to Contractor; issue necessary interpretations and clarifications of the plans and specifications; prepare change orders as required; require special inspection or testing of the work; act as judge of the acceptability of the Contractor's work
- 1.5.6. Based on ENGINEER'S on-site observations and on review of Contractor applications for payment, assist owner with determining the amounts owing to Contractor.
- 1.5.7. Conduct an inspection to determine if the Project is substantially complete, and a final inspection to determine if the Project has been completed in accordance with the plans and specifications. If Contractor has fulfilled all of its obligations, ENGINEER shall recommend, in writing, final payment to Contractor and shall give written notice to OWNER and the Contractor that the work is acceptable and meets plans and specifications as developed by the Engineer (subject to any conditions therein expressed).
- 1.5.8. Furnish two sets of reproducible as-built record prints of the Project to the OWNER'S REPRESENTATIVE upon project completion. At least one set shall be hard copy and one set shall be in a digital format as specified by the OWNER'S REPRESENTATIVE.
- 1.6 **Material Testing Phase:** ENGINEER shall:
 - 1.6.1 CivilCorp shall provide code- or specification-mandated review and testing of materials for projects including soil, aggregate and concrete to meet ASTM, ACI, AASHTO and TxDOT specifications.

2. ADDITIONAL SERVICES OF ENGINEER

2.1. General.

If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the following types; these will be paid for by the OWNER as indicated in the PAYMENT section of this Agreement:

- 2.1.1. Preparation of applications for governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review of the effect on the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
- 2.1.2. Services to make detailed investigation of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER, as necessary for the proper design and striping of the Project.
- 2.1.3. Services resulting from significant changes in extent of the Project or its design including, but not limited to, changes in size, complexity, OWNER'S schedule, or character of striping; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond ENGINEER'S control.
- 2.1.4. Providing renderings or models for OWNER'S use.
- 2.1.5. Preparation of any special reports required for marketing of bonds.
- 2.1.6. Soil and foundation tests and borings.
- 2.1.7. All reports and maps to establish or revise Flood Plain boundaries in a format acceptable to FEMA.
- 2.1.8. Detailed mill, shop and/or laboratory inspection of materials or equipment.
- 2.1.9. Investigations involving detailed consideration of operation and maintenance expenses; the preparation of feasibility studies and appraisals; and assistance in obtaining financing for the Project.
- 2.1.10. Services of special consultants for purposes other than the normal engineering incidental to the Project, and providing data or services when OWNER authorizes ENGINEER to provide such data or services in lieu of OWNER furnishing them. For the purposes of this Contract, services of a special consultant will be allowed only when the need is confirmed by the OWNER'S REPRESENTATIVE.

- 2.1.11. Permits from all governmental authorities having jurisdiction over the Project and furnish such approvals and consents from others as may be necessary for completion of the Project.
- 2.1.12. Services resulting from the award of more than one prime Contract for striping materials, equipment or services for the Project, and services resulting from the arranging for performance by persons other than the Contractor and administering OWNER'S Contracts for such services.
- 2.1.13. Services in connection with change orders to reflect changes requested by OWNER if the resulting change in compensation for Basic Services is not commensurate with the change in services rendered; services after the award of the Contract in evaluating substitutions proposed by the Contractor which require extensive revisions to Drawings and Specifications; and services resulting from significant delays, changes or price increases occurring as a result of material, equipment or energy shortages.
- 2.1.14. Services during out-of-town travel required of ENGINEER other than visits to the site as required by Section 1.
- 2.1.15. Additional or extended services during striping made necessary by (1) work damaged by fire or other cause during striping, (2) a significant amount of defective or neglected work of Contractor, (3) prolongation of the Contract time by more than sixty days, (4) acceleration of the progress schedule involving services beyond normal working hours, and (5) default by Contractor.
- 2.1.16. Services after completion of the Striping Phase, such as inspections during any guarantee period called for in the Contract.
- 2.1.17. Services as a consultant or witness for OWNER in any litigation, public hearing or other legal or administrative proceeding involving the Project except as agreed to under Basic Services.
- 2.2. Whenever the need for any Additional Services described herein results from any negligence, mistake, oversight or other fault on the part of ENGINEER, the cost of these services shall be deemed to be included in OWNER'S payments to ENGINEER for Basic Services. Any such Additional Services not performed by ENGINEER that would otherwise be paid separately by OWNER shall be paid for by ENGINEER.

3. OWNER'S RESPONSIBILITIES--Owner shall:

- 3.1. Provide information as to OWNER'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations, and furnish copies of general design and striping standards which OWNER will require to be included in the Drawings and Specifications.
- 3.2. Arrange for access to public property as required for ENGINEER to perform its services.

- 3.3. Furnish copies of finalized Plans and Specifications for use during bidding and striping.

4. OPINIONS OF COST

4.1. Opinion of Cost.

The Opinion of Cost of the Project does not include ENGINEER'S compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to properties, nor does it include OWNER'S legal, accounting, insurance counseling or auditing services, or laboratory of testing services, or interest and financing charges incurred in connection with the Project.

4.2. Opinions of Cost.

- 4.2.1. ENGINEER'S opinions of probable Cost represent its best judgment as a professional engineering firm, familiar with the striping industry; but ENGINEER does not guarantee that proposals, bids or actual Striping Cost will not vary from its opinions of probable cost.
- 4.2.2. If a Cost limit is established between OWNER and ENGINEER, the following will apply:
- 4.2.2.1. The acceptance by OWNER at any time during the Basic Services of a revised opinion of probable Striping Cost in excess of the then established cost limit will constitute a corresponding revision in the Striping Cost limit.
- 4.2.2.2. ENGINEER will be permitted to determine what materials, equipment, component systems and types of striping are to be included in the Drawings and Specifications and to make reasonable adjustments in the extent of the Project to bring it within the cost limit.
- 4.2.2.3. If the lowest bona fide bid exceeds the established Project Cost limit, OWNER shall (1) give written approval to increase cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's extent or character. In the case of (3), ENGINEER shall, without additional charge, modify the Contract Documents one time as necessary to bring the Striping Cost within the cost limit; subsequent modifications by the ENGINEER shall be paid for as Additional Services.
- 4.2.2.4. If the OWNER does not solicit bids for the Project within six months after completion of the Final Design Phase, the established Striping Cost limit will not be binding on ENGINEER, and ENGINEER'S obligation to modify the Contract Documents one time as necessary to bring the Striping Cost within the cost limit shall be commensurate with any applicable change in the

general level of prices in the striping industry between the date of completion of the Final Design Phase and the date on which bids are sought.

5. GENERAL CONDITIONS

- 5.1. **Termination**--Either party may terminate this agreement upon 10 days written notice to the other party with the understanding that all services being performed under this agreement shall cease upon the date specified in such notice. If this agreement is terminated prior to completion, ENGINEER shall invoice OWNER for all services completed and shall be compensated in an amount corresponding to the amount designated as compensation for each phase of the work completed and accepted plus an amount corresponding to the percentage of work completed and accepted for any phase partially completed on the effective date of the termination.
- 5.2. **Ownership of Documents**--All documents prepared and/or assembled by ENGINEER under this Agreement shall become the property of the OWNER and shall be delivered to OWNER without restriction on future use. ENGINEER may make copies of any and all documents for its files and re-use information contained therein.
- 5.3. **Controlling Law**--This Agreement is performable and is to be governed by the law applicable in Matagorda County, Texas. Sole venue for any action arising under this Agreement shall be in Matagorda County, Texas.
- 5.4. **Assignment of Contract**--Neither OWNER nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitations, monies that may become due or monies that are due) this Agreement without the written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER from employing independent consultants, associates, subcontractors, and employees to assist it in the performance of services hereunder.
- 5.5. **No Third-Party Beneficiaries**--Nothing herein shall be construed to give any rights or benefits to anyone other than OWNER and ENGINEER.
- 5.6. **Independent Contractor**--In performing services under this Agreement, the relationship between OWNER and ENGINEER is that of independent Contractor, and OWNER and ENGINEER by the execution of this Agreement do not change the independent Contractor status of ENGINEER. No term or provision of this Agreement or act of ENGINEER in the performance of this Agreement shall be construed as making ENGINEER or any agent, servant or employee of ENGINEER the agent, servant or employee of OWNER.
- 5.7. **Indemnity**--ENGINEER agrees to defend, release, indemnify, and hold the OWNER whole and harmless against any and all claims, suits and actions for damages, costs, and expenses to persons or property that may arise out of, or be occasioned by or from any negligent act, error or omission of ENGINEER or any officer, agent, servant, employee or subcontractor of ENGINEER in the execution or performance

of this Contract. In the event of notice of a claim to which this indemnity might apply, so much of the money due ENGINEER under this Contract as shall be reasonably considered necessary by the City may be retained for the use of the OWNER until all suits, actions, and claims shall have been settled and satisfactory evidence to that effect furnished the OWNER. The ENGINEER further expressly agrees to release from, defend, indemnify and hold harmless the City, its officers, agents, and employees from liability accruing to ENGINEER or any of ENGINEER'S officers, agents, employees, or Contractors regardless of whether the injury or damage is caused in whole or in part by any hidden or apparent condition of property owned or controlled by the OWNER. This indemnity shall not apply to any claim to the extent to which ENGINEER is prohibited from indemnifying a governmental entity pursuant to Tex. Local Gov't Code § 271.904 or other law.

- 5.8. **Entire Agreement**--This Agreement, together with any referenced attachments, constitutes the entire Agreement between OWNER and ENGINEER, and supersedes all prior written or oral understandings.

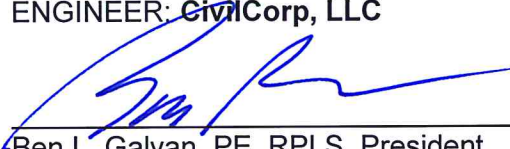
This Agreement and said attachments may only be amended, supplemented, modified or canceled by a duly executed written instrument.

EXECUTED, this the _____ day of _____, 2015.

OWNER: CITY OF BAY CITY, TEXAS

ENGINEER: CivilCorp, LLC

Mayor Mark A. Bricker



Ben L. Galvan, PE, RPLS, President

(seal)

ATTEST:

ATTEST:

Rhonda Clegg, City Secretary



Kathryn Galvan, Business Development

EXHIBIT "A"

**STANDARD GOVERNMENTAL CONTRACT AND PURCHASING RIDER
FOR CONTRACTS WITH THE CITY OF BAY CITY, TEXAS
(Version 5/23/12)**

By submitting a response to a solicitation or bid, or by entering into a contract for goods or services and/or by accepting a purchase order, the contracting party identified below agrees that the below terms and conditions shall govern all agreements with the City unless otherwise agreed to by a specifically executed provision within the contract and then, only if permissible by law. Absent a specifically executed provision referencing a modification, the below terms are BINDING and SUPERSEDE any and all other terms and/or conditions whether oral or written.

1. Application. This Governmental Rider applies to, is part of, and takes precedence over any conflicting provision in or attachment to the Contract (Contract) (attached hereto) of CivilCorp, LLC (Vendor). The Contract involved in this Rider is described as follows:

2015 Capital Improvement Project on Various Streets

2. Payment Provisions. The City's payments under the Contract, including the time of payment and the payment of interest on overdue amounts, are subject to Chapter 2251, Texas Government Code. The City reserves the right to modify any amount due to contractor presented by invoice to the City if necessary to conform the amount to the terms of the contract.

3. Multiyear Contracts. If the City does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution) It is understood and agreed the City shall have the right to terminate the agreement at the end of any City fiscal year if the governing body of the City does not appropriate funds sufficient to continue the contract, as determined by the City's budget for the fiscal year in question. The City may execute such termination by giving contractor a written notice of termination at the end of its then current fiscal year.

4. Best Value Determination. All competitive bids or proposals received shall be evaluated based on the best value for the City. Best value shall be determined by any relevant criteria specifically listed in the solicitation and by considering all or part of the criteria listed below.

- a. Bid price
- b. Reputation of the bidder and of bidder's goods and services
- c. The quality of the bidder's goods or services
- d. The extent to which the goods or services meet the City's needs
- e. Bidder's past relationship with the City - All vendors shall be evaluated on their past performance and prior dealings with the City to include, but not limited to, failure to meet specifications, poor quality, poor workmanship, and late delivery.

5. Local Preference. The City Council supports the local preference option for purchasing. In accordance with Chapter 271.9051 of the State of Texas Local Government Code, the City Council may choose to award a competitive bid to a bidder whose principal place of business is in the City limits, provided that this bid is within 5% of the lowest bid price received.

6. No Ex-Parte Communications during Competitive Bidding Period. To insure the proper and fair evaluation of a response, the City prohibits ex parte communication (e.g., unsolicited) initiated by the proposed contractor to a City official or employee evaluating or considering the responses prior to the time a formal decision has been made. Questions and other communication from vendors will be permissible until 5:00 pm on the day specified as the deadline for questions. Any communication between responder and the City after the deadline for questions will be initiated by the appropriate City official or employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the response. Ex parte communication may be grounds for disqualifying the offending responder from consideration or award of the solicitation then in evaluation, or any future solicitation.

7. Abandonment or Default. A contractor who abandons or defaults the work on the contract and causes the City to purchase the services elsewhere may be charged for any increased cost of goods, materials and/or services related thereto and shall be considered disqualified in any re-advertisement of the service and may not be considered in future bids for the same type of work for a period of three years for the same scope of work, goods or services.

8. Disclosure of Litigation. Each contractor shall include in its proposal a complete disclosure of any civil or criminal litigation or investigation pending which involves the respondent or which has occurred in the past in which the respondent has been judged guilty or liable by a competent court regardless of whether the Court Order or Judgment is final or on appeal.

9. Cancellation. The City reserves the right to cancel the contract without penalty by providing 30 days prior written notice to the contracting party. Termination under this paragraph shall not relieve the contractor of any obligation or liability that has occurred prior to cancellation. **NOTE: This contract is subject to cancellation, without penalty, at any time the City deems the vendor to be non-compliant with contractual obligations.**

10. Annual Vendor Performance Review. The City reserves the right to review the vendor's performance annually and to cancel all or part of the agreement (without penalty) or continue the contract through the next period.

11. Compliance with other laws and certification of eligibility to contract. Any offer to contract with the City shall be considered an executed certification that the contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, (as amended during the contracting period) and any orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the resulting agreement, including without limitation, immigration laws, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. When requested, the contractor shall furnish the City with satisfactory proof of its compliance within 10 days or any contract with the City is void.

12. Compliance with all Codes, Permitting and Licensing Requirements. The successful contractor shall comply with all national, state and local standards, codes and ordinances as well as any other authorities that have jurisdiction pertaining to equipment and materials used and their application. None of the terms or provisions of the specification shall be construed as waiving any rules, regulations or requirements of these authorities. The successful bidder shall be responsible for obtaining all necessary permits, certificates and/or licenses to fulfill contractual obligations.

13. Liability and Indemnity of City. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives

or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision. (Section 5, Article XI, Texas Constitution)

14. Indemnity and Independent Contractor Status of Contractor. Contractor shall indemnify, save harmless and defend the City, its officers, agents, and employees from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any and all other costs or fees (whether grounded in Constitutional law, Tort, Contract, or Property Law, or raised pursuant to local, state or federal statutory provision), arising out of the performance of the resulting agreement and/or arising out of a willful or negligent act or omission of the contractor, its officers, agents, and employees. It is understood and agreed that the contractor and any employee or sub-contractor of contractor shall not be considered an employee of the City. The contractor shall not be within protection or coverage of the City's workers' compensation insurance, health insurance, liability insurance or any other insurance that the City from time to time may have in force and effect. City specifically reserves the right to reject any and all contractor's employees, representatives or sub-contractors and/or their employees for any cause, should the presence of any such person on City property or their interaction with City employees be found not in the best interest of the City, harassing, or is found to interfere with the effective and efficient operation of the City's workplace.

15. Liens. Contractor agrees to and shall indemnify and save harmless the City against any and all liens and encumbrances for all labor, goods and services which may be provided under the resulting agreement. At the City's request the contractor or subcontractors shall provide a proper release of all liens, or satisfactory evidence of freedom from liens shall be delivered to the City.

16. Confidentiality. Any provision in the Contract that attempts to prevent the City's disclosure of information that is subject to public disclosure under federal or Texas law or regulation, or court or administrative decision or ruling, is invalid. (Chapter 552, Texas Government Code)

17. Tax Exemption. The City is not liable to Vendor for any federal, state, or local taxes for which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code), and federal excise tax (Subtitle D of the Internal Revenue Code) for certain purchases. Accordingly, those taxes may not be added to any item. Texas limited sales tax exemption certificates will be furnished upon request. Vendors shall not charge for said taxes. If billed, the City will remit payment less sales tax.

18. Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

19. Sovereign Immunity. Any provision of the Contract that seeks to waive the City's immunity from suit and/or immunity from liability is void unless agreed to by specific acknowledgement of the provision within the contract.

20. Governing Law and Venue. Texas law governs this Contract and any lawsuit on this Contract must be filed in a court that has jurisdiction in Travis County, Texas.

CITY OF BAY CITY, TEXAS

VENDOR

By: _____

Mayor or Designee with Authority to bind City

Title: _____

Date: _____

Date: _____

EXHIBIT "B"**INSURANCE**

1. The Contractor shall procure and maintain at its sole cost and expense for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self- insurance maintained by the City, its officials, employees or volunteers shall be considered in excess of the Contractor's insurance and shall not contribute to it. Further, the Contractor shall include the City as an additional insured under its. All coverages for subcontractors shall be subject to all of the requirements stated herein. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before work commences.
2. Standard Insurance Policies Required:
 - a. Commercial General Liability Policy
 - b. Automobile Liability Policy
 - c. Workers' Compensation Policy
3. General Requirements Applicable to All Policies:
 - a. General Liability and Automobile Liability insurance shall be written by a carrier with a A:VIII or better rating in accordance with the current Best Key Rating Guide.
 - b. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
 - c. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - d. "Claims Made" policies will not be accepted.
 - e. The City of Bay City, its officials, employees and volunteers, are to be added as "Additional Insured" to the General Liability policy. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
 - f. A Waiver of Subrogation in favor of the City with respect to Workers' Compensation Insurance must be included.
 - g. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City of Bay City.

- h. Upon request, certified copies of all insurance policies shall be furnished to the City of Bay City.
- 4. Commercial General liability
 - a. Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
 - b. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
- 5. Automobile Liability
 - a. Minimum Combined Single limit of \$500,000.00 per occurrence for bodily injury and property damage.
- 6. Worker's Compensation
 - a. Employer's Liability limits of \$100,000.00 for each accident is required.
- 7. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain the following provisions and warranties:
 - a. The company is licensed and admitted to do business in the State of Texas.
 - b. The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas State Board of Insurance or ISO.
 - c. All endorsements and insurance coverage according to requirements and instructions contained herein.
 - d. The form of the notice of cancellation, termination, or change in coverage provisions to the City of Bay City.
 - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

EXHIBIT "C" BAY CITY STREET REHAB PROJECT (STREET LIST)

5.13.a

STREET_NAME	Start_Rd	End_Rd	Cond	St Length	Sq Yds	TYPE PVMT WORK	ESTIMATE (CONSTR)
1 THOMPSON RD	RR ROW	AVE F	3	6060	17410	Full Rehab Light	\$587,052
2 LORI LN	THOMPSON DR	JOAN OF ARC DR	5	780	1907	Full Rehab Light	\$15,112
3 LA BRADFORD DR	LORI LN	END OF STREET	5	1400	2978	Med LvlUp, Seal Coat	\$47,960
4 JOAN OF ARC DR	LA BRADFORD DR	LORI LN	5	850	1889	Full Rehab Light	\$63,466
5 HAMMAN RD	SH 60 S	FM 2668	5	5289	14104	Qtr Pnt + Sdwk	\$524,074
6 AVE A	7TH ST	2ND ST	5	1930	4800	Full Rehab Light 3/5 Blks	\$121,725
7 AVE E	1ST ST	AUSTIN ST	4	1140	2787	Med LvlUp, Seal Coat	\$21,856
8 GRACE ST	MOORE AVE	AVE C	5	1140	2255	Med LvlUp, Seal Coat, Full Rehab 1 Blk	\$27,534
9 NICHOLS AVE	CAREY SMITH	GOLDEN AVE	5	3540	10536	Isld LvlUp, Seal Coat	\$68,437
10 6TH ST	BEGIN PAVEMENT	MOORE AVE	3	1820	4449	Med LvlUp, Seal Coat	\$34,661
11 EAGLES RD	AVE F	END PVMT	5	2060	4578	Part/Full Rehab Light	\$126,960
12 JUDY	SH 60 S	IDA	5	370	946	Full Rehab Light	\$31,475
13 LIVE OAK	GOLDEN AVE	DEL MONTE	5	1380	5557	Mill/Overlay	\$206,312
14 HELEN AVE	7TH ST	END PVMT	5	1600	4399	Med Pvmt Repair, LvlUp, Seal Coat	\$50,078
15 3RD ST	END PVMT E. PERSHING	SIMS	5	1305	3190	Minor Pvmt Repair, Seal Coat	\$37,965
16 3RD ST	END PVMT	AVE A	5	320	782	Isld LvlUp, Seal Coat	\$6,061
17 3RD ST	3RD ST	END PVMT	5	860	1922	Isld LvlUp, Seal Coat	\$15,614
18 NORVELL AVE	5TH ST	RR	5	545	1332	Med Pvmt Repair, LvlUp, Seal Coat	\$13,655
19 WALDRON AVE	5TH ST	END PVMT	5	630	1260	Isld LvlUp, Seal Coat	\$10,608
20 LOIS ST	AVE A	AVE E	3	1520	3716	Isld Pvmt Repair, LvlUp, Seal Coat	\$43,621
21 TOULOUSE	HOLLY LN	LA BELLE	4	530	1590	Full Rehab Med, Repl C&G	\$87,132
22 LA BELLE	TOULOUSE	BORDEAUX	4	270	810	Full Rehab Med, Repl C&G	\$44,388
23 BORDEAUX	LA BELLE	CHATEAUX	4	1120	3360	Full Rehab Med, Repl C&G	\$184,128
					Engineering, Surveying, Constr Oversight		\$2,369,874
							\$232,959
							\$2,602,833

Attachment: PSA COBC CIP Feb 2015 (1775 : Approve Contract - CivilCorp - Street Rehab Phase II)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1774)

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Bid
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1774

**CONSIDER AND/OR APPROVE AWARDING THE
CONSTRUCTION BID FOR THE 2013 TEXAS CAPITAL FUND
MAIN STREETS SIDEWALK PAVERS PROJECT CONTRACT
713252 TO THE LOWEST RESPONSIBLE BIDDER, PRECISE
SERVICES, INC., IN THE AMOUNT OF \$156,062.32, AND THE
CITY OF BAY CITY COMMITTING 11% FOR OVERAGES IN
THE AMOUNT OF \$9,062.32, AND AUTHORIZING THE MAYOR
TO EXECUTE A CONTRACT WITH SAID BIDDER FOR SAID
SERVICES.**

The project involves converting the downtown sidewalk along Avenue G between 6th Street and 7th Street from tile to brick pavers.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	Chrystal Folse, Councilwoman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman



February 20, 2015

Mr. Barry Calhoun
Director of Public Works
City of Bay City
1901 5th St.
Bay City, Texas 77414

Re: Texas Capital Fund Contract No. 713252 Sidewalk Improvements

Dear Barry:

We have reviewed the bid received for the Texas Capital Fund Contract No. 713252 Sidewalk Improvements on February 19, 2015, and offer the following comments:

1. One bid was received as follows:

\$156,062.13 from Precise Services, Inc, with 63 calendar days to complete.

2. \$147,000.00 was the Engineer's estimate, with 120 days to complete. There was one discrepancy found in the bid on item #12. The amount of the item should be \$4,061.07 instead of \$4,060.88 based on multiplying the quantity by the unit bid price. This would put the total bid at \$156,062.32.

3. Precise Services, Inc is located in Porter, Texas which is north of Houston. Owner/operator Ramiro Lopez's resume included in the bid package shows that he has 26 years in concrete work in and around the area.

The bid amount from Precise Services, Inc is approximately 6% over the engineer's estimate. I recommend awarding this project to Precise Services, Inc from Porter, Texas, in the amount of \$156,062.32 with 63 days to complete the work. Please let me know if you have any questions or need me to provide any other information.

Sincerely,

Blaise H. Dreitner, PE
CivilCorp, LLC - Project Manager

Packet Pg. 164

[illegible]

LOW BIDDER: Precise Services, Inc.

AWARDED TO: Precise Services, Inc.

RECOMMENDATION/COMMENTS: _____

SIGNED: Barry Collier DATE: 2/19/2015



City Council
1901 5Th Street
Bay City, TX 77414

Meeting: 02/26/15 07:00 PM
Department: Public Works
Category: Amendment
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1773

ADOPTED

ORDINANCE (ID # 1773)

**DISCUSS, CONSIDER AND/OR APPROVE ADJUSTING CITY
FEES FOR FIRE INSPECTIONS AND FIRE SYSTEM PLAN
REVIEWS.**

The fees considered are to cover the actual cost of the contracted service plus 5% administrative fee to recover some City staff cost to process applications, permits, transactions, etc.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Steven Johnson, Councilman
SECONDER:	William Cornman, Councilman
AYES:	Folse, Johnson, Thames, Estlinbaum, Cornman

City of Bay City - Fire Fee Comparison

Revised 2/3/15

FIRE CODE SERVICES (FIRE ALARM AND SPRINKLER SYSTEMS)

Bureau Veritas			
Valuation	Fee - Plan Review Services	Fee - Inspection Services	Total Fees
Up to 250,000	\$500.00	\$750.00	\$1,250.00
\$251,000 to \$500,000	\$850.00	\$1,050.00	\$1,900.00
\$501,000 to \$1,000,000	\$1,100.00	\$1,350.00	\$2,450.00
\$1,001,000 to \$ 3,000,000	\$1,600.00	\$1,900.00	\$3,500.00
\$3,001,000 to \$6,000,000	\$2,400.00	\$2,850.00	\$5,250.00
\$6,000,000 & up	\$2,400.00 + \$0.25 for each additional \$1,000	\$2,850.00 + \$0.25 for each additional \$1,000	\$5,250.00 +

Valuation based on construction valuation for project

City of Bay City			
Valuation	Plan Review Fees	Fire Alarm/Sprinkler System	Total Fees
Applebees - \$300,000	\$250.00	\$150.00/\$375.00	\$775.00
Medical Center Bldg. - \$7,300,000	\$1,512.50	\$200.00/\$502.00	\$2,214.50
Town House Motel Addition - \$400,000	\$250.00	\$.00/\$337.50	\$587.50
BC Market Place - \$1,500,000	\$862.50	\$412.50/\$318.00	\$1,593.50
Dialysis Center - \$700,000	\$250.00	\$.00/\$125.00	\$375.00

Plan Review = Minimum \$250.00 (or) 25% of Total Project Plan Review Fee (ICC Formula)

Sprinkler System fees based on: # of sprinkler heads, Fire Pump, Fire Suppression System, vent hood, etc.

Alarm Systems fees based on: # of alarm devices installed; plan review fee = 1/2 permit fee

ANNUAL FIRE SAFETY INSPECTIONS

Bureau Veritas			
	Each Inspection	Re-Inspection	Total Fees
Per Location	\$150.00	\$150.00	

Contract Fire Marshall - (Roy Hernandez)			
	Each Inspection	Re-Inspection	Total Fees
Per Day	\$184.00	\$184.00	

City of Bay City			
	Each Inspection	Re-Inspection	Total Fees
Per Location	\$0.00	\$0.00	

FIRE CERTIFICATES OF OCCUPANCY INSPECTIONS

Bureau Veritas			
	Each Inspection	Re-Inspection	Total Fees
*Minimum charge of one hour per inspection	\$150.00 per hour	\$150.00 per hour	

Contract Fire Marshall (Roy Hernandez)			
	Each Inspection	Re-Inspection	Total Fees
Per Day	\$184.00	\$184.00	

City of Bay City			
	Each Inspection	Re-Inspection	Total Fees
Per Locations	\$20 Business Occupancy	\$20 Business Occupancy	



The following is hereby accepted as an amendment to the Standard Professional Services Agreement between Bureau Veritas North America, Inc. and the City of Bay City, Texas, dated November 17, 2014 by adding the following scope of services and their accompanying fees.

ATTACHMENT A Scope of Services

Fire Alarm and Fire Sprinkler System Plan Review

Fire Alarm and Fire Sprinkler System Plan Review shall be conducted as required by the Jurisdiction's Fire Code, and other provided code related documents, as approved by the Jurisdiction. Applicants will be notified of Plan Review Comments and are responsible for addressing comments to the satisfaction of the Jurisdiction. The Jurisdiction has final interpretive authority over all plans and specifications. Permits are issued by the Jurisdiction.

Fire Alarm and Fire Sprinkler System Inspections

Fire Alarm and Fire Sprinkler System Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority.

Annual Fire Safety Inspections

Annual Fire Safety Inspections will be conducted in accordance with the city adopted fire code for commercial establishments and public buildings subject to an annual operation permit. Provide tracking of commercial properties in Bureau Veritas web-based tracking system.

Fire Certificate of Occupancy Inspections

Fire Certificate of Occupancy Inspection services shall be conducted as required by the Jurisdiction's Fire Code. Any violations of the Jurisdiction's codes or concealment of any work prior to approval by BVNA will be reported to the Building Official of the Jurisdiction. The Building Official of the Jurisdiction is the final interpretive authority.



ATTACHMENT B Fee Schedule

Fire Code Plan Review Services (fire alarm and sprinkler system)

Valuation	Fee
Up to \$250,000	\$500
\$251,000 to \$500,000	\$850
\$501,000 to \$1,000,000	\$1,100
\$1,001,000 to \$3,000,000	\$1,600
\$3,001,000 to \$6,000,000	\$2,400
\$6,000,000 and up	\$2,400 plus \$0.25 for each additional \$1,000

Fire Code Inspection Services (fire alarm and sprinkler system)

Valuation	Fee
Up to \$250,000	\$750
\$251,000 to \$500,000	\$1,050
\$501,000 to \$1,000,000	\$1,350
\$1,001,000 to \$3,000,000	\$1,900
\$3,001,000 to \$6,000,000	\$2,850
\$6,000,000 and up	\$2,850 plus \$0.25 for each additional \$1,000

Valuation is based on construction valuation for project

Annual Fire Safety Inspections

Annual Fire Safety Inspection and each re-inspection (per location)	\$150.00
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Fire Certificate of Occupancy Inspections

Fire Certificate of Occupancy inspections * Minimum one hour per inspection	\$150.00 per hour
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City of Bay City, Texas

By: _____
 Title: _____
 Signature: _____
 Date: _____

Bureau Veritas, North America, Inc.

By: _____
 Title: _____
 Signature: _____
 Date: _____
 DTQRR: _____
 Date: _____



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: George H Hyde
Sponsors:
DOC ID: 1783

DISCUSSION ITEM (ID # 1783)

**DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION
OPPOSING SENATE BILL 343 AND ANY OTHER
LEGISLATION WHICH WOULD ERODE THE AUTHORITY OF A
HOME RULE MUNICIPALITY.**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE, TEXAS, OPPOSING SENATE BILL 343 AND ANY OTHER LEGISLATION WHICH WOULD ERODE THE AUTHORITY OF A HOME RULE MUNICIPALITY; AND PROVIDING AN EFFECTIVE DATE HEREOF.

WHEREAS, in 1868 a federal judge named Dillon issued a ruling that cities can do only what their state government expressly authorizes them to do; and

WHEREAS, after that federal court decision, the people of Texas decided centralized government is not the way to go and, in 1912, adopted a constitutional amendment affirming Texas' commitment to local decision making; and

WHEREAS, the Texas Constitution, in Article XI, Section 5, authorizes cities over 5,000 population to adopt by election a home rule charter, which charter grants the citizens of that city the power of self-government; and

WHEREAS, the City of Jersey Village adopted its Home Rule Charter in August 1986; and

WHEREAS, Senate Bill 343, filed by Senator Don Huffines during this the 84th Texas Legislative Session, would totally upend the relationship between Texas cities and state government by causing Texas to revert to the rule created in Dillon's 1868 federal court decision and would require the City of Jersey Village voters and local elected officials to get the Texas state legislature's permission to enact any local ordinance; **NOW THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JERSEY VILLAGE THAT:

Section 1. The City Council of the City of Jersey Village strongly opposes Senate Bill 343 and any legislation that would erode the authority of a home rule municipality.

Section 2. Upon adoption of this Resolution, the City Secretary be, and she is hereby, directed to send a copy of the Resolution to all elected representatives for the City and to Senator Huffines.

Section 3. This Resolution shall be effective upon its passage and approval.

PASSED AND APPROVED this the 26th day of February, 2015.

Mark A. Bricker, Mayor

ATTEST:

Rhonda Clegg, City Secretary

Attachment: R-2015 - Oppose SB 343 (1783 : Resolution Opposing SB 343)

By: Huffines

S.B. No. 343

A BILL TO BE ENTITLED

AN ACT

relating to the conformity of local law with state law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1, Local Government Code, is amended by adding Section 1.006 to read as follows:

Sec. 1.006. CONFORMITY WITH STATE LAW. (a) Where the state has passed a general statute or rule regulating a subject, a local government shall restrict its jurisdiction and the passage of its ordinances, rules, and regulations to and in conformity with the state statute or rule on the same subject, unless the local government is otherwise expressly authorized by statute.

(b) Unless expressly authorized by state statute, a local government shall not implement an ordinance, rule, or regulation that conflicts with or is more stringent than a state statute or rule regardless of when the state statute or rule takes effect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

Attachment: 20150226 - SB 343 (1783 : Resolution Opposing SB 343)

By: Huffines S.B. No. 343

A BILL TO BE ENTITLED

AN ACT relating to the conformity of local law with state law.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1, Local Government Code, is amended by adding Section 1.006 to read as follows:

Sec.1.006. CONFORMITY WITH STATE LAW. (a) Where the state has passed a general statute or rule regulating a subject, a local government shall restrict its jurisdiction and the passage of its ordinances, rules, and regulations to and in conformity with the state statute or rule on the same subject, unless the local government is otherwise expressly authorized by statute.

(b) Unless expressly authorized by state statute, a local government shall not implement an ordinance, rule, or regulation that conflicts with or is more stringent than a state statute or rule regardless of when the state statute or rule takes effect.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

S.B. 343

Abolish Local Control. Centralize Power in Austin. Just like New York.

S.B. 343 would totally upend the relationship between Texas cities and state government, making Texas like the State of New York. City voters and locally-elected officials would have to get the state legislature's permission to enact any local ordinance.

- In 1868, a federal judge named Dillon issued a ruling that cities can do only what their state government expressly authorizes them to do. The State of New York follows Dillon's Rule, and what's good for New York definitely isn't good for Texas.
- Shortly after that federal court decision, the people of Texas decided centralized government isn't the way to go and in 1912 adopted a constitutional amendment affirming Texas' commitment to local decision making. Cities, the government closest to the people, embody the idea that "We the People" should be in control.
- The Texas Constitution (in Article XI, Section 5) authorizes cities over 5,000 population to adopt – by election – a home rule charter. The charter grants the citizens of that city the power of self-government. Over 350 Texas cities have done so.
- S.B. 343 would make Texas revert to the rule created in Dillon's 1868 federal court decision and provide that a city may not enact an ordinance relating to anything governed by state law, unless expressly authorized to do so.
- The bill, effectively a "super-preemption bill" that adopts Dillon's Rule for Texas, would be another step in the centralization and consolidation of government power.

City councils often step up to the plate to protect the property values, the quality of life, and even save the lives, of Texans. In many cases, cities have to make decisions at the neighborhood level and not every neighborhood in a state of 26 million people is the same. That is why Texans recognize there is a proper role for state government and a role for local government.

**S.B. 343 would abolish Home Rule cities and end local control
If you like the way New York operates, this is the bill for you**



TEXAS MUNICIPAL LEAGUE

President **Nelda Martinez**, Mayor, Corpus Christi
Executive Director **Bennett Sandlin**

February 29, 2015

The Honorable Don Huffines
Texas Senate
P.O. Box 12068
Austin, Texas 78711-2068

Dear Senator Huffines:

I am writing on behalf of the Texas Municipal League to express our concerns with Senate Bill 343, which would upend the relationship between Texas cities and state government. Under the bill, city voters and locally-elected officials would have to get the state legislature's permission to enact any local ordinance, rule, or regulation.

Rather than pursue this legislation, we ask that you recognize that cities have to make decisions at the neighborhood level and not every neighborhood in a state of 26 million people is the same. That is why Texans recognize that there is a role for state government and a role for local government. Current law balances city authority to enact reasonable regulations to protect health and safety and property values with ensuring that the will of the local voters is heard and that our state's economy remains vibrant.

Many refer to current law by stating that "cities are creatures of the state." That's a true statement, but it's not entirely accurate. Without boring you with too many historical details, you should know that there are two types of cities in Texas: (1) general law; and (2) home rule. General law cities are purely creatures of the state legislature, but home rule cities are creatures of the Texas Constitution.

The approximately 800 general law cities might not be affected by your bill. These are cities under 5,000 inhabitants that can do only what the state legislature expressly authorizes them to do. In other words, your bill isn't needed to limit these cities because they already are limited.

The approximately 350 home rule cities would clearly be affected by your bill. Keep in mind that over 18 million Texans, which is approximately 75 percent of the state's population, live in these cities. The Texas Constitution (Article XI, Section 5) authorizes cities over 5,000 population to adopt – by election – a home rule charter. The charter grants the citizens of that city the power of self-government. These "home rule" cities can regulate however they choose, so long as not preempted by state or federal law from doing so. By approving the home rule amendment to the

Constitution in 1912, the voters of Texas approved the idea that larger cities don't need the state's "permission" to act.

Your bill would undo 100 years of home rule in Texas, and it is probably unconstitutional. That may indeed be the goal of your legislation, but please allow us to explain why eliminating home rule authority is bad public policy. Some might argue that home rule in Texas is a ruse because the state legislature so frequently preempts what home rule cities do. The status of home rule authority is academically debatable, but we posit a more practical need for it. That need relates to the checks and balances, the "process," that eventually leads to reasonable regulations. Rather than a blanket policy change, like S.B. 343 would enact, the home rule process leads to compromise.

Here are some examples of that compromise:

- In the 1960s, home rule cities could annex unilaterally, and some in the legislature believed that some cities were acting unreasonably. The Municipal Annexation Act was passed to limit how, when, and where home rule cities can annex. The authority wasn't simply taken away. It wasn't taken away because most legislators recognize that municipal annexation is crucial to the state's economy.
- In the 1980s, one home rule city adopted an ordinance prohibiting pit bulls in its city limits in response to a number of brutal incidents. The city was sued by dog owners, and the Texas Supreme Court upheld its home rule authority to prohibit specific breeds. The following legislative session, a law was passed to stop any city from banning specific breeds. However, the law also contains language expressly authorizing cities to regulate dogs that are actually a danger. That authority was granted because most legislators recognized the need to control dangerous animals in populated areas.
- In the 2000s, two home rule cities implemented red light photo enforcement systems. Over the next decade, several bills to preempt this authority were filed. As more cities expressed interest in the systems, the legislature compromised in 2007 and passed a law governing the how, when, and where of the systems, and filled state coffers with half of the civil penalty revenue from each violation. The authority was retained because most state legislators saw a way to fund state trauma care programs by revenue-sharing with cities.

The passage of S.B. 343 would also affect some *current* home rule regulations. In many cases, cities regulate when the Texas Legislature doesn't. City councils often step up to the plate to protect the quality of life, and even save the lives, of Texans. Here are just a few examples of cities moving ahead when the state won't:

- Sex offender residency restrictions
- Synthetic drug regulations
- Texting while driving limitations
- Payday lender regulations

- Oil and gas well ordinances
- Panhandling regulations

All of these would be wiped out by your bill. For example, the state has taken no action related to where child sex predators can live. If your bill passes, a sex offender in Lewisville will then be able to live right next door to an elementary school.

Preemption may indeed be your goal for some of the current regulations, like a fracking ban perhaps. But legislation has already been filed to deal with that specific example (and many others that legislators consider wrong). And we believe that it will result in a compromise that balances quality of life and the state's economy. One home rule city in Texas has adopted a resolution (rule) prohibiting the use of its staff or resources to house undocumented immigrants. Your bill would preempt that resolution as well.

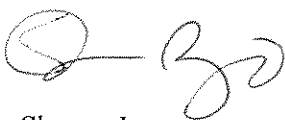
You should also consider that S.B. 343 would also ban future regulations a city might pass. We obviously can't predict the future. We can't predict which political party will hold the majority, and we can't predict what cities may need to regulate to protect their citizens. That is why S.B. 343 – a blanket preemption that would completely alter the system of local decision making that's been in place for over 100 years – isn't needed. The unintended consequences and the uncertainty it would bring to the law are simply too great.

The League's position is that your bill is unnecessary. The bill, effectively a "super-preemption bill," would be another step in the centralization and consolidation of government power, which would seem contrary to your political ideals. Its passage would be akin to abolishing cities and centralizing government in Austin.

We hope you will instead consider working alongside us as we seek to protect city authority to enact reasonable regulations to protect health and safety and property values, while ensuring that the state's economy remains vibrant.

Thank you for your consideration and please do not hesitate to contact me if I can be of any assistance to you.

Sincerely,



Shanna Igo
Deputy Executive Director



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/26/15 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1782

DISCUSSION ITEM (ID # 1782)

**PROVIDE DIRECTION TO STAFF REGARDING THE
ELECTION TO BE HELD MAY 9, 2015, INCLUDING A
POSSIBLE SPECIAL ELECTION FOR THE PURPOSES OF
AUTHORIZING THE SALE OF CERTAIN CITY PARKLAND.**

ORDINANCE NO. _____

AN ORDINANCE ORDERING A SPECIAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 9, 2015, FOR THE PURPOSE OF SUBMITTING TO THE QUALIFIED VOTERS, FOR APPROVAL OR REJECTION, OF A PROPOSAL TO AUTHORIZE THE SALE OF PARKLAND PROPERTY; DIRECTING THE GIVING OF NOTICE OF SUCH ELECTION; MAKING PROVISIONS FOR THE CONDUCT OF SUCH ELECTION; REPEALING ALL OR PART OF ORDINANCES AND RESOLUTIONS WHICH CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, Section 41.001 of the Texas Election Code, as amended (hereinafter referred to as the "Code") establishes May 9, 2015, as a "uniform election date" for the purposes of conducting an election; and

WHEREAS, the City Council of the City of Bay City, Texas, has on its own motion determined to submit to the qualified voters of said City of Bay City for their approval or rejection thereof a certain proposal to authorize the sale of parkland property pursuant to Section 253.001(b) of the Texas Local Government Code; and

WHEREAS, the City Council, pursuant to and in compliance with the Texas Open Meetings Act, proposed the sale of parkland property during a public meeting; and

WHEREAS, the City Council believes that the Bay City voters should vote on the sale of parkland property, in the form of a proposal; and

WHEREAS, the City Council hereby directs City staff to publish notice of the election in the official newspaper of the City not less than thirty days before the election

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BAY CITY, TEXAS:

Section 1. Findings. That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are adopted as part of this Ordinance for all purposes.

Section 2. Election Order. The City Council of the City of Bay City, Texas, hereby calls for a Special Election to be held on Saturday, May 9, 2015, to consider one (1) ballot proposal for the sale of parkland property.

Section 3. Proposal. That at the Election the following proposal shall be submitted to the resident, qualified voters of the City of Bay City, Texas:

Proposal No. 1

SHALL THE CITY BE AUTHORIZED TO SALE PARKLAND PROPERTY UNDER THE PROVISIONS OF SECTION 253.001(B) OF THE TEXAS LOCAL GOVERNMENT CODE AS DESCRIBED HEREIN: 4405 ARECA, 2200 SAGO, 4520 RATTAN, 1219 MOORE, 1205 MOORE, 307 LA BRADNFORD DRIVE, 201 LA BRADFORD DRIVE, 4621 HIRAM BRANDON, 4708 HIRAM BRANDON, 1221 BAY RIDGE BLVD, BAY CITY, TEXAS.

PROPOSAL 1 SHALL BE PLACED ON THE BALLOT IN THE FORM OF THE FOLLOWING PROPOSITION:

PROPOSAL NO. 1

FOR/AGAINST Authorizing the City to Sale Parkland Property As Described Herein: 4405 ARECA, 2200 SAGO, 4520 RATTAN, 1219 MOORE, 1205 MOORE, 307 LA BRADNFORD DRIVE, 201 LA BRADFORD DRIVE, 4621 HIRAM BRANDON, 4708 HIRAM BRANDON, 1221 BAY RIDGE BLVD, BAY CITY, TEXAS.

Section 4. Voting System, Ballot Proposition. Voting on the date of the election, and early voting therefore, shall be by the use of a lawfully approved voting system. The preparation of the voting equipment to be used in connection with such voting system and the official ballots for the election shall conform to the Texas Election Code, as amended, so as to permit the electors of the City of Bay City, Texas to vote "For" or to vote "Against" the one (1) proposal. Said ballots shall have printed therein such provisions, marking, and language as may be required by law and the Proposition shall be set forth on said ballots in substantially the following form and language:

SPECIAL ELECTION
City of Bay City, Texas

May 9, 2015

That at the Election the following proposal shall be submitted to the resident, qualified voters of the City of Bay City, Texas:

PROPOSITION NO. 1

FOR/AGAINST Authorizing the City to Sale Parkland Property As Described Herein: 4405 ARECA, 2200 SAGO, 4520 RATTAN, 1219 MOORE, 1205 MOORE, 307 LA BRADNFORD DRIVE, 201 LA BRADFORD DRIVE, 4621 HIRAM BRANDON, 4708 HIRAM BRANDON, 1221 BAY RIDGE BLVD, BAY CITY, TEXAS.

Section 5. Election Conduct.

- a. That the City Secretary of said city shall prepare optical scan ballots to be used in said election and shall stamp same "official ballot" on which ballot shall be printed the proposal to sale parkland property.
- b. Section 61.012 of the Texas Election Code requires that the City of Bay City must provide at least one accessible voting system in each polling place used in a Texas election on or after January 1, 2006. This system must comply with state and federal laws setting the requirements for voting systems that permit voters with physical disabilities to cast a secret ballot.
- c. The Office of the Texas Secretary of State has certified that the 24 HAVA ADA AutoMARK Voter Assistance machine provided by Election Systems & Software (ES&S) is an accessible voting system that may legally be used in Texas elections.
- d. Sections 123.032 and 123.035 of the Texas Election Code authorize the acquisition of voting systems by local political subdivisions and further mandate certain minimum requirements for contracts relating to the acquisition of such voting systems.
- e. As chief elections officer of the City of Bay City, the City Secretary shall provide at least one 24 HAVA ADA AutoMARK Voter Assistance machine in each polling place in every polling location used to conduct any election ordered on or after January 1, 2006. The 24 HAVA ADA AutoMARK Voter Assistance machine may be acquired by any legal means available to the City of Bay City, including but not limited to lease or rental from the County of Matagorda or from any other legal source, as authorized or required by Sections 123.032 and 123.035, Texas Election Code.
- f. That each voter shall vote for approval or rejection of the proposal by placing an "X" in the square provided for approval or rejection.
- g. That the proposal must receive a majority of all the votes cast for the authorization to sale parkland property. In the event of a lack of a majority, the City shall not be authorized to sale parkland property.
- h. The polling place shall be kept open from 7:00 a.m. until 7:00 p.m. and that due return be made to the City Council showing the number of votes cast for approval and rejection of the proposal.
- i. That this Ordinance, signed by the Mayor and attested by the City Secretary, shall constitute the proclamation of the City Council calling and ordering said election. The notice for the Special Election shall be published in a newspaper of general circulation in the City of Bay City at least one (1) time,

not more than thirty (30) days nor less than ten (10) days before the election, and that the said City Secretary is hereby directed to post or cause to be posted in a public place within the City limits, said proclamation at least twenty-one (21) days before said election.

- j. There shall be only one polling place on Election Day, which shall be the Service Center, 2105 Ave. M, Bay City, Texas and the personnel and officers who are to hold that same, except insofar as they may be changed by the City Council of the City of Bay City, Texas shall be as follows:

i. **NAME**

POSITION

ii. **Carolyn Scott**

Presiding Judge

- k. That the Election Judge shall appoint at least four (4) clerks to assist her in the election. Additional clerks may be appointed as necessary.
- l. There shall be an Early voting Ballot Board (EVBB), which shall be comprised of and Early Voting Ballot Board Judge and two clerks. The EVBB Judge shall appoint clerks for the EVBB. There shall be a Resolution Board which shall be the same member that comprise the EVBB.
- m. There shall be only one polling place for early voting ballots, which shall be at City Hall, 1901 5th Street, Bay City, Texas. The City Secretary shall appoint at least four Temporary Deputy Early Voting Clerks for the Special Election to be held May 9, 2015, and the City Council hereby approves that appointment and does authorize compensation for work.
- n. The City Council of the City of Bay City, Texas will appoint a qualified individual for the position of Chairman of the Early Voting Ballot Board. The Chairman of the Early Voting Ballot Board shall appoint the three Early Voting Ballot Board members.
- o. As required under Section 85.005(d), Election Code, early voting by personal appearance at the main early voting polling place shall be conducted for at least 12 hours on two weekdays, if the early voting period consists of six or more weekdays; therefore, early voting by personal appearance shall be conducted for 12 hours on the last two days of early voting (May 4, 2015 and May 5, 2015).

Section 6. Repealing Clause. That all Ordinances, Resolutions, or part thereof, in conflict herewith are repealed to the extent of such conflict.

Section 7. Severability Clause. If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, and the validity of the remaining portions or sets of circumstances shall not be affected hereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provision or

regulation contained herein shall become inoperative or fail by reason of an unconstitutionality and all provisions of this Ordinance are declared to be severable.

Section 8. Effective Date. This Ordinance was passed, approved and effective on the 26th day of February, 2015.

COUNCIL MEMBER	VOTED AYE	VOTED NO	ABSENT
William Cornman	_____	_____	_____
Julie Estlinbaum	_____	_____	_____
Chrystal Folse	_____	_____	_____
Steven Johnson	_____	_____	_____
Carolyn Thames, Mayor Pro Tempore	_____	_____	_____

Mark A. Bricker, Mayor
City of Bay City, Texas

ATTEST:

Rhonda Clegg, City Secretary

APPROVED AS TO FORM AND SUBSTANCE:

George Hyde, City Attorney
Denton Navarro Rocha Bernal Hyde & Zech, P.C.

Attachment: ORDINANCE NO. - Special Election (1782 : Special Election)