



BAY CITY

REVISED MINUTES • FEBRUARY 27, 2014

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 - MAYOR PRO TEM CAROLYN THAMES

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.

Mitch Thames, Bay City Chamber of Commerce and Agriculture President, informed everyone that the Cattleman of the Year Award was presented to Pam Houghman of Bay City Feed. Mr. Thames also informed everyone that TCEQ issued a ruling and ruled against Ag water; however, they did not set a trigger level.

Bay City resident Madan Joshi stated the he moved from California to Bay Ridge subdivision. He experienced a sewer blockage. Mr. Joshi tried to contact Mr. Calhoun on January 30, 2014, but had not heard from him. Mr. Joshi stated that he would like to get some of his money back. He provided the Mayor with his contact information. Mayor informed him that he would have someone contact him tomorrow.

Roberto DeHoyso of Bay City Tenaris provided Mayor and Council with an updated of the company's progress. Mr. DeHoyos stated that Tenaris was moving forward. There are almost 300 workers on the site on a daily basis. The company held a very successful job fair with more than 900 people attending. Mr. DeHoyos wanted to talk about the resolution passed in 2012 and his disappointment that the proposal was not on the agenda for discussion. He added that he would like to see the item on the next agenda. Mr. DeHoyos stressed that he would make himself available to for questions or discussion.

Bay City business owner Susan Dancer explained to Mayor and Council that she was the default manager of Coastal Automotive Service. She expressed to Mayor and Council that

times were difficult. She asked that Council not vote on the topic until they could conduct a dialogue and hear from the industry. Ms. Dancer added that they had minimal expenses and were not making a huge profit.

Bay City resident Jo Halbert invited everyone out to participate in Relay for Life. It began Friday, March 7, 2014 at 6 p.m. and ended on March 8, 2014 at 6 a.m.

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.

Councilman Cornman asked if Council would they would receive these items quarterly or if this would be a monthly report. Mrs. Clegg explained that due to Ms. Ezell's departure she was not able to place the items on the agenda prior to her leaving. However, the quarterly reports would be quarterly and the financial statements would be a monthly report.

Councilman Cornman asked about the City's audit and it is progress, as well as the year end information. Mrs. Clegg stated that she would speak to Mr. Conner about providing that information.

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

1. Report

FINANCIAL STATEMENT AS OF OCTOBER 31, 2013.

Phill Conner, Interim Finance Director

Enacted and approved this 27th day of February, 2014, at Bay City

2. Report

FINANCIAL STATEMENT AS OF NOVEMBER 30, 2013.

Phill Conner, Interim Finance Director

Enacted and approved this 27th day of February, 2014, at Bay City

3. Report

FINANCIAL STATEMENT AS OF DECEMBER 31, 2013.

Phill Conner, Interim Finance Director

Enacted and approved this 27th day of February, 2014, at Bay City

4. Report

QUARTERLY INVESTMENT REPORT ENDING DECEMBER 31, 2013.

Phill Conner, Interim Finance Director

Enacted and approved this 27th day of February, 2014, at Bay City

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

1. Property

DISCUSSION AND DIRECTION TO STAFF REGARDING POSSIBLE FUTURE ANNEXATION OF AN AREA SOUTH OF STATE HIGHWAY 35, NEAR THE BAY CITY HIGH SCHOOL CAMPUS, THAT CONTAINS FEWER THAN 100 SEPARATE TRACTS OF LAND ON WHICH ONE OR MORE RESIDENTIAL DWELLINGS ARE LOCATED ON EACH TRACT.

Councilman Steven Johnson

Councilman Johnson clarified the location of the properties to be annexed. He stated that they were located in Moore Addition and the area was called Skymec. He stated that he would like to annex lots 1 - 7 and lots 27 - 31.

RESULT:

TABLED

Next: 3/13/2014 7:00 PM

2. Report

PRESENTATION OF 2013 BAY CITY POLICE DEPARTMENT ANNUAL REPORT.

Chief Roger Barker

Assistant Chief Robert Lister thanked Captain Rodriguez and others for compiling the data for the report. Assistant Chief Lister reviewed the yearly statistics, and then moved on to the UCR statistics.

Council asked Assistant Chief Lister to discuss his thoughts on the number of accidents on Highway's 35 and 60. Assistant Chief Lister explained that there was an increase in traffic on those roads. He added that TxDot calculated the number of vehicles that traveled on the roads, and they put that information out every two years.

Council complimented the PD on how great the diversity of certifications the officers had.

Mayor asked that Assistant Chief Lister explained the drop in calls and warrants served. Assistant Chief Lister explained that they pulled the Warrants Officer and placed him on the on the streets, due to the department being short staffed. He added that they would be conducting another Warrant Roundup soon. Assistant Chief Lister stated that he could not say why there was a drop in calls. Mayor asked what the calls consisted of, and Assistant Chief Lister explained the different types of calls the PD received.

3. Amendment

CONSIDER AND/OR APPROVE AN ORDINANCE ESTABLISHING A FRANCHISE FOR USE OF CITY STREETS FOR PURPOSES OF CONDUCTING NON CONSENT TOWING SERVICES; ESTABLISHING NON CONSENT TOWING FEES; AND ESTABLISHING ADDITIONAL PROVISIONS RELATING TO NON-EXCLUSIVE FRANCHISE AGREEMENTS FOR TOWING SERVICE PROVIDERS ON A ROTATIONAL BASIS.

Captain Christella Rodrguez

Council asked that PD speak with the local industry about the ordinance.

RESULT: TABLED**Next: 3/13/2014 7:00 PM**

4. RFP

CONSIDER AND/OR APPROVE PUBLIC WORKS STAFF TO PREPARE REQUEST FOR QUALIFICATIONS (RFQ) DOCUMENTS AND TO ADVERTISE TO FORMALLY SOLICIT BIDS TO HIRE ADDITIONAL ENGINEERING PROFESSIONAL FIRMS TO DESIGN FUTURE PROJECTS WITHIN THE CITY OF BAY CITY.

Barry Calhoun, Director of Public Works

Mr. Calhoun stated that the approval would allow the City to go out for additional engineering firm. He added that they had a number of projects and they needed assistance on. Mr. Calhoun clarified that they would not be replacing the City's current engineer.

Council asked if they would be shopping local, and Mr. Calhoun stated yes. Council wondered if they had a list of projects, and Mr. Calhoun stated yes, eight. Councilman Cornman expressed his concern with Mr. Calhoun's plan. He did not want Mr. Calhoun to handle and administer so many contracts. It was suggested that they City locate a larger more robust firm that would be able to handle the City's project.

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

Enacted and approved this 27th day of February, 2014, at Bay City

5. RFP

CONSIDER AND/OR APPROVE AUTHORIZING THE MAYOR TO SOLICIT REQUEST FOR QUALIFICATIONS FOR PROJECT ADMINISTRATIVE SERVICES TO BE PERFORMED IN ASSOCIATION WITH THE 2013 CDBG GRANT TO CONVERT DOWNTOWN SIDEWALKS FROM TILE TO BRICK PAVERS.

Barry Calhoun, Director of Public Works

Mr. Calhoun stated that this was in regards to the grant funds from the Texas Capital Funds. He stated that the last section on the Downtown Square, between 6th Street and 7th Street where there are tiles, it would be replaced with brick pavers. The \$150,000 they received through the grants would be to change the tile into brick pavers.

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

Enacted and approved this 27th day of February, 2014, at Bay City

6. RFP

AUTHORIZING THE MAYOR TO SOLICIT REQUEST FOR QUALIFICATIONS FOR PROJECT
AUTHORIZING THE MAYOR TO SOLICIT REQUEST FOR QUALIFICATIONS FOR
ENGINEERING SERVICES TO BE PERFORMED IN ASSOCIATION WITH THE 2013 CDBG
GRANT TO CONVERT DOWNTOWN SIDEWALKS FROM TILE TO BRICK PAVERS.

Barry Calhoun, Director of Public Works

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Julie Estlinbaum, Councilwoman
SECONDER:	Chrystal Folsie, Councilwoman
AYES:	Folsie, Johnson, Thames, Estlinbaum, Cornman

Enacted and approved this 27th day of February, 2014, at Bay City

7. Report

DISCUSS POSSIBLE REIMBURSEMENT OF CITIZEN FOR COST INCURRED IDENTIFYING
BUSTED CITY SEWER LINE.

Councilwoman Chrystal Folsie

Councilwoman Folsie explained that she had two different citizens tell her that sewer
had backed into their tubs, and it was determined that it was on the City's side. She
asked if it was not the City's responsibility to pay for it.

The Mayor and Mrs. Clegg explained the process for claim submission with the City.
Councilwoman Folsie asked how the City determined if the issue was on the City's
side. Mr. Calhoun explained that it was a process. Councilwoman Folsie asked if the
City had a TV, and Mr. Calhoun stated that the City had a camera. The City
purchased the camera for \$13,000.

8. Report

UPDATE ON THE PLANNING, FINANCING, AND DESIGN COMPONENTS OF A ROAD
IMPROVEMENT PLAN FOR CITY STREETS AND ROADS.

The item was tabled for March 6, 2014. Council's consensus was move the road
meeting to 5 p.m.

Council asked that the agenda be more detailed, and that there be some action
items as a result of the meeting.

9. Report

DISCUSS THE ROLE, VISION, AND EXPECTATIONS OF THE PLANNING COMMISSION.

Mayor Mark A. Bricker

The Mayor brought to the Council's attention of the many different things that the
City has discussed or done that probably should have utilized the Planning
Commission. After much discussion it was decided that the Mayor would develop
parameters and bring them back to Council. Mayor stated that he would work with
the Planning Commission to establish their parameters. Councilman Cornman stated
that he would like to be a part of that.

10. Agreement

CONSIDER AND/OR APPROVE AN ORDINANCE ORDERING A GENERAL ELECTION OF THE
QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 10, 2014, FOR

THE PURPOSES OF ELECTING TWO (2) 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
Council was polled.

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

Enacted and approved this 27th day of February, 2014, at Bay City

11. 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
Mrs. Clegg informed Council that the contract was the same; however, the County increased their fee from \$1 per day to \$5 per day.

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

Enacted and approved this 27th day of February, 2014, at Bay City

12. 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

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

Enacted and approved this 27th day of February, 2014, at Bay City

13. Personnel

CONSIDER AND/OR APPROVE AN AMENDMENT TO THE PERSONNEL POLICY APPROVED DECEMBER 2, 2013, TO BE EFFECTIVE JANUARY 2, 2014.

Rhonda Clegg, City Secretary

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

Enacted and approved this 27th day of February, 2014, at Bay City

6. EXECUTIVE SESSION

Mayor adjourned from Open Session at 8:12 p.m.

Mayor convened into Executive Session at 8:19 p.m.

1. Report

IN ACCORDANCE WITH TEXAS GOVERNMENT CODE SECTIONS 551.071 AND 551.087 COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE ON POSSIBLE FINANCIAL OF OTHER INCENTIVES FOR TENARIS SEAMLESS PIPE MILL IN MATAGORDA COUNTY AND RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING POSSIBLE INCENTIVES.

RESULT:	WITHDRAWN
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7. OPEN SESSION

Mayor adjourned from Executive Session at 9:30 p.m.

Mayor reconvened into Open Session at 9:32 p.m.

1. Report

CITY COUNCIL MAY RECONVENE IN OPEN SESSION AND CONSIDER AND/OR TAKE ACTION ON ANY ITEM LISTED ABOVE FOR CONSIDERATION/DISCUSSION IN EXECUTIVE SESSION (IF NECESSARY).

8. ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilwoman Estlinbaum announced that it was rodeo time.

Councilwoman Folse reminded everyone that there was going to be a survivor dinner next Friday at Eagles.

Mayor Pro Tem Thames informed everyone that Applebee's put 100 employees to work. She also stated that the Tenaris contractor Cajun was hiring.

Mayor asked everyone to keep Tom Uher in their prayers, because he was scheduled for another surgery.

9. 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 24, 2014 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 # 1348)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1348

FINANCIAL STATEMENT AS OF OCTOBER 31, 2013.

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

**City of Bay City
Financial Statement
As of October 31, 2013**

General Fund (Fund 11)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 3,442,500	\$ 286,875	\$ 153,792	\$ (133,083)	4%
Other Local Taxes	4,462,975	371,915	399,430	27,515	9%
Fines & Penalties	438,000	36,500	21,444	(15,056)	5%
Licenses & Permits	100,200	8,350	492	(7,859)	0%
Miscellaneous	3,261,304	271,775	128,572	(143,203)	4%
Transfers	113,126	9,427	8,793	(635)	8%
Other Revenue	62,700	5,225	210	(5,015)	0%
Total Revenues	\$ 11,880,805	\$ 990,067	\$ 712,731	\$ (277,336)	6%
<u>Expenditures</u>					
City Secretary	\$ 253,259	\$ 21,105	\$ 20,472	\$ (633)	8%
City General Services	2,623,982	218,665	234,526	15,861	9%
Administrative Council	240,769	20,064	17,471	(2,593)	7%
Main Street	46,472	3,873	3,350	(522)	7%
Municipal Court	497,013	41,418	96,016	54,598	19%
Finance	243,914	20,326	16,961	(3,365)	7%
Code Enforcement	346,747	28,896	14,713	(14,183)	4%
Police	3,896,208	324,684	201,318	(123,366)	5%
Animal Impoundment	151,696	12,641	6,375	(6,266)	4%
Volunteer Fire Dept.	215,656	17,971	9,951	(8,021)	5%
Public Works	2,747,510	228,959	95,643	(133,316)	3%
Service Center	65,164	5,430	8,088	2,658	12%
Parks	534,399	44,533	26,087	(18,446)	5%
Riverside Park	180,447	15,037	9,163	(5,874)	5%
Recreation	120,493	10,041	745	(9,296)	1%
Swimming Pools	165,250	13,771	3,153	(10,617)	2%
Teen Center	7,500	625	-	(625)	0%
Total Expenditures	\$ 12,336,479	\$ 1,028,040	\$ 764,034	\$ (264,006)	6%
Net Revenue (Expenditures)	\$ (455,674)	\$ (37,973)	\$ (51,302)	\$ (13,329)	
Beginning Fund Balance	\$ 3,055,285	\$ 3,055,285	\$ 2,756,374		
Ending Fund Balance	\$ 2,599,611	\$ 3,017,312	\$ 2,705,072		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Emergency & Disaster Recovery Fund (Fund 23)

Percent of Fiscal Year Complete 8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Utility Fees	\$ -	\$ -	\$ (6)	\$ (6)	N/A
Interest	-	-	32	32	N/A
Total Revenues	\$ -	\$ -	\$ 26	\$ 26	N/A
<u>Expenditures</u>					
Bad Debt	\$ -	\$ -	\$ (6)	\$ (6)	N/A
Total Expenditures	\$ -	\$ -	\$ (6)	\$ (6)	
Net Revenue (Expenditures)	\$ -	\$ -	\$ 32	\$ 32	
Beginning Fund Balance	\$ 555,689	\$ 555,689	\$ 554,921		
Ending Fund Balance	\$ 555,689	\$ 555,689	\$ 554,953		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Civic & Cultural Arts Fund (Fund 25)

Percent of Fiscal Year Complete 8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Hotel Occupancy Tax	\$ 415,000	34,583	\$ 84,354	\$ 49,770	20%
Miscellaneous	77,650	6,471	5,958	(512)	8%
Total Revenues	\$ 492,650	\$ 41,054	90,312	\$ 49,258	18%
<u>Expenditures</u>					
Civic & Cultural Art	\$ 46,471	\$ 3,873	\$ 3,238	\$ (635)	7%
Convention & Visitors Bureau	201,300	16,775	53,322	36,547	26%
Civic Center	262,750	21,896	29,614	7,718	11%
Matagorda County Museum	48,000	4,000	48,000	44,000	100%
Total Expenditures	\$ 558,521	\$ 46,543	\$ 134,174	\$ 87,630	24%
Net Revenue (Expenditures)	\$ (65,871)	\$ (5,489)	\$ (43,861)	\$ (38,372)	
Beginning Fund Balance	\$ 200,149	\$ 200,149	\$ 221,561		
Ending Fund Balance	\$ 134,278	\$ 194,660	177,700		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Police Forfeiture Fund (Fund 24)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ 25	\$ 2	\$ 3	\$ 1	13%
Forfeiture Revenue	5,000	417	-	(417)	0%
Total Revenues	\$ 5,025	\$ 419	\$ 3	\$ (416)	0%
<u>Expenditures</u>					
Personnel	\$ 2,500	\$ 208	\$ -	\$ (208)	0%
Supplies & Materials	-	-	-	-	N/A
Other Charges & Services	-	-	-	-	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	5,000	417	-	(417)	0%
Total Expenditures	\$ 7,500	\$ 625	\$ -	\$ (625)	0%
Net Revenue (Expenditures)	\$ (2,475)	\$ (206)	\$ 3	\$ 209	
Beginning Fund Balance	\$ 23,286	\$ 23,286	\$ 46,024		
Ending Fund Balance	\$ 20,811	\$ 23,080	\$ 46,027		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Municipal Court Technology Fund (Fund 29)

Percent of Fiscal Year Complete 8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Court Technology Fee	\$ 8,000	\$ 667	\$ 455	\$ (211)	6%
Interest	-	-	3	3	N/A
Total Revenues	\$ 8,000	\$ 667	\$ 458	\$ (208)	6%
<u>Expenditures</u>					
Supplies & Materials	\$ 700	\$ 58	\$ -	\$ (58)	N/A
Other Charges & Services	20,300	1,692	1,372	(319)	7%
Repairs & Maintenance	-	-	-	-	N/A
Total Expenditures	\$ 21,000	\$ 1,750	\$ 1,372	\$ (378)	7%
Net Revenue (Expenditures)	\$ (13,000)	\$ (1,083)	\$ (914)	\$ 169	
Beginning Fund Balance	\$ 46,939	\$ 46,939	\$ 53,871		
Ending Fund Balance	\$ 33,939	\$ 45,856	52,957		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Municipal Court Building Security Fund (Fund 27)

Percent of Fiscal Year Complete 8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Building Security Fee	\$ 6,000	\$ 500	\$ 341	\$ (159)	6%
Interest	-	-	3	3	N/A
Total Revenues	\$ 6,000	\$ 500	344	\$ (156)	6%
<u>Expenditures</u>					
Personnel	\$ 8,700	\$ 725	\$ -	\$ (725)	0%
Total Expenditures	\$ 8,700	\$ 725	-	\$ (725)	0%
Net Revenue (Expenditures)	\$ (2,700)	\$ (225)	\$ 344	\$ 569	
Beginning Fund Balance	\$ 43,563	\$ 43,563	\$ 47,704		
Ending Fund Balance	\$ 40,863	\$ 43,338	48,048		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Donation Fund (Fund 21)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 6	\$ 6	N/A
Grants	34,400	2,867	-	(2,867)	N/A
USO Restoration Donations	-	-	-	-	#DIV/0!
KBCB Donations	-	-	-	-	N/A
Animal Impoundment Donations	-	-	-	-	N/A
Total Revenues	\$ 34,400	\$ 2,867	6	\$ (2,861)	
<u>Expenditures</u>					
USO Restoration	\$ 34,400	\$ 2,867	\$ -	\$ (2,867)	N/A
KBCB	-	-	-	-	N/A
Transfer to Other Funds	-	-	-	-	N/A
Animal Impoundment	-	-	-	-	N/A
Total Expenditures	\$ 34,400	\$ 2,867	-	\$ (2,867)	N/A
Net Revenue (Expenditures)	\$ -	\$ -	\$ 6	\$ 6	
Beginning Fund Balance	\$ 63,532	\$ 63,532	\$ 72,230		
Ending Fund Balance	\$ 63,532	\$ 63,532	72,236		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Library Fund (Fund 26)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Fines	\$ 7,000	\$ 583	\$ 643	\$ 60	9%
Interest	-	-	6	6	N/A
Rental Proceeds	78,840	6,570	6,570	-	8%
Grants	-	-	-	-	N/A
Donations	10,000	833	30	(803)	0%
County Funding	200,000	16,667	50,000	33,333	25%
Other Income-Other Entitiy	5,000	417	-	(417)	0%
Other Income	16,000	1,333	12,369	11,036	77%
Transfer from General Fund	131,480	10,957	-	(10,957)	0%
Total Revenues	\$ 448,320	\$ 37,360	69,618	\$ 32,258	16%
<u>Expenditures</u>					
Personnel	\$ 250,149	\$ 20,846	\$ 15,226	\$ (5,620)	6%
Supplies & Materials	61,878	5,157	3,977	(1,180)	6%
Other Charges & Services	124,235	10,353	3,210	(7,143)	3%
Repairs & Maintenance	15,000	1,250	65	(1,185)	0%
Total Expenditures	\$ 451,262	\$ 37,605	22,478	\$ (15,128)	5%
Net Revenue (Expenditures)	\$ (2,942)	\$ (245)	\$ 47,141	\$ 47,386	
Beginning Fund Balance	\$ 43,563	\$ 43,563	\$ 42,270		
Ending Fund Balance	\$ 40,621	\$ 43,318	89,411		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Police Task Force Fund (Fund 30)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 1	\$ 1	N/A
County Funding	-	-	-	-	N/A
City Funding	-	-	-	-	N/A
Total Revenues	\$ -	\$ -	\$ 1	\$ 1	N/A
<u>Expenditures</u>					
Personnel	\$ -	\$ -	\$ 171	\$ 171	N/A
Supplies & Materials	-	-	-	-	N/A
Other Charges & Services	-	-	-	-	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	-	-	-	-	N/A
Total Expenditures	\$ -	\$ -	171	\$ 171	N/A
Net Revenue (Expenditures)	\$ -	\$ -	\$ (171)	\$ (171)	
Beginning Fund Balance	\$ 20,000	\$ 20,000	\$ 9,967		
Ending Fund Balance	\$ 20,000	\$ 20,000	\$ 9,796		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Utility Fund (Fund 61)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Charges for Services	\$ 6,759,500	\$ 563,292	\$ 550,291	\$ (13,001)	8%
Fines & Penalties	-	-	117	117	N/A
License & Permits	-	-	4,702	4,702	N/A
Miscellaneous	815,000	67,917	(1,968)	(69,885)	0%
Total Revenues	\$ 7,574,500	\$ 631,208	553,141.49	\$ (78,067)	7%
<u>Expenditures</u>					
General Operation	\$ 4,289,577	\$ 357,465	\$ 297,006	\$ (60,459)	7%
Water	932,865	77,739	28,889	(48,849)	3%
Sewer	2,541,792	211,816	24,027	(187,789)	1%
Electrical Division	-	-	639	639	N/A
Inspection Division	-	-	1,071	1,071	N/A
Warehouse Operations	49,100	4,092	925	(3,166)	2%
Total Expenditures	\$ 7,813,334	\$ 651,111	352,557	\$ (298,554)	5%
Net Revenue (Expenditures)	\$ (238,834)	\$ (19,903)	\$ 200,584	\$ 220,487	
Beginning Fund Balance	\$ 1,490,351	\$ 1,490,351	\$ 2,106,962		
Ending Fund Balance	\$ 1,251,517	\$ 1,470,448	\$ 2,307,547		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

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

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 18	\$ 18	N/A
Transfer from General Fund	103,050	8,588	8,588	-	8%
Transfer from Utility Fund	910,950	75,913	75,913	-	8%
Transfer from Const. Fund	-	-	-	-	N/A
Total Revenues	\$ 1,014,000	\$ 84,500	84,518	\$ 18	8%
<u>Expenditures</u>					
Other Charges & Services	\$ 2,000	\$ 167	\$ -	\$ (167)	0%
Debt Service	1,012,000	84,333	-	(84,333)	0%
Total Expenditures	\$ 1,014,000	\$ 84,500	\$ -	\$ (84,500)	0%
Net Revenue (Expenditures)	\$ -	\$ -	\$ 84,518	\$ 84,518	
Beginning Fund Balance	\$ 365,872	\$ 365,872	\$ 143,470		
Ending Fund Balance	\$ 365,872	\$ 365,872	227,989		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Municipal Airport Fund (Fund 64)

Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Miscellaneous	\$ 85,900	\$ 7,158	\$ 6,451	\$ (708)	8%
Transfers	120,464	10,039	10,039	0	8%
Other Revenue	155,000	12,917	33,353	20,436	22%
Cost of Fuel	(120,000)	(10,000)	-	10,000	0%
Total Revenues	\$ 241,364	\$ 20,114	49,843	\$ 29,729	21%
<u>Expenditures</u>					
Personnel	\$ 99,106	\$ 8,259	\$ 5,914	\$ (2,345)	6%
Supplies & Materials	8,300	692	245	(446)	3%
Other Charges & Services	61,400	5,117	8,849	3,732	14%
Repairs & Maintenance	16,000	1,333	1,905	572	12%
Capital Expenditures	78,000	6,500	9,360	2,860	N/A
Total Expenditures	\$ 262,806	\$ 21,901	26,273	\$ 4,373	10%
Net Revenue (Expenditures)	\$ (21,442)	\$ (1,787)	\$ 23,569	\$ 25,356	
Beginning Fund Balance	\$ 61,923	\$ 61,923	\$ 44,962		
Ending Fund Balance	\$ 40,481	\$ 60,136	68,532		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Sanitation Fund (Fund 75)

Percent of Fiscal Year Complete

8%

**Over(Under)
Budget
to Date**

**Total
Budget**

**Budget as
of 10-13**

Actuals

Revenues

Charges for Services	\$ 29,100	\$ 2,425	\$ 234,080	\$ 231,655
Miscellaneous	-	-	117	117
Other Revenue	-	-	2,243	2,243
Total Revenues	\$ 29,100	\$ 2,425	236,440	\$ 234,015

Expenditures

Administration	\$ -	\$ -	\$ 43,161	\$ 43,161
Residential	1,802,288	150,191	36,686	(113,505)
Commercial	-	-	35,445	35,445
Recycling	-	-	448	448
Transfer Station	87,245	7,270	44,946	37,675
Total Expenditures	\$ 1,889,533	\$ 157,461	160,686	\$ 3,224

Net Revenue (Expenditures)	\$ (1,860,433)	\$ (155,036)	\$ 75,755	\$ 230,791
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Beginning Fund Balance	\$ 2,177,681	\$ 2,177,681	\$ 543,685
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Ending Fund Balance	\$ 317,248	\$ 2,022,645	619,439
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Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**Percent
to Total
Budget**

804%

N/A

N/A

813%

N/A

2%

N/A

N/A

52%

9%

**City of Bay City
Financial Statement
As of October 31, 2013**

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

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 405,447	\$ 33,787	\$ 16,836	\$ (16,951)	4%
Miscellaneous	-	-	4	4	N/A
Transfers	2,019,823	168,319	19,795	(148,524)	1%
Total Revenues	\$ 2,425,270	\$ 202,106	36,635	\$ (165,471)	2%
<u>Expenditures</u>					
Debt Service	\$ 933,344	\$ 77,779	\$ -	\$ (77,779)	0%
Total Expenditures	\$ 933,344	\$ 77,779	\$ -	\$ (77,779)	0%
Net Revenue (Expenditures)	\$ 1,491,926	\$ 124,327	\$ 36,635	\$ (87,693)	
Beginning Fund Balance	\$ 34,567	\$ 34,567	\$ 30,568		
Ending Fund Balance	\$ 1,526,493	\$ 158,894	\$ 67,203		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Information Services Fund (Fund 81)

Percent of Fiscal Year Complete 8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 0	\$ 0	N/A
Transfers	667,330	55,611	70,772	15,162	11%
Other Revenue	-	-	52	52	N/A
Total Revenues	\$ 667,330	\$ 55,611	\$ 70,825	\$ 15,214	11%
<u>Expenditures</u>					
Personnel	\$ 243,943	\$ 20,329	\$ 14,481	\$ (5,847)	6%
Supplies & Materials	31,600	2,633	3,319	685	11%
Other Charges & Services	226,897	18,908	54,358	35,450	24%
Repairs & Maintenance	43,392	3,616	-	(3,616)	0%
Capital Outlay	121,500	10,125	-	(10,125)	0%
Total Expenditures	\$ 667,332	\$ 55,611	72,158	\$ 16,547	11%
Net Revenue (Expenditures)	\$ (2)	\$ (0)	\$ (1,333)	\$ (1,333)	
Beginning Fund Balance	\$ 291	\$ 291	3,578		
Ending Fund Balance	\$ 289	\$ 291	2,245		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)

**City of Bay City
Financial Statement
As of October 31, 2013**

Maintenance Fund (Fund 82)
Percent of Fiscal Year Complete

8%

	Total Budget	Budget as of 10-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 1	\$ 1	N/A
Transfers	228,295	19,025	25,830	6,805	11%
Other Revenue	-	-	202	202	N/A
Total Revenues	\$ 228,295	\$ 19,025	\$ 26,033	\$ 7,008	11%
<u>Expenditures</u>					
Equipment Maintenance	\$ 195,345	\$ 16,279	\$ 16,199	\$ (80)	8%
Facility Maintenance	18,280	1,523	10,441	8,918	57%
Total Expenditures	\$ 213,625	\$ 17,802	\$ 26,640	\$ 8,838	12%
Net Revenue (Expenditures)	\$ 14,670	\$ 1,223	\$ (607)	\$ (1,830)	
Beginning Fund Balance	\$ (5,361)	\$ (5,361)	(4,225)		
Ending Fund Balance	\$ 9,309	\$ (4,139)	(4,832)		

Attachment: 20140227 - October 2013 Financial Statement (1348 : October Financial Statement)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1353)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1353

FINANCIAL STATEMENT AS OF NOVEMBER 30, 2013.

RESULT:	APPROVED BY CONSENT VOTE [UNANIMOUS]
MOVER:	William Cornman, 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 # 1351)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1351

FINANCIAL STATEMENT AS OF DECEMBER 31, 2013.

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

**City of Bay City
Financial Statement
As of December 31, 2013**

General Fund (Fund 11)
Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 3,442,500	\$ 860,625	\$ 650,028	\$ (210,597)	19%
Other Local Taxes	4,462,975	1,115,744	1,035,388	(80,356)	23%
Fines & Penalties	438,000	109,500	49,784	(59,716)	11%
Licenses & Permits	100,200	25,050	1,529	(23,521)	2%
Miscellaneous	3,261,304	815,326	440,700	(374,626)	14%
Transfers	113,126	28,282	24,068	(4,213)	21%
Other Revenue	62,700	15,675	5,734	(9,941)	9%
Total Revenues	\$ 11,880,805	\$ 2,970,201	\$ 2,207,230	\$ (762,971)	19%
<u>Expenditures</u>					
City Secretary	\$ 253,259	\$ 63,315	\$ 68,921	\$ 5,607	27%
City General Services	2,623,982	655,996	573,812	(82,183)	22%
Administrative Council	240,769	60,192	48,239	(11,953)	20%
Main Street	46,472	11,618	7,520	(4,098)	16%
Municipal Court	497,013	124,253	136,204	11,950	27%
Finance	243,914	60,979	53,624	(7,355)	22%
Code Enforcement	346,747	86,687	49,022	(37,665)	14%
Police	3,896,208	974,052	825,925	(148,127)	21%
Animal Impoundment	151,696	37,924	25,103	(12,821)	17%
Volunteer Fire Dept.	215,656	53,914	26,850	(27,064)	12%
Public Works	2,747,510	686,878	257,653	(429,225)	9%
Service Center	65,164	16,291	16,934	643	26%
Parks	534,399	133,600	98,956	(34,643)	19%
Riverside Park	180,447	45,112	29,691	(15,421)	16%
Recreation	120,493	30,123	18,490	(11,633)	15%
Swimming Pools	165,250	41,313	11,611	(29,701)	7%
Teen Center	7,500	1,875	849	(1,026)	11%
Total Expenditures	\$ 12,336,479	\$ 3,084,120	\$ 2,249,403	\$ (834,717)	18%
Net Revenue (Expenditures)	\$ (455,674)	\$ (113,919)	\$ (42,172)	\$ 71,746	
Beginning Fund Balance	\$ 3,055,285	\$ 3,055,285	\$ 2,756,374		
Ending Fund Balance	\$ 2,599,611	\$ 2,941,367	\$ 2,714,202		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

City of Bay City
Financial Statement
As of December 31, 2013

Emergency & Disaster Recovery Fund (Fund 23)

Percent of Fiscal Year Complete 25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Utility Fees	\$ -	\$ -	\$ (6)	\$ (6)	N/A
Interest	-	-	97	97	N/A
Total Revenues	\$ -	\$ -	\$ 91	\$ 91	N/A
<u>Expenditures</u>					
Bad Debt	\$ -	\$ -	\$ (11)	\$ (11)	N/A
Total Expenditures	\$ -	\$ -	\$ (11)	\$ (11)	
Net Revenue (Expenditures)	\$ -	\$ -	\$ 102	\$ 102	
Beginning Fund Balance	\$ 555,689	\$ 555,689	\$ 554,921		
Ending Fund Balance	\$ 555,689	\$ 555,689	\$ 555,023		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

City of Bay City
Financial Statement
As of December 31, 2013

Civic & Cultural Arts Fund (Fund 25)

Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
Revenues					
Hotel Occupancy Tax	\$ 415,000	103,750	\$ 115,788	\$ 12,038	28%
Miscellaneous	77,650	19,413	13,803	(5,610)	18%
Total Revenues	\$ 492,650	\$ 123,163	129,591	\$ 6,429	26%
Expenditures					
Civic & Cultural Art	\$ 46,471	\$ 11,618	\$ 7,404	\$ (4,213)	16%
Convention & Visitors Bureau	201,300	50,325	62,914	12,589	31%
Civic Center	262,750	65,688	63,514	(2,173)	24%
Matagorda County Museum	48,000	12,000	48,000	36,000	100%
Total Expenditures	\$ 558,521	\$ 139,630	\$ 181,832	\$ 42,202	33%
Net Revenue (Expenditures)	\$ (65,871)	\$ (16,468)	\$ (52,241)	\$ (35,773)	
Beginning Fund Balance	\$ 200,149	\$ 200,149	\$ 221,561		
Ending Fund Balance	\$ 134,278	\$ 183,681	169,320		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

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

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ 25	\$ 2	\$ 9	\$ 7	38%
Forfeiture Revenue	5,000	417	-	(417)	0%
Total Revenues	\$ 5,025	\$ 419	\$ 9	\$ (409)	0%
<u>Expenditures</u>					
Personnel	\$ 2,500	\$ 625	\$ -	\$ (625)	0%
Supplies & Materials	-	-	-	-	N/A
Other Charges & Services	-	-	-	-	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	5,000	1,250	-	(1,250)	0%
Total Expenditures	\$ 7,500	\$ 1,875	-	\$ (1,875)	0%
Net Revenue (Expenditures)	\$ (2,475)	\$ (1,456)	\$ 9	\$ 1,466	
Beginning Fund Balance	\$ 23,286	\$ 23,286	\$ 46,024		
Ending Fund Balance	\$ 20,811	\$ 21,830	\$ 46,034		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Municipal Court Technology Fund (Fund 29)

Percent of Fiscal Year Complete 25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Court Technology Fee	\$ 8,000	\$ 2,000	\$ 1,165	\$ (835)	15%
Interest	-	-	10	10	N/A
Total Revenues	\$ 8,000	\$ 2,000	\$ 1,175	\$ (825)	15%
<u>Expenditures</u>					
Supplies & Materials	\$ 700	\$ 175	\$ -	\$ (175)	N/A
Other Charges & Services	20,300	5,075	2,620	(2,456)	13%
Repairs & Maintenance	-	-	-	-	N/A
Total Expenditures	\$ 21,000	\$ 5,250	\$ 2,620	\$ (2,631)	12%
Net Revenue (Expenditures)	\$ (13,000)	\$ (3,250)	\$ (1,445)	\$ 1,805	
Beginning Fund Balance	\$ 46,939	\$ 46,939	\$ 53,871		
Ending Fund Balance	\$ 33,939	\$ 43,689	52,426		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Municipal Court Building Security Fund (Fund 27)

Percent of Fiscal Year Complete 25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Building Security Fee	\$ 6,000	\$ 1,500	\$ 873	\$ (627)	15%
Interest	-	-	9	9	N/A
Total Revenues	\$ 6,000	\$ 1,500	882	\$ (618)	15%
<u>Expenditures</u>					
Personnel	\$ 8,700	\$ 2,175	\$ 579	\$ (1,596)	7%
Total Expenditures	\$ 8,700	\$ 2,175	579	\$ (1,596)	7%
Net Revenue (Expenditures)	\$ (2,700)	\$ (675)	\$ 304	\$ 979	
Beginning Fund Balance	\$ 43,563	\$ 43,563	\$ 47,704		
Ending Fund Balance	\$ 40,863	\$ 42,888	48,008		

**City of Bay City
Financial Statement
As of December 31, 2013**

Donation Fund (Fund 21)

Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 23	\$ 23	N/A
Grants	34,400	8,600	-	(8,600)	N/A
USO Restoration Donations	-	-	-	-	#DIV/0!
KBCB Donations	-	-	-	-	N/A
Animal Impoundment Donations	-	-	-	-	N/A
Total Revenues	\$ 34,400	\$ 8,600	23	\$ (8,577)	
<u>Expenditures</u>					
USO Restoration	\$ 34,400	\$ 8,600	\$ -	\$ (8,600)	N/A
KBCB	-	-	-	-	N/A
Transfer to Other Funds	-	-	-	-	N/A
Animal Impoundment	-	-	-	-	N/A
Total Expenditures	\$ 34,400	\$ 8,600	-	\$ (8,600)	N/A
Net Revenue (Expenditures)	\$ -	\$ -	\$ 23	\$ 23	
Beginning Fund Balance	\$ 63,532	\$ 63,532	\$ 72,230		
Ending Fund Balance	\$ 63,532	\$ 63,532	72,253		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Library Fund (Fund 26)

Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Fines	\$ 7,000	\$ 1,750	\$ 1,451	\$ (299)	21%
Interest	-	-	14	14	N/A
Rental Proceeds	78,840	19,710	19,710	-	25%
Grants	-	-	1,696	-	N/A
Donations	10,000	2,500	87	(2,413)	1%
County Funding	200,000	50,000	50,000	-	25%
Other Income-Other Entity	5,000	1,250	-	(1,250)	0%
Other Income	16,000	4,000	13,479	9,479	84%
Transfer from General Fund	131,480	32,870	32,870	0	25%
Total Revenues	\$ 448,320	\$ 112,080	119,308	\$ 5,532	27%
<u>Expenditures</u>					
Personnel	\$ 250,149	\$ 62,537	\$ 52,679	\$ (9,858)	21%
Supplies & Materials	61,878	15,470	19,200	3,730	31%
Other Charges & Services	124,235	31,059	19,478	(11,581)	16%
Repairs & Maintenance	15,000	3,750	2,514	(1,236)	17%
Total Expenditures	\$ 451,262	\$ 112,816	93,870	\$ (18,945)	21%
Net Revenue (Expenditures)	\$ (2,942)	\$ (736)	\$ 25,438	\$ 24,477	
Beginning Fund Balance	\$ 43,563	\$ 43,563	\$ 42,270		
Ending Fund Balance	\$ 40,621	\$ 42,828	67,708		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

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

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 294	\$ 294	N/A
County Funding	-	-	-	-	N/A
City Funding	-	-	-	-	N/A
Total Revenues	\$ -	\$ -	\$ 294	\$ 294	N/A
<u>Expenditures</u>					
Personnel	\$ -	\$ -	\$ 171	\$ 171	N/A
Supplies & Materials	-	-	-	-	N/A
Other Charges & Services	-	-	-	-	N/A
Repairs & Maintenance	-	-	-	-	N/A
Capital Outlay	-	-	-	-	N/A
Total Expenditures	\$ -	\$ -	171	\$ 171	N/A
Net Revenue (Expenditures)	\$ -	\$ -	\$ 123	\$ 123	
Beginning Fund Balance	\$ 20,000	\$ 20,000	\$ 9,967		
Ending Fund Balance	\$ 20,000	\$ 20,000	\$ 10,090		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Utility Fund (Fund 61)

Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Charges for Services	\$ 6,759,500	\$ 1,689,875	\$ 1,541,766	\$ (148,109)	23%
Fines & Penalties	-	-	867	867	N/A
License & Permits	-	-	16,075	16,075	N/A
Miscellaneous	815,000	203,750	75,536	(128,214)	9%
Total Revenues	\$ 7,574,500	\$ 1,893,625	1,634,244	\$ (259,381)	22%
<u>Expenditures</u>					
General Operation	\$ 4,289,577	\$ 1,072,394	\$ 913,669	\$ (158,725)	21%
Water	932,865	233,216	100,837	(132,379)	11%
Sewer	2,541,792	635,448	207,292	(428,156)	8%
Electrical Division	-	-	-	-	N/A
Inspection Division	-	-	-	-	N/A
Warehouse Operations	49,100	12,275	7,462	(4,813)	15%
Total Expenditures	\$ 7,813,334	\$ 1,953,334	1,229,260	\$ (724,074)	16%
Net Revenue (Expenditures)	\$ (238,834)	\$ (59,709)	\$ 404,984	\$ 464,692	
Beginning Fund Balance	\$ 1,490,351	\$ 1,490,351	\$ 2,106,962		
Ending Fund Balance	\$ 1,251,517	\$ 1,430,643	\$ 2,511,946		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Utility Debt Service Fund (Fund 63)

Percent of Fiscal Year Complete 25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 48	\$ 48	N/A
Transfer from General Fund	103,050	25,763	25,763	-	25%
Transfer from Utility Fund	910,950	227,738	227,738	-	25%
Transfer from Const. Fund	-	-	-	-	N/A
Total Revenues	\$ 1,014,000	\$ 253,500	253,548	\$ 48	25%
<u>Expenditures</u>					
Other Charges & Services	\$ 2,000	\$ 500	\$ -	\$ (500)	0%
Debt Service	1,012,000	253,000	-	(253,000)	0%
Total Expenditures	\$ 1,014,000	\$ 253,500	\$ -	\$ (253,500)	0%
Net Revenue (Expenditures)	\$ -	\$ -	\$ 253,548	\$ 253,548	
Beginning Fund Balance	\$ 365,872	\$ 365,872	\$ 143,470		
Ending Fund Balance	\$ 365,872	\$ 365,872	397,019		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Municipal Airport Fund (Fund 64)
Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Miscellaneous	\$ 85,900	\$ 21,475	\$ 22,708	\$ 1,233	26%
Transfers	120,464	30,116	30,116	0	25%
Other Revenue	155,000	38,750	74,351	35,601	48%
Cost of Fuel	(120,000)	(30,000)	(25,378)	4,622	21%
Total Revenues	\$ 241,364	\$ 60,341	101,796	\$ 41,455	42%
<u>Expenditures</u>					
Personnel	\$ 99,106	\$ 24,777	\$ 19,910	\$ (4,867)	20%
Supplies & Materials	8,300	2,075	1,721	(354)	21%
Other Charges & Services	61,400	15,350	13,136	(2,214)	21%
Repairs & Maintenance	16,000	4,000	3,734	(266)	23%
Capital Expenditures	78,000	6,500	18,464	11,964	N/A
Total Expenditures	\$ 262,806	\$ 52,702	56,965	\$ 4,263	22%
Net Revenue (Expenditures)	\$ (21,442)	\$ 7,640	\$ 44,831	\$ 37,192	
Beginning Fund Balance	\$ 61,923	\$ 61,923	\$ 44,962		
Ending Fund Balance	\$ 40,481	\$ 69,563	89,794		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Sanitation Fund (Fund 75)

Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Charges for Services	\$ 29,100	\$ 7,275	\$ 442,075	\$ 434,800	1519%
Miscellaneous	-	-	1,866,630	1,866,630	N/A
Other Revenue	-	-	4,860	4,860	N/A
Total Revenues	\$ 29,100	\$ 7,275	2,313,565	\$ 2,306,290	7950%
<u>Expenditures</u>					
Administration	\$ -	\$ -	\$ 53,669	\$ 53,669	N/A
Residential	1,802,288	450,572	75,974	(374,598)	4%
Commercial	-	-	70,764	70,764	N/A
Recycling	-	-	66	66	N/A
Transfer Station	87,245	21,811	109,305	87,494	125%
Total Expenditures	\$ 1,889,533	\$ 472,383	309,778	\$ (162,605)	16%
Net Revenue (Expenditures)	\$ (1,860,433)	\$ (465,108)	\$ 2,003,787	\$ 2,468,895	
Beginning Fund Balance	\$ 2,177,681	\$ 2,177,681	\$ 543,685		
Ending Fund Balance	\$ 317,248	\$ 1,712,573	2,547,471		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

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

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Property Taxes	\$ 405,447	\$ 101,362	\$ 74,844	\$ (26,517)	18%
Miscellaneous	-	-	21	21	N/A
Transfers	2,019,823	504,956	59,384	(445,572)	3%
Total Revenues	\$ 2,425,270	\$ 606,318	134,249	\$ (472,068)	6%
<u>Expenditures</u>					
Debt Service	\$ 933,344	\$ 233,336	\$ -	\$ (233,336)	0%
Total Expenditures	\$ 933,344	\$ 233,336	\$ -	\$ (233,336)	0%
Net Revenue (Expenditures)	\$ 1,491,926	\$ 372,982	\$ 134,249	\$ (238,732)	
Beginning Fund Balance	\$ 34,567	\$ 34,567	\$ 30,568		
Ending Fund Balance	\$ 1,526,493	\$ 407,549	\$ 164,818		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

**City of Bay City
Financial Statement
As of December 31, 2013**

Information Services Fund (Fund 81)

Percent of Fiscal Year Complete 25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
<u>Revenues</u>					
Interest	\$ -	\$ -	\$ 1	\$ 1	N/A
Transfers	667,330	166,833	149,972	(16,860)	22%
Other Revenue	-	-	69	69	N/A
Total Revenues	\$ 667,330	\$ 166,833	\$ 150,042	\$ (16,790)	22%
<u>Expenditures</u>					
Personnel	\$ 243,943	\$ 60,986	\$ 50,017	\$ (10,969)	21%
Supplies & Materials	31,600	7,900	7,026	(874)	22%
Other Charges & Services	226,897	56,724	71,147	14,423	31%
Repairs & Maintenance	43,392	10,848	235	(10,613)	1%
Capital Outlay	121,500	30,375	22,966	(7,409)	19%
Total Expenditures	\$ 667,332	\$ 166,833	151,391	\$ (15,442)	23%
Net Revenue (Expenditures)	\$ (2)	\$ (1)	\$ (1,348)	\$ (1,348)	
Beginning Fund Balance	\$ 291	\$ 291	3,578		
Ending Fund Balance	\$ 289	\$ 291	2,230		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)

City of Bay City
Financial Statement
As of December 31, 2013

Maintenance Fund (Fund 82)
Percent of Fiscal Year Complete

25%

	Total Budget	Budget as of 12-13	Actuals	Over(Under) Budget to Date	Percent to Total Budget
Revenues					
Interest	\$ -	\$ -	\$ 1	\$ 1	N/A
Transfers	526,100	131,525	91,225	(40,300)	17%
Other Revenue	-	-	216	216	N/A
Total Revenues	\$ 526,100	\$ 131,525	\$ 91,442	\$ (40,083)	17%
Expenditures					
Equipment Maintenance	\$ 247,722	\$ 61,931	\$ 48,869	\$ (13,061)	20%
Facility Maintenance	278,378	69,595	44,497	(25,098)	16%
Total Expenditures	\$ 526,100	\$ 131,525	93,366	\$ (38,159)	18%
Net Revenue (Expenditures)	\$ -	\$ -	\$ (1,924)	\$ (1,924)	
Beginning Fund Balance	\$ (5,361)	\$ (5,361)	(4,225)		
Ending Fund Balance	\$ (5,361)	\$ (5,361)	(6,149)		

Attachment: 20140227 - December 2013 Financial Statement (1351 : December Financials 2013)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1347)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1347

QUARTERLY INVESTMENT REPORT ENDING DECEMBER 31, 2013.

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

**CITY OF BAY CITY, TEXAS
QUARTERLY INVESTMENT REPORT
FOR THE QUARTER ENDED DECEMBER 31, 2013**

The investment portfolio detailed in the attached report includes all investment transactions made during the above referenced period. The investment portfolio and all related transactions comply with the investment policy of the City of Bay City, Texas and the Public Funds Investment Act of the State of Texas.

Investment Officer: 
Phill Conner, Interim Finance Director

Date: 2/13/2014



City Council
1901 5Th Street
Bay City, TX 77414

TABLED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Property
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1308 A

AGENDA ITEM (ID # 1308)

**DISCUSSION AND DIRECTION TO STAFF REGARDING
POSSIBLE FUTURE ANNEXATION OF AN AREA SOUTH OF
STATE HIGHWAY 35, NEAR THE BAY CITY HIGH SCHOOL
CAMPUS, THAT CONTAINS FEWER THAN 100 SEPARATE
TRACTS OF LAND ON WHICH ONE OR MORE RESIDENTIAL
DWELLINGS ARE LOCATED ON EACH TRACT.**

HISTORY:

02/13/14 **City Council**

TABLED

Next: 02/27/14



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/27/14 07:00 PM
Department: Police Department
Category: Report
Prepared By: Christella Rodriguez
Initiator: Roger Barker
Sponsors:
DOC ID: 1300

DISCUSSION ITEM (ID # 1300)

PRESENTATION OF 2013 BAY CITY POLICE DEPARTMENT ANNUAL REPORT.

The Bay City Police Department Summary Report for 2013 will consist of events and accomplishments for the department.



Bay City Police Department

2013

Summary report of 2013 Events and Accomplishments.

Chief Roger Barker

Prepared by: Captain Christella Rodriguez

2/1/2013

***Summary of Bay City Police Department 2013 Events:**

We continually strive to improve police department service to the public we serve. Our problem-solving efforts and service-minded philosophy help to promote a positive relationship with the community. We offer a wide variety of programs and services to our citizens. We accept our job as a symbol of public trust and look forward to another year of serving the Bay City community. Our motto at the department, "Do The Right Thing", goes without saying – We believe in truth, fairness and loyalty to all we come in contact with and carry this motto into our personnel lives.

The following are a few highlights of the year 2013 at the Bay City Police Department (BCPD):

On February 6th BCPD hosted a meeting of over 35 area law enforcement agency Chief's and Sheriff's to discuss training needs and resources available from each agency. The coordination between area agencies helps provide shared information, quality training, and shared resources.

BCPD representatives met periodically throughout the year with law enforcement and emergency management representatives from Matagorda and surrounding counties. The Local Emergency Planning Committee (LEPC) and BCPD have hosted several emergency management trainings, enabling the City of Bay City to be in compliance with Federal and State Requirements for assistance, as well as Federal and State funding.

BCPD has several employees that are very honored to serve together on the multi jurisdictional emergency operations team with South Texas Nuclear Generating Station and Matagorda County Officials on the Emergency Operations Center (EOC).

The Police Department wanted another method of providing the residents of Bay City with information on the local sex offenders in their area. The Department continues to supply a TV Screen, located in the lobby of the Police Department that informs the community of not only the Local sex offenders, but crime prevention information, upcoming events, awards employees have been honored with, and wanted subjects by the department as well as Matagorda County Crime Stoppers. This method of public announcements has been well received by the public.

The department is proud to welcome a new certified addition to the Special Response Team. The team currently has a new trained and certified Sniper. This will be the first time the department has ever had such position. The training is intense and not many officers can complete the training. We are proud to welcome this elite position.

On April 15, BCPD started the Bay City Police Explorer Post; under the direction of Sgt. Irene Kjergaard and Sgt. Suzanne Sullivan. The Explorer Post provides educational training programs for young adults on the purpose, mission, and objectives of law enforcement. The program provides career orientation experiences, leadership opportunities, and community service activities. The primary goals of the program are to help young adults choose a career path within law enforcement and to challenge them to become responsible citizens of their communities and the nation.

The Matagorda County Narcotics Task Force was formed on May of 2013. The task force is derived of officers from The Matagorda County Sheriff's Office and The Bay City Police Department. Because the team is a combination of the two law enforcement agencies, the task force officers have criminal jurisdiction in the entire county including the cities of Bay City, Palacios, Van Vleck and the remainder of the small communities in between. Since its inception the task force has worked over 130 narcotics related cases which include 81 drug related arrests. In addition, the task force has seized 5 vehicles, over \$10,000 of U.S. currency, and numerous other valuable items that were being used by local drug dealers to further their criminal operations. The formation of the task force has brought the two agencies closer together more now than ever before, in that teamwork is used to attack the drug problems in our community.

In May and June, we had several officers participate in "Click It or Ticket Campaign". This is a national compliance and awareness program where seatbelt and child restraint laws are targeted. There were a total of 100 citations issued in an estimated 40 hours.

On May 18, BCPD and Immigration officials worked together on a human trafficking case where 14 individuals were being held at a residence in Bay City. All subjects were removed from the location and fed. U.S. Immigration and Custom Enforcement officials took possession of the subjects and the case was later turned over to Immigration Officials.

Officers with the Bay City Police Department have a new option when faced with a challenge on the job. In May, the department purchased five new electronic immobilization devices, commonly referred to as an EID. Before now, when the officers were in a combative situation they had to use OC spray, which sometimes does not work, or use an expandable baton. The manufacturer of the new EID's is Karbon Arms. The model is MPID, or Multi Purpose Immobilization Device. The department wanted to provide the Officers with another non-lethal option.

The Department and staff had a benefit fundraiser for Lt. Lewis on June 29th. Officer Lewis dedicated 29 years to the citizens of this community and county. Lewis was in need of a heart

transplant and his police family knew him and his family would be struck with financial needs. The Bay City Police Department strives in patriotism and brotherhood. There is no greater glory than to help a fellow officer in need.

Several Neighborhoods hosted parties during National Night Out on October 1st. BCPD officers, Office personnel, Police Chaplains and some City Council Officials attended every location to encourage citizens to watch out for one another and be the eyes and ears of law enforcement. All concerns and questions of the citizens were addressed.

In October, BCPD was granted another two year grant from the Texas Attorney General's Office to fund a liaison position for the City of Bay City. The Crime Victims Liaison, Leticia Ramos, will work closely with local investigators and officers, Matagorda County Crisis Center, and the District Attorney's Office. Mrs. Ramos will work to establish an effective protocol for servicing victims of crimes against persons and handling sexual or family violence victim's rights to reimbursement funding, counseling, and resources available through the Victims Rights Act.

The Department is up and running with all new Mobile Data Terminal's (MDT's) in the patrol units. This keeps the department up to date with the 21th Century in Mobile Technology.

There were 15 Special Operations performed in 2013, which included; Prostitution Operations, Alcohol Compliance checks, Compliance Checks with City Ordinance "Possession or sale of Synthetic Cannabinoids, Warrant round-ups, Anti-Theft Operations, Crime Prevention Operation, Safe Kids Program, Narcotic Carrier Operations, Warrant Round Up, Illegal Gambling Compliance, Safer Holiday Operations throughout the city during the Christmas Holidays targeting businesses and vehicles, Vehicle Burglary Deterrent, Alcohol and Tobacco Compliance Checks, and Operation Sex Offender Compliance.

The Police Department continues to support a program of good will with the 4-H Youth Shooting Club by supporting and facilitating training and events at the Bay City Police Department Firing Range.

The Police Department is proud to continue the Police Department Chaplin Program. The program has several clergy officials from Matagorda County. Their dedication to the department and community is phenomenal. The purpose and goal of this program is to provide a core group of professional, ordained, (Chaplains) or vowed men and women in religious communities, from a variety of faiths, who volunteer their time and talents to the City of Bay City and Law Enforcement Employees as Chaplains. The Police Chaplains seek to lighten the burden of the officers by performing tasks that have a greater spiritual or social nature rather

than law enforcement nature. The Chaplains continue to strive to strike a balance between serving the needs of the Police Officers in their personal and professional lives and serving the Bay City Area at large.

The Police Department teamed up with Bay City Wal-Mart for the first annual Christmas, SHOP WITH A COP EVENT. On Wednesday December 11, employees of the Bay City Police Department met at the Bay City Wal-Mart with the purpose of mentoring others in mind. Eight local families (13 children) were paired up with police department employees. All thirteen children were loaded onto a bus. Marked patrol units with lights and sirens then escorted the children to Wal-Mart. Officers spent time selecting toys and gifts for Christmas for the children. Parents were provided with the contact information for the officers so in the event their child needs to talk with the officer in the future; a mentoring connection could be established. This event was made possible by Bay City Wal-Mart, Bay City Boys and Girls Club and The First Baptist Church of Bay City.

Police department employees volunteer with many other numerous community programs. Community Food Drive (successfully fed 565 families for the Christmas Holiday), American Cancer Society Fund Raiser (Relay for Life Police Team), Officers donate their police service to Senior night lock ins and other nonprofit organizations such as Red Cross and Salvation Army Events, Gulf Coast Regional Blood Drives (Hosted 4 Blood Drives at the police department for 2013), there was a team of four BCPD cooks that participated in The Great Steak Cook Off benefiting the Boys and Girls Club, BCPD hosted the 3rd Annual Law Enforcement Fish Fun Day which raised money for the Boys and Girls Club (several law enforcement agencies participated in the event), several officers continue to volunteer as coaches to several leagues in the Bay City area, civic organizations, churches, school activities, and youth programs which are just a few of the ways many of us give back to the community that supports us so well.

The BCPD provides a variety of programs and services to the public. Contact the department at 979-245-8500, or visit our website at www.cityofbaycity.org for more information on the programs and services we offer. You can also follow us on Facebook at <http://www.facebook.com/BayCityTxPD>

Bay City Police Department 2013 Annual Report

**Statistical Information:*

	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Calls For Service</u>			
911 Calls	11,293	13,031	13,710
Total Calls for Service	33,453	38,739	29,769
<u>Traffic</u>			
Contact Stops	7,017	7,523	6,963
Accidents	154	139	274
Injuries	55	51	90
Fatalities	1	0	2
<u>Arrest</u>			
Adult	1,640	1,602	1,568
Juveniles	90	102	95
Total	1,730	1,704	1,663
<u>Warrants</u>			
Total Received	612	1,526	1,220
Total Served	662	1,438	712

Attachment: Annual Report 2013 (1300 : Police Dept. Annual report for 2013)

*Statistical Information-Continued:

201120122013Uniform Crime Index

Criminal Homicide	4	1	1
Sexual Assault	36	40	27
Robbery	9	10	5
Aggravated Assaults	19	31	45
Simple Assaults (non-UCR Reportable)	657	587	503
Burglary	148	143	212
Larceny	531	528	485
Motor Vehicle Theft	6	7	8
Arson	4	4	2

Family Violence

Officer Responses	328	303	315
Arrest	146	117	130

Property Value Statistics

Value of Property Reported Stolen	\$662,380.00	\$549,173.00	\$723,027.00
Value of Property Recovered	\$124,474.00	\$ 79,361.00	\$168,709.00

Special Response Team (SRT)

Call-outs	25	8	5
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Animal Control

Live Animals Picked Up	958	1,031	901
Dead Animals Picked Up	204	213	189
Animal Welfare Calls	211	186	227
Total Calls for Service	2,646	2,261	2,061

*Statistical Information-Continued:

201120122013Training

Total out of town hours	2,188	1,225	2,080
Total BCPD contact hours	8,027	6,135	5,196
Total Department Training Hours	10, 215	7,360	7,276

TCLEOSE Certifications

Peace officer	3	3	2
Basic Peace Officer	10	10	8
Intermediate	4	3	4
Advanced	8	7	6
Master	17	17	18
Instructor	17	23	23
F.T.O.	22	24	23
S.F.S.T.	28	27	28
Mental Health	5	5	4
Firearms Inst.	4	5	5
Crime Prevention Spl.	5	5	5
Intoxilyzer Opr.	1	1	0
Inter. Crash Inv.	6	6	5
Advance crash Inv.	0	0	0
Inv. Hypnotist	1	1	1

Jailer

Jailer License	3	0	0
Basic Certification	5	4	4
Master Certification	1	1	1

Attachment: Annual Report 2013 (1300 : Police Dept. Annual report for 2013)

**Statistical Information-Continued:*201120122013

Communications

Temp. Telecommunications	2	6	2
Basic Telecommunications	8	7	5
Intermediate Telecommunications	1	0	1
Advance Telecommunications	4	4	10

Investigations

Cases Assigned for Investigation	1,724	2,039	1,918
CPS Referrals	146	213	190
APS Referrals			17

Crime Prevention

Community Presentations	38	120	228
Home and Business Safety Awareness	0	3	4

Crime Victim's Liaison Division

Victim's Served	673	502	603
Crime Victim's Compensation Applications Served	23	26	41
Crime Victim's Compensation payouts to Victims	\$117,202.30	\$86,665.80	\$61,620.92

Mental Health

Total Calls	207	253	231
Transports	31	55	53

**Statistical Information-Continued:*

2011

2012

2013

Juveniles

Transports

12

48

70

Special Operations

Total Special Operations performed

21

18

15

Narcotic Related Statistics

Total Cases

259

184

134

Total Arrest

130

120

81

Vehicles Seized

8

6

5

Money Seized

\$10,768.00

\$25,574.00

\$10,656.50



City Council
1901 5Th Street
Bay City, TX 77414

TABLED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Amendment
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:

AGENDA ITEM (ID # 1302)

DOC ID: 1302 A

**CONSIDER AND/OR APPROVE AN ORDINANCE
ESTABLISHING A FRANCHISE FOR USE OF CITY STREETS
FOR PURPOSES OF CONDUCTING NON CONSENT TOWING
SERVICES; ESTABLISHING NON CONSENT TOWING FEES;
AND ESTABLISHING ADDITIONAL PROVISIONS RELATING
TO NON-EXCLUSIVE FRANCHISE AGREEMENTS FOR
TOWING SERVICE PROVIDERS ON A ROTATIONAL BASIS.**

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY'S CODE RELATING TO NON-CONSENT TOWING OF VEHICLES; ESTABLISHING A FRANCHISE FOR USE OF CITY STREETS FOR PURPOSES OF CONDUCTING NONCONSENT TOWING SERVICES; ESTABLISHING NONCONSENT TOWING FEES; AND ESTABLISHING ADDITIONAL PROVISION RELATING TO NON-EXCLUSIVE FRANCHISE AGREEMENTS FOR TOWING SERVICE PROVIDERS ON A ROTATIONAL BASIS; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

WHEREAS, The proper and safe functioning of the auto wrecker towing business has a significant impact on the safety and welfare of the general public since it involves the use of public streets of the City, often in circumstances necessitating prompt, competent removal of dangerous traffic obstructions, and providing appropriate services to citizens who can be stranded in particularly vulnerable positions; and

WHEREAS, The City has the authority granted under state law and 49 U.S.C. Section 14501(c) (2) (A) and (C) to regulate auto wreckers with regard to safety, minimum amounts of proof of financial responsibility and with regard to prices charged by auto wreckers in transporting motor vehicles without the prior consent or authorization of the owner or operator of the motor vehicle; and

WHEREAS, the City Council of the City of Bay City finds it necessary to enact regulations providing for the safety of its citizens, financial responsibility requirements for auto wreckers and price limits for non-consent tows without otherwise regulating the price, route or service of auto wreckers operating within city limits.

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

Article II, Administration and Enforcement of Chapter 110 of the City's Code of Ordinances is hereby amended as reflected in the attached Exhibit "A" which is hereby incorporated as if fully set out herein.

DIVISION 3. – NONCONSENT TOWING

Section 110.86. ADMINISTRATION.

- (A) The police ~~department~~chief shall administer and enforce this chapter.
- (B) The police chief may adopt rules for the administration and enforcement of this chapter. The rules must be reasonably designed to promote public health and safety and ensure that:

- (1) towing companies and tow truck drivers are able to perform their responsibilities under this chapter and carry adequate liability insurance;
- (2) the police chief is able to determine the correct identity and qualifications of individuals licensed under this chapter;
- (3) towing companies responding to the scene of an accident respond reasonably promptly;
- (4) tow trucks responding to an accident or incident scene have the appropriate capabilities to deal with damaged or noncompliant vehicles at the scene; and
- (5) tow trucks are operated in a safe and efficient manner and in accordance with the provisions of this article and state law.

Section 110.87. COMPLIANCE REQUIRED

- (A) A person commits an offense if the person:
- (1) performs an act prohibited by this chapter;
 - (2) fails to perform an act required by this chapter; or
 - (3) violates a rule adopted under this chapter.
- (B) A violation of this chapter is a Class C misdemeanor.
- (C) Proof of a mental state is not required for the prosecution of a violation of this chapter.

Section 110.88. This chapter does not apply to towing that is performed by a governmental entity.

Section 110.89. DEFINITIONS

In this chapter:

- (1) **CONSENT TOW** means a tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.
- (2) **DEPARTMENT** means the Bay City Police Department.
- (3) **DROP FEE:** The price to be charged in lieu of a towing fee where, after an auto wrecker/tow truck has been dispatched to, or is at the scene of a tow, and has started to physically attach or connect the vehicle to the auto wrecker, and the vehicle has not been towed from the scene when the vehicle owner requests its release.
- (4) **MANUFACTURER'S CERTIFICATE** means a plate permanently affixed to either a truck or towing equipment by the manufacturer which states the truck or equipment's gross poundage capacity.
- (5) **NON-CONSENT TOW** means any tow conducted without the permission or authorization of the vehicle's legal or registered owner or the owner's authorized

representative, regardless of the vehicle's location or condition. Towing of the vehicle of a person who has been taken into custody by a law enforcement agency or a person who is unable to select a wrecker service due to accident or injury is considered a non-consent tow. An impoundment tow from the scene of an accident is considered a non-consent tow. This definition includes all tows from private property conducted without the vehicle owner's or representative's consent (Private Property Impound Tow). A non-consent tow under this article does not include tows initiated by law enforcement agencies other than the Bay City Police Department.

- (6) **PARKING FACILITY:** Any public or private property used, in whole or in part, for paid or restricted parking.
- (7) **Texas Department of Licensing and Regulation (TDLR):** The State of Texas agency, or successor agency, responsible for the regulation and issuance of licenses for tow truck operations and vehicle storage facilities within the State of Texas.
- (8) **TOW TRUCK** means a motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle.
- (9) **TOWING COMPANY** means an individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.
- (10) **UNAUTHORIZED VEHICLE** means a vehicle parked, stored, or located on a parking facility without the consent of the parking facility owner.
- (11) **VEHICLE STORAGE FACILITY** has the meaning ascribed by Section 2308.002 (Definitions) of the Texas Occupations Code

Section 110.92. Towing Services Provided By Franchisees Only

The City Related Towing Franchise is regulated by Bay City Municipal Code Chapter 110 and the corresponding franchise agreement with the towing services provider. No person shall perform towing services under this ordinance for the City unless such person has obtained a franchise from the City of Bay City. The City Council may award one or more franchises for towing services on such terms and conditions as the Council may establish in its sole discretion. A franchise is not required under the following situations:

- (1) operators performing towing services for entities or persons other than the City of Bay City;
- (2) operators performing towing services at the direction of the City when no franchisee is available or able to perform such services or cannot provide such services in a timely manner; or
- (3) an officer or employee of the city in the course of official duty

Section 110.93. COMPLIANCE WITH STATE LAW

- (A) A towing company shall comply with all applicable state laws related to towing.

Section 110.94. EQUIPMENT REQUIRED

(A) A person may not operate a tow truck in the city unless the tow truck is equipped as required by state law and this chapter and meets the requirements of a Category A, [of] Category B, or Category C tow truck.

(B) A towing company shall maintain a tow truck and its required equipment in a safe operating condition at all times that the tow truck is operating on a public roadway.

Sec. 110.95 TOW TRUCK INSPECTION.

A peace officer may stop and inspect a tow truck to determine whether the tow truck is equipped as required by this article and whether the equipment is in working order.

Section 110.96. PEACE OFFICER NOT TO INFLUENCE SELECTION OF TOWING BUSINESS.

A peace officer may not recommend a particular towing company to a person or influence, or attempt to influence, a person's selection of a towing business, auto repair shop, or automobile dealer.

Section 110.97. MINIMUM EQUIPMENT REQUIREMENTS

(A) Except as provided by Subsection (B), a towing company must have at least one registered Category A, ~~one registered Category B, or one registered Category C~~ tow truck ~~to tow a vehicle only~~.

(B) A towing company must own or have a contract for the use of a vehicle storage facility and have at least one registered Category A tow truck to tow a vehicle that is parked illegally in a private parking facility.

Section 110.98. SOLICITING TOWING BUSINESS ON CITY STREETS RESTRICTED

A towing company may not solicit business from a City street to provide towing service to a vehicle disabled in an accident on a City street. This prohibition applies to a solicitation to tow, remove, repair, wreck, store, trade, sell, or purchase the vehicle.

Section 110.99. NOTIFICATION OF VEHICLE REMOVAL

(A) A towing company that removes a vehicle in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code or in executing a repossession shall notify the department not later than one hour after the removal.

(B) The notification must include:

- (1) the name of the towing company;
- (2) the date, time, and location of the removal;
- (3) the physical description, license number and vehicle identification number of the vehicle removed;
- (4) the name of the tow truck operator who performed the removal; and
- (5) the storage location of the vehicle.

Section 110.100. TOWING RESTRICTED

(A) Except as provided in subsection (B), a towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code may not tow a vehicle under this chapter when the vehicle owner objects to the tow or tenders payment of the appropriate fee authorized in the fee schedule and removes the vehicle within 30 minutes.

(B) If a towing company is authorized to remove a vehicle from a parking facility, it may remove the vehicle earlier than 30 minutes after the vehicle owner objects to the tow if the vehicle:

- (1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;
- (2) prevents a vehicle from exiting a parking space in the facility; or
- (3) is in or obstructs a properly marked fire lane.

Section 110.101. TOWING FEE SCHEDULE

(A) In this section FULLY PREPARED FOR TRANSPORT describes a vehicle that is attached to a tow truck, is lifted, with tow lights and safety chains attached and, if required, is placed on a dolly in a raised position.

(B) The council shall establish a Tow Fee Schedule which the city council is hereby authorized to amend from time to time as it deems necessary and in accordance with the provisions of this ordinance. The fee schedule shall be maintained in the office of the City Secretary.

Section 110.102 PROHIBITED CHARGES FOR NON-CONSENT TOWS

(A) A person may not charge or attempt to charge a fee related to non-consent towing under this chapter:

- (1) in excess of the fee established in the tow fee schedule;
- (2) for a service not performed or equipment not used; or
- (3) that is not authorized by ordinance.

(B) This section applies to a towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code. This section does not apply to a

repossession. A towing company may charge a towing fee only as provided in this section. A towing company may not charge more than one fee under this section for towing a single vehicle.

(C) A towing company may charge a fully prepared for transport fee when a vehicle has been fully prepared for transport but has not been removed from the property.

(D) A towing company may charge the standard non-consent fee when it removes a vehicle from the property

Section 110.103 VEHICLE STORAGE FACILITY REQUIRED

A towing company shall own or have a contract to use a designated vehicle storage facility to store vehicles removed in a non-consent tow that is:

- (1) licensed by the State of Texas; and
- (2) located within 5,000 feet of the full or limited purpose annexation areas of the City.

Section 110.104. REMOVAL TO DESIGNATED FACILITY

(A) Except as provided in Subsection (B), a towing company that performs a non-consent tow of a vehicle from private property:

- (1) shall immediately tow the vehicle to the towing company's designated vehicle storage facility; and
- (2) may not unload the towed vehicle at a place other than the company's designated vehicle storage facility.

(B) A towing company that performs a non-consent tow of a vehicle from private property may unload a vehicle at a place other than its vehicle storage facility only:

- (1) if safety reasons or mechanical breakdown require the transfer of the vehicle to another tow truck; or
- (2) to transfer the vehicle to another tow truck, within 100 feet of the private property, if the original tow truck is the company's only available truck that is capable of entering the property and removing a vehicle, and the original truck is needed immediately for additional towing from the private property.

Section 110.105. RELEASE OF VEHICLE FROM STORAGE, IMPOUNDMENT

(A) A vehicle storage facility may not refuse to release a vehicle in its possession to the vehicle owner, or the owner's agent, after the person pays the applicable fees, unless a law enforcement agency directed that the vehicle not be released or release of the vehicle is prohibited by a court order.

(B) A person may not remove or attempt to remove a vehicle that is lawfully stored by a vehicle storage facility unless the applicable charges are paid and accepted, or the person removing the vehicle has obtained permission from the vehicle storage facility.

(C) A towing company must release a vehicle when a peace officer directs the towing company to release the vehicle.

(D) A person who pays a towing fee in cash or who tenders payment in cash meets the payment requirements under this chapter in all circumstances.

(E) A towing company shall provide a vehicle owner the option of ~~paying~~paving the towing fee by cash or a major credit card.

Section 110.106. ACCIDENT SCENE ACCESS RESTRICTED

Except as provided under this chapter, a towing company may not enter an accident scene or other site under a peace officer's control without the officer's permission. In this article, the term "accident scene" includes a scene of a disabled vehicle.

Section 110.107. ACCIDENT SCENE REQUIREMENTS

(A) A person may not drive, or cause another person to drive, a tow truck to an accident scene on a City street unless:

- (1) the person is summoned to the scene by a peace officer or by a person involved in the accident; or
- (2) it is necessary to prevent death or bodily injury, and emergency medical personnel are not present.

(B) A towing company that is summoned to an accident scene by a person involved in an accident shall:

- (1) immediately notify the department that the towing company is responding to the accident scene; and
- (2) obtain the person's signature and information on a form provided by the police chief, if the person is present and willing to sign.

(C) A towing company stopping to protect an accident scene may not tow a vehicle from the accident scene unless it is a non-consent tow rotation or a traffic incident call at the direction of a peace officer in charge.

(D) A towing company that is summoned to an accident scene by a peace officer or a person involved in the accident shall comply with the rules adopted by the police chief or this article.

(E) A towing company that does not deliver a tow truck, of the category specified by a peace officer, to an accident scene by the deadline prescribed by this section or by a rule adopted under

this chapter may, in the discretion of a peace officer at the accident scene, forfeits the call for towing service. Regardless of whether the call was forfeited, the towing company may be subject to administrative action related to its continued listing on the non-consent tow rotation list.

Section 110.108. NON-CONSENT TOW ROTATION LISTS

(A) This section does not apply to non-consent tows of disabled vehicles from private property.

(B) The department shall maintain a rotation list of towing companies that are available to perform non-consent tows from an accident scene, from the scene of a disabled vehicle or from any location the Department is authorized to tow a vehicle. The department shall use the list to assign towing companies to perform non-consent tows in accordance with this article.

Section 110.109. LIST CATEGORIES

[(A)] The department shall assign each tow truck [towing company] on the rotation list to Category A, Category B, or Category C as provided in rules adopted by the police chief.

Section 110.110 ROTATION LIST REQUIREMENTS

(A) Any person, firm, corporation, or partnership desiring to operate one or more auto wreckers for "non-consent" towing in the City shall submit a written request for inclusion on the City's rotation list to the chief of police or designee with the following information:

1. A copy of the Applicant's current TDLR Tow Truck Permit including the following Permit attachments: Company Information and Insurance;
2. A copy of the Applicant's current TDLR Vehicle Storage Facility Permit including the following Permit attachments: Company Information; and Insurance.
3. Owner shall provide a written statement that he will comply with the provisions of this ordinance and all other ordinances, statutes and state laws applicable to motor vehicles and auto wrecker businesses. Further, that owner will ensure compliance with said laws by all his auto wrecker drivers.
4. Owner shall provide a copy of owner's Texas Sales and Use Tax Permit, for a location within one (1) mile of the city limits of the City of Bay City.
5. Only one (1) auto wrecker business may operate at any one (1) business address and/or location, regardless of whether the same person, partnership, or corporation owns more than one (1) permitted auto wrecker business.
6. Each owner shall maintain sufficient personnel to provide twenty-four hour auto wrecker service under normal circumstances. Each owner shall have: at least one telephone number which is answered twenty-four hours a day, seven days a week by that

auto wrecker business at its business address and or location without routing telephone calls through a switchboard. Routing telephone calls through a switchboard shall be grounds for removing the wrecker service from the non-consent rotation list.

7. Owner shall promptly provide written confirmation to the chief of police or designee of any changes, revisions, renewals, or non-renewals to owner's TDLR Tow Permit or TDLR Vehicle Storage Facility Permit.

Section 110.111. USE OF LISTS

(A) When a peace officer at an accident or incident scene contacts the department to send a tow truck to the scene, the department shall call the towing company whose name appears at the beginning of the non-consent tow rotation list for the category of tow truck required at the scene.

(B) If the first towing company contacted is unable to send a tow truck, the department shall continue to call towing companies in the order in which they appear on the list until a towing company on the list responds.

(C) After the department calls a company whose name appears on the non-consent tow rotation list, the company's name shall be moved to the bottom of the list.

Section 110.112. TRAFFIC INCIDENT MANAGEMENT PROGRAM

The police chief may establish a traffic incident management towing program on any major street. The program shall be established by rules adopted by the chief.

In facilitating this program, the chief may:

- (1) designate one or more zones on a street;
- (2) maintain a list of interested towing companies authorized to remove a disabled vehicle from the right-of-way of a designated street;
- (3) establish operating times and days of the week of the program;
- (4) prescribe qualifications, response times, and procedures for a participating towing company;
- (5) prohibit a towing company from charging for removal of a vehicle from the right-of-way, and authorize a towing company to charge a fee for towing to another authorized location;
- (6) remove a towing company from the list if the company fails to comply with state law, this chapter, or rules adopted under this chapter; and
- (7) impose other requirements as deemed appropriate.

Section 110.113. REMOVAL FROM NON-CONSENT TOW ROTATION LIST

(A) The police chief may remove a tow truck operator from participation in a nonconsent rotation list, including a list of the traffic incident management program, if the tow truck operator fails to comply with state law, this chapter, or rules adopted under this chapter.

(B) Except as provided in subsection C~~Θ~~, the police chief may remove a towing company from a non-consent rotation list, including a list of the traffic incident management program, if the company fails to comply with state law, this chapter, or rules adopted under this chapter.

(C) A towing company may be removed from a rotation list based upon a tow truck operator's failure to comply with state law, this chapter, or rules adopted under this chapter only if:

- (1) the company directed, encouraged, or solicited a tow truck operator's conduct; or
- (2) the company knew or should have known that the operator or other operators have repeatedly engaged in such conduct and has failed to take corrective action within a reasonable time.

Section 110.114. NOTICE REQUIRED

(A) Before taking adverse action under this article, the police chief shall notify the applicant or holder of the intended action, except that advance notice is not required in actions related to:

- (1) safety hazards;
- (2) absence of state motor carrier registration; or
- (3) absence of ownership or contract with licensed vehicle storage facility.

(B) The police chief shall send the notice by certified mail, return receipt requested to the mailing address listed on the person's application, certificate, or license, as applicable.

(C) The notice is presumed to have been received on the 10th working day after mailing, unless an earlier date is indicated on the return receipt.

(D) Except for actions that are authorized to take effect without advance notice, a [A] denial, suspension, [of] revocation, or removal is effective on the 20th day after the notice is mailed.

(E) If the police chief takes action without advance notice, the police chief shall send a notice to the person or company affected by the action that includes the factual basis for the action.

Section 110.115. HEARING

(A) The person to whom the notice is sent may request a hearing.

(B) The request must be in writing and received by the police chief not later than the 15th day after the notice was sent. If the person fails to submit to the police chief a request for hearing not later than the 15th day after the notice is sent, the suspension, revocation or denial of the license or certificate, or the removal from the list or program, becomes final on expiration of the time specified in the notice.

(C) The police chief shall hold an informal [a] hearing not later than the 15th day after the request for a hearing is received. At the hearing the formal rules of evidence do not apply. The police chief shall decide the appeal on the basis of the preponderance of the evidence presented.

(D) The police chief shall make a determination on the appeal not later than the 10th day after the hearing. The police chief may affirm, reverse, or modify the previous determination.

Section 110.116. APPEAL

(A) A person may appeal the police chief's decision in writing to the ~~city manager~~Mayor not later than the 10th day after the effective date of the decision. The person must include a statement of the grounds for the appeal.

The notice of appeal does not stay the police chief's decision.

(C) The ~~city manager~~Mayor shall schedule a public hearing not later than the 15th day after receipt of the notice of appeal. The ~~city manager~~Mayor shall give notice of the time and place set for the hearing to the police chief and the appellant not less than five days before the hearing.

Section 110.117. APPEAL PROCEDURE

(A) At an appeal hearing under Section 13-6-136 (Appeal), the police chief and the appellant may present evidence, testimony, and argument.

(B) The ~~city manager~~Mayor's decision is final.

Section 110.118. TOWING FEE STUDY

(A) In this section, a "towing fee study" is a study to determine the fair market value of a non-consent tow originating in the City, considering financial information provided to the City by the towing company requesting the study.

(B) A towing company may request that the City conduct a towing fee study by filing a written request with the ~~city manager~~Mayor by certified mail, return receipt requested, or by hand delivery.

(C) Within 90 days after the filing of an initial request additional towing companies may join the request by filing written requests in accordance with Subsection (B).

(D) The City shall conduct a towing fee study if the initial requestor and the additional requestors, if any:

- (1) accounted for not less than 50 percent of the non-consent tows performed in the City during the preceding twelve month period, as determined by the city manager; and
- (2) deposit with the city manager a fee of \$1,000.

(E) If the towing fee study is not conducted the City shall refund the fee, less an administrative fee of \$250.

(F) Each towing company requesting the towing fee study shall cooperate with the City to conduct the study. Each such towing company shall provide to the City information determined by the ~~city manager~~Mayor to be reasonably necessary to determine the fair market value of towing services regulated under this Chapter.

(G) The City shall complete a towing fee study not later than the 120th day after receiving all information required under Subsection (F).

(H) The ~~city manager~~Mayor shall present to the city council the results of the towing fee study. The ~~city manager~~Mayor shall give to each towing company that owns or leases tow trucks registered with the city written notice of the time, date, and location of the city council meeting at which the study is to be considered. The notice must be sent by United States regular mail to the towing company's address listed in the latest registration application on file with the police chief.

(I) Based on the results of the towing fee study, the city council may change the non-consent towing fees. The maximum fees must represent the fair market value of the services of a towing company performing non-consent tows originating in the City.

(J) The City is not required to conduct more than one towing fee study within a two-year time period, measured from the date the city council most recently considered a towing fee study.

(K) ~~Not~~ later than the second anniversary of the effective date of this ordinance and at succeeding two year intervals, regardless of whether a towing company has requested a fee study, the ~~City Manager~~Mayor shall present to the City Council recommendations for adjustments to the fees established by ordinance for non-consent tows.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY'S CODE RELATING TO NON-CONSENT TOWING OF VEHICLES; ESTABLISHING A FRANCHISE FOR USE OF CITY STREETS FOR PURPOSES OF CONDUCTING NON-CONSENT TOWING SERVICES; ESTABLISHING NON-CONSENT TOWING FEES; AND ESTABLISHING ADDITIONAL PROVISION RELATING TO NON-EXCLUSIVE FRANCHISE AGREEMENTS FOR TOWING SERVICE PROVIDERS ON A ROTATIONAL BASIS; PROVIDING FOR PENALTY, CUMULATIVE AND CONFLICTS CLAUSE, SEVERABILITY, PUBLICATION AND AN EFFECTIVE DATE

WHEREAS, The proper and safe functioning of the auto wrecker towing business has a significant impact on the safety and welfare of the general public since it involves the use of public streets of the City, often in circumstances necessitating prompt, competent removal of dangerous traffic obstructions, and providing appropriate services to citizens who can be stranded in particularly vulnerable positions; and

WHEREAS, The City has the authority granted under state law and 49 U.S.C. Section 1450l(c) (2) (A) and (C) to regulate auto wreckers with regard to safety, minimum amounts of proof of financial responsibility and with regard to prices charged by auto wreckers in transporting motor vehicles without the prior consent or authorization of the owner or operator of the motor vehicle; and

WHEREAS, the City Council of the City of Bay City finds it necessary to enact regulations providing for the safety of its citizens, financial responsibility requirements for auto wreckers and price limits for non-consent tows without otherwise regulating the price, route or service of auto wreckers operating within city limits.

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

Section one. Chapter 110 Amended. Article II, Administration and Enforcement of Chapter 110 of the City's Code of Ordinances is hereby amended by creating a new DIVISION 3., (entitled "NON-CONSENT TOWING") as reflected in the attached **Exhibit "A"** which is hereby incorporated as if fully set out herein.

Section two. Penalty. Violation of any provision of this ordinance is a class C misdemeanor and subject to the penalties prescribed in Section 1-16 of the City's Code of Ordinances.

Section three. 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 conflicting provisions of such ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

Section four. 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 five. Effective Date. This Ordinance shall become effective immediately upon its passage, approval and publication as provided by law.

PASSED AND APPROVED on this 27th day of February, 2014.

Mark Bricker, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

Rhonda Clegg, City Secretary
City of Bay City

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

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Julie L. Estlinbaum	_____	_____	_____
Bill Cornman	_____	_____	_____
Chrystal Folsie	_____	_____	_____
Steven Johnson	_____	_____	_____
Carolyn Thames, Mayor Pro Tem	_____	_____	_____

Mark A. Bricker, Mayor,
City of Bay City

ATTEST:

Rhonda Clegg, City Secretary

APPROVED AS TO FORM:

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

Attachment: ORDINANCE NO. - Towing Final (1302 : Towing)

EXHIBIT “A”
NON-CONSENT TOWING ORDINANCE

Attachment: ORDINANCE NO. - Towing Final (1302 : Towing)

DIVISION 3. – NON-CONSENT TOWING

Section 110.86. ADMINISTRATION.

- (A) The Police Department shall administer and enforce this chapter.
- (B) The police chief may adopt rules for the administration and enforcement of this chapter. The rules must be reasonably designed to promote public health and safety and ensure that:
 - (1) towing companies and tow truck drivers are able to perform their responsibilities under this chapter and carry adequate liability insurance;
 - (2) the police chief is able to determine the correct identity and qualifications of individuals licensed under this chapter;
 - (3) towing companies responding to the scene of an accident respond reasonably promptly;
 - (4) tow trucks responding to an accident or incident scene have the appropriate capabilities to deal with damaged or noncompliant vehicles at the scene; and
 - (5) tow trucks are operated in a safe and efficient manner and in accordance with the provisions of this article and state law.

Section 110.87. COMPLIANCE REQUIRED

- (A) A person commits an offense if the person:
 - (1) performs an act prohibited by this chapter;
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In this chapter:

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- (2) **DEPARTMENT** means the Bay City Police Department.
- (3) **DROP FEE:** The price to be charged in lieu of a towing fee where, after an auto wrecker/tow truck has been dispatched to, or is at the scene of a tow, and has started to physically attach or connect the vehicle to the auto wrecker, and the vehicle has not been towed from the scene when the vehicle owner requests its release.
- (4) **MANUFACTURER'S CERTIFICATE** means a plate permanently affixed to either a truck or towing equipment by the manufacturer which states the truck or equipment's gross poundage capacity.
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Section 110.92. Towing Services Provided By Franchisees Only

The City Related Towing Franchise is regulated by Bay City Municipal Code Chapter 110 and the corresponding franchise agreement with the towing services provider. No person shall perform towing services under this ordinance for the City unless such person has obtained a franchise from the City of Bay City. The City Council may award one or more franchises for towing services on such terms and conditions as the Council may establish in its sole discretion. A franchise is not required under the following situations:

- (1) operators performing towing services for entities or persons other than the City of Bay City;

- (2) operators performing towing services at the direction of the City when no franchisee is available or able to perform such services or cannot provide such services in a timely manner; or
- (3) an officer or employee of the city in the course of official duty

Section 110.93. COMPLIANCE WITH STATE LAW

- (A) A towing company shall comply with all applicable state laws related to towing.

Section 110.94. EQUIPMENT REQUIRED

- (A) A person may not operate a tow truck in the city unless the tow truck is equipped as required by state law and this chapter and meets the requirements of a Category A, [of] Category B, or Category C tow truck.
- (B) A towing company shall maintain a tow truck and its required equipment in a safe operating condition at all times that the tow truck is operating on a public roadway.

Sec. 110.95 TOW TRUCK INSPECTION.

A peace officer may stop and inspect a tow truck to determine whether the tow truck is equipped as required by this article and whether the equipment is in working order.

Section 110.96. PEACE OFFICER NOT TO INFLUENCE SELECTION OF TOWING BUSINESS.

A peace officer may not recommend a particular towing company to a person or influence, or attempt to influence, a person's selection of a towing business, auto repair shop, or automobile dealer.

Section 110.97. MINIMUM EQUIPMENT REQUIREMENTS

- (A) Except as provided by Subsection (B), a towing company must have at least one registered Category A tow truck.
- (B) A towing company must own or have a contract for the use of a vehicle storage facility and have at least one registered Category A tow truck to tow a vehicle that is parked illegally in a private parking facility.

Section 110.98. SOLICITING TOWING BUSINESS ON CITY STREETS RESTRICTED

A towing company may not solicit business from a City street to provide towing service to a vehicle disabled in an accident on a City street. This prohibition applies to a solicitation to tow, remove, repair, wreck, store, trade, sell, or purchase the vehicle.

Section 110.99. NOTIFICATION OF VEHICLE REMOVAL

(A) A towing company that removes a vehicle in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code or in executing a repossession shall notify the department not later than one hour after the removal.

(B) The notification must include:

- (1) the name of the towing company;
- (2) the date, time, and location of the removal;
- (3) the physical description, license number and vehicle identification number of the vehicle removed;
- (4) the name of the tow truck operator who performed the removal; and
- (5) the storage location of the vehicle.

Section 110.100. TOWING RESTRICTED

(A) Except as provided in subsection (B), a towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code may not tow a vehicle under this chapter when the vehicle owner objects to the tow or tenders payment of the appropriate fee authorized in the fee schedule and removes the vehicle within 30 minutes.

(B) If a towing company is authorized to remove a vehicle from a parking facility, it may remove the vehicle earlier than 30 minutes after the vehicle owner objects to the tow if the vehicle:

- (1) is in or obstructs a vehicular traffic aisle, entry, or exit of the parking facility;
- (2) prevents a vehicle from exiting a parking space in the facility; or
- (3) is in or obstructs a properly marked fire lane.

Section 110.101. TOWING FEE SCHEDULE

(A) In this section FULLY PREPARED FOR TRANSPORT describes a vehicle that is attached to a tow truck, is lifted, with tow lights and safety chains attached and, if required, is placed on a dolly in a raised position.

(B) The council shall establish a Tow Fee Schedule which the city council is hereby authorized to amend from time to time as it deems necessary and in accordance with the provisions of this ordinance. The fee schedule shall be maintained in the office of the City Secretary.

Section 110.102 PROHIBITED CHARGES FOR NON-CONSENT TOWS

(A) A person may not charge or attempt to charge a fee related to non-consent towing under this chapter:

- (1) in excess of the fee established in the tow fee schedule;
- (2) for a service not performed or equipment not used; or
- (3) that is not authorized by ordinance.

(B) This section applies to a towing company that intends to remove a vehicle from a parking facility in accordance with Chapter 684 (Removal of Unauthorized Vehicles from Parking Facility or Public Roadway) of the Texas Transportation Code. This section does not apply to a repossession. A towing company may charge a towing fee only as provided in this section. A towing company may not charge more than one fee under this section for towing a single vehicle.

(C) A towing company may charge a fully prepared for transport fee when a vehicle has been fully prepared for transport but has not been removed from the property.

(D) A towing company may charge the standard non-consent fee when it removes a vehicle from the property

Section 110.103 VEHICLE STORAGE FACILITY REQUIRED

A towing company shall own or have a contract to use a designated vehicle storage facility to store vehicles removed in a non-consent tow that is:

- (1) licensed by the State of Texas; and
- (2) located within 5,000 feet of the full or limited purpose annexation areas of the City.

Section 110.104. REMOVAL TO DESIGNATED FACILITY

(A) Except as provided in Subsection (B), a towing company that performs a non-consent tow of a vehicle from private property:

- (1) shall immediately tow the vehicle to the towing company's designated vehicle storage facility; and
- (2) may not unload the towed vehicle at a place other than the company's designated vehicle storage facility.

(B) A towing company that performs a non-consent tow of a vehicle from private property may unload a vehicle at a place other than its vehicle storage facility only:

- (1) if safety reasons or mechanical breakdown require the transfer of the vehicle to another tow truck; or

(2) to transfer the vehicle to another tow truck, within 100 feet of the private property, if the original tow truck is the company's only available truck that is capable of entering the property and removing a vehicle, and the original truck is needed immediately for additional towing from the private property.

Section 110.105. RELEASE OF VEHICLE FROM STORAGE, IMPOUNDMENT

(A) A vehicle storage facility may not refuse to release a vehicle in its possession to the vehicle owner, or the owner's agent, after the person pays the applicable fees, unless a law enforcement agency directed that the vehicle not be released or release of the vehicle is prohibited by a court order.

(B) A person may not remove or attempt to remove a vehicle that is lawfully stored by a vehicle storage facility unless the applicable charges are paid and accepted, or the person removing the vehicle has obtained permission from the vehicle storage facility.

(C) A towing company must release a vehicle when a peace officer directs the towing company to release the vehicle.

(D) A person who pays a towing fee in cash or who tenders payment in cash meets the payment requirements under this chapter in all circumstances.

(E) A towing company shall provide a vehicle owner the option of paying the towing fee by cash or a major credit card.

Section 110.106. ACCIDENT SCENE ACCESS RESTRICTED

Except as provided under this chapter, a towing company may not enter an accident scene or other site under a peace officer's control without the officer's permission. In this article, the term "accident scene" includes a scene of a disabled vehicle.

Section 110.107. ACCIDENT SCENE REQUIREMENTS

(A) A person may not drive, or cause another person to drive, a tow truck to an accident scene on a City street unless:

- (1) the person is summoned to the scene by a peace officer or by a person involved in the accident; or
- (2) it is necessary to prevent death or bodily injury, and emergency medical personnel are not present.

(B) A towing company that is summoned to an accident scene by a person involved in an accident shall:

- (1) immediately notify the department that the towing company is responding to the accident scene; and

(2) obtain the person's signature and information on a form provided by the police chief, if the person is present and willing to sign.

(C) A towing company stopping to protect an accident scene may not tow a vehicle from the accident scene unless it is a non-consent tow rotation or a traffic incident call at the direction of a peace officer in charge.

(D) A towing company that is summoned to an accident scene by a peace officer or a person involved in the accident shall comply with the rules adopted by the police chief or this article.

(E) A towing company that does not deliver a tow truck, of the category specified by a peace officer, to an accident scene by the deadline prescribed by this section or by a rule adopted under this chapter may, in the discretion of a peace officer at the accident scene, forfeits the call for towing service. Regardless of whether the call was forfeited, the towing company may be subject to administrative action related to its continued listing on the non-consent tow rotation list.

Section 110.108. NON-CONSENT TOW ROTATION LISTS

(A) This section does not apply to non-consent tows of disabled vehicles from private property.

(B) The department shall maintain a rotation list of towing companies that are available to perform non-consent tows from an accident scene, from the scene of a disabled vehicle or from any location the Department is authorized to tow a vehicle. The department shall use the list to assign towing companies to perform non-consent tows in accordance with this article.

Section 110.109. LIST CATEGORIES

[(A)] The department shall assign each tow truck [towing company] on the rotation list to Category A, Category B, or Category C as provided in rules adopted by the police chief.

Section 110.110 ROTATION LIST REQUIREMENTS

(A) Any person, firm, corporation, or partnership desiring to operate one or more auto wreckers for "non-consent" towing in the City shall submit a written request for inclusion on the City's rotation list to the chief of police or designee with the following information:

1. A copy of the Applicant's current TDLR Tow Truck Permit including the following Permit attachments: Company Information and Insurance;
2. A copy of the Applicant's current TDLR Vehicle Storage Facility Permit including the following Permit attachments: Company Information; and Insurance.
3. Owner shall provide a written statement that he will comply with the provisions of this ordinance and all other ordinances, statutes and state laws applicable to motor vehicles

and auto wrecker businesses. Further, that owner will ensure compliance with said laws by all his auto wrecker drivers.

4. Owner shall provide a copy of owner's Texas Sales and Use Tax Permit, for a location within one (1) mile of the city limits of the City of Bay City.

5. Only one (1) auto wrecker business may operate at any one (1) business address and/or location, regardless of whether the same person, partnership, or corporation owns more than one (1) permitted auto wrecker business.

6. Each owner shall maintain sufficient personnel to provide twenty-four hour auto wrecker service under normal circumstances. Each owner shall have: at least one telephone number which is answered twenty-four hours a day, seven days a week by that auto wrecker business at its business address and or location without routing telephone calls through a switchboard. Routing telephone calls through a switchboard shall be grounds for removing the wrecker service from the non-consent rotation list.

7. Owner shall promptly provide written confirmation to the chief of police or designee of any changes, revisions, renewals, or non-renewals to owner's TDLR Tow Permit or TDLR Vehicle Storage Facility Permit.

Section 110.111. USE OF LISTS

(A) When a peace officer at an accident or incident scene contacts the department to send a tow truck to the scene, the department shall call the towing company whose name appears at the beginning of the non-consent tow rotation list for the category of tow truck required at the scene.

(B) If the first towing company contacted is unable to send a tow truck, the department shall continue to call towing companies in the order in which they appear on the list until a towing company on the list responds.

(C) After the department calls a company whose name appears on the non-consent tow rotation list, the company's name shall be moved to the bottom of the list.

Section 110.112. TRAFFIC INCIDENT MANAGEMENT PROGRAM

The police chief may establish a traffic incident management towing program on any major street. The program shall be established by rules adopted by the chief.

In facilitating this program, the chief may:

- (1) designate one or more zones on a street;
- (2) maintain a list of interested towing companies authorized to remove a disabled vehicle from the right-of-way of a designated street;
- (3) establish operating times and days of the week of the program;

- (4) prescribe qualifications, response times, and procedures for a participating towing company;
- (5) prohibit a towing company from charging for removal of a vehicle from the right-of-way, and authorize a towing company to charge a fee for towing to another authorized location;
- (6) remove a towing company from the list if the company fails to comply with state law, this chapter, or rules adopted under this chapter; and
- (7) impose other requirements as deemed appropriate.

Section 110.113. REMOVAL FROM NON-CONSENT TOW ROTATION LIST

- (A) The police chief may remove a tow truck operator from participation in a non-consent rotation list, including a list of the traffic incident management program, if the tow truck operator fails to comply with state law, this chapter, or rules adopted under this chapter.
- (B) Except as provided in subsection C, the police chief, or his designee, may remove a towing company from a non-consent rotation list, including a list of the traffic incident management program, if the company fails to comply with state law, this chapter, or rules adopted under this chapter.
- (C) A towing company may be removed from a rotation list based upon a tow truck operator's failure to comply with state law, this chapter, or rules adopted under this chapter only if:
 - (1) the company directed, encouraged, or solicited a tow truck operator's conduct; or
 - (2) the company knew or should have known that the operator or other operators have repeatedly engaged in such conduct and has failed to take corrective action within a reasonable time.

Section 110.114. NOTICE REQUIRED

- (A) Before taking adverse action under this article, the police chief shall notify the applicant or holder of the intended action, except that advance notice is not required in actions related to:
 - (1) safety hazards;
 - (2) absence of state motor carrier registration; or
 - (3) absence of ownership or contract with licensed vehicle storage facility.
- (B) The police chief shall send the notice by certified mail, return receipt requested to the mailing address listed on the person's application, certificate, or license, as applicable.
- (C) The notice is presumed to have been received on the 10th working day after mailing, unless an earlier date is indicated on the return receipt.
- (D) Except for actions that are authorized to take effect without advance notice, a [A] denial, suspension, [of] revocation, or removal is effective on the 20th day after the notice is mailed.

(E) If the police chief takes action without advance notice, the police chief shall send a notice to the person or company affected by the action that includes the factual basis for the action.

Section 110.115. HEARING

(A) The person to whom the notice is sent may request a hearing.

(B) The request must be in writing and received by the police chief not later than the 15th day after the notice was sent. If the person fails to submit to the police chief a request for hearing not later than the 15th day after the notice is sent, the suspension, revocation or denial of the license or certificate, or the removal from the list or program, becomes final on expiration of the time specified in the notice.

(C) The police chief shall hold an informal [a] hearing not later than the 15th day after the request for a hearing is received. At the hearing the formal rules of evidence do not apply. The police chief shall decide the appeal on the basis of the preponderance of the evidence presented.

(D) The police chief shall make a determination on the appeal not later than the 10th day after the hearing. The police chief may affirm, reverse, or modify the previous determination.

Section 110.116. APPEAL

(A) A person may appeal the police chief's decision in writing to the Mayor not later than the 10th day after the effective date of the decision. The person must include a statement of the grounds for the appeal.

The notice of appeal does not stay the police chief's decision.

(C) The Mayor shall schedule a public hearing not later than the 15th day after receipt of the notice of appeal. The Mayor shall give notice of the time and place set for the hearing to the police chief and the appellant not less than five days before the hearing.

Section 110.117. APPEAL PROCEDURE

(A) At an appeal hearing under Section 13-6-136 (Appeal), the police chief and the appellant may present evidence, testimony, and argument.

(B) The Mayor's decision is final.

Section 110.118. TOWING FEE STUDY

(A) In this section, a "towing fee study" is a study to determine the fair market value of a non-consent tow originating in the City, considering financial information provided to the City by the towing company requesting the study.

- (B) A towing company may request that the City conduct a towing fee study by filing a written request with the Mayor by certified mail, return receipt requested, or by hand delivery.
- (C) Within 90 days after the filing of an initial request additional towing companies may join the request by Filing written requests in accordance with Subsection (B).
- (D) The City shall conduct a towing fee study if the initial requestor and the additional requestors, if any:
- (1) accounted for not less than 50 percent of the non-consent tows performed in the City during the preceding twelve month period, as determined by the Mayor; and
 - (2) deposit with the Mayor a fee of \$1,000.
- (E) If the towing fee study is not conducted the City shall refund the fee, less an administrative fee of \$250.
- (F) Each towing company requesting the towing fee study shall cooperate with the City to conduct the study. Each such towing company shall provide to the City information determined by the Mayor to be reasonably necessary to determine the fair market value of towing services regulated under this Chapter.
- (G) The City shall complete a towing fee study not later than the 120th day after receiving all information required under Subsection (F).
- (H) The Mayor shall present to the city council the results of the towing fee study. The Mayor shall give to each towing company that owns or leases tow trucks registered with the city written notice of the time, date, and location of the city council meeting at which the study is to be considered. The notice must be sent by United States regular mail to the towing company's address listed in the latest registration application on file with the police chief.
- (I) Based on the results of the towing fee study, the city council may change the non-consent towing fees. The maximum fees must represent the fair market value of the services of a towing company performing non-consent tows originating in the City.
- (J) The City is not required to conduct more than one towing fee study within a two-year time period, measured from the date the city council most recently considered a towing fee study.
- (K) **Not** later than the second anniversary of the effective date of this ordinance and at succeeding two year intervals, regardless of whether a towing company has requested a fee study, the Mayor shall present to the City Council recommendations for adjustments to the fees established by ordinance for non-consent tows.



City Council
1901 5Th Street
Bay City, TX 77414

Meeting: 02/27/14 07:00 PM
Department: Public Works
Category: RFP
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1342

ADOPTED

AGENDA ITEM (ID # 1342)

**CONSIDER AND/OR APPROVE PUBLIC WORKS STAFF TO
PREPARE REQUEST FOR QUALIFICATIONS (RFQ)
DOCUMENTS AND TO ADVERTISE TO FORMALLY SOLICIT
BIDS TO HIRE ADDITIONAL ENGINEERING PROFESSIONAL
FIRMS TO DESIGN FUTURE PROJECTS WITHIN THE CITY OF
BAY CITY.**

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



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1343)

Meeting: 02/27/14 07:00 PM
Department: Public Works
Category: RFP
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1343

**CONSIDER AND/OR APPROVE AUTHORIZING THE MAYOR
TO SOLICIT REQUEST FOR QUALIFICATIONS FOR PROJECT
ADMINISTRATIVE SERVICES TO BE PERFORMED IN
ASSOCIATION WITH THE 2013 CDBG GRANT TO CONVERT
DOWNTOWN SIDEWALKS FROM TILE TO BRICK PAVERS.**

CONSIDER AND/OR APPROVE THE CITY OF BAY CITY TO SOLICIT REQUEST FOR PROPOSALS (RFP) AND ADVERTISE FOR THE NECESSARY PROJECT ADMINISTRATION AND/OR MANAGEMENT FOR A 2013 CDBG GRANT FROM THE TEXAS CAPITAL FUND. GRANT FUNDS WILL BE USED TO CONVERT THE DOWNTOWN SIDEWALK ALONG AVE G BETWEEN 6TH STREET AND 7TH STREET FROM TILE TO BRICK PAVERS.

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

**City of Bay City
1901 Fifth Street
Bay City, TX 77414**

February 19, 2014

City of Bay City - Request for Proposals for Administration Services - 2013 TCF grant

Dear Sir or Madam:

Below you will find a copy of the Request for Proposals for necessary Project Administration and/or Management for a 2013 CDBG grant from the Texas Capital Fund. The submission requirements for these proposals are included on the following Information Sheet. A sample service contract is provided in the attachment.

Deadline for submission of proposals is 4 PM, March 5, 2014. We reserve the right to negotiate with any and all persons or firms submitting proposals, per the Texas Professional Services Procurement Act, Uniform Grant Management Standards and the HUD Grants Management Common Rule (24 CFR 85.36).

We are an Affirmative Action/Equal Opportunity Employer.

Attachment: RFP admin_Bay City MS (1343 : RFP for Administrative Services for Main Street Grant)

INFORMATION SHEET REQUEST FOR PROPOSALS FOR PROJECT ADMINISTRATION SERVICES

The City of Bay City is seeking to enter into a professional services contract with a competent management/consulting firm to assist in the overall management of its 2013 TCF contract received from the Texas Department of Agriculture – Office of Rural Affairs (TDA-ORA) for a Main Streets project. The following outlines the request for proposals.

The City of Bay City proposes to install approximately 5,400 sq. ft. of 12'-wide sidewalk with concrete pavers and 350 LF of concrete step, reattach five handrails, install 350 LF of conduit/wiring for electrical, disconnect/reconnect 5 light standards, and reattach 38 awning supports on the 2100 block of Avenue G, Bay City, TX.

I. Scope of Work - The management consultant or firm to be hired is to provide contract-related management services to the City of Bay City, including but not limited to the following areas:

- Establish and maintain recordkeeping and financial systems
- Prepare start-up documents
- Environmental Review/notices/clearance
- Fair Housing/EEO/Section 504 compliance documentation
- Construction start-up documentation
- Labor standards compliance
- Monitoring and Close Out assistance

Ancillary services that may be necessary to satisfactorily complete the above-listed scope of work categories include: ongoing document preparation, ongoing financial management of grant and local match funds, technical assistance and advice, coordination and liaison services, assistance with project modifications and amendments, real property acquisition assistance and advice. All work must be done in accordance with HUD and Texas CDBG requirements.

II. Statement of Qualifications - The City of Bay City is seeking to contract with a competent management/consulting firm that has had experience in grants/contracts administration. Specifically, it is seeking those persons or firms with the following qualifications:

- Experience in managing federally-funded local public works construction projects
- Experience with the federal Community Development Block Grant program, through either the HUD Entitlement/Small Cities or Texas Community Development Program, including with the type of project described above.
- Experience working with the community.

Please provide within your proposal a list of past client local governments, as well as resumes of all employees who will or may be assigned to provide technical assistance to the City on this project if your firm is awarded this management services contract. References may be contacted to confirm work performance (quality, timeliness, competence, etc.)

III. Proposed Cost of Services - Include a proposed cost by Scope of Work category of what you or your firm feels is appropriate. Please note that proposed cost will be considered but is not the primary basis for selection of a service provider.

IV. Evaluation Criteria - The proposals received will be evaluated and ranked according to the following criteria:

<u>Criteria</u>	<u>Maximum Points</u>
Experience	40
Work Performance	30
Capacity to Perform	10
Proposed Cost	20
Total	100

DEADLINE FOR SUBMISSION: Interested parties shall submit four (4) copies of their proposal for these activities to the City of Bay City, Attn: City Secretary at 1901 Fifth Street, Bay City, TX 77414, no later than 4 PM on March 5, 2014.

SELECTION OF CONSULTANTS: We shall review all materials submitted, and if required schedule interviews with prospective consultants in order to select the most qualified for each activity. We are an Affirmative Action/Equal Opportunity Employer and reserve the rights to reject any and all proposals, extend the RFP deadline and to waive formalities in our selection. Selection of a firm shall occur at a City Council meeting at the City's discretion. Please call (979) 245-2322 to confirm receipt of submission and meeting date.

Attachment: RFP admin_Bay City MS (1343 : RFP for Administrative Services for Main Street Grant)

Sample Contract

PART I AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, by and between the CITY OF _____, hereinafter called the "City", acting herein by _____ hereunto duly authorized, and _____ hereinafter called "Firm", acting herein by _____.

WITNESSETH THAT:

WHEREAS, the City of _____ desires to implement a _____ under the general direction of the Texas Community Development Program; and Whereas the City desires to engage _____ to render certain services in connection with its _____.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services
Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. Time of Performance - The services of _____ shall commence on _____. In any event, all of the services required and performed hereunder shall be completed no later than _____.
3. Access to Information - It is agreed that all information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished to _____ by the City and its agencies. No charge will be made to _____ for such information and the City and its agencies will cooperate with _____ in every way possible to facilitate the performance of the work described in the contract.
4. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$_____. Payment to (person/firm) shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Contract.
5. Indemnification - _____ shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against them, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
6. Miscellaneous Provisions
 - a. This Agreement shall be construed under and accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in _____ County, Texas.
 - b. This Agreement shall be binding upon and insure to the benefit of the parties hereto and heir respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall not be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to an incorporated into this Agreement.
7. Terms and Conditions - This Agreement is subject to the provisions titled, "Part IV Terms and Conditions" and attached hereto and incorporated by reference herein.

Sample Contract

PART II PROFESSIONAL MANAGEMENT SCOPE OF SERVICES

The Management Firm shall provide the following scope of services:

A. Project Management

1. Develop a recordkeeping system consistent with program guidelines, including the establishment of a filing system
2. Maintenance of filing system
3. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters
4. Assist in the procurement of professional consulting engineering services through the request for proposal process, if applicable, and as required by the CDBG regulations
5. Furnish Grant Recipient with necessary forms and procedures required for implementation of project
6. Assist the Grant Recipient in meeting all special condition requirements that may be stipulated in the contract between the Grant Recipient and TDRA
7. Prepare and submit to Office documentation necessary for amending the CDBG contract
8. Conduct re-assessment of environmental clearance for any program amendments
9. Prepare and submit quarterly reports
10. Prepare [Financial Interest Report](#) form for Grant Recipient submittal
11. Establish procedures to document expenditures associated with local administration of the project
12. Provide guidance and assistance to Grant Recipient regarding acquisition of property:
 - Submit required reports concerning acquisition activities to Office
 - Establish a separate acquisition file for each parcel of real property acquired
 - Determine necessary method(s) for acquiring real property
 - Prepare correspondence to the property owners for the Grant Recipient's signature to acquire the property or to secure an easement
 - Assist the Grant Recipient in negotiation with property owner(s)
13. Maintain CDBG Property Management register for any property/equipment purchased or leased
14. Serve as liaison for the Grant Recipient during any monitoring visit by staff representatives from either TxCDBG or HUD

B. Financial Management

1. Assist the Grant Recipient in proving its ability to manage the grant funds to the state's audit division.
2. Assist the Grant Recipient in establishing and maintaining a bank account (Direct Deposit account) and/or separate local bank account, journals and ledgers.
3. Assist the Grant Recipient in submitting the required Accounting System Certification letter, Direct Deposit Authorization Form (if applicable), and/or Depository/Authorized Signatory form to Office.
4. Prepare all fund drawdowns on behalf of the Grant Recipient in order to ensure orderly, timely payments to all contracting parties within the allotted time period.
5. Review invoices received for payment and file back-up documentation
6. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters
7. Assist the Grant Recipient in establishing procedures to handle the use of any CDBG program income.

C. Environmental Review

1. Prepare environmental assessment.
2. Coordinate environmental clearance procedures with other federal or state agencies and interested parties responsible for implementing applicable laws.
3. Document consideration of any public comments.
4. Prepare any required re-assessment of environmental assessment.
5. Ensure compliance with EO 11988 for projects in the flood plains.
6. Prepare Request for Release of Funds and certifications to be sent to TxCDBG.

D. Acquisition

Attachment: RFP admin_Bay City MS (1343 : RFP for Administrative Services for Main Street Grant)

1. Prepare required acquisition reports(s).
2. Obtain documentation of ownership for Recipient-owned property and/or ROWs.
3. Maintain a separate file for each parcel of real property acquired.
4. Determine necessary method(s) for acquiring real property.
5. Prepare correspondence with property owners.
6. Assist Grant Recipient in negotiations with property owner(s).
7. Prepare required acquisition reports and submit to TxCDBG.

E. Construction Management

1. Establish procedures to document expenditures associated with local construction of the project (if force account is applicable).
 - Assist Grant Recipient in determining whether and/or what CDBG contract activities will be carried out in whole or in part via force account labor.
 - Assist Grant Recipient in determining whether or not it will be necessary to hire temporary employees to specifically carry out CDBG contract activities.
 - Assist Grant Recipient in maintaining adequate documentation of personnel, equipment and materials expended/used and their costs.
2. Assist Grant Recipient in documenting compliance with all federal and state requirements related to equal employment opportunity.
3. Assist Grant Recipient in documenting compliance with all federal and state requirements related to minimum wage and overtime pay requirements.
4. Provide assistance to or act as local labor standards officer. Notify TxCDBG in writing of name, address, and phone number of appointed labor standards compliance officer.
5. Request wage rates from TxCDBG.
6. Provide sample CDBG contract documents to engineer.
7. Advertise for bids.
8. Make ten-day call to TxCDBG.
9. Verify construction contractor eligibility with TxCDBG.
10. Review construction contract.
11. Conduct pre-construction conference and prepare minutes.
12. Submit any reports of additional classification and rates to TxCDBG.
13. Issue Notice of Start of Construction to TxCDBG.
14. Review weekly payrolls, including compliance follow-ups. Conduct employee interviews.
15. Process change orders approved by Grant Recipient and the project engineer and submit to TxCDBG prior to execution with the construction contractor.
16. Obtain Certificate of Construction Completion/Final Wage Compliance Report and submit to TxCDBG.
17. Provide general advice and technical assistance to Grant Recipient personnel on implementation of project and regulatory matters.

F. Fair Housing / Equal Opportunity

1. Assist the Grant Recipient in developing, implementing and documenting new activities to affirmatively further fair housing activities during the contract period.
2. Maintain documentation of all project beneficiaries by ethnicity and gender.
3. Prepare Section 3 and Affirmative Action Plan.
4. Prepare all Section 504 requirements.
5. Provide all applicable equal opportunity provisions and certifications for inclusion in bid packet

G. Relocation

1. Prepare and submit local relocation guidelines to Office for approval.
2. Assist Grant Recipient in identifying individuals to be relocated and prepare appropriate notices.
3. Interview relocatees and identify assistance needs.
4. Maintain a relocation record for each individual/family.
5. Provide education/assistance to relocatees.
6. Inventory local available housing resources and maintain a referral list.
7. Issue appropriate notices to relocatees.
8. Ensure that all payments are made in a timely manner.

H. Rehabilitation of Private Property

1. Prepare and submit local rehabilitation guidelines to TxCDBG for approval.
 2. Assist Grant Recipient in establishing escrow account and obtaining Office approval.
 3. Develop outreach and necessary application processing/verification forms.
 4. Screen applicants.
 5. Prepare work write-ups and cost estimates.
 6. Issue Notice to Proceed to construction contractor(s).
 7. Conduct interim/final inspections, process final contract documents, and maintain a record of beneficiaries.
 8. Maintain client files following Office requirements.
- I. Audit / Close-out Procedures
1. Prepare the [Project Completion Report](#).
 2. Assist Grant Recipient in resolving any monitoring and audit findings.
 3. Assist Grant Recipient in resolving any third party claims.
 4. Provide auditor with CDBG audit guidelines.

Sample Contract

PART III -- PAYMENT SCHEDULE

PROFESSIONAL MANAGEMENT SERVICES

Grant Recipient shall reimburse (person/firm) for management services provided for completion of the following project milestones per the following percentages of the maximum contract amount:

Milestone / Task	% of Contract Fee
• Establishment of Recordkeeping System	5%
• Completion of Environmental/Special Conditions Clearance	15%
• Completion of all Acquisition Activities	10%
• Completion of the Bid/Contract Award Process	15%
• Labor Standards Compliance/Completion of Construction	15%
• Comply with EEO / Fair Housing Requirements	10%
• Program and Financial Management	20%
• Filing of all Required Close-out Information	10%
Total	100%

NOTE: Percentages of payment listed here are guidelines based on management services typically provided. The payment schedule should be tied directly to the actual Scope of Work identified in Part II - Administrative Scope of Services. Localities may also opt to reimburse Professional Services Contracts on an hourly basis.

Sample Contract

PART IV TERMS AND CONDITIONS

PROFESSIONAL MANAGEMENT, ENGINEERING AND/OR ARCHITECTURAL SERVICES

1. Termination of Contract for Cause. If, through any cause, the Firm shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the City/County shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm under this Contract shall, at the option of the City/County, become its property and the Firm shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Firm shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of the Contract by the Firm, and the City/County may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the City/County from the Firm is determined.

2. Termination for Convenience of the City/County. The City/County may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Firm. If the Contract is terminated by the City/County as provided herein, the Firm will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Firm, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The City/County may, from time to time, request changes in the scope of the services of the Firm to be performed hereunder. Such changes, including any increase or decrease in the amount of the Firm's compensation, which are mutually agreed upon by and between the City/County and the Firm, shall be incorporated in written amendments to this Contract.
4. Personnel.
 - a. The Firm represents that he/she has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City/County.
 - b. All of the services required hereunder will be performed by the Firm or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City/County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. Assignability. The Firm shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City/County thereto: Provided, however, that claims for money by the Firm from the City/County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City/County.
6. Reports and Information. The Firm, at such times and in such forms as the City/County may require, shall furnish the City/County such periodic reports as it may request pertaining to the work or services undertaken

pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.

7. Records and Audits. The Firm shall insure that the City/County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to OMB Circular A-87, Section 570.490 of the Regulations, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. City/County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.
8. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the City/County.
9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Firm.
10. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Firm shall save the City/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
11. Equal Employment Opportunity. During the performance of this Contract, the Firm agrees as follows:
 - a. The Firm will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City/County setting forth the provisions of this non-discrimination clause.
 - b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
 - c. The Firm will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 - d. The Firm will include the provisions a. through c. in every subcontract or purchase order unless exempted.
12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
13. Section 109 of the Housing and Community Development Act of 1974.
 - a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities.
 - a. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Office of Housing and Urban Development and is subject to the

requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in the area of the project.

- b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R. 235, and all applicable rules and orders of TxCDBG issued thereunder prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
- c. The Firm will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. The Firm will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

15. Section 503 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers

- a. The Firm will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Firm agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. The Firm agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- c. In the event of the Firm's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
- d. The Firm will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.

16. Interest of Members of a City/County. No member of the governing body of the City/County and no other officer, employee, or agent of the City/County, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract. And the Firm shall take appropriate steps to assure compliance.

17. Interest of Other Local Public Officials. No member of the governing body of the Grant Recipient and no other public official of such Grant Recipient, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.

18. Interest of Firm and Employees. The Firm covenants that he/she presently has no interest and shall not acquire interest, director indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Firm further covenants that in the performance of this Contract, no person having any such interest shall be employed.



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1344)

Meeting: 02/27/14 07:00 PM
Department: Public Works
Category: RFP
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 1344

**AUTHORIZING THE MAYOR TO SOLICIT REQUEST FOR
QUALIFICATIONS FOR PROJECT AUTHORIZING THE MAYOR
TO SOLICIT REQUEST FOR QUALIFICATIONS FOR
ENGINEERING SERVICES TO BE PERFORMED IN
ASSOCIATION WITH THE 2013 CDBG GRANT TO CONVERT
DOWNTOWN SIDEWALKS FROM TILE TO BRICK PAVERS.**

CONSIDER AND/OR APPROVE THE CITY OF BAY CITY TO SOLICIT REQUEST FOR QUALIFICATIONS (RFQ) AND ADVERTISE FOR THE NECESSARY ENGINEERING SERVICES FOR A 2013 CDBG GRANT FROM THE TEXAS CAPITAL FUND. GRANT FUNDS WILL BE USED TO CONVERT THE DOWNTOWN SIDEWALK ALONG AVE G BETWEEN 6TH STREET AND 7TH STREET FROM TILE TO BRICK PAVERS.

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

**City of Bay City
1901 Fifth Street
Bay City, TX 77414**

February 19, 2014

City of Bay City - Request for Qualifications for Engineering Services - 2013 TCF grant

Dear Sir or Madam:

Below you will find a copy of the Request for Qualifications for necessary engineering services for a 2013 CDBG grant from the Texas Capital Fund to implement a Main Streets Project. The submission requirements for these qualifications are included on the following information sheet. A sample service contract is provided in the attachment.

Deadline for submission of qualifications is 4 PM, March 5, 2014. We reserve the right to negotiate with any and all persons or firms submitting qualifications, per the Texas Professional Services Procurement Act, the Texas Engineering Practice Act, Uniform Grant Management Standards and the HUD Grants Management Common Rule (24 CFR 85.36).

We are Affirmative Action/Equal Opportunity Employer.

Attachment: RFQ engineer_Bay City MS (1344 : RFQ for Engineering Services for Main Street Grant)

INFORMATION SHEET REQUEST FOR QUALIFICATIONS FOR ENGINEERING SERVICES

The City of Bay City is seeking to enter into an engineering services contract with a state-registered engineer for engineering services for its 2013 TCF contract received from the Texas Department of Agriculture – Office of Rural Affairs (TDA-ORA) for a Main Streets project. The following outlines this request for qualifications.

I. Scope of Work - The engineering contract will encompass all project-related engineering services to the City of Bay City, including but not limited to the following:

- Prepare preliminary and final design plans and specifications, including design survey
- Prepare the bid package, publish bid ads and coordinate bid process and contract award
- Review and approve change orders
- Administer construction oversight
- Conduct all field testing and inspections
- Prepare record drawings, to be provided to the locality in digital format
- Other special engineering services required to complete project as described
- Easement or other real property survey if acquisition is required

The City of Bay City proposes to install approximately 5,400 sq. ft. of 12'-wide sidewalk with concrete pavers and 350 LF of concrete step, reattach five handrails, install 350 LF of conduit/wiring for electrical, disconnect/reconnect 5 light standards, and reattach 38 awning supports on the 2100 block of Avenue G, Bay City, TX.

II. Statement of Qualifications - The City is seeking to contract with a competent engineering firm, registered to practice in the State of Texas with experience as lead design consultant in the following areas:

- Municipal utility systems
- Federally funded construction projects
- Previous work locally or in this general region of the state
- Projects of similar type and scope
- Project construction management experience

Please provide within your submission a list of past client local governments, as well as resumes of all engineers who will or may be assigned to this project if you receive the engineering services contract award including in-house CAD, survey, construction inspection, etc as required. Please also provide a copy of your current certificate of insurance for professional liability. References may be contacted to confirm work performance (quality, timeliness, within budget constraints, etc.)

III. Evaluation Criteria - The submissions received will be evaluated and ranked according to the following criteria:

<u>Criteria</u>	<u>Maximum Points</u>
Experience	60
Work Performance	25
Capacity to Perform	15
Total	100

DEADLINE FOR SUBMISSION: Interested parties shall submit four (4) copies of their qualifications for these activities to the City of Bay City, Attn: City Secretary at 1901 Fifth Street, Bay City, TX 77414, no later than 4 PM on March 5, 2014. In addition to the hard copies, send a digital copy of the submission to CityofBayCityTexas@gmail.com.

SELECTION OF CONSULTANTS: We shall review all materials submitted, and if required schedule interviews with prospective engineers in order to select the most qualified before entering into contract negotiations. We will negotiate final contract terms and price with the most qualified firm; should negotiations fail we shall negotiate with the next most qualified firm until an agreement is reached.

Selection of a firm shall occur at a City Council meeting at the City's discretion. Please call (979) 245-2322 to confirm receipt of submission and meeting date.

We are an Affirmative Action/Equal Opportunity Employer and reserve the right to reject any and all qualifications and to waive formalities in its selection.

Sample Contract

PART I AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, by and between the CITY OF _____, hereinafter called the "City", acting herein by _____ hereunto duly authorized, and _____ hereinafter called "Firm", acting herein by _____.

WITNESSETH THAT:

WHEREAS, the City of _____ desires to implement a _____ under the general direction of the Texas Community Development Program; and Whereas the City desires to engage _____ to render certain services in connection with its _____.

NOW THEREFORE, the parties do mutually agree as follows:

1. Scope of Services
Part II, Scope of Services, is hereby incorporated by reference into this Agreement.
2. Time of Performance - The services of _____ shall commence on _____ In any event, all of the services required and performed hereunder shall be completed no later than _____.
3. Access to Information - It is agreed that all information, data, reports and records and maps as are existing, available and necessary for the carrying out of the work outlined above shall be furnished to _____ by the City and its agencies. No charge will be made to _____ for such information and the City and its agencies will cooperate with _____ in every way possible to facilitate the performance of the work described in the contract.
4. Compensation and Method of Payment - The maximum amount of compensation and reimbursement to be paid hereunder shall not exceed \$_____. Payment to (person/firm) shall be based on satisfactory completion of identified milestones in Part III - Payment Schedule of this Contract.
5. Indemnification - _____ shall comply with the requirements of all applicable laws, rules and regulations, and shall exonerate, indemnify, and hold harmless the City and its agency members from and against them, and shall assume full responsibility for payments of Federal, State and local taxes on contributions imposed or required under the Social Security, worker's compensation and income tax laws.
6. Miscellaneous Provisions
 - a. This Agreement shall be construed under and in accord with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in _____ County, Texas.
 - b. This Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns where permitted by this Agreement.
 - c. In any case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall not be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
 - d. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.
 - e. This Agreement may be amended by mutual agreement of the parties hereto and a writing to be attached to an incorporated into this Agreement.
7. Terms and Conditions - This Agreement is subject to the provisions titled, "Part IV Terms and Conditions" and attached hereto and incorporated by reference herein.

IN WITNESSETH HEREOF, the parties have hereunto set their hands and seals.

CITY OF _____ FIRM: _____
BY: _____ BY: _____
(Mayor)

NOTE: This document has important legal consequences. Please consult with your legal counsel with respect to its completion or modification.

Attachment: RFQ engineer_Bay City MS (1344 : RFQ for Engineering Services for Main Street Grant)

Sample Contract

PART II

PROFESSIONAL ENGINEERING/ARCHITECTURAL SCOPE OF SERVICES

The Engineering Firm shall render the following services necessary for the development of the project:

SCOPE OF SERVICES

1. Attend preliminary conferences with the Grant Recipient regarding the requirements of the project.
2. Determine necessity for any acquisition of any additional real property/easements/ROWs for the CDBG project and, if applicable, furnish to the Grant Recipient:
 - Name and address of property owners;
 - Legal description of parcels to be acquired;
 - Map showing entire tract with designation of part to be acquired.
3. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the Grant Recipient providing or obtaining other services such as auger borings, core borings, soil tests, or other subsurface explorations; laboratory testing and inspecting of samples or materials; other special consultations. The Engineer will review any tests required and act as the Grant Recipient's representative in connection with any such services.
4. Prepare railroad/highway permits.
5. Prepare a preliminary engineering/architectural study and report on the project in sufficient detail to indicate clearly the problems involved and the alternate solutions available to the Grant Recipient, to include preliminary layouts, sketches and cost estimates for the project, and to set forth clearly the Engineer's recommendations; to be completed within _____ days of contract execution.
6. Furnish the Grant Recipient copies of the preliminary report, if applicable (additional copies will be furnished to the Grant Recipient at direct cost of reproduction);
7. Furnish the Grant Recipient a written monthly status report at least seven (7) days prior to the regularly scheduled council/commissioner's court meeting until the project is closed by the Texas Department of Agriculture - Office of Rural Affairs (TDA - ORA). The format for this report is attached to this Agreement as Part IV.
8. Submit detailed drawings and plans/specifications to appropriate regulatory agency(ies) and obtain clearance.
9. Prepare bid packet/contract documents/advertisement for bids. At the time the bid packet is completed, the Engineering Firm shall also furnish to the Grant Recipient an updated written Estimate of Probable Costs for the Project.
10. Ensure 10-day call is submitted to confirm prevailing wage decision issued by TxCDBG.
11. Incorporate any and all wage rate modifications or supersedes via bid addendum (if applicable).
12. Conduct bid opening and prepare minutes.
13. Tabulate, analyze, and review bids for completeness and accuracy.
14. Accomplish Construction Contractor eligibility verification.
15. Conduct pre-construction conference and prepare copy of report/minutes.
16. Issue Start of Construction Notice to TCDBG and Notice to Proceed to construction contractor.
17. Provide in all proposed construction contracts deductive alternatives where feasible, so that should the lowest responsive base bid for construction exceed the funds available, deductive alternatives can be taken to reduce the bid price.
18. Design for access by persons with disabilities to facilities to be used by the public in accordance with Public Law 504.
19. Use forms for instructions to bidders, general conditions, contract, bid bond, performance bond, and payment bond that have TxCDBG approval.
20. Make periodic visits, no less than every 30 days during the construction period, to the site to observe the progress and quality of the work, and to determine in general if the work is proceeding in accordance with the Contract.
21. Consult with and advise the Grant Recipient during construction; issue to contractors all instructions requested by the Grant Recipient; and prepare routine change orders if required, at no charge for engineering services to the Grant Recipient when the change order is required to correct errors or omissions by the Engineer; provide price analysis for change orders; process change orders approved by Grant Recipient and the project engineer and submit to TxCDBG for approval prior to execution with the construction contractor.
22. Review shop and working drawings furnished by contractors for compliance with design concept and with information given in contract documents (contractors will be responsible for dimensions to be confirmed and correlated at job site).
23. Resolve all payment requests within 14 days of receipt of signed pay request from the Construction Contractor.
24. Based on the Engineer's on-site observations and review of the contractor's applications for payment, determine the amount owed to the contractor in such amounts; such approvals of payment to constitute a representation to

Attachment: RFQ engineer_Bay City MS (1344 : RFQ for Engineering Services for Main Street Grant)

the Grant Recipient, based on such observations and review, that the work has progressed to the point indicated and that the quality of work is in accordance with the plans, specifications and contract documents.

25. Recommend that a 10% retainage is withheld from all payments on construction contracts until final acceptance by the Grant Recipient and approval by TxCDBG, unless State or local law provides otherwise.
26. Prepare Certificate of Construction Completion and Clean Lien Certificate. A Clean Lien Certificate may be prepared for each of the Prime Contractor(s) and each of the subcontractor(s).
27. Conduct interim/final inspections.
28. Revise contract drawings to show the work as actually constructed, and furnish the Grant Recipient with a set of "record drawings" plans.
29. The Engineer will provide a copy of the final project record drawing(s) engineering schematic(s), as constructed using funds under this contract. These maps shall be provided in digital format containing the source map data (original vector data) and the graphic data in files on machine readable media, such as compact disc (CD), which are compatible with computer systems owned or readily available to the owner. The digital copy provided shall not include a digital representation of the engineer's seal but the accompanying documentation from the engineer shall include a signed statement of when the map was authorized, that the digital map is a true representation of the original sealed document, and that a printed version with the seal has been provided to the owner. In addition, complete documentation as to the content and layout of the data files and the name of the software package(s) used to generate the data and maps shall be provided to the owner in written form.

CONSTRUCTION CONTRACTS AND SUBCONTRACTS

1. No work under this Contract shall be subcontracted by Engineer without prior approval, in writing, from the Grant Recipient.
2. The Engineer shall, prior to proceeding with the work, notify Grant Recipient in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during progress of the work, the Grant Recipient determines that any subcontractor is incompetent or undesirable, the Grant Recipient will notify the Engineer who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Contract shall create any contractual relation between any subcontractor and Grant Recipient.
4. The Engineer will include in all contracts and subcontracts of amounts in excess of \$100,000 a provision which requires compliance with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act [42 U.S. 1857 (h)], Section 508 of the Clean Water Act (33 U.S.C. 1368d), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provisions shall require reporting of violations to TxCDBG and to the U.S. Environmental Protection Agency Assistant Administrator for Enforcement.
5. The Engineer will include in all contracts and subcontracts other than for small purchases (less than \$10,000), provisions or conditions which will allow for administrative, contractual or legal remedies in instances which violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
6. The Engineer will include in all contracts and subcontracts in excess of \$10,000 suitable provisions for termination by the Grant Recipient including the manner by which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the Engineer.
7. The Engineer will include in all contracts and subcontracts in excess of \$10,000 provisions requiring compliance with the following:
 - The Engineer will not discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, physical or mental disability, marital status, parenthood, or age.
 - Executive Order 11246 - Equal Employment Opportunity.
 - Copeland Anti-Kickback Act.
 - Davis-Bacon Act – prime contractor contracts in excess of \$2,000.
 - Section 103 and 107 of the Contract Work Hours and Safety Standards Act – contracts in excess of \$2,000.
 - a provision recognizing mandatory standards and policies relating to energy efficiency that are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
 - Section 3 of the Housing and Urban Development Act of 1969.
 - Title VI of the Civil Rights Act of 1964
8. The Engineer will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 24 CFR Part 24. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.

9. The Engineer will include in all negotiated contracts and subcontracts a provision to the effect that the Grant Recipient, TxCDBG, the Comptroller General of the State of Texas, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.
10. The Engineer will include in all contracts and subcontracts a requirement that the Contractor maintain all relevant project records for three (3) years after the Grant Recipient has made final payment to the Contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Engineer and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Engineer represents that it has the required skills and capacity to perform work and services to be provided under this Contract.
2. The Engineer represents that services provided under this Contract shall be performed within the limits prescribed by the Grant Recipient in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Engineer's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from Grant Recipient and at the Engineer's expense if the deficiency is due to Engineer's negligence. The Grant Recipient shall notify the Engineer in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the Grant Recipient under applicable state or federal law.
4. The Engineer agrees to and shall hold harmless the Grant Recipient, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Engineer, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Engineer doing the work herein contracted for or by or in consequence of any negligence in the performance of this Contract, or by or on account of any omission in the performance of this Contract.

NOTE: This document has important legal consequences. Please consult with your legal counsel with respect to its completion or modification.

Sample Contract

PART III -- PAYMENT SCHEDULE PROFESSIONAL ENGINEERING/ARCHITECTURAL SERVICES

Grant Recipient shall reimburse (person/firm) for basic engineering services provided upon completion of the following project milestones per the following percentages of the maximum contract amount:

Milestone	% of Contract Fee
* Approval of Preliminary Engineering Plans and Specifications by Grant Recipient.	20%
* Approval of Plans and Specifications by Regulatory Agency(ies).	20%
* Completion of bid advertisement and contract award.	10%
* Completion of construction staking	35%
* Completion of Final Closeout Assessment and submittal of "As Builts" to Grant Recipient.	5%
* Completion of final inspection and acceptance by the Grant Recipient.	10%
Total	100%

NOTE: Percentages of payment listed here are general guidelines based on engineering services typically provided. These are negotiable, and should serve only as a guide. Payment schedule should be tied directly to the actual Scope of Work identified in Part II - Engineering/Architectural Scope of Services

SPECIAL SERVICES

Special Services shall be reimbursed under the following hourly rate schedule: (List all applicable services to include overhead charge).

Registered Surveyor	\$ _____
Survey Crew (3 members)	\$ _____
Project Engineer	\$ _____
Engineering Technician	\$ _____
Project Representative	\$ _____
Draftsman	\$ _____

The fee for all other Special Services shall not exceed a total of _____ and No/100 Dollars (\$____). The payment for these Special Services shall be paid as a lump sum, per the following schedule:

1. The Engineer shall be paid upon completion of surveying, necessary field data, and acquisition data, if applicable, the sum of _____ and No/100 Dollars (\$_____).
2. The Engineer shall be reimbursed the actual costs of necessary testing based on itemized billing statements from the independent testing laboratory, plus a _____ percent (____%) overhead charge. All fees for testing shall not exceed a total of _____ and No/100 Dollars (\$_____).
3. The payment requests shall be prepared by the Engineer and be accompanied by such supporting data to substantiate the amounts requested.
4. Any work performed by the Engineer prior to the execution of this contract is at the Engineer's sole risk and expense.

Sample Contract

PART IV TERMS AND CONDITIONS

PROFESSIONAL MANAGEMENT, ENGINEERING AND/OR ARCHITECTURAL SERVICES

1. Termination of Contract for Cause. If, through any cause, the Firm shall fail to fulfill in a timely and proper manner his/her obligations under this Contract, or if the Firm shall violate any of the covenants, agreements, or stipulations of this Contract, the City/County shall thereupon have the right to terminate this Contract by giving written notice to the Firm of such termination and specifying the effective date thereof, at least five days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Firm under this Contract shall, at the option of the City/County, become its property and the Firm shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

Notwithstanding the above, the Firm shall not be relieved of liability to the City/County for damages sustained by the City/County by virtue of any breach of the Contract by the Firm, and the City/County may withhold any payments to the Firm for the purpose of set-off until such time as the exact amount of damages due the City/County from the Firm is determined.

2. Termination for Convenience of the City/County. The City/County may terminate this Contract at any time by giving at least ten (10) days notice in writing to the Firm. If the Contract is terminated by the City/County as provided herein, the Firm will be paid for the time provided and expenses incurred up to the termination date. If this Contract is terminated due to the fault of the Firm, Paragraph 1 hereof relative to termination shall apply.
3. Changes. The City/County may, from time to time, request changes in the scope of the services of the Firm to be performed hereunder. Such changes, including any increase or decrease in the amount of the Firm's compensation, which are mutually agreed upon by and between the City/County and the Firm, shall be incorporated in written amendments to this Contract.
4. Personnel.
 - a. The Firm represents that he/she has, or will secure at his own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City/County.
 - b. All of the services required hereunder will be performed by the Firm or under his/her supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
 - c. None of the work or services covered by this Contract shall be subcontracted without the prior written approval of the City/County. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Contract.
5. Assignability. The Firm shall not assign any interest on this Contract, and shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of the City/County thereto: Provided, however, that claims for money by the Firm from the City/County under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City/County.
6. Reports and Information. The Firm, at such times and in such forms as the City/County may require, shall furnish the City/County such periodic reports as it may request pertaining to the work or services undertaken pursuant to this Contract, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Contract.
7. Records and Audits. The Firm shall insure that the City/County maintains fiscal records and supporting documentation for all expenditures of funds made under this contract in a manner that conforms to OMB Circular A-87, Section 570.490 of the Regulations, and this Contract. Such records must include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the funds provided under this Contract. City/County shall retain such records, and any supporting documentation, for the greater of three years from closeout of the Contract or the period required by other applicable laws and regulations.

8. Findings Confidential. All of the reports, information, data, etc., prepared or assembled by the Firm under this contract are confidential and the Firm agrees that they shall not be made available to any individual or organization without the prior written approval of the City/County.
9. Copyright. No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Firm.
10. Compliance with Local Laws. The Firm shall comply with all applicable laws, ordinances and codes of the State and local governments, and the Firm shall save the City/County harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.
11. Equal Employment Opportunity. During the performance of this Contract, the Firm agrees as follows:
 - a. The Firm will not discriminate against any employee or applicant for employment because of race, creed, sex, color, handicap or national origin. The Firm will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, sex, color, handicap or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Firm agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City/County setting forth the provisions of this non-discrimination clause.
 - b. The Firm will, in all solicitation or advertisements for employees placed by or on behalf of the Firm, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, handicap or national origin.
 - c. The Firm will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
 - d. The Firm will include the provisions a. through c. in every subcontract or purchase order unless exempted.
12. Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
13. Section 109 of the Housing and Community Development Act of 1974.
 - a. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
14. "Section 3" Compliance in the Provision of Training, Employment and Business Opportunities.
 - a. The work to be performed under this contract is on a project assisted under a program providing direct Federal financial assistance from the Office of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns that are located in, or owned in substantial part by persons residing in the area of the project.
 - b. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 C.F.R. 235, and all applicable rules and orders of TxCDBG issued there under prior to the execution of this Contract. The parties to this Contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these requirements.
 - c. The Firm will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of Federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 C.F.R. Part 135. The Firm will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 C.F.R. Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
15. Section 503 Handicapped (if \$2,500 or Over) Affirmative Action for Handicapped Workers
 - a. The Firm will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Firm agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped

individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b. The Firm agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 - c. In the event of the Firm's non-compliance with the requirements of this clause, actions for non-compliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.
 - d. The Firm will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for non-compliance.
16. Interest of Members of a City/County. No member of the governing body of the City/County and no other officer, employee, or agent of the City/County, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract. And the Firm shall take appropriate steps to assure compliance.
17. Interest of Other Local Public Officials. No member of the governing body of the Grant Recipient and no other public official of such Grant Recipient, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Contract; and the Firm shall take appropriate steps to assure compliance.
18. Interest of Firm and Employees. The Firm covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. The Firm further covenants that in the performance of this Contract, no person having any such interest shall be employed.

PART V
PROJECT TIME SCHEDULE
PROFESSIONAL ENGINEERING/ARCHITECTURAL SERVICES

INSERT YOUR OWN TIME SCHEDULE

PART VI MONTHLY STATUS REPORT

Grant Recipient: _____

Date Submitted: _____

TxCDBG Contract No.: _____

Reporting Period: _____

Project Status:

Date of Last Inspection: _____

Name of Inspector: _____

Inspection Description:

Projected Date of Construction Completion: _____

Amount of Last Pay Request: _____

Date of Last Pay Request: _____

Status of Last Pay Request: _____

List of Subcontractors Onsite

Name

Date Cleared by Grant Administrator

**This report may be e-mailed or faxed to the Grant Recipient*

Attachment: RFQ engineer_Bay City MS (1344 : RFQ for Engineering Services for Main Street Grant)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1321

DISCUSSION ITEM (ID # 1321)

**DISCUSS POSSIBLE REIMBURSEMENT OF CITIZEN FOR
COST INCURRED IDENTIFYING BUSTED CITY SEWER LINE.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1334

DISCUSSION ITEM (ID # 1334)

**UPDATE ON THE PLANNING, FINANCING, AND DESIGN
COMPONENTS OF A ROAD IMPROVEMENT PLAN FOR CITY
STREETS AND ROADS.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1346

DISCUSSION ITEM (ID # 1346)

**DISCUSS THE ROLE, VISION, AND EXPECTATIONS OF THE
PLANNING COMMISSION.**



City Council
1901 5Th Street
Bay City, TX 77414

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1338

ADOPTED

AGENDA ITEM (ID # 1338)

CONSIDER AND/OR APPROVE AN ORDINANCE ORDERING A GENERAL ELECTION OF THE QUALIFIED VOTERS OF THE CITY OF BAY CITY, TEXAS, ON SATURDAY, MAY 10, 2014, FOR THE PURPOSES OF ELECTING TWO (2) 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 [UNANIMOUS]
MOVER:	Carolyn Thames, Mayor Pro-Tem
SECONDER:	Julie Estlinbaum, 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 10, 2014, FOR THE PURPOSES OF ELECTING TWO (2) 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, 2014, the same being the 10th 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. 1 and 2.

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 14, 2014, 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

**Carolyn Scott
Trudy Woods**

POSITION

**Presiding Judge
Alternate 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 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 10, 2014, 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 5, 2014 and May 6, 2014).

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

13. 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.

14. Effective Date: This Ordinance was passed, approved and effective on the 27th day of February, 2014.

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.



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1340

AGENDA ITEM (ID # 1340)

**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 [UNANIMOUS]
MOVER:	Carolyn Thames, Mayor Pro-Tem
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 27th day of February, 2014, 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:___

II. TERM

The term of this Lease shall commence on the day of , 20____, and shall expire days thereafter, on the day of , 20 .

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 relating to the possession, use or maintenance of the Equipment.

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

V. PROGRAMMING

Attachment: County Equipment Lease (1340 : County DRE Lease)

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 to 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 whatever 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:

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 it's duly authorize 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 (1340 : County DRE Lease)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1339)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1339

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

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Carolyn Thames, Mayor Pro-Tem
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 _____, 2014, 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 10, 2014, for the purpose of electing two (2) city council members for Position 1, Position 2;

WHEREAS, the **District** plans to hold a General Election on May 10, 2014, for the purpose of electing two (2) trustees for Place 4, Place 5;

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 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, 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 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. Canvassing will be conducted separately by each entity.

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, and
 - (b) Accumulated Totals Report of early voting and Election Day.
10. Ballot type: (For use with mail ballots.) Optical scan.
11. Ballot tabulating equipment to be used:
 - Automark Direct Recording Electronic (DRE),
 - 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 28, 2014 - Friday, May 2, 2014
Hours: 8:00 a.m. - 5:00 p.m.

Dates: Monday, May 5, 2014 - Tuesday, May 6, 2014
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 10, 2014.**

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 \$662.40); 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.

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 10, 2014 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 _____, 2014, 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 _____, 2014, by the Board of Trustees
for the Bay City Independent School District

Tim Powell, Board President
Bay City Independent School District

ATTEST:

Bobby Kimball, Board Secretary

Attachment: Joint Election Agreement 2014 (1339 : Joint Election Agreement)



City Council
1901 5Th Street
Bay City, TX 77414

ADOPTED

AGENDA ITEM (ID # 1336)

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Personnel
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1336

**CONSIDER AND/OR APPROVE AN AMENDMENT TO THE
PERSONNEL POLICY APPROVED DECEMBER 2, 2013, TO BE
EFFECTIVE JANUARY 2, 2014.**

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

CITY OF BAY CITY

EMPLOYEE GUIDELINES

FOR CITY EMPLOYEES



Revised, per Ordinance No. ~~4494~~, passed and approved on February ~~1327~~, 2014.

NOTICE TO EMPLOYEES

This manual is designed to acquaint you with the City of Bay City and provide you with information about working conditions, employee benefits, and some of the policies affecting your employment. You should read, understand, and comply with all provisions of the manual. It describes many of your responsibilities as an employee and outlines the programs developed by the City of Bay City to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

No employee manual can anticipate every circumstance or question about policy. As the City of Bay City continues to grow, the need may arise and the City of Bay City reserves the right to revise, supplement, or rescind any policies or portion of the manual from time to time as it deems appropriate, in its sole and absolute discretion. The only exception to any changes is our employment-at-will policy permitting you or the City of Bay City to end our relationship for any reason at any time.

The City of Bay City operates under the legal doctrine of **voluntary employment-at-will** and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. No representations to the contrary by any employee will be binding unless reduced to writing and signed as authorized by the Mayor. Texas law allows the City of Bay City to maintain this at-will employment relationship with its employees.

No policies or procedures contained in this document or in any other City of Bay City memorandum, manual, or publication may be construed to create a contractual employment relationship, nor do policies and procedures contained in this manual give rise to any contractual rights of any kind. This document is not intended to, nor does it, create a contract of employment between an employee and the City of Bay City. Further, this manual and its contents do not modify the City of Bay City's employment-at-will relationship with each of its employees.

These policies and procedures may be modified or withdrawn at any time, with or without notice. Although printed copies will be distributed to City of Bay City employees, the most current version of the *City of Bay City Employee Guidelines for City Employees* will be the copy maintained in the City Secretary's office.

If any statement in these policies is not completely clear to you, ask the City Secretary or the Mayor.

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CITY OF BAY CITY EMPLOYEE GUIDELINES

1. GENERAL PROVISIONS

1.1 AUTHORITY

These policies completely replace and supersede any and all personnel policies/employee guidelines previously adopted, individually or as a set of policies, by the City Council. As provided by the City Charter, the Mayor has the authority to exercise control over all departments and divisions of the City and to supervise all officers and employees of the City.

The City Secretary is assigned responsibility for developing, administering, and explaining personnel policies and procedures for all City employees. The City Secretary is delegated the authority to implement and explain policies and procedures as specified by this manual. The final authority in the form of review and approval is reserved to the Mayor and City Council as specified by the City Charter.

No employee manual can anticipate every circumstance or question about policy. As the City continues to grow and as the need may arise, the City reserves the right to revise, supplement or rescind any policies or portion of the manual from time to time as it deems appropriate, in its sole and absolute discretion. The only exception to any changes is the "at-will" employment policy permitting the employee or the City to end the employment relationship for any reason at any time. Any future changes to this manual shall be communicated to employees through official notices.

Department Directors and subordinate management personnel are responsible for the administration and enforcement of these policies and procedures and for cooperating with the City Secretary in the discharge of his/her responsibilities.

1.2 SUNSET CLAUSE

In order to stay abreast of internal and external changes, the City Secretary will propose amendments to the policies as state and federal laws and regulations mandate changes. In addition, the City Council of the City of Bay City will review the personnel guidelines every three (3) years, to make any necessary changes.

1.3 SEVERABILITY (EACH POLICY STANDS ON ITS OWN)

The provisions of these policies are severable, and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect.

In addition, if the City fails or refuses to enforce any provision in these policies, that failure or refusal to enforce a policy will not cause a waiver of any other provision in these policies.

1.4 PURPOSE

The purpose of these policies and procedures is to provide efficient and effective City services and operations by satisfied and productive City employees. These policies and procedures are designed to fulfill this purpose by:

- 1.) Providing a fair and equal opportunity to all qualified persons who enter into and advance in employment on the basis of merit as ascertained through fair and practical methods of personnel management;
- 2.) Promoting and increasing effective, efficient and economical municipal service;
- 3.) Maintaining recruitment and advancement practices that will make the service of the City attractive as a career and that will encourage each employee to render excellent service to the City;
- 4.) an employee's right to be treated with respect, dignity, and fairness;
- 5.) Promoting high morale among City employees by providing good working relationships, uniform city-wide application of personnel policies, opportunities for advancement where possible, and consideration for employee welfare; and
- 6.) Ensuring that the City and its employees comply fully with all federal, state, and local laws in relation to employment and working conditions.

1.5 APPLICABILITY

These personnel policies apply equally to all employees unless a class of employees is specifically exempted by these policies.

Unless specifically stated, these policies do not apply to elected or appointed City Officials; members of city boards or commissions, independent contractors, or volunteers; unless they are appointed by Council and employed in a full time capacity by the City..

In cases where federal or state laws or regulations supersede these policies for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary for compliance.

1.6 RESPONSIBILITY FOR IMPLEMENTATION

The Mayor and the City Secretary are responsible for implementation of these policies.

1.7 AMENDMENTS

Because the City is a growing and changing organization, it may be necessary to modify these policies at any time with or without advance notice to the employees. The City Secretary is responsible for recommending to Council any changes, additions or deletion to this policy; but it is the City Council that has the sole discretion to unilaterally amend the personnel policy at any time with or without notice, and for any reason it deems appropriate. The Council may revise the policy in whole, in part, or elect to not have any written personnel policy.

1.8 EMPLOYEES RECEIVE PERSONNEL POLICIES

Each employee is provided a copy of the personnel policies and is required to read the manual carefully and to adhere to the rules and regulations established in the policies. Potential employees will be provided the City's personnel policy, prior to completing the new hire paperwork. The potential employee is to read and understand the policy. On the first scheduled day of work the City Secretary or his or her designee will review the policy with the new hire. Each employee is required to sign a form stating that he or she has received and read the personnel policies and acknowledge that he or she understands the policies contained in it.

The City Secretary maintains the official set of the personnel policies with all revisions for reference by employees. In addition, the City Secretary will distribute a complete copy of these policies and copies of subsequent revisions to each employee. If a question arises about a particular policy or version, the official set of policies maintained by the City Secretary should be consulted and will control.

The City has the right to change these policies at any time, without prior notice to employees. Revisions and amendments will be distributed to employees.

1.9 AT-WILL EMPLOYMENT

The City of Bay City operates under the legal doctrine of voluntary employment-at-will and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. No representations to the contrary by any employee will be binding unless reduced to writing and signed as authorized by the Mayor. Texas law allows the City of Bay City to maintain this at-will employment relationship with its employees.

No policies or procedures contained in this document or in any other City of Bay City memorandum, manual, or publication may be construed to create a contractual employment relationship, nor do policies and procedures contained in this manual give rise to any contractual rights of any kind. This document is not intended to, nor does it, create a contract of employment between an employee and the City of Bay City. Further, this manual and its contents do not modify the City of Bay City's employment-at-will relationship with each of its employees.

1.10 EQUAL EMPLOYMENT OPPORTUNITY - GENERAL

It is the policy of the City of Bay City to prohibit discrimination against any person in job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, or any other aspect of personnel administration based on a person's race, age, sex, religion, color, disability, national origin, genetic information that could reveal a possible predisposition to certain diseases, or any other non-merit factor. Personnel decisions will be made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform a specific job.

An employee will not engage in conduct at work that involves joking, derogatory remarks, or the display of images or symbols that demonstrate racial, age, sex, religious, or ethnic discrimination. Reports of such conduct will be investigated, and disciplinary action will be taken, if appropriate.

The city prohibits retaliation or discrimination against any employee for opposing an unlawful or discriminatory employment practice, or for alleging such a practice or participating in an investigation of an allegation of discrimination.

(Legal reference: U.S. Civil Rights Acts of 1871 and 1964, as amended; Lilly Ledbetter Fair Pay Act of 2007; Genetic Information Nondiscrimination Act of 2009; V.T.C.A. Civil Practices and Remedies Code, Chapter 106; Texas Commission on Human Rights Act, V.T.C.A. Government Code, Sec. 461; V.T.C.A. Labor Code, Chapters 21-22; U.S. Age Discrimination in Employment Act of 1967, as amended; U.S. Rehabilitation Act of 1973, as amended; U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; U.S. Executive Order 11246; U.S. Equal Pay Act; V.T.C.A. Health and Safety Code, Chapters 592.)

1.11 ~~SEXUAL~~—HARASSMENT: ANTI-HARASSMENT POLICY AND COMPLAINT PROCEDURE

1.11.1 GENERAL POLICY AND DEFINITION

It shall be the policy of the City of Bay City to provide and maintain a work environment free of ~~sexual harassment, sexual exploitation, and sexual intimidation harassment~~ by employees, contractors, vendors, members of the City Council, the Mayor, or visitors to the workplace. The City of Bay City has a “zero tolerance” policy regarding ~~sexual harassment~~; ~~sexual harassment of any kind~~ will not be tolerated by the City. The City will investigate any complaint of ~~sexual harassment~~ promptly. All employees are expected to comply with this policy, and failure to do so will result in disciplinary action up to and including immediate termination.

Harassment, including sexual harassment, is prohibited by federal and state laws. This policy prohibits harassment of any kind, and the City of Bay City will take appropriate action swiftly to address any violations of this policy. The definition of harassment is verbal or physical conduct designed to threaten, intimidate or coerce. Also, verbal taunting (including racial and ethnic slurs) that, in the employee's opinion, impairs his or her ability to perform his or her job. Examples of harassment are:

1. Verbal: Comments that are not flattering or are unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body disability or appearances, epithets, slurs, and/or negative stereotyping.
2. Nonverbal: Distribution, display, or discussion or any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility or aversion toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance disability, gender identity, martial or other protected status,

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Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964, as amended, and **will not** be tolerated by the City of Bay City. Sexual harassment can occur in many forms, including but not limited to, unwelcome physical contact, verbal abuse, leering, gestures, and more subtle advances and pressure inviting sexual activity. Such conduct is unlawful where:

- 1) Submission to such conduct is made a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual (i.e., denial of a pay increase, promotion, transfer, leave of absence, imposing disciplinary action, promising to withhold disciplinary action, etc.); or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

Several factors are important for you to note:

- 1) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;
- 2) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee;
- 3) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct;
- 4) Unlawful sexual harassment may occur without economic injury to or discharge of the victim; or
- 5) Any circumstance in which the harasser's conduct is unwelcomed.

1.11.2 EXAMPLES OF SEXUAL HARASSMENT

It is illegal and against the City's policy for anyone, male or female, to harass a city worker or to create a hostile working environment by either committing or encouraging any of the following. This policy extends to city employees, contractors, vendors, members of the City Council, the Mayor, or visitors to the workplace.

- Physical assaults on another employee, including but not limited to, rape, sexual battery, molestation, or attempts to commit these assaults; or
- Intentional physical contact that is sexual in nature, including but not limited to, touching, pinching, patting, or brushing up against another employee's body; or

- Unwanted sexual advances, propositions, or sexual comments, including sexual gestures, jokes, or comments made in the presence of any employee who has indicated in any way that such conduct in his or her presence is unwelcome; or
- Posting or displaying pictures, posters, calendars, graffiti, objects, images, or other materials that are sexual in nature or pornographic.

The creation of an intimidating, hostile, or offensive working environment includes such actions as persistent sexual comments or the display of obscene or sexually oriented photographs, images, or drawings. However, actions that arise out of a personal or social relationship and are not intended to have a discriminatory employment effect might not be viewed as harassment. The city will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation.

1.11.3 HOW TO REPORT ~~SEXUAL~~ HARASSMENT

If an employee is either subjected to or witnesses ~~sexual~~ harassment, he or she should immediately inform the harasser that the conduct is offensive and insist that it stop. If ~~sexual~~ the harassment continues, the employee should report the matter to his/her immediate supervisor, within twenty-four (24) hours. If you are unable or unwilling to speak with your supervisor about the harassment, you should report the incident directly to the City Secretary or the Mayor. If the City Secretary or the Mayor is the source of the alleged harassment, the employee should report the problem directly to the City Attorney.

1.11.4 SUPERVISOR RESPONSIBILITY AND COMPLAINT PROCEDURE

Each supervisor has the responsibility to maintain the workplace free of ~~sexual~~ harassment and to ensure that employees are not subjected to insulting, degrading, or exploitative ~~sexual~~ treatment.

1.11.5 DUTIES OF EMPLOYEES

The complainant—If you are making the complaint, the investigator will need to know all the details, unpleasant though they will be to recount. The investigator has a duty to be fair to everyone involved and needs as much information as possible. Be prepared to give the following information:

- 1) The names of everyone who might have seen or heard about the offensive conduct;
- 2) The names of everyone who may have had a similar experience with the alleged harasser;
- 3) A chronology—when and where each incident occurred;
- 4) The reasons why you did not report the incidents earlier (if you have delayed at all); and
- 5) Your thoughts on what the employer should do to correct the problem and maintain a harassment-free environment.

The accused—If you are the person accused of harassment, you must remember that you have a duty to cooperate in the investigation, regardless of whether you believe the allegations to be true or false. You will be expected to answer questions completely and honestly. You may be asked not to communicate with certain individuals during the course of the investigation. You must remember that you are not to retaliate against the person who made the complaint or against anyone who participates in any way in the investigation. You must treat them in the same fair and even-handed manner you would if no complaint had ever been raised. Failure to abide by these rules may result in discipline against you, even if the investigation shows no harassment occurred.

A potential witness—You may be asked to provide details concerning alleged harassment between other employees. You have a duty to respond truthfully to the questions concerning these allegations.

1.11.6 ~~SEXUAL~~ HARASSMENT INVESTIGATIONS

The city's grievance procedure provides procedures for reporting ~~alleged~~ sexual harassment. The city will investigate such reports immediately. The City Secretary will arrange for each complaint of ~~sexual~~ harassment to be investigated. As soon as an employee reports an incident to the City Secretary or the Mayor, the City Secretary is responsible for investigating it (even if the employee does not want anything said or done about it). The City Secretary will:

- Obtain facts and views from the persons involved as well as from any witnesses. The person(s) accused of discrimination or ~~sexual~~ harassment will be advised of the allegations and given the chance to respond.
- Keep records of the investigation. Documentation will be kept of all phases of the investigation, from the initial complaint to any written warning or action taken.
- Attempt to resolve the complaint. The City Secretary will present findings and recommendations to the appropriate parties.
- Maintain privacy and confidentiality to the extent possible. Most aspects of the investigation are confidential. Once the employee has contacted the City Secretary, any discussion regarding the issue should be limited to those directly involved with the investigation.

Any employee who knowingly or maliciously makes a false ~~sexual~~ harassment complaint or report will be subject to appropriate disciplinary action.

1.11.7 RETALIATION IS PROHIBITED

An employee will not be subjected to retaliation for pursuing a sexual harassment complaint.

1.11.8 EMPLOYEES ACKNOWLEDGE RECEIPT OF POLICY

To emphasize the importance of this policy and ensure employees' understanding, the City requires each employee to sign a statement acknowledging receipt and understanding of this ~~Sexual~~ Harassment: Anti-Harassment Policy. The signed acknowledgement is kept in the employee's personnel file.

(Legal reference: Title VII of the U.S. Civil Rights Act, Section 703, as interpreted by EEOC: Sex

Discrimination Guidelines, Section 1604.11; Meritor Savings Bank v. Vinson, U.S. Supreme Court, 1986; the Lilly Ledbetter Fair Pay Act of 2007; and the Genetic Information Nondiscrimination Act of 2009.)

1.12 PERSONS WITH DISABILITIES

1.12.1 PURPOSE

It is the policy of the City to make its employment application process, employee activities, working environment, employee benefits, employee training, and employee advancement process accessible to persons with disabilities and to make reasonable accommodations to a qualified individual with a disability who is an applicant or employee, unless that accommodation will place an undue hardship on city finances or operations, or will pose a danger to the applicant, the employee, or others.

The City of Bay City, Texas offers equal employment opportunity to qualified individuals with a disability and strictly prohibits discrimination against qualified individuals on the basis of disability. In compliance with the Americans with Disabilities Act (ADA) of 1990 as amended, the City will provide reasonable accommodations to otherwise qualified individuals with disabilities as prescribed in accordance with the Act.

The City recognizes that employees with life-threatening and/or infectious illnesses or physical and/or mental disability may wish to continue to engage in as many of their normal pursuits as their condition allows. The City will allow such individuals to continue with their employment as long as they are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship to the City and with medical evidence which indicates their condition does not present a direct threat to themselves or others.

1.12.2 DEFINITIONS:

“Disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A major life activity is considered to be substantially limited if an individual cannot perform the activity at all or is limited in the “condition, manner, or duration under when an individual can perform” the activity when compared to what an average person can do. An individual who has such an impairment has a record of such an impairment is also deemed a “disabled individual.” An individual may also be deemed “disabled” if the person is regarded as having such impairment. Pursuant to the ADA, if the condition is transitory and minor with an actual or expected duration of 6 months or less, then the condition does not qualify as a disability.

“Direct threat to safety” refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

“Essential job functions” refers to those activities of a job that are the core to performing the job in question and must be performed with or without an accommodation.

“Major life activity” may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A “major life activity” may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems (this list is illustrative but not exclusive).

“Qualified Individual with a Disability” refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

“Reasonable Accommodation” refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to; job restructuring, part-time or modified work schedules, reassignment to an existing vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.

An accommodation is reasonable if it does not pose an undue hardship to the City of Bay City, Texas.

“Undue Hardship” refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3) the number of persons employed at the facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the City; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire City; and (8) the relationship of the particular facility to the City. These factors are not exclusive as undue hardship can include an action requiring significant difficulty or expense (e.g. an action is unduly costly, extensive, substantial, and disruptive or fundamentally alters the nature of city business).

1.12.3 REQUESTS FOR ACCOMMODATIONS

City of Bay City, Texas employees are responsible for bringing up any disability related issues. The request form may be found in the City Secretary’s Office. A “reasonable accommodation” may be provided when it enables the employee to perform the essential functions of the job, does not cause undue hardship, and does not cause a threat to safety.

Procedure

1. The request for a “reasonable accommodation” should be directed to the employee’s department director/designee and should be made in writing.
2. The Department Director/Designee with the assistance of City Secretary/Designee determines if the employee is a qualified individual with a disability. If the impairment is not obvious, the Department Director/Designee should request that the employee submit documentation from a qualified professional, such as a physician and it must include:
 - a. Diagnosis to substantiate the existence of the impairment;
 - b. Evaluation of functional limitations which impact performance of the essential functions of the job or access to benefits of employment;
 - c. A functional job description provided by the qualified professional for the purposes of this evaluation

- d. Note: the employee is responsible for acquiring the diagnosis and evaluation.
- 3. The employee and the Department Director/Designee discuss functional limitations:
 - a. If the employee has a disability as defined by the ADA, the employee and Department Director will discuss the specific physical or mental abilities only as they relate to the performance of essential functions of the job or access to benefits and privileges of employment; and
 - b. Assess and discuss how these barriers can be overcome with accommodation.
- 4. The Department Director/Designee and City Secretary/Designee will identify and communicate to the employee a reasonable accommodation. The accommodation will be determined on a case by case basis taking into consideration the documentation and information provided by the employee.
- 5. When a reasonable accommodation cannot be provided, the City Secretary will discuss with the employee what options are available.

1.12.4 COMPLAINTS AND GRIEVANCE PROCEDURE

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately report such complaint as outlined in the City's ~~Sexual~~ Harassment: Anti-Harassment Policy.

Should the employee disagree with the findings of the City Secretary/Designee, the employee may appeal the decision within five (5) working days to the Mayor/Designee. The request for appeal must be provided in writing. The decision of the Mayor/Designee will be final.

(Legal Reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008.)

1.13 CITY PROPERTY

"City Property" means any real or personal property owned, leased, or used for city business. This includes facilities, buildings, premises, land, parks, rights-of-way, vehicles, sites of city-sponsored events, office furniture, machines, City records, and tools.

City records will be defined for the purposes of these guidelines as Local Government Record, which is defined by the Texas Local Government Code §201.003(8). A Local Government Record means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created, or received by a local government or any of its officers or employees pursuant to law, including an ordinance or in the transaction of public business.

1.14 VIOLENCE IN THE WORKPLACE

The safety and security of all City employees and other persons on City premises or work sites is of primary importance to the City of Bay City. Threats, threatening or abusive behavior, or acts of violence against citizens, employees or officials, visitors, or other individuals on City premises or equipment is prohibited.

This policy applies to City employees, City officials, City contractors and vendors, and any other persons present on City property or worksites or at City-sponsored events.

Violators of this policy are subject to disciplinary action, up to and including discharge, and to prosecution.

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on City property or equipment will be removed from the City property as quickly as safety permits. The City of Bay City's response to violent acts, threats, or behavior may include, but is not limited to, employment suspension or termination, suspension or termination of business relationships, or criminal prosecution of the persons involved and/or request of a restraining order from the appropriate judicial official.

City employees are responsible for notifying their supervisor or the City Secretary of any threats, or threatening behavior, that they witness or receive, in addition to any threats that they are told another person witnessed or received, that occurred on City property, or while on City equipment, or in relation to City business. Employees are responsible for making these reports regardless of the relationship between the individual initiating the threat or threatening behavior and the person(s) being threatened.

A City employee or official who applies for or obtains a protective or restraining order which lists the City of Bay City premises or equipment as protected areas, must immediately provide their supervisor or the City Secretary with a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order that is made permanent. The City Secretary will forward the order to the City Attorney. Unless otherwise required by law, any information of this nature will be released on a need to know basis only to the appropriate law enforcement, management, and/or administrative personnel.

1.15 WEAPONS

The City of Bay City prohibits any applicant, employee, contractor, subcontractor, vendor, agent, representative, or officials from possessing, using, concealing, carrying or maintaining weapons of any kind on City property or on City equipment, or while representing the City in any capacity. This prohibition includes carrying or maintaining a concealed weapon or handgun in any City vehicle used in connection with employment. Prohibited weapons include, but are not limited to, the following:

- All firearms;
- Knives with blades more than five inches in length;
- Any form of explosive weapon or other explosive device;
- Any knife, chain, club, axe, or instrument when carried or displayed as a weapon;
- Any explosive or incendiary devices; or Noxious, caustic, or toxic chemicals.

This policy does not apply to a peace officer or animal control officer employed by, or assigned to duty with, the City.

Pursuant to Texas Labor Code §52.061, this policy does not apply to an employee who holds a license to carry a concealed handgun under Chapter 411 of the Texas Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the City provides for employees. Employees licensed to carry concealed weapons must report to the Chief of Police their identity and license plate numbers of all vehicles that employee may park in City parking lots.

If an employee is unsure whether an item is covered by this policy, he or she should contact the City Secretary for verification. Any violation of this policy will result in disciplinary action up to and including termination.

While the City has a policy prohibiting weapons, nothing in this policy shall be construed as creating any duty or obligation on the City's part to take any actions beyond those required of an employer by existing law.

1.16 SEARCHES

The City reserves the right to make general or random searches of City property, premises, and equipment to include buildings, parking lots, vehicles, lockers, closets, and desks without the consent of employees. The objects of searches may include alcohol, prohibited drugs, drug paraphernalia, pornography, explosives, firearms, knives, or other prohibited weapons, or unauthorized City property or information.

The use by employees of privately owned padlocks or other locking mechanisms for City property is prohibited, unless the key or the combination to the lock is provided to the employee's supervisor or to his or her designee. If an employee does use a privately owned padlock or other locking mechanism on any City property, the City may remove it at any time, and the employee will not be entitled to any reimbursement for damage to the mechanism. The use of any privately owned padlock or other locking mechanism for City property does not create an expectation of privacy with regard to any contents within the locked city property.

Objects brought into the workplace by an employee, such as personal effects, purses, briefcases, vehicles, bags, boxes, or electronic devices, may be subject to search at any time if an individualized reasonable suspicion or probable cause exists that alcohol, prohibited drugs, drug paraphernalia, pornography, explosives, prohibited weapons, or unauthorized City property may be found. If the employee is available, he or she will be asked to consent to the search, but the search may not be dependent upon that consent.

Any search will be conducted as privately as possible, involving only persons with a need to know and only with the authorization of the Mayor, City Secretary, or Police Chief.

1.17 EMPLOYEE PERSONNEL RECORDS

1.17.1 PERSONNEL FILES – GENERAL

Personnel files are maintained in the City Secretary's office.

Information in an employee's personnel file is public information and must be disclosed upon request unless specific items are excepted from disclosure by law. No information from any record placed in an employee's file will be communicated to any person or organization except by the City Secretary, the Mayor, or by another employee authorized to do so by the Mayor.

Each employee may choose whether the city discloses the employee's home address and telephone number. A form for this purpose is available from the City Secretary. If a new employee does not request confidentiality within the first 14 days of employment, the home address and telephone number on file are considered public information. Employees may change their elections for disclosure or confidentiality at any time by contacting the City Secretary. (Legal reference: *Public Information Act, V.T.C.A. Government Code, Sec. 552.024.*)

An employee or his or her representative designated in writing may examine the employee's personnel file upon request during normal working hours in the presence of the City Secretary at the city offices. The employee may request copies of items or materials in his or her personnel file but may not remove anything from the file. Once the employment relationship between the City and an employee ends, the employee will no longer have the ability to view their personnel file.

It is the responsibility of the employee to provide the City Secretary with any changes in or corrections to information recorded in their individual personnel files such as:

- Home address;
- Telephone number;
- Person to be notified in case of emergency;
- Change in marital status or in the number of dependents (for the purposes of health insurance and income tax withholding);
- Change in beneficiary for life insurance and retirement benefits;
- Any additional schooling, certificates, or degrees earned during the course of your employment;
- Any changes in Social Security or driver's license numbers;
- Or other pertinent information.

(Legal reference: *V.T.C.A. Government Code, Sec. 552.102*)

1.17.2 CONTENTS OF PERSONNEL FILES

An employee's official personnel file contains:

- An employment record;
- A copy of the employee's application for employment/resume;
- A copy of the employment offer letter;
- A signed copy of the employee's acknowledgment of having reviewed a copy of the City of Bay City Employee Guidelines for Employees;
- The employee's current job description and job description(s) for other positions held with the City;
- The election to disclose or keep confidential home address and home telephone number form;
- Personnel action forms;
- Records of any citations for excellence, awards for good performance, or job-related training/education;
- Records of any disciplinary action(s);
- Performance evaluations;
- Copies of any grievances and related materials;
- Any other pertinent information having a bearing on the employee's status; and
- Any written statements from the employee explaining, rebutting, or clarifying other items in the file.

An employee's personnel file does not contain information regarding an employee's medical record(s), nor does it contain any information relating to drug or alcohol testing. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the City Secretary has routine access to employee medical records. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008, and Health Insurance Portability and Accountability Act of 1996, as amended.)*

1.17.3 EMPLOYEE LEAVE RECORDS

Official records of earned vacation leave, sick leave, compensatory leave, and of leave usage are kept for each employee by the City Secretary at the end of each calendar year. Leave records are updated at the close of each pay period. Leave balances are shown on the official record to reflect any remaining leave to which an employee is entitled.

2. EMPLOYEE RESPONSIBILITIES

2.1 EMPLOYEE RESPONSIBILITIES – GENERAL

2.1.1 WORK ETHIC

The City is a public organization. Its employees are expected to adhere to high standards of service that emphasize professionalism, courtesy, and avoidance of even the appearance of illegal or unethical conduct at all times. Employees shall, during both working and non-working hours, act in a manner which will inspire public trust in their integrity, impartiality, and devotion to the best interests of the City, its customers, and citizens. Employees are required to give a full day's work, to carry out efficiently the work tasks assigned as their responsibilities, to maintain good moral conduct, and to do their parts in maintaining good relationships with the City's customers, their supervisors, and their fellow employees.

Prompt settlement of lawful bills is your solemn obligation wherever you work. As an employee of the City, your obligation to pay bills on time becomes even more serious. The reputation of all municipal employees can be directly affected by your actions. All employees are expected to keep their personal financial affairs in good order. Failure to pay just debts, including taxes, may constitute grounds for disciplinary action.

City employees may be offered honorariums¹. If the employee is being paid by the City for the time for which the honorarium will be received, the honorarium must be rejected.

The City may require some positions to obtain a notary license. In that event an employee shall be required to use their license in an ethical manner. An employee shall only notarize City related documents with their City paid notary during business hours.

2.1.2 USE OF PERSONAL CELL PHONES

Employees may be permitted to bring their personal cell phones to work, but excessive use of personal cell phones during working hours will not be tolerated. Any employee who violates this policy will be subject to disciplinary action. Individual departments or units may impose stricter rules regarding use of personal cell phones.

¹ Honorarium can be defined as a payment for service.

2.2 PROFESSIONAL APPEARANCE

While the City does not have a formal dress code, employees are expected to exercise regular hygiene care and to dress and groom themselves in a neat and tasteful manner which is appropriate to the particular job being performed. Every attempt should be made to keep tattoos covered and inconspicuous. Expensive clothes are not necessary, but a neat, well-groomed appearance and a courteous attitude are necessary in creating and maintaining a professional, favorable image of the City's work force. Employees in certain departments are required to wear uniforms which must be maintained and worn in a clean, neat manner.

The acceptable professional business attire guidelines are as follows:

1. Slacks.
 - a. Jeans and/or khakis can be worn on Friday's only with a blouse (woman) as described below, or a City polo shirt is acceptable.
 - b. No shorts.
2. Dresses and skirts should be of a professional nature. The length should be knee length or near knee length.
3. Tailored capris.
4. Dress Shirts and Polo Shirts.
 - a. Women's blouses must be professional and modest.
 - i. No low cut tops,
 - ii. No tank tops, unless worn under a shirt or jacket.
 - iii. No t-shirts.
 - iv. No exposed bra straps.
 - b. Men's: every attempt should be made to tuck in shirts when working in the office.
 - i. No tank tops
 - ii. No t-shirts
 - c. Advertising and Comments on shirts will not be acceptable, unless advertising for a future City event or project.
5. Shoes.
 - a. Dress strappy sandals with a heel that have a back or strap.
 - b. Closed toe shoes.
 - c. Boots.
 - d. Tennis shoes (only on Friday).
 - e. No flip flops and/or beach flip flop shoes.

2.3 PERSONAL VISITORS IN THE WORKPLACE

In the event that a non-work related person visits an employee during working hours, the employee is responsible for the conduct and safety of his or her visitor(s). Personal visits with City employees should be limited so as not to be unduly disruptive of the work environment. In some City facilities or areas, personal visitors may be prohibited, i.e., the dispatch area in the Police Department. Individual departments may impose stricter rules regarding personal visitors in the workplace.

2.4 TIMELINESS AND ATTENDANCE

Punctuality in reporting for work and regular attendance are absolutely essential to the City's fulfillment of its mission to the citizens of our community. Employees are required to be at their places of work or performing their assigned duties in accordance with the work schedules established for their department or division, unless officially excused by their supervisor. Any employee that fails to report for duty, is repeatedly tardy, leaves the workplace without proper authorization, or misuses leave, is subject to disciplinary action, up to and including termination. All departments will maintain attendance records.

2.4.1 GUIDELINES

- 1.) When you have advance knowledge of an impending absence, you must request permission to be absent at least three (3) days (72 hours) in advance of the scheduled absence. The request must be directed to and approved by your supervisor. Some departments may have stricter requirements because of scheduling and shifts.
- 2.) If because of some personal or family emergency or illness, you are unable to provide advance notice of your absence, you must notify **your supervisor** as soon as permitted by the emergency circumstance. The notification should occur no less than fifteen (15) minutes prior to the start of your scheduled shift. Incidental knowledge of the planned absence by the City as a result of comments of other employees, emails, or information from public communications sources does not constitute notice to the City from the employee.
- 3.) Tardiness is defined as one (1) minute past the start of your shift. If you expect to be late you must call your supervisor and inform him or her of the delay.
- 4.) An unexcused absence occurs when an employee's supervisor or Department Head has not been properly notified that an employee will be late or absent.
- 5.) If you are not able to reach your immediate supervisor or Department Head, notify the City Secretary's Office of your absence or tardiness. **It is not acceptable, except under emergency situations, to have a family member or friend call in to arrange absence notices.** Absences that are not specifically covered by the City's employee benefit program will be without pay.
- 6.) If you are absent from your job, due to an illness, for three (3) or more consecutive workdays, you must submit a doctor's note upon your return. The doctor's note should provide the date of your illness or injury, an explanation of the nature of your illness or injury, and a release that allows you to return to work without limitation.
- 7.) Departments may allow for an employee to utilize flex-time to address unforeseen situations that may arise.

See also Section 8 "Leave Time" of these policies for matters involving planned absences.

2.4.2 DISCIPLINE

An employee who fails to properly notify the appropriate personnel in advance of an absence or tardiness will be subject to disciplinary action, up to and including termination of employment.

An employee who fails to report, is habitually tardy, leaves the workplace without proper authorization, has unacceptable absenteeism or misuses leave will be subject to disciplinary action, up to and including termination of employment.

If you have been absent and the City has not heard from you for two (2) consecutive work days, you will be considered to have quit your job.

2.4.3 PROGRESSIVE DISCIPLINE

1. An employee with two (2) unexcused absences or tardies in one month will receive a first written reprimand. The written reprimand should be signed by the employee and the supervisor and a copy placed in the employee's personnel file.
2. An employee with six (6) unexcused absences or tardies in a two month period will receive a second written reprimand. The written reprimand should be signed by the employee and the supervisor and a copy placed in the employee's personnel file.
3. An employee with eight (8) unexcused absences or tardies in a three month period will be terminated.

2.5 OUTSIDE EMPLOYMENT

An employee of the City of Bay City will not be permitted to engage in outside employment where such employment conflicts or interferes with the performance of duties with the City. An employee must seek approval from his or her director and/or supervisor before accepting outside employment. Work requirements including overtime will have precedence over any other employment. Law enforcement personnel must receive the express written approval of their supervisors and of the Chief of Police for any outside employment in law enforcement or security work. The following guidelines shall also apply with regard to outside employment:

- 1) A full-time regular employee will consider their job with the City as their primary job.
- 2) If an employee is planning on taking an additional job, including self-employment, prior notification must first be given to their immediate supervisor and the department director.
- 3) Permission will not be granted for an employee to work with an organization or municipality that is in competition with or presents a potential conflict of interest with the City of Bay City.
- 4) Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If the work standards or performance of an employee of the City suffers and it is determined to be caused by outside employment, permission to work at the outside job may be rescinded, or the employee may be subject to discharge.

- 5) If a City employee is injured on the job in the course of employment outside of his or her employment with the City, the employee is not eligible to file a workers' compensation claim against the City for benefits related to the injury, regardless of the fact that the City may have approved of the outside employment.
- 6) The City employee will notify their supervisor immediately upon any change in outside employment status or condition.

Approval for outside employment as set out in this policy does not authorize an employee on Family and Medical Leave (FMLA) leave, sick leave, disability leave, workers' compensation leave, or an unpaid leave of absence, to engage in outside employment. Under no circumstances may an employee on FMLA leave, sick leave, disability leave, workers' compensation leave, or an unpaid leave of absence, engage in outside employment as defined in this policy unless expressly authorized in writing by the Mayor.

2.6 GIFTS AND GRATUITIES

A City employee may not solicit, accept, or agree to accept any substantial gift, gratuity, favor, loan, free service, or anything else of monetary value that might tend to influence the employee's official actions or impair his or her independence of judgment in the performance of duties for the City. See "Conflict of Interest" section below.

Employees (and their relatives and significant others) may not receive any income or other material gain from anyone outside the City for services provided by the employee in the performance of his or her job with the City. "Significant others" means engaged couples or relationships between individuals the substance of which reflects a marital relationship.

An employee who accepts the following will not be considered in violation of this policy:

- A non-financial award publicly presented in recognition of public service;
- An occasional meal where business is discussed;
- Tee-shirts, caps, and other similar promotional material; or
- A gift which would have been offered or given to the employee even if the employee were not a City employee.

2.7 CONFLICT OF INTEREST

An employee of the city may not have a financial interest in the profit of any contract, service, or other work performed for the City or derive personal profit directly or indirectly from any contract, purchase, lease, sale, or service between the City and any person or company.

An employee may not:

- 1.) Solicit or accept or agree to accept a financial benefit, other than from the City, that might reasonably tend to influence his or her performance of duties for the City or

that he or she knows or should know is offered with intent to influence the employee's performance;

- 2.) Accept employment or compensation that might reasonably induce him or her to disclose confidential information acquired in the performance of official duties;
- 3.) Accept outside employment or compensation that might reasonably tend to impair independence of judgment in the performance of duties for the City;
- 4.) Make any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and duties for the City; or
- 5.) Solicit or accept or agree to accept a financial benefit from another person in exchange for having performed duties as a City employee in favor of that person.

(Legal reference: V.T.C.A., Local Government Code, Section 171; V.T.C.A. Penal Code, Chapter 36).

2.8 POLITICAL ACTIVITY LIMITED

Employees of the City are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies.

An employee may not:

- 1.) Use his or her official authority or influence to interfere with or affect the result of an election or nomination for office; or
- 2.) Directly or indirectly coerce, attempt to coerce, command, or advise a local or state officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose.

2.8.1 EMPLOYEES COVERED BY FEDERAL HATCH ACT

In addition, a City employee who is subject to the provisions of the Federal Hatch Act may not be a candidate for elective office in a partisan election. (A partisan election is an election in which candidates are to be nominated or elected to represent a party whose candidates for presidential electors received votes in the last preceding election at which presidential electors were selected). City employees are subject to this additional Hatch Act restriction if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the federal government. (Legal reference: V.T.C.A., Penal Code, Chapter 36; Hatch Act: 5, U.S. Code, 1501 - 1508, as amended, P.L. 93-443.)

2.8.2 NO POLITICAL ACTIVITY IN CITY UNIFORM

City employees are prohibited from participating in any way in any partisan political activity while wearing a City uniform, shirt, badge, nametag, or emblem, regardless of whether the employee is on duty or on his or her own time. In addition, City owned premises, property, vehicles, and equipment may not be used for displaying campaign materials or for conducting any

partisan political activity. However, use of the Service Center (USO) will be excepted from this rule on Election Day.

2.8.3 INVOLVEMENT IN LOCAL ELECTIONS

- 1.) All employees must notify their supervisor when seeking or accepting nomination or election to any public office that provides remuneration for the same. Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration. (*Legal Reference: Article 16, Sec. 40, Constitution, State of Texas*).
- 2.) No employee, while in uniform, of the City shall circulate petitions or campaign literature for candidates for City offices or in any way be concerned with soliciting or receiving any subscriptions, contributions, or political service from any person on behalf of such candidate or elected official.
- 3.) All employees of the City shall refrain from using their influence publicly in any way regarding any candidate for elective City office or regarding any election where an issue or proposal involves only City employees.
- 4.) No employee, while in uniform, shall engage in political activities while on his/her working hours with the City. Political activity includes wearing political buttons, handing out political literature, and the like.

An employee's political activity, not in violation of this section, will not be used in determining his or her compensation, eligibility for promotion or assignment, leave or travel request, or in applying any other employment practices to the employee. Likewise, no employee will be threatened or otherwise disciplined, terminated, or deprived of his or her employment rights for refusing to participate in such activities.

2.9 NON-DISCLOSURE POLICY

The City recognizes the right of all of its employees to speak out on matters of public concern, even when they disagree with an official policy or regulation. Employees should refrain, however, from:

- 1.) Releasing confidential information about business negotiations conducted by the City, where such disclosure would give an unfair advantage to a party to those negotiations;
- 2.) Releasing information regarding an ongoing investigation, where such disclosure would interfere with or compromise the efficient conduct of the investigation or the protection of confidential informants;
- 3.) Spreading malicious gossip about anyone in the community, where the employee knows the assertions are false or acts with reckless disregard for their truth or falsity;
- 4.) Misrepresenting official City or department policy; or

5.) Acting without permission as an official spokesperson for the City or for a department.

Any employee violating this rule may be subject to disciplinary action. Questions regarding this rule should be presented to the employee's Department Head, who will seek appropriate guidance through the City Attorney.

2.10 COMMUNICATIONS

From time to time, an employee may be given directions from persons outside the normal chain of command. In such cases, it is the employee's responsibility to notify his or her Department Head about the direction, its purpose, and the relevant facts of the situation. Failure to do so in a timely manner may result in disciplinary action.

In the event that an employee is given conflicting instructions from more than one person who occupies a position which is higher than the employee's position in the City's hierarchy, the employee is required to notify his or her supervisor and the Mayor of the conflicting instructions.

An employee may request that a matter be considered by the City Council by submitting the item in writing to the Mayor. The Mayor will determine whether if, and in what form, an item suggested by an employee may be submitted to the City Council.

Communication with the public and with the news media about City issues or problems is the responsibility of the Mayor and the City Council. Employees are to refer members of the public or the news media to a departmental public information officer or the Mayor.

2.11 OFFICE DONATIONS ARE VOLUNTARY

No employee will be forced to contribute or make donations to any fund or collection. Any voluntary office collection must be approved by the Department Head.

2.12 COMPUTERS AND ELECTRONIC COMMUNICATION DEVICES ARE FOR CITY BUSINESS

2.12.1 CITY EQUIPMENT FOR CITY BUSINESS USES

City computers and electronic communication devices, including telephones, voice mail, cellular telephones, e-mail and messaging, internet connections, and fax machines, are to be used for City business. There is no expectation of privacy for an employee using these systems.

Any form of electronic communication creates a written business record that can be subpoenaed and used as evidence in litigation or regulatory investigations, or can be subject to an Open Records Request from the public.

2.12.2 NO OR LIMITED PERSONAL USE

Occasional use of local telephone service for personal communications is permissible if the length and number of such communications are kept to a minimum and if there is no charge to the City for a metered service. Employees in some departments may be allowed to carry and use personal cell phones, provided that the employee does not use the personal cell phone for excessive personal calls. Excessive personal use of telephones, whether City lines or personal cell phones, will not be tolerated, and is subject to disciplinary action.

Use of City communications systems, including telephones, computers, internet, and fax machines, for sending or receiving offensive or harassing statements, sexually oriented materials, illegal transactions, or private business transactions is strictly prohibited.

City employees and officials may not place personal long distance telephone calls on City telephone equipment unless a serious emergency exists and there is no other alternative available to the employee. If personal calls are made which result in a charge to the City, the employee must reimburse the City within 10 days after notification from the City Secretary or her designee. Abuse of City telephones can result in disciplinary actions, up to and including termination.

2.12.3 CITY ISSUED CELLULAR PHONES

Where job needs demand immediate access to an employee, the City may issue a City-owned cellular telephone to an employee for work-related communications. These phones are intended to be used for business purposes and incidental personal calls should be as brief as possible. It is recognized that employees will use City issued cellular phones for personal use. Abuse of City issued cellular phones can result in disciplinary actions, up to and including termination.

The City of Bay City desires to provide its citizens with the highest level of governmental service. Employees are expected to maintain the same degree of etiquette, responsibility and professionalism in the use their cellular phones as is expected of them in the course of their normal job functions. Employees assigned a City issued cellular phone will be required to answer any calls, emails, and/or text messages in a timely manner.

Eligibility and Acquisition. The assignment of a cellular phone is based on an employee's need and level of urgency for two-way communication with his/her office, other City departments, and is intended to increase productivity, increase service to the public, or for use in situations in which necessary communication cannot be provided by any other means. The issuance of a City cellular phone must be fully justifiable prior to an employee receiving it. The type of authorized phone will depend upon the degree and methods of communications required for the employee's position. Cellular phones allowing internet, email, texting, video, and picture capability are limited.

A cellular phone may be issued to an employee who fits the following criteria:

- 1.) City employees who are frequently in a vehicle and must conduct City business while in the field where it can be shown that cost savings and customer service efficiency will be realized with cellular communication.
- 2.) City employees who are on call or part of a 24/7 shift operation and require a means of two-way communication after regular business hours.
- 3.) City employees who have a critical need to maintain accessibility to other department employees or public officials in order to ensure uninterrupted customer service.
- 4.) City employees who need to provide immediate and direct communications with citizens, outside agencies, or other resource entities outside City government.
- 5.) City employees who are involved in emergency response activities.

The Information Technology Department will maintain an inventory of all cellular phones and usage by authorized users. This inventory will include account numbers, telephone numbers, and names of employees who have been assigned telephones. All cell phone purchases and repairs are handled through the I.T. Department.

It is the responsibility of the department director to verify that sufficient funds are budgeted for the monthly operational cost associated with cellular equipment in the department. Cell phone expenditures will be charged to each department's communication line item unless otherwise directed. The purchase of cellular phones is subject to approval by the Department Head. The Department Head shall assign each cellular phone to one specific individual, and ensure appropriate controls are in place for checkout, return, security, and maintenance of the equipment. An employee may obtain accessories for a City phone, other than what is provided, but the accessories shall be paid for by the employee.

Cell Phone Usage. The City recognizes there are occasions in which personal calls need to be made or received on a cellular phone. However, City cell phones are intended to be used for City business. Personal calls must be minimized. The City reserves the right to monitor the use of all City cell phones and has the authority to withhold any unreimbursed amount from an employee's wages.

Prohibited Uses. The following acts will prompt the removal of cell phone usage and/or disciplinary action, up to and including discharge from employment:

- 1.) Any use which violates, local, state, or federal law or City policy or procedures.
- 2.) Utilizing the cell phone while operating a vehicle. Employees are responsible for, and will be held accountable for, safe-driving conditions at all times.
- 3.) Any call which could suitably be made from a standard City telephone or by a less costly communications device.
- 4.) Out-of-country and out of network or roaming calls, except when necessary for business purposes and approved in advance by the employee's direct supervisor.
- 5.) Any calls that are not included within the City's service plan.
- 6.) Any call made in relation to an employee's business enterprise.

- 7.) Sending or choosing to receive a communication that could reasonably be considered offensive, illegal, sexually explicit, threatening, or otherwise inappropriate for the workplace.
- 8.) Any texting while driving.

A conversation held on a cellular phone is not secure; therefore, employees must use discretion and practice reasonable caution in relaying confidential information.

Level of Service. Employees with City paid cell phones may have different levels of service depending upon their position. The City will offer limited and full service cell phone usage to its employees. Limited service will consist of the push to talk feature, while a full service phone will be allowed a wider range of features.

Maintenance. Each employee who is assigned a City cell phone is responsible for good care and maintenance of the assigned device. Reasonable precautions should be made to prevent theft of or damage to the cell phone and related equipment. City owned cell phones should not be taken into environments where the equipment is likely to be damaged or destroyed, unless the possession of the telephone within such an environment is necessary for the performance of an employee's official duties.

Phone equipment that is damaged in the course of business should be brought to the I.T Department, which will make arrangements for the replacement or repair. Lost or stolen equipment must be reported immediately to the employee's supervisor or Department Head, so the service can be canceled. All costs incurred for replacement or repair will be the responsibility of the user's department, unless the Department Head and I.T determine that the employee abused the equipment or was negligent, in which case the cost will be the employee's responsibility.

Replacement. Any person who loses or causes a cellular phone to be disabled or non-repairable may request a replacement phone, if the event that caused the damage can be justified as work related. If an employee requires a replacement phone due to employee negligence, the employee will be required to pay for the replacement phone. Multiple replacements may lead to disciplinary action.

2.12.4 CITY COMPUTER SYSTEMS

Electronic mail and messaging and internet access systems, made available by the City to City employees are efficient and valuable business tools. They are also property of the City. City computer systems, including internet access and electronic mail and messaging systems, are to be used for City business. Because all electronic communications systems are City property, there is no expectation of privacy for an employee using these systems. Employees who have excessive computer or internet usage for personal communication will be subject to disciplinary action, up to and including termination.

Any form of electronic communication creates a written business record that can be subpoenaed and used as evidence in litigation or regulatory investigations, or can be subject to an Open Records Request from the public.

Flash drives or other portable storage devices may be used in the workplace only if purchased by the City and issued to the employee. The Mayor or his or her designee may view, without notice, what is on an employee's flash drive or other storage device.

City computer systems, Internet access, voice mail, e-mail, and electronic storage devices may not be used for transmitting, retrieving, or storing any communications, images, or other content of a discriminatory or harassing nature or any materials that are obscene, X-rated, or otherwise inappropriate (except as required in the Police Department for required investigations by the Chief of Police). Harassment using these devices is strictly prohibited. (See Policy on [Sexual Harassment: Anti-Harassment](#)). No messages with derogatory or inflammatory remarks about an individual's race, color, age, disability, religion, national origin, sex, physical attributes, or sexual orientation may be transmitted or forwarded using the City systems. No abusive, profane, or offensive language may be transmitted through the City's electronic communications systems. The City's harassment policy applies in full to electronic communications systems. Employees have no expectation of personal privacy regarding any matter created, received, retrieved, stored, or sent from or on the City's computers or electronic communications systems.

The City's computers and electronic communications systems may not be used for a purpose that is illegal, against City policy, or contrary to the City's best interest. Solicitation of non-City business or any use of the City's computers or electronic communications systems for personal gain is prohibited. Employees are prohibited from opening spam messages received on City electronic communications systems and should consider carefully the source before opening e-mail attachments.

The City's guidance is that employees should not use City electronic communications systems to say or write anything that they would not want someone other than the intended receiver to hear or read. Employees should keep in mind that even when an e-mail, instant message, or voice mail message has been deleted from a location, it is still possible to retrieve that message. In addition, the City may identify and monitor the content of internet sites accessed from any City computer.

2.12.5 EMPLOYEES RESPONSIBLE FOR CONTENT OF MESSAGES

Each employee is responsible for the content of all text, audio, or images that he or she accesses, places, or sends over the City's voice mail, e-mail or internet systems (including bulletin boards, online services, or internet sites). Employees must include their name in all messages communicated on the City's voice mail, e-mail, or internet system.

If an employee receives unsolicited voice mail or e-mail messages that appear to violate this policy, the employee should notify his or her supervisor immediately. Similarly, if an employee accidentally accesses an inappropriate web site in the normal course of business, the employee should notify his or her supervisor immediately.

If an employee receives or has access to a message that is not addressed to him or her, the employee is not authorized to read or use information contained in that message.

2.13 SOCIAL MEDIA

The purpose of this policy is to establish procedures for the City's participation in various social media venues and to establish the standards for posting, allowing, or forbidding certain content and commentary on social media sites which include but not limited to Facebook, YouTube, and Twitter. The City encourages the use of social media to convey information from the City to its citizens, to facilitate a sense of community and for residents and to allow businesses to communicate with and obtain information about the City of Bay City online. The City's website will remain the primary avenue for release of information to reach a broader audience and encourage citizen participation. Nothing contained in any social media site constitutes a binding representation, view, position, opinion, agreement or endorsement on behalf of the City of Bay City, Texas.

All Department Heads are responsible for their subordinates' compliance with the provisions of this policy and for investigating non-compliance.

2.13.1 DEFINITIONS

"Social Media" are third-party websites containing information that is intended to facilitate communications, influence interaction with peers and with public audiences about some topic, typically via the Internet and mobile communication networks. Types of social media include but are not limited to, instant messaging, blogging, microblogging, picture and video sharing, and wall postings.

"City Social Media Sites" are pages, sections or postings in Social Media websites that are established or maintained by an employee of the City who is authorized to do so as part of the employee's job. City Social Media Sites are intended to be used for City business, to communicate with office holders or City staff, and/or communicate or gather feedback from residents and other interested parties.

"City Social Media Content" is information posted or provided to a City Social Media Site by a City employee or authorized agent when such activity is a part of the employee or agent's duties.

"Social Networking" is the practice of engaging in business and/or social contacts by making connections via interactive Web-based applications.

"Blog" is a web site that contains an online personal journal with reflections, comments, and often hyperlinks provided by the writer.

"Post" is to display an announcement in a place for public view on a social media.

"Comment" means a response to a City article or social media content submitted by any person or entity.

"Link" is short for "hyperlink" which connects a hypertext file to another location or file typically activated by clicking on a highlighted word or icon at a particular location on the screen.

"Public Information" is any information collected, assembled, or maintained by the City in the transaction of official business pursuant to Chapter 552 of the Texas Government Code.

2.13.2 GUIDELINES

General Regulation of City Social Media Sites

1. All official City presences on social media sites or services are considered an extension of the City's computer information network and are governed by and subject to Section 2.12, City's Computer and Electronic Communication Devices contained in the City's Personnel Guidelines.
2. Respect copyrights and fair use. All postings must comply with applicable federal, state, and local laws, and regulations and retention schedules according to the Texas Local Government Code, Chapters 201 and 205. Records required to be maintained pursuant to the Texas State Library and Archives Commission records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the usual or approved City platforms or tools.
3. Information collected at this site becomes public record that may be subject to inspection and copying by members of the public, unless an exemption in law exists according to the Texas Public Information Act.
4. When possible, links to more information should direct users back to the City's official website for more information, forms, documents, or online services necessary to conduct business with the City.
5. Those wishing to launch new City Social Media sites, add site pages, or add content to the City's site should make their request in writing or via e-mail to the Mayor. If the request is approved, any login and passwords to the information must be shared with the Mayor's Office. No City Social Media Site will be approved without the designation of a specific Department Head who shall be responsible for maintenance of the site.
6. Employees creating or posting information to a City Social Media Site must conduct themselves professional at all times as representatives of the City in accordance with all other City policies.
7. The Mayor may disable a City Social Media site or prohibit posting of City social media content to a site at any time or for any reason, including but not limited to violation of this policy, improper content, lack of use or disinterest by the public, or a department's failure to properly maintain the site. The City reserves the right to remove any content that is not within these guidelines, while retaining said content for the appropriate records retention according to state law.

Content of City Social Media Sites

1. Employees using social media sites, whether as an administrator or as a responder to a posting, will follow these principles:
 - a. Keep post factual and accurate. If a mistake is made, admit to it and post a correction as soon as possible.
 - b. Reply to comments in a timely manners, when a response is appropriate. Never get in an argument with a citizen on a City maintained social media site. Do not respond with opinion or conjecture – only respond with complete facts.
 - c. Understand that postings are widely accessible, not retractable, and will be around for a long time, so consider content carefully.
 - d. Ensure your comments do not violate City's privacy, confidentiality, and applicable legal guidelines for external communication.

- e. Ensure you have the legal right to publish others' material, including photos and articles pulled from other sites.
 - f. Remember that your postings are ultimately your responsibility.
2. Content specifically prohibited:
- a. Profane language or content;
 - b. Any type of political activity;
 - c. Solicitations of commerce;
 - d. Conduct or encouragement of illegal, improvement, or illicit purposes through visual, textual, or auditory posting including but not limited to sexual content or links to sexual content;
 - e. Content that is confidential according to the Texas Public Information Act;
 - f. Content that promotes, foster, or perpetuates discrimination on the basis of race, creed, religion, gender, marital status, national origin, physical or mental disability, or sexual orientation;
 - g. Information or references to the personal addresses, personal telephone numbers, personal e-mail addresses, family members, or other personal information of City officials or City employees;
 - h. Commercial promotions or spam;
 - i. Information that may tend to compromise the safety or security of the public of public systems; or
 - j. Links to websites or "pages" of outside vendors that are not related to the purpose of the media site.
 - k. Comments or content regarding the personality of individuals, personal attacks, or which would be reasonably construed as slanderous, libelous, malicious, offensive, threatening, profane, personally insulting, baseless, or untruthful.
 - l. Comments encouraging illegal activity, violence, or the threat of violence.

2.13.3 EMPLOYEE SOCIAL MEDIA

While the City of Bay City encourages its officials and employees to enjoy and make good use of their off-duty time, certain activities on the part of its employees may become a problem if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile working environment for any employee; disrupting the smooth and orderly flow of work within the City; or harming the goodwill and reputation of the City of Bay City among its citizens or in the community at large. In the area of social media (print, broadcast, digital, and online), officials and employees may use such media in any way they choose as long as such use does not produce the adverse consequences noted above. For this reason, the City of Bay City reminds its employees that the following guidelines apply in their use of social media, both on and off duty:

1. Blogging or posting information of a personal nature on the Internet is strictly prohibited during work hours. Your online presence during work hours can reflect negatively on the City of Bay City. Be aware that your comments, posts, or actions captured via digital or film images also affect the image of the City of Bay City.
2. If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
3. Employees must abide by all federal law, state law, policies of the City with regard to information sent through the internet. Never disclose any confidential information concerning another

employee, vendor, official of the City in a blog or other posting. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.

4. When posting, be respectful to the City of Bay City's co-workers, citizens, vendors, and partners, and be mindful of your physical safety when posting information about yourself or others on any forum. Do not discuss City employees, vendors, issues, or business without express consent.
5. An employee may be disciplined if an employee publishes any personal or confidential information about themselves, another employee, or vendor in any public medium that:
 - a. Has the potential or effect of involving the employee, their co-workers, or the City of Bay City in any kind of dispute or conflict with other employees or third parties;
 - b. Creates a harassing, demeaning, or hostile working environment for any employee;
 - c. Disrupts the smooth and orderly flow of work within the City, or the delivery of services to the City's citizens; or
 - d. Harms the good will and reputation of the City of Bay City among its citizens or in the community at large.
6. Do not ignore copyright laws or cite and/or reference sources inaccurately. Remember that plagiarism applies online.
7. Do not use City of Bay City logos or trademarks without written consent. Do not post pictures of yourself or others containing images of City uniforms, insignia, logos, equipment or work sites, unless they are being posted on City Social Media.
8. Do not post anything on your blog or sites that may constitute a violation of the City's Harassment policy.
9. Content will be monitored to ensure adherence to the Social Media Policy.
10. Employees found in violation of any provision of this policy may be subject to disciplinary action, up to and including termination of employment.

2.14 REQUESTS FOR JOB CLARIFICATION ENCOURAGED

Employees are encouraged to ask supervisors and Department Heads for clarifications of their job duties. In the absence of any request for clarification, the city will assume that each employee understands and accepts the responsibilities assigned to the position which he or she occupies, as set out in the City's job description for that job.

2.15 RETALIATION PROHIBITED

An employee of the City who reports a violation of the law to his or her supervisor or to a law enforcement authority will not be retaliated against by the City for making the report.

2.16 SECRET RECORDINGS

With the exception of law enforcement recordings properly authorized, the City discourages audio or video tape recordings by employees. If an employee elects in the course of City business to tape record any conversation with an outside party, between the employee and any other City employee, or among two or more other City employees, the employee wishing to make the recording must first notify the other person(s) of his or her intent to record the conversation and must obtain the other person(s)' verbal authorization to make the recording. Unauthorized recording of any conversation may result in immediate disciplinary action, up to and including termination.

2.17 RETURN OF CITY PROPERTY AND EQUIPMENT

When an employee terminates or is terminated from City employment, any city property (tools, equipment, badge, keys, etc.) that has been issued to the employee must be returned before the employee leaves City property. Employees will be asked to sign a statement to the effect that if they fail to return City property or equipment, their final paycheck will be deducted the amount of the property, until the property has been properly returned to the City in good working order.

2.18 RESPONSIBILITY FOR CITY FUNDS

Being given responsibility for City funds in any form is a public trust, and the City takes this responsibility very seriously. If a part of your job responsibilities includes any kind of handling or processing of City funds, you are personally and professionally responsible for those funds and will be held accountable for properly accounting for and recordkeeping related to those funds. If City funds for which you are responsible are missing or not properly accounted for, disciplinary action up to and including discharge will be taken. In addition, the City may file charges in the appropriate court of law against any employee who is found to be responsible for missing City funds.

2.19 CONFIDENTIALITY AGREEMENT

All City of Bay City employees understand that they may from time to time have access to highly sensitive and confidential information. This agreement is to be used as an acknowledgement that all employee's job duties include the obligation to maintain the confidentiality of all highly sensitive and confidential information possessed by the City. All employees have a duty to maintain Local Government Records in a secure and professional manner. No information held by the City should be released to a third party unless it is done so in accordance with City policy and the Texas Public Information Act.

All employees of the City understand and agree that the following obligations or conditions of employment with the City:

1. In the course of employment, an employee may have access to Local Government Records as defined by Texas Local Government Code §201.003(8) some or all of which may be considered sensitive or confidential, whether or not it is labeled or identified as such. Information considered sensitive or confidential by the City of Bay City and covered by this agreement may include but is not limited to:
 - Personal information (such as family, health, marital or financial status, home address, phone number, age, social security number, salary or compensation) about City employees, elected officials, associates, etc.;
 - Computer network operations and security;
 - Construction and building plans of facilities;
 - Protected Electronic Health Information;
 - Current or projected financial particulars of the City, including its payroll systems;
 - Public Safety CAD and/or incident information;
 - Critical Infrastructure or Operational Information as defined by the Electric Reliability Council of Texas (ERCOT) or the Homeland Security Department; or
 - Criminal Justice Information System (CJIS) data.
2. An employee of the City of Bay City will treat with the same degree of confidentiality information proprietary to other parties to which he or she may also have access through their employment with the City of Bay City. Such information may include but is not limited to:
 - Private employee documents or communications; or
 - Proprietary vendor information revealed under non-disclosure.
3. Having access to City's sensitive or confidential information through privileged administrator's rights does not grant an employee permission to actively seek, examine, use, transmit, share, copy, or change such information, and an employee will only actively seek, examine, use, transmit, share, copy, or change such information if it is in the exercise of their designated duties or permission to do so has been granted to them either by his or her supervisor or his designee, or by the Department that is considered the keeper of such information, for a stated specific purpose and timeframe.
4. Data should be kept secured both while it is in use by authorized users and when it is stored or archived. No unauthorized user should see or use such data without permission from the data owning Department Director or other appropriate personnel with the authority to grant such access.
5. If an employee is uncertain whether a particular piece of information or data is considered sensitive or confidential, he or she will resolve all uncertainties in favor of preserving the confidentiality of that item, and will promptly seek clarification from their supervisor or his designee before engaging in any conduct that might jeopardize the confidentiality of that item.
6. If, at any time, security or confidentiality of the City's data is thought to be compromised, an employee will promptly notify their department director or if unavailable seek assistance from the City Secretary's Office.

Violation of these confidentiality policies may result in disciplinary measures up to and including termination, or other civil and/or criminal legal action to preserve the confidential nature of the information.

3. EMPLOYMENT PRACTICES

3.1 PROCESS FOR RECRUITMENT

3.1.1 METHODS OF RECRUITMENT

The city has four methods of recruiting and selecting persons to fill vacancies:

- 1.) Promotion or transfer from within;
- 2.) Public announcement (including media announcement and posting of notice for City employees) and competitive consideration of applications for employment;
- 3.) Referral from a job training program or the Texas Workforce Commission; and/or
- 4.) Selection from a valid current eligibility list. A valid current eligibility list is a list of applicants for the same or a similar position for which applications were sought by the City within the last six months.

The City Secretary, in consultation with the Department Head, determines the method(s) of selection to be used in filling each vacancy. It is the City's policy to promote qualified employees whenever possible.

If two or more applicants have substantially equal qualifications and one is a current City employee, the current employee will be given preference over the other applicant(s).

The City **does not** accept applications for employment unless a specific vacancy exists. Persons wishing to apply for a job with the City when a specific vacancy does not exist are informed of the manner of advertising City job announcements and that they may file an application at any time an advertised vacancy exists for which they consider themselves to be qualified.

Applications, interview notes, test results and other interview-related materials must be returned to the City Secretary for proper filing after interviews are complete.

3.1.2 ANNOUNCEMENT OF POSITION OPENINGS

Public announcements of position openings at the City for which there will be competitive consideration are disseminated by the City Secretary in the manner most appropriate for the particular position being filled. Current employees are permitted to apply for positions for which they believe themselves to be qualified. Current employees that apply for open positions shall submit a letter of interest that outlines their years of service, positions held with the City, as well as their qualifications for the position in which they are applying. The length of time during which applications will be accepted will be determined by the City Secretary, with consultation of the Department Head, in accordance with the circumstances that exist at the time.

Depending on the method of posting, current employees are permitted to apply for positions in which they believe to be qualified.

3.1.3 QUALIFICATIONS FOR CITY JOBS

The City maintains a job description which establishes the required knowledge, skills, and abilities for each type of City job along with the acceptable levels of experience and training for each job. The job description sets forth the minimum acceptable qualifications required to fill the position.

If the job description requires that the employee obtain a particular license within a specific period of time, the employee must meet those requirements within the specified time frame or be subject to termination.

The minimum education requirement for any person considered for full-time or part-time employment with the City of Bay City is a high school diploma or GED. The City may require additional educational standards for any position.

The City job description will be reviewed, and updated if necessary, prior to posting a job opening.

3.2 PROCESS AND REQUIREMENTS FOR SELECTION

3.2.1 SELECTION OF CITY EMPLOYEES

In accordance with state law and the City Charter, the following City Officials may be appointed or removed: City Attorney, City Secretary, Police Chief, City Treasurer, and Municipal Judges.

It is the policy of the City to be an equal opportunity employer, and vacancies in the City workforce are filled, by promotion or by initial appointment, on the basis of merit as demonstrated by education, experience, and personal interview. Selections of the best qualified persons are made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform the specific job.

The Department Head is responsible for determining whether an applicant is technically qualified for the position and if the applicant is compatible with the work environment. The Department Head shall establish selection methods and/or processes used, but the selected methods must be approved prior to their use by the City Secretary.

The City Secretary's Office is responsible for orientation of new employees and for processing their employment forms. The supervisor is responsible for any necessary on-the-job training.

3.2.2 NO UNDERAGE EMPLOYMENT IN HAZARDOUS POSITIONS

Persons under 18 years of age will not be employed by the City in any hazardous position. Persons under age 18 will be required to file with the City Secretary a properly executed minor's release form.

Other age limitations will be applied only as required by state or federal law applicable to the City.

(Legal reference: Child Labor Regulations, Subpart C, issued pursuant to authority conferred by Section 3 (1) of the U.S. Fair Labor Standards Act of 1938, as amended; V.T.C.A. Labor Code, Chapter 51; U.S. Age Discrimination in Employment Act of 1967, as amended.)

3.2.3 APPLICATION FOR EMPLOYMENT REQUIRED

Each person desiring employment with the City must, before employment, fill out the City's official application form and submit other pertinent information regarding his or her education, training and experience. The City will make appropriate inquiries to verify education, experience, character, and required certificates and skills of an applicant prior to employment. In the case of applicants for positions which require driving a vehicle, the City will check the prospective employee's driving record prior to offering the applicant employment. All job applicants must sign a release form permitting the employment history and reference check. The release form is a part of the City's job application form.

Any willful misrepresentation of facts or failure to report pertinent data on the application form or any official employment record may result in dismissal from City employment.

The City will retain each unsuccessful applicant's employment application and related documents for a minimum of two years after receipt of the application in the City Secretary's office. *(Legal reference: 29 Code of Federal Regulations 1602; V.T.C.A. Government Code, Section 441.158; State Library and Archive Commission Local Schedule GR, as amended.)*

3.2.4 NEPOTISM (EMPLOYMENT OF RELATIVES)

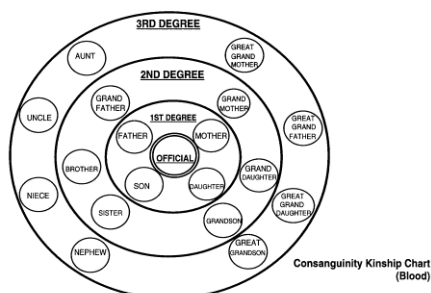
Nepotism is the showing of favoritism toward a relative. The practice of nepotism in hiring personnel or awarding contracts is forbidden by the city. For the purposes of this policy, family member also includes former spouse and significant others (e.g. engaged couples or relationships between individuals of which the substance reflects a marital arrangement).

No person may be hired who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City Council, the Mayor, or any other officer of the City. No person may continue in City employment who is related in one of the prohibited degrees to the Mayor or to a member of the City Council unless the employee has been employed continuously by the City for a period of:

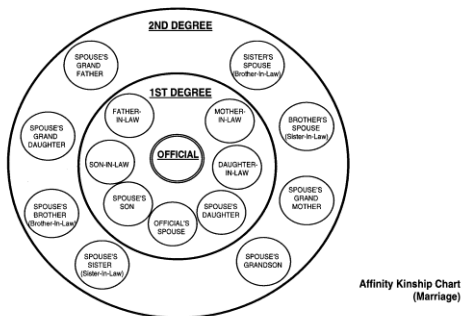
1. At least 30 days, if the officer, council member, or manager is appointed; or

2. At least six months, if the council member is elected.

Prohibited degrees of relationship are defined in the Nepotism Charts below:



Consanguinity Kinship Chart (Blood)



Affinity Kinship Chart (Marriage)

NEPOTISM CHARTS

NOTE: Spouses of relatives within the first or second degree of consanguinity (e.g., son-in-law, mother-in-law, brother-in-law, sister-in-law, etc.) are also included in the prohibition; and adopted relatives also are considered to be related by consanguinity. (Legal Reference: V.T.C.A., Government Code, Chapter 573.)

In addition, no personnel action will be taken that would result in an employee supervising another employee who is related within the second degree of affinity or the third degree of consanguinity to the supervisory employee. Prohibited degrees of relationship are defined in the charts above.

The City of Bay City prohibits the hiring, within the same department, individuals within the first and second degree of consanguinity and the first and second degree of affinity. Please refer to the consanguinity and affinity kinship charts in this subsection. The hiring prohibition stated in this paragraph shall not apply to a temporary hire provided the individual who is hired temporary is neither supervised or supervises a relative within the first and second degree of consanguinity and the first and second degree of affinity.

3.2.5 GRANDFATHER CLAUSE

The City is aware that, as of the revision date of this policy, a number of City employees are related, by blood or by marriage, to other City employees. These employees will be "grandfathered" under this policy, meaning they will be permitted to continue their employment with the City as long as the requirements set out in this policy are met. Please be informed that the above "grandfathered" provision is for family relationships as they exist as of the revision

date of this policy. Any future changes to the family relationship and/or the employment status of the affected employee(s) will be governed by the requirements of this policy.

3.2.6 RESIDENCY REQUIREMENT/RESPONSE TIME

Employees who are designated in “on call” status must be able to respond quickly and to arrive at the City’s designated response site within 30 minutes of receiving the page or call. *(Legal reference: V.C.T.A. Local Government Code, Section 150.021 and U.S. Fair Labor Standards Act of 1938, as amended.)*

3.2.7 PHYSICAL STANDARDS FOR CITY JOBS

The City may offer conditional employment to an individual subject to provision of certain medical history and/or successful completion of a medical examination. The City Secretary designates those positions requiring medical history and/or a physical examination. Typically, prospective employees who will be placed in physically demanding positions are required to undergo a pre-employment medical examination. The medical exam will be conducted only after an applicant has been conditionally offered the position. The purpose of this examination is to determine if the applicant is physically able to perform the essential functions of the job for which he/she is being considered, with or without a reasonable accommodation.

This examination will typically consist of a personal health history and a physical examination. The physician will be provided with a current job description for the position that lists the job’s essential functions.

3.2.8 TESTING

Except for drug/alcohol tests, physical examinations, psychological tests for law enforcement officers, and any other tests that may be required by state law, the only performance tests administered for employment or promotion will be specifically job related (“piece-of-the-job”) tests (e.g., typing, operating a computer, operating a piece of equipment, lifting something heavy which is specifically required to be lifted in the job, tabulating columns of numbers, providing writing samples, etc.).

3.2.9 DRUG AND ALCOHOL TESTING

In addition to the physical examination required by the City for all prospective employees, all prospective employees are required to be tested to show no trace of drug dependency, illegal drug usage, or alcohol abuse. All prospective employees are required to pass a drug/alcohol test after a conditional offer of employment has been extended, but prior to their first day of work. The offer of employment is contingent upon the prospective employee passing a drug/alcohol test. After employment, any employee may be required to submit to a test for drug dependency or illegal drug use and alcohol abuse. For more information on drug testing or drug usage, see the chapter of these policies on **Substance Abuse and Alcohol Misuse**.

3.2.10 VERIFICATION OF ELIGIBILITY TO WORK

In order to comply with the Immigration Reform and Control Act of 1986, each new employee will be required to complete and sign an INS Form I-9 within three days of his or her first day of employment to provide proof of his or her identity and employment eligibility. In the event the employee has not provided evidence of eligibility to work within the first three days of employment, the employee will not be allowed to continue working and is subject to immediate termination. *(Legal reference:; Federal Immigration Reform and Control Act of 1986, P.L. Number 99-603.)*

3.2.11 DRIVING RECORD

Each City employee who is required to drive a vehicle or operate a piece of equipment which requires a valid driver's license must hold the required license type (e.g., Commercial Driver's License) and must maintain a safe driving record. For this reason, the City will check a prospective employee's driving record prior to offering the applicant employment in a capacity which requires operating a vehicle or piece of equipment that requires a valid driver's license. The City makes periodic checks of an employee's driving record.

Applicants and employees are required to provide the City with any authorizations necessary for the City to perform such a check. An employee who is required to drive as an essential function of his or her job must maintain a driving record satisfactory to the City's general liability insurance carrier. An unsatisfactory driving record, or suspension or revocation of the driver's license of an employee who must operate a motor vehicle as a work requirement will result in reassignment of the employee or dismissal.

3.2.12 DISQUALIFICATION

An applicant or employee is disqualified from employment if the City finds that he or she:

- 1.) Does not meet the minimum qualifications for performance of the duties of the position involved;
- 2.) Knowingly has made a false statement on the application form;
- 3.) Has committed fraud during the selection process;
- 4.) Is not legally permitted to hold the position;
- 5.) Has offered or attempted to offer money, service, or any other thing of value to secure an advantage in the selection process;
- 6.) Does not meet physical requirements as a result of the required physical examination;
or
- 7.) Has not provided proof of citizenship or legal work status in the United States within the first three days of employment.

(Legal reference: V.T.C.A., Government Code, Title 4, Section 415.057; Federal Immigration Reform and Control Act of 1986.)

3.2.13 PRIOR SERVICE WITH THE CITY

An employee previously employed by the City of Bay City will be deemed eligible or ineligible for future employment with the City. A committee of the City Secretary or designee, past employee's Department Director, and the Mayor will determine rehire eligibility.

Employees entering service with the City who have had prior service with the city may be considered for appointment above the customary entry salary level. A break in continuous service with the city, however, forfeits vacation and sick leave benefits accrued prior to the break. All hires, new and rehired, will be placed on a 3-month introductory period.

3.2.14 ORIENTATION AND TRAINING

Before a regular employee begins performing his or her actual duties, he or she will be given a brief orientation by the City Secretary or her designee. The purpose of the session is to enable a new employee to understand better his or her job and its relationship to the overall operation of the city. Prospective new hires will be provided a copy of the personnel guidelines, prior to completing their new hire paperwork. The employee must read and understand the policies. On the first day of orientation the guidelines will be reviewed by the City Secretary or his or her designee.

Training an employee is the responsibility of his or her Department Head or his or her designee. Whenever possible, employees receive on-the-job training under close supervision.

3.2.15 MEDICAL RECORDS

All records relating to the medical condition, medical testing, or drug testing of an employee or prospective employee are maintained separately from employee personnel files. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the City Secretary has routine access to employee medical records, and any other access is on a "need-to-know" basis. (*Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; and 45 CFR Parts 160 and 164, Standards for Privacy of Individually Identified Health Information.*)

3.2.16 NOTICE OF PRIVACY PRACTICES

This Notice of Privacy Practices is provided as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). It describes how the City may use or disclose an employee's protected health information, with whom that information may be shared, and the safeguards the City has in place to protect it. This notice also describes an employee's rights to access and amend his/her protected health information. The employee has the right to approve or refuse the release of specific information outside of the City's system except when the release is required or authorized by law or regulation.

"Protected health information" is individually identifiable health information. This information includes demographics, for example, age, address, e-mail address, and relates to the employee's

past, present, or future physical or mental health or condition and related health care services. The City of Bay City is required by law to do the following:

- 1.) Make sure that an employee's protected health information is kept private;
- 2.) Give each employee this notice of the city's legal duties and privacy practices related to the use and disclosure of an employee's protected health information;
- 3.) Follow the terms of the notice currently in effect;
- 4.) Communicate any changes in the notice to each employee.

By law, the City must disclose the employee's health information to that employee unless it has been determined by a competent medical authority that it would be harmful to the employee. The City must also disclose health information to the Secretary of the Department of Health and Human Services (DHHS) for investigations or determinations of City compliance with laws on the protection of the employee's health information.

The City will share the employee's protected health information with third-party "business associates" who perform various activities for the City of Bay City (for example, the City's health insurance carrier, the drug testing administrator). The business associates will also be required to protect the employee's health information.

The City may disclose protected health information during any judicial or administrative proceeding, in response to a court order or administrative tribunal (if such a disclosure is expressly authorized) and in certain conditions in response to a subpoena, discovery request, or other lawful process.

The City may disclose the employee's protected health information to comply with workers' compensation laws and other similar legally established programs.

The employee may exercise the following rights by submitting a written request (depending on the request, the employee may also have rights under the Privacy Act of 1974):

- 1.) The employee may inspect and obtain a copy of his/her protected health information that is contained in a "designated record set" for as long as the City maintains the protected health information;
- 2.) The employee may request the City to provide him/her with an accounting of the disclosures the City has made of the employee's protected health information;
- 3.) The employee may obtain a paper copy of the notice.

This Notice of Privacy Practices is provided to each employee as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). There are several other privacy laws that also apply, including the Freedom of Information Act, the Privacy Act and the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act. These laws have not been superseded and have been taken into consideration in developing City policies and this Notice of how the City will use and disclose the employee's protected health information.

(Legal reference: Health Insurance Portability and Accountability Act (HIPAA), as amended.)

4. TYPES OF EMPLOYMENT

4.1 CATEGORIES OF EMPLOYMENT

It is the intent of this section to clarify the definitions of categories of employment so that employees can understand their employment status and benefit eligibility. These categories do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and the City of Bay City.

There are four categories of employment in the City of Bay City:

- 1.) REGULAR FULL-TIME employees are those who are not in a temporary or seasonal status and are regularly scheduled to work forty (40) hours per week. REGULAR FULL-TIME employees are eligible for all of the City's other benefit programs.
- 2.) REGULAR PART-TIME employees are those who are not assigned a temporary or seasonal status and are regularly scheduled to work at least 20 hours a week but fewer than 40 hours a week. While they do receive all legally mandated benefits (such as Social Security and worker's compensation insurance), they are ineligible for all of the City's other benefit programs.
- 3.) TEMPORARY employees are those who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. These employees may either be classified as TEMPORARY full-time or TEMPORARY part-time. Employment assignments in this category are for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. TEMPORARY employees retain that status unless until notified of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all of the City's other benefit programs.
- 4.) SEASONAL employees are those who have established an employment relationship with the City of Bay City but who are assigned to work on an intermittent and/or unpredictable basis. While they receive all legally mandated benefits (such as worker's compensation insurance and Social Security), they are ineligible for all of the City's other benefits programs.

4.2 INTRODUCTORY PERIOD

All new regular employees serve a ninety (90) day introductory period.

The introductory period gives a new employee the opportunity to learn fully the requirements of his or her new job. It gives the city an opportunity to provide on-the-job training and formal training; to evaluate closely the new employee's work; and to make any adjustment to the job or the employee's status necessary to meet the needs of the City.

At the end of the introductory period, an employee's performance is reviewed by his or her supervisor. The employee will receive a mid-point review. If the employee's performance is satisfactory, he or she has successfully completed the introductory period.

Upon satisfactory completion of the introductory period, the employee may receive (if budgeted and recommended) a salary increase with the approval of the City Secretary or the Mayor.

If an employee is transferred, promoted, or demoted, he or she will serve a six (6) month introductory period in the new position beginning with the date of the position change.

Temporary employees do not serve an introductory period upon employment with the City. However, if a temporary employee is later placed in a regular budgeted position, he or she must serve the six (6) month introductory period.

5. EMPLOYEE COMPENSATION AND ADVANCEMENT

5.1 PAY STRUCTURE

Each City employee is paid a salary or wage in accordance with job responsibilities and performance in the position. Periodic surveys of the labor market and comparative analysis with similar size cities are made by the City Secretary's Office to maintain competitive pay scales. The City Secretary is responsible for recommending to the City Council any changes in the Classification and Pay Plan to keep the plan current, uniform, and equitable. Recommended changes in pay policy become effective only after City Council approval.

5.1.1 PAYCHECKS

- 1.) Generally new employees are hired at the minimum of the approved salary range. In exceptional circumstances, based on unique qualifications or recruiting difficulties, the Department Head or the City Secretary, with the Mayor's approval, may offer a higher hiring rate within the salary range appropriate to competitive conditions.
- 2.) City employees are paid on a bi-weekly basis. Payday is every other Friday. Attendance records and other payroll information must be forwarded to payroll no later than 10:00 a.m. (12:00 p.m. for the Warehouse) on the Monday following the reporting period. If you are absent from work on payday and want to designate someone to pick up your check for you, a signed Payroll Authorization Pick-Up Form must be completed prior to the absence. Please see The City Secretary's for the Payroll Authorization Pick-Up Form. No paychecks will be distributed in advance. If a payday falls on a holiday, employees will be paid on the preceding workday.
- 3.) Checks will be ready for pick up on scheduled paydays, within each department. All checks shall be signed for before they are released from the City Secretary's Office.
- 4.) Direct Deposit is currently available for all employees except seasonal employees. If you would like to take advantage of this convenience, please see the City Secretary's Office for a form. A voided check or deposit slip will be required. Upon termination an employee's direct deposit will stop and a manual check will be mailed.
- 5.) No salary advances or loans against future salaries will be made by the city to any employee for any reason.
- 6.) If there is a change in the employee's family status, address, or other factor affecting his or her payroll withholding or benefits status, the employee must obtain, complete, and return to the City Secretary office the appropriate forms for communicating these changes.

5.1.2 DEDUCTIONS

- 1.) With your paycheck, you will receive an earnings statement which itemizes the deductions from your paycheck. These deductions fall into two groups: those required by law and those authorized by you in writing.
 - a.) Deductions will be made from each employee's pay for the following:
 1. Federal Social Security;
 2. Federal income taxes;
 3. Retirement program (Texas Municipal Retirement System) – participation is mandatory;
 4. Court ordered child support; and
 5. Any other deductions required by law.
 - b.) An employee may authorize deductions from his or her paycheck for:
 1. The portion not paid by the City for group health/medical, life insurance, and dental insurance for the employee or dependents;
 2. Deferred Comp 457 Plan;
 3. Supplemental Insurance; and
 4. Such other deductions as may be authorized by the City Council.
- 2.) No deduction will be made from your paycheck unless it is authorized in writing by you or required by law or court order.
- 3.) Under Texas law, the City is not required to take action in the event of garnishment, attachment, or judgments against an employee's earnings. The only exceptions are the collection of overdue income taxes, court-ordered child support payments, and overdue student loan payments. We expect you to deal responsibly with your creditors. It is against City policy for employees to assign their wages to any other person.
- 4.) Your paycheck is payment from the City to you for services you have rendered, less any applicable deductions. When you get your payroll check, make sure the hours, pay rate, and deductions are correct. It is your responsibility to notify your immediate supervisor if you detect errors in a paycheck. This includes over and under payments, errors in deductions, and other information that would cause a discrepancy in your net or gross income.
 - a. If an error occurs, which results in an overpayment to an employee, the employee will be required to reimburse the overpayment to the City. This reimbursement will be deducted in full from the employee's next paycheck. If the error occurs on the employee's final check, corrections must be made in cash or by cashier's check. If the error results in underpayment, the Finance Department will rectify the problem on the next regularly scheduled payday.
 - b. If there is anything incorrect on your paycheck, take it to your supervisor so that he or she may see that any errors are corrected. If you must cash your paycheck before the error can be corrected, save the check stub, which is your earnings statement. Present the check stub to you supervisor immediately. If you do not

report paycheck errors within 30 days, we will treat your silence as proof of your agreement that all calculations are correct.

- 5.) **Employees Covered by FLSA.** Employees whose positions are covered by (non-exempt from) the federal Fair Labor Standards Act will be paid only for actual hours worked unless they are eligible for and authorized to receive benefits under one of the City's paid leave benefits policies.
- 6.) **Employees Exempt from FLSA.** Employees whose positions are exempt from the federal Fair Labor Standards Act are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only in the following circumstances:
 - a. Unless they are eligible for and authorized to receive benefits under one of the City's paid leave policies, employees who are absent for at least a full day because of sickness, disability, or personal reasons will not be paid for that day. If an exempt employee has exhausted his or her earned leave, the employee's pay will not be reduced if the employee is absent for less than a full day because of sickness or disability.
 - b. If an exempt employee violates a safety rule of major significance, his or her pay may be reduced in an amount to be determined by the City as a penalty for that violation. (See also the section in these policies titled "Disciplinary Suspensions for Violating Serious Workplace Conduct or Safety Rules," which also includes non-exempt employees.) When this occurs, the employee's paycheck will be reduced in an amount that is proportionate to the number of days suspended as compared to the full pay period.
 - c. Employees who work fewer than 40 hours during their first or last week of employment with the city will be paid a proportionate part of their full salary for the time actually worked.
 - d. Improper Deductions from Pay. The City will reimburse any exempt employee whose pay is reduced in violation of this policy. Improper deductions from pay are grievable actions under the City's grievance policy.

(Legal reference: Fair Labor Standards Act of 1938, as amended.)

5.2 PROMOTIONS

A promotion is a change in the duty assignment of an employee which results in advancement to a higher position requiring higher qualifications and involving greater responsibility. A promoted employee will always receive a pay increase.

Upon promotion, an employee serves an introductory period of three (3) months in the new position and may be returned to a lower position at any time during the introductory period if performance is inadequate as documented by the Department Head and approved by the Mayor or his or her designee.

5.3 DEMOTIONS

A demotion is a change in duty assignment of an employee to a lower paid position. Demotions may be made for the purpose of voluntary assumption of a less responsible position; as a result of a reclassification of the employee's position; or as a disciplinary measure, because of unsatisfactory performance in a higher position. Disciplinary demotions may involve a decrease in pay.

5.4 DISCIPLINARY SUSPENSIONS FOR VIOLATING SERIOUS WORKPLACE CONDUCT OR SAFETY RULES

5.4.1 EXEMPT EMPLOYEES

If an exempt employee is found to have violated one of the city's policies regarding proper workplace conduct or safety, he or she will be subject to discipline in the form of an unpaid suspension, up to and including termination. Unpaid suspensions for exempt employees will not be used as disciplinary action in cases involving job performance or attendance issues. Both exempt and non-exempt employees may be suspended without pay for one or more full days when they violate any of the following policies:

- A safety rule of major significance;
- Workplace harassment;
- Discrimination;
- Dress and grooming (serious violations only);
- Computer policy;
- Substance abuse;
- Weapons brought to work in violation of this policy and workplace violence;
- Confidential and proprietary information;
- Conduct unbecoming of a City employee;
- Other policies that prohibit serious workplace misconduct.

This policy also extends to off-site and after working hours conduct that has a bearing on the employee's employment with, and/or the reputation of, the City.

5.4.2 NON-EXEMPT EMPLOYEES

Non-exempt City employees may be suspended without pay for any of the issues listed above that are applicable to exempt employees, as well as for time and attendance issues, performance issues, or any other reason deemed appropriate by the supervisor or Department Head.

(Legal reference: U.S. Fair Labor Standards Act (FLSA) of 1938, as amended.)

5.5 ON-CALL PAY

Employees within certain departments will be subject to being placed on the on-call schedule. Each week the on-call schedule will be made available, and will consist of a crew leader and a crew (the number of employees on the crew will be subject to the Department Head or supervisor). Employees designated by their supervisors to be on-call will receive two (2) hours of pay at the regular rate for the week they are assigned to be on-call, if they do not get called-out. Exempt employees are not eligible for on-call pay. See Section 6 on “Work Schedule and Time Reporting” for additional information on on-call status.

5.6 CALL-BACK PAY

Non-exempt employees assigned to call-back duty shall be paid according to the following:

- a.) The crew leader that is on-call will receive one (1) hour of pay, regardless of the number of phone calls he/she receives.
- b.) The crew members will receive two (2) hours for the first call-out. If the employee receives a second call-out the same day, they will only receive the actual time worked.

If an employee does not respond to a call-out, he/she will be subject to disciplinary action, up to and including termination. Exempt employees are not eligible for call-back pay. See the chapter on “Work Schedule and Time Reporting” for additional information on call-back status.

5.7 INTERIM PAY

In some instances when a supervisor or other member of management is absent for an extended period of time, interim pay may be activated for the employee temporarily performing those job duties. Interim pay applies to positions at the Department Head status. The employee who is temporarily promoted or assigned to perform the full range of duties of a higher classified position on an extended-term basis will receive an increase. Such interim pay can only be authorized by the Mayor. Interim pay will be 15% greater than the employee’s regular wage.

It will be the Mayor’s responsibility to return the employee to his or her previous position and rate of pay by the end of the pay period in which the employee is no longer serving in an interim status. The Mayor must complete a Payroll Change Form and submit it to the City Secretary’s Office. In no event shall an employee serve in an interim position for more than six (6) months.

5.8 LONGEVITY PAY

It is the intent of the City of Bay City to pay full-time police officers longevity pay at the rate of \$4 per month for each year of service with the City. Longevity pay is in addition to the employee's regular wage. In computing actual continuous service, time spent on authorized absence for military leave to serve in the Armed Forces of the United States shall be included and time spent on any other authorized absence that does not exceed three months shall be included.

6. WORK SCHEDULE AND TIME REPORTING

6.1 ADMINISTRATIVE WORKWEEK

The official work period for employees is a seven (7)-day period beginning at 12:01 a.m. on Sunday and ending seven (7) calendar days thereafter.

Normal working hours for most employees are 8:00 a.m. to 5:00 p.m., Monday through Friday, or such other days as determined by the Mayor and City Council for a total of 40 hours per workweek, with a one hour lunch period every day.

City employees are expected to report punctually for duty at the beginning of their assigned workday or shifts and to work the full workday or shift.

Other hours of work and official work periods for individuals or groups of employees may be set by the Department Head or the Mayor.

(Legal reference: U.S. F.L.S.A. of 1938, as amended; Garcia v. S.A.M.T.A., U.S. Supreme Court, 1985; U.S. Equal Pay Act of 1963.)

6.2 ON-CALL STATUS

The City of Bay City recognizes that there are times when an employee may be contacted to report back to the job to resolve an issue that has been manifested outside normal work hours. When an employee is expected to remain available, the employee is considered to be on-call². Department directors and/or supervisors may establish official on-call schedules for non-exempt employees.

During the time an employee is designated to be on-call, he or she is free to pursue personal activities, but is prohibited from consuming alcohol, illegal drugs, or any other substance (legal or illegal) that may impair the employee's ability to perform his or her duties in a safe and capable manner. If the employee who is on-call is impaired and cannot perform his or her duties in a safe and capable manner, the employee will be regarded as absent from a work assignment and is subject to disciplinary action, up to and including termination. Employees are expected to be on-call by their supervisor's instructions and may be subject to disciplinary action for failing to respond to the on-call assignment.

An employee will be considered to be officially scheduled and designated as on-call when:

- 1.) An on-call need has been identified by the department director or supervisor, instructions have been communicated by the supervisor to the employee affected.
- 2.) Employees scheduled to be on-call are provided a phone/pager/radio to allow freedom of movement during this period.

² On-call is defined as time that an employee is designated to be available for a defined period of time, to receive emergency service requests during non-scheduled working hours.

- 3.) An employee who has been designated to be on-call and has acknowledged his/her on-call status and availability instructions, is expected to report for work when called back at the time and place specified by his/her supervisor, and at that time be physically and mentally fit to perform the duties of the job.
- 4.) Whether or not the time an employee is on-call is counted as compensable working time depends upon the employee's freedom while on call. If an employee can come and go freely, even though he or she must leave a telephone number where the employee can be reached, the time may be excluded from hours worked. If the employee must remain on the employer's premises or so near that he or she cannot use the time freely, the time is compensable.

Departments can establish their own policies concerning what positions will be mandated for on-call duty as long as the policies do not interfere with the rules established in these *Employee Guidelines for City of Bay City Employees*. On-call time must be specified as such on the employee's bi-weekly timesheet.

6.3 CALL-BACK STATUS

When a call-back³ occurs, the employee will receive two (2) hours for the first call-out. If there is another call-out during the same day the employee will only receive the actual time worked. The time that a non-exempt employee is assigned to be on call-back status will be considered hours worked if during that time the employee is required to:

- 1.) Return to the employee's usual place of work;
- 2.) Remain near a telephone at a fixed location; or
- 3.) Perform the employee's regular duties, whether by telephone or otherwise.

Departments can establish their own policies concerning what positions will be mandated for call-back duty as long as the policies do not interfere with the rules established in these *Employee Guidelines for City of Bay City Employees*. Call-back time must be specified as such on the employee's bi-weekly timesheet.

6.4 SCHEDULE ADJUSTMENTS

Adjustments to the normal hours of operation of city facilities and the work schedules for affected employees may be made by the Department Head or the Mayor in order to serve the public better. Supervisors and Department Heads shall implement work schedules, including work hours and lunch schedules, to meet the general requirements of their departments and divisions. Individual employees may be directed to work special hours or shifts determined by the needs of each department.

³ Call-back is defined as the time the City requires an employee to return to work on an unscheduled or emergency basis to work outside the employee's regularly scheduled work hours.

6.5 EXEMPTIONS FROM FLSA

All employers must pay overtime to all “nonexempt” employees if they work more than 40 hours in a seven-day work period. However, certain employees are not covered by the Fair Labor Standards Act (“Act”), and some are covered but exempted by a specific provision of the Act. Exempt employees are expected to render necessary and reasonable overtime services with no additional compensation. The salary of an exempt position is established with this assumption in mind. Employees that are not covered by the Act include elected officials and their personal staffs, legal advisors, professionals, and bona fide volunteers.

The City of Bay City exempt positions include: Mayor, City Secretary, Emergency Services Director (Police Chief), Director of Administrative Services (Finance Director), Community Services Director, and Director and Assistant Director of Public Works. *Please note this is not intended to be an all-inclusive list; other exempt employees are designated as exempt on their job descriptions.* (Exempt employees will be eligible for overtime compensation when required to work during Emergency circumstances).

Each city job description designates whether persons hired in that classification are exempt from, or covered by (nonexempt), the overtime provisions of the FLSA.

Extra hours worked by executive, administrative, and professional employees may be used as a factor in granting or denying paid leave other than vacation or sick leave.

In addition, some positions are not covered by the FLSA. These positions are those who are hired and may be discharged directly by an elected official and who work very closely with the elected official on a regular basis.

(Legal reference: U.S. F.L.S.A. of 1938, as amended.)

6.6 EXPLANATION OF EXEMPTIONS FROM FLSA (OVERTIME COMPENSATION)

“Non-exempt” or “exempt” designations indicate whether an employee is eligible for, or exempt from, overtime compensation. To determine whether an employee’s job is exempt or non-exempt, each employee’s combination of duties and responsibilities; required knowledge, skills, and abilities; and qualifications requirements are reviewed individually.

Nonexempt. A nonexempt employee is one whose position is covered under the overtime pay provisions of the Fair Labor Standards Act (FLSA) and will be compensated for overtime as required by law.

Exempt. The term exempt employee refers to an employee who is exempt from the overtime pay provisions of the Fair Labor Standards Act (FLSA) and is expected to render necessary and reasonable services beyond 40 hours per week with no additional compensation. Exempt employees’ salaries are set with this consideration in mind. City employees who are in exempt positions most often qualify under the executive, administrative, or professional exemption, or a combination of these exemptions. To qualify for any of the following exemptions, employees must be paid a minimum of \$455 weekly, which annualizes to \$23,660 per year.

Executive. The executive exemption is for persons whose primary duty is “management” of the City or a department or subunit within the City’s organizational structure. An employee who has management of a department or a subunit thereof as his or her primary duty, and regularly supervises two or more employees (or several part-time employees equating to two full-time equivalents), qualifies for the executive exemption.

To qualify for the executive employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week;
2. The employee’s primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
3. The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
4. The employee must have the authority to hire or fire other employees, or the employee’s suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Examples include management, department or section heads, and team leaders or other supervisors in certain circumstances.

Administrative

To qualify for the administrative employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;

2. The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
3. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Examples include workers whose primary duties are accounting, budgeting, purchasing, and human resources, as well as those workers whose primary duties include research, public relations, governmental relations, administration, and legal and regulatory compliance. Special provisions relate to jobs in the information technology area.

Professional

To qualify for the **learned professional** employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
2. The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
3. The advanced knowledge must be in a field of science or learning; and
4. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for the **creative professional** employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week; and
2. The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

Computer Employee To qualify for the computer employee exemption, the following tests must be met:

1. The employee must be compensated **either** on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week **or**, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
2. The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below;
3. The employee's primary duty must consist of:
 - a. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
 - b. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
 - c. The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 - d. A combination of the aforementioned duties, the performance of which requires the same level of skills.

Blue Collar Workers

The exemptions provided by FLSA Section 13(a)(1) apply only to “white collar” employees who meet the salary and duties tests set forth in the Part 541 regulations. The exemptions do not apply to manual laborers or other “blue collar” workers who perform work involving repetitive operations with their hands, physical skill and energy.

Combination Exemptions.

Some positions may be exempt because they fall into a combination of two or more of the above categories, with most of the criteria holding true for the job.

(Legal reference: U.S. FLSA of 1938, as amended.)

6.7 HOURS WORKED AND OVERTIME COMPENSATION EARNED

City Department Heads, with approval of the Mayor, determine the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the City's budget.

The policy of the City is to keep overtime to a minimum. However, employees may be required to provide services in addition to normal hours or on weekends or holidays. The most efficient and effective to deal with extra hours that an employee is required to work is to grant the employee equivalent, hour-for-hour time off within the same seven (7)-day workweek in which the extra hours are worked.

Overtime is defined as hours worked in excess of the allowable number of hours under the Fair Labor Standards Act (FLSA). For the City, this is 40 hours per seven (7)-day workweek for most personnel. Law enforcement employees' shifts may differ from other City employees.

Exempt employees are paid a salary and are not eligible to receive overtime pay, except when required to work during an Emergency. Exempt employees work at the discretion of Department Heads and/or the Mayor. Recognizing that exempt employees may be required often to work on behalf of the City outside of regular City business hours, they may from time to time be granted work leave during the City's normal business hours as determined appropriate or necessary without using accrued leave, so long as their duties are adequately performed.

Work leave is not intended to be hour-for-hour and is authorized at the discretion of the Department Head and/or Mayor. Work leave may be allowed for an unusual number of hours worked, including night or weekend work hours. An exempt employee may not accrue work leave hours and may not receive additional compensation for any work leave hours granted but not taken. No entitlement is intended to be created by this policy.

Overtime is accumulated at a rate equal to one and one-half (1 ½) times the employee's regular hourly rate. Overtime will be paid:

- 1.) When authorized in advance of overtime worked by the employee's supervisor or Department Head; or
- 2.) When the use of compensatory time would result in the accumulation of compensatory time in excess of the maximum limits provided by these provisions.

Regular and temporary part-time employees who are in non-exempt positions are not entitled to time and one-half overtime compensation until they have worked in excess of 40 hours in a work period (one week).

The City reserves the right to require employees to work "emergency" overtime⁴ on a given day or week. Violation of these requirements subjects the employee to disciplinary action, up to and including discharge. An employee who works overtime is required by law to be compensated for the overtime worked. Supervisors or Department Heads are charged with authorizing the use of overtime, and likewise with assuring non-abuse or over accumulation of overtime and the inadvertent use of overtime by non-exempt employees.

- 1.) Hours worked specifically **exclude** time spent on military leave, sick leave, funeral leave, emergency leave, jury duty, or compensatory time.
- 2.) Hours worked specifically **include** time spent actually engaged in work for the City.
- 3.) Overtime shall be calculated in quarter hour increments, i.e., .25, .50, or .75. If an employee works less than one-quarter (.25) of an hour, he or she will be credited with a quarter hour of overtime worked; if less than one-half hour but more than a quarter hour is worked, the employee will be credited with a half hour of overtime worked; etc.
- 4.) For purposes of overtime calculation, "hours worked" will include vacation leave **if** the leave has been pre-approved at least two (2) weeks in advance, and the employee is specifically called into work. "Hours worked" will also include holiday leave and floating holiday leave **if** the employee was specifically called in to work and actually worked on the City observed holiday.

For example: If an employee is on pre-approved vacation leave or is on an approved holiday and is called into work, the time the employee is actually engaged in City business will be counted as overtime.

For example: If during a week an employee uses comp time and accumulates more than 40 hours it will count as Regular Time. No overtime will be given if the employee has not **physically** worked every day.

- 5.) Since Compensatory Time is paid in lieu of overtime, an employee must have physically worked more than 40 hours to receive overtime or earn compensatory time.

For example: Compensatory time cannot be used and earned in the same workweek.

6.8 COMPENSATORY TIME (IF USED BY A CITY DEPARTMENT)

All of City of Bay City employees, other than exempt and seasonal employees, shall, in accordance with FLSA, have an option of receiving compensatory time off in lieu of cash, at the rate of one and one-half (1 ½) times the each hour of approved overtime worked in excess of 40 hours in a week. Compensatory

⁴ "Emergency" Overtime can be defined as non-scheduled work time of an emergency nature that falls outside an employee's routine work schedule. An emergency is defined as an unanticipated combination of circumstances that call for immediate action.

time is rarely used by the City of Bay City except by the Police Department. However, Department Heads may use compensatory time sparingly to better manage their departments. If compensatory leave is granted:

- Non-exempt employees may accrue compensatory time off at one and one-half times the number of overtime hours worked up to a maximum of 40 hours. Compensatory time balances are carried over from year to year. Certified peace officers in the Police Department may accumulate a greater number of hours of compensatory time, up to the 480 hour maximum allowable under FLSA for law enforcement employees.
- As a general rule, any compensatory time earned should be used within six (6) months of the date on which it is earned.
- Any employee whose compensatory time balance reaches the cap will no longer be able to accrue compensatory time until the balance falls below the caps. Any overtime worked after an employee has reached the cap for compensatory time will be compensated with cash.
- Non-exempt employees requesting to use their compensatory time off shall be permitted to use the time within a reasonable period after making the request if the employee's absence does not unduly disrupt the operations of the department affected.
- If an employee has substantial compensatory time on the books and has not requested time off, the Department Head may require the employee to take time off to reduce the balance in the employee's compensatory time account, provided that the City's work can be accomplished without the employee during that time.

There are three situations in which the City of Bay City will pay for compensatory time hours that have accumulated:

- 1.) Upon termination of the employment relationship;
- 2.) When an employee is promoted from a non-exempt position to an exempt position he/she will be paid in full for any comp time accrued before the promotion becomes effective at the rate prior to the promotion (exempt employees are not eligible to accrue comp time); or
- 3.) If the City requires a non-exempt employee to decrease the number of comp time hours to below the maximum allowable (40 hours for non-exempt, non-law enforcement employees).

(Legal reference: U.S. FLSA of 1938, as amended; and Christensen v. Harris County, U.S.S.Ct., May 1, 2000.)

6.9 TIMESHEETS

Timesheets are to be completed and submitted to your supervisor or Department Head for approval. They are to be submitted to the Finance Department no later than the Monday before payroll by 10 a.m., with the exception of the Warehouse (submittal time is 12 p.m.). When a City Holiday falls within a payroll week, departments will be notified by the Finance Department of submission date and time.

All non-exempt employees are required to record their exact hours of work by completing a time sheet or by punching a time clock. After you have completed your time sheet for the work period, check it carefully to assure it is accurate. Then, sign your name to the sheet if the total hours shown is correct and accurate to your understanding. If you feel the hours recorded are incorrect, do not sign your sheet until it has been corrected by your supervisor. **Never complete anyone else's timesheet and never allow anyone else to complete yours. Likewise, never clock in for anyone else and never allow anyone else to clock in for you. Either of these is grounds for disciplinary action up to and including discharge.** All timesheets must be signed by both the employee and his or her supervisor. If an employee is not available to sign his or her timesheet, the employee will not be allowed to receive his or her paycheck until the timesheet is signed.

It is imperative that all employees verify their timesheets to help avoid future corrections. It is the responsibility of the supervisor or Department Head to verify that the timesheet is in compliance with the overtime and compensatory time guidelines. If there are any corrections to be made, they will be taken care of during the following pay period.

Exempt employees are required to complete a timesheet as well. Although exempt employees may work more than their regular forty (40)-hour workweek, the completion of the timesheet aids in the tracking of employee leave and can be the basis for allowing work leave.

6.10 EMERGENCY POLICY

6.10.1 PURPOSE

Protecting the health and safety of everyone in our community as well as the surrounding community is a key priority during an emergency. The citizens of Bay City depend on City employees before, during and after an emergency or disaster to provide or restore essential public services for the health, safety, and quality of life for our community. This policy applies to all non-exempt and exempt employees, and is intended to clarify the procedures for emergency and the compensation policy for employees when a state of emergency is imminent or has been declared by the Mayor. This policy recognizes that some emergencies provide no advance warning.

6.10.2 CITY FACILITIES ASSUMED OPEN

In the case of a weather emergency, (e.g. snow, ice, or other weather event), a disaster, or other emergency on a workday, and unless a closing is announced in advance of reporting time, City personnel are required to report to work as usual unless the emergency conditions make it impossible to report safely to duty.

If City facilities are not closed and if weather or other emergency conditions make it impossible for an employee to report to work, the employee must notify his or her supervisor as soon as possible that the employee finds it impossible to report to duty safely. Time absent may be charged to available vacation, compensatory time, personal time, or leave without pay.

6.10.3 CLOSING OF CITY FACILITIES

In the case of a weather emergency (e.g., snow, ice, or other weather event), disaster, or other emergency on a workday, the Mayor is authorized to designate the closing of City facilities. The Mayor or designee is responsible for initiating the process of contacting employees. If City facilities are closed, City personnel who are not required to work that day will be paid for the actual time or day(s) that the City was officially closed.

- If an official City facility closing for weather or other emergencies occurs during an employee's scheduled vacation or personal day, that day will not count against the employee's vacation or personal leave balance.
- If an employee reports to work and the Mayor or Department Head sends the employee home because of inclement weather or other emergency, the employee will be given credit for a full workday.

6.10.4 REQUIRED WORK DURING AN EMERGENCY

The Mayor may require employees to work during an emergency or disaster regardless of whether City facilities are open or closed and regardless of the extent or duration of the emergency. Employees may be required to provide services to protect the public's health and safety and to assure the continuation of, or recovery of, normal City business processes. An employee who refuses a directive from the Mayor or a Department Head to report to work for all or part of an emergency period is subject to discipline by the City, up to and including termination.

Each employee is responsible for providing the City with updated contact information (address, telephone numbers, e-mail addresses) each time this information changes, but no less often than annually.

6.10.5 COMPENSATION DURING EMERGENCY

In the event of a Disaster Declaration, declaration of a State of Emergency, and/or a long-term emergency, certain non-exempt and exempt employees will be declared "First Responders" and are required to work the duration of the event. Even exempt employees will be eligible for overtime at the rate of 1 ½ times their regular hourly rate of pay for actual hours worked. In order to provide payment of overtime for exempt personnel during a declared emergency, the City will waive the FLSA "exempt" status of those employees. Exempt employees will be eligible for overtime or compensatory time off in the same manner as non-exempt employees.

When City offices are declared closed by the Mayor, employees who are determined not to be "First Responders" will be paid as authorized leave for those day(s); meaning an employee will receive his or her regular pay for the day(s) out on authorized leave.

6.10.6 PROVISIONS

In the event of a wide scale emergency that could impact our community, the following employees will be considered First Responders:

- 1.) Mayor
- 2.) Police Chief and Officers
- 3.) Public Works Director
- 4.) Assistant Director of Public Works
- 5.) Finance Director
- 6.) Public Works Foremen
- 7.) Equipment Operators
- 8.) Truck Drivers
- 9.) Wastewater Treatment Plant Operators
- 10.) Laborers (to be determined by Department Head)
- 11.) Bay City Volunteer Fire Department

Department Heads and/or supervisors will determine the number of employees needed for each category. Once a State of Emergency is declared, employees who are absent, employees who leave early, and employees who do not report to work after the Mayor determines it is safe to return to work may encounter disciplinary action, up to and including termination, in addition to loss of pay. Employees who are absent without the appropriate authorization are subject to the appropriate disciplinary action, up to and including termination.

7. BENEFITS

The City Secretary is responsible for the administration of the City's employee benefits program. Employees should consult with the City Secretary's Office for any additional questions not answered in this manual.

7.1 MEDICAL, DENTAL, LIFE, AND ACCIDENTAL DEATH AND DISMEMBERMENT (AD&D) INSURANCE

Regular full-time employees and regular part-time employees who work at least 30 hours per week are eligible for group hospitalization, medical, life, accidental death and dismemberment (AD&D), and dental insurance coverage after 90 days of employment with the City, as allowed by the City's current insurance plan(s). A portion of the premiums for eligible employees are paid by the City for the employee.

After 90 days' service, regular, full-time employees and regular part-time employees who work at least 30 hours per week, are enrolled in the City's group medical, life, AD&D, and dental plan. The city contributes 60% toward dependent premiums, while the employee contributes 40% toward dependent premium, as approved by the City Council.

Eligible employees may add additional dependent coverage at the employee's expense as allowed by the medical plan. An eligible dependent is an employee's spouse or natural or legally adopted child or stepchild, provided the child or stepchild is 26 years of age and under.

Upon employment, each employee who is expected to become eligible for insurance coverage is given an insurance booklet containing detailed information about the City's insurance programs and amendments as provided by the city's insurance carrier(s). See the section on Continuation of Group Insurance for information on continued coverage after certain status changes.

All insurance forms and informational packets can be obtained from the City Secretary's Office.

7.2 SOCIAL SECURITY

Employees of the City are covered by Social Security. The city also contributes to the Social Security system for each employee.

7.3 RETIREMENT

The City provides a retirement program for its employees through the Texas Municipal Retirement System (TMRS). Membership is mandatory for full-time paid employees. The TMRS defines a full-time

employee as one who works in a job that normally requires at least 1,000 hours per year, as determined by the City.

Membership in the retirement system begins on the date of employment. Information about the retirement program is provided to each City employee at the time of employment and is available at any time from the City Secretary's Office.

Both the employee and the City contribute to the employee's retirement account. Employee contributions are deducted from employees' paychecks at the rate of five (5) percent. The City matches employee contributions and interest on a 2 to 1 basis (two City dollars for every one employee dollar), with money transferred at the time of retirement.

An employee who terminates employment with the City prior to retirement, may exercise one or more of the following options:

- 1.) If an employee is not-vested⁵ and separates from the City, he or she may leave the funds on deposit with the system for a period not to exceed five (5) years, during which the money on deposit will continue to draw interest.
 - a.) If the member, either immediately or during the five (5)-year period described above, is employed by another Texas City that is a member of TMRS, and the employee has not received a refund of deposits, then the accumulated service will be combined with any later service and applied toward ultimate retirement.

For example: If an employee leaves the City of Bay City to work for another TMRS City, the employee may leave his or her retirement contributions deposited at TMRS; and upon retirement, the employee may receive payments from both entities.
 - b.) Upon termination, a TMRS member may file an application for a refund of deposits and accrued interest. Under this option, the member's account is closed, and the member forfeits further benefits under the plan. The City's matching portion is also forfeited.
- 2.) If a vested⁶ employee terminates employment with the City, deposits may be left in the system until the employee reaches retirement eligibility.

Employees are eligible to retire when:

- 1.) The employee has reached at least 60 years of age and has at least five (5) years of credited service; or
- 2.) The employee has at least 25 years of credited service regardless of age.

If an employee dies before retirement, the supplemental death beneficiary receives the retirement benefit equivalent to one year of the employee's salary.

Occupational Disability Retirement Benefits (ODR) are provided if an employee becomes disabled to the extent the employee can no longer perform the duties of the position he or she occupies, and if the

⁵ Not-Vested is defined as an employee that has continuous credited service with the City of less than five (5) years.

⁶ Vested is defined as an employee that has continuous credited service within the City for at least five (5) years.

disability is likely to be permanent. There is no minimum length of service or age required to be eligible for. In this instance, the employee also receives the City matched portion of retirement benefits.

7.4 SECTION 457 DEFERRED COMPENSATION PLAN

The purpose of this policy is to outline procedures for enrollment and eligibility in the City's deferred compensation program. The City provides an option to any regular full-time employee to invest a portion of his or her present earnings in a deferred compensation plan. This is an arrangement where a certain dollar amount can be designated by the employee to be withheld from his or her paycheck and invested for payment at a later date, usually at retirement. Under this arrangement, neither the deferred amount nor earnings on the investments are subject to current federal income taxes until such time as the employee receives payment from the plan.

The City approved program includes various investment options and is currently administered by Nationwide Retirement Solutions. Enrollment occurs after the 90-day waiting period for regular full-time employees. Contributions are made through payroll deductions. Employees may increase, decrease, or stop the withholding amount at any time during the year.

Benefits received through this program are in addition to any Social Security or Texas Municipal Retirement System (TMRS) benefits for which the participating employee would be eligible.

7.5 WORKERS' COMPENSATION

Employees of the City are covered by the workers' compensation insurance program, and the City pays the premium. This coverage provides medical and salary continuation payments to employees who receive bona fide, on-the-job, work-related injuries. Detailed information about workers' compensation benefits is found in Section 9 of this manual under the main heading Health and Safety. (*Legal reference: V.T.C.A., Labor Code, Chapter 504.*)

7.6 UNEMPLOYMENT INSURANCE

Employees of the City are covered under the Texas Unemployment Compensation Insurance program, and the City pays for this benefit. This program provides payments for unemployed workers in certain circumstances. (*Legal reference: V.T.C.A., Labor Code, Chapter 201.*)

7.7 LEAVE TIME

Regular full-time City employees are eligible for holidays, vacation leave, sick leave, and other types of released time under certain circumstances. Detailed information about leave and other types of released time is found in Section 8 of this manual under the main heading Leave Time.

8. LEAVE TIME

8.1 DEFINITIONS

Leave Time. Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid. The types of leave authorized for use by City of Bay City employees are as follows:

- Vacation leave;
- Sick leave;
- Family and medical leave;
- Military leave;
- Jury duty;
- Leave of absence without pay;
- Bereavement leave;
- Injury leave (Workers' Compensation);
- Administrative leave; and
- Holidays.

Holidays. Holidays are days designated by the City Council when the City government is closed or on a limited work schedule on what otherwise would be regular business days.

Unauthorized Absence. An unauthorized absence is one in which the employee is absent from regular duty without permission. Employees are not paid for unauthorized absences and such absences may result in disciplinary action.

8.2 APPROVAL OF LEAVE

Notification of Unplanned Absences. If an employee finds that he or she is unable to report to work as scheduled, the employee must notify his or her supervisor or, if the supervisor is not available, the City Secretary's Office before the time he or she is scheduled to begin work. In the case of an injury, hospitalization, or other serious emergency that prevents early notification to the City, the employee, or his or her designee, if the employee is not physically able to make the call, must notify the City as soon as possible.

Leave taken by City employees must be submitted in writing and approved by the employee's Department Head or by the Mayor or his or her designee. Notification does not automatically excuse the absence or guarantee that the time off will be paid.

The City Secretary is responsible for determining what leave has been earned and is available for use in the amounts requested by an employee. The Department Head or his or her designee is responsible for ensuring that all leave usage is recorded on the timesheet for payroll purposes. If an employee's absence

after the cut-off date of the time reports would affect the amount of salary due, the payroll office will make proper adjustments prior to the last day of the pay period or at least in the next pay period.

8.3 VACATION LEAVE

The City of Bay City is happy to provide a program that gives employees the flexibility to earn and use paid time off. Vacation leave is an earned benefit and is made available to eligible employees in order to provide personal leave, personal business leave and family leave away from work without loss of compensation.

Subject to the terms and conditions set forth below, regular full-time employees earn paid vacation leave according to the following schedule:

<u>YEARS OF SERVICE</u>	<u>ALLOTTED HOURS</u>	<u>NO. OF WEEKS</u>
Year: 1	40 Hours	1 Week
Year: 2 - 4	80 Hours	2 Weeks
Year: 5 - 9	120 Hours	3 Weeks
Year: 10 - 14	160 Hours	4 Weeks
Year: 15 - 19	200 Hours	5 Weeks
Year: 20+	240 Hours	6 Weeks

Regular part-time employees earn paid vacation leave in proportion to the number of hours worked. For example, a regular part-time employee regularly scheduled to work 20 hours per week (1/2 of the full-time 40 hours) will earn 20 hours of vacation leave (1/2 of the full-time earning rate of 40 hours) after their first twelve (12) months of employment. Temporary and seasonal employees do not earn vacation leave.

The following provisions relate to vacation time:

- 1) The "anniversary date" of regular, full-time employees is the date falling one year after their initial day of employment. After completion of one year of continuous service, forty (40) hours are credited to the employee's vacation leave account. Vacation leave is not earned until the completion of one year's continuous service. Employees who separate from city employment prior to the completion of one year of continuous service do not receive payment for vacation leave.
- 2) In succeeding years, the appropriate number of hours is credited to the employee's vacation leave account on the employee's anniversary date. Upon termination, any vacation hours accrued and unused will be paid provided the employee had served at least twelve (12) continuous months with the City.
- 3) Employees will be allowed to take only those leave hours that are reflected in the records maintained by the City. Hours are also shown on each paycheck stub.
- 4) If an employee requests leave and does not have adequate accrued leave available, the leave request will be denied. Vacation leave requests will only be approved for time that is accrued and available.

- 5) It is the employee's responsibility to review leave hours as reported on each paycheck stub for errors. Failure to notify the payroll office of any errors in accrued leave within thirty (30) days of issuance of a paycheck stub will result in a waiver of any omitted leave days that were not included on the paycheck stub.
- 6) Request for vacation of more than five (5) days will be subject to the approval of the Department Head or supervisor who will evaluate the request, including an evaluation of current staffing considerations. Naturally, the efficiency of your department and the needs of the public come first, and the City reserves the right to set the times when vacations may be taken.
- 7) If more than one employee in a department requests vacation leave for the same period of time and the department cannot function efficiently with more than one employee absent, the leave requests will be granted in the order in which they were received. If the vacation leave requests are received on the same day, seniority will determine which leave request is granted.
- 8) A maximum of 80 hours may be carried forward past the anniversary date on which it was earned. Vacation leave is taken in minimum increments of four (4) hours.
- 9) Effective May 23, 2013, in the event that an individual who has at least 20 years of continuous service with the City, is out on a bona-fide medical condition for extended leave for a 6-month period, retires without returning to service, is entitled to all vacation hours accrued in the previous year.
- 10) An employee with at least 20 years of service may be paid for one (1) week of accrued vacation leave, which has the potential of being lost. Such payment is conditioned upon the following:
 - a. The employee must have used at least three (3) weeks (120 hours) of vacation leave from the date of the last accrual deposit; and
 - b. The vacation leave paid to the employee will be only that amount in excess of the three weeks used and the 80 hours permissible to be carried forward.
- 11) Official City of Bay City holidays occurring while an employee is on approved leave are considered as paid holidays and are not deducted from the employee's vacation leave balance. Employees who are confined to bed during their vacation time due to illness or injury may request that the number of hours during which they were confined due to illness or injury be charged to sick leave. The request must be approved by the immediate supervisor and must be supported by a doctor's certification that the employee was confined to bed during that period of time.
- 12) Employees must have vacation leave requests pre-approved prior to the beginning of the scheduled leave.
- 12.) In the event an employee depletes their accrued Sick Leave, the department must notify the employee of the depletion, and receive permission to use any accrued Vacation and/or compensatory time.

8.4 HOLIDAYS

It is the policy of the City to designate and observe certain days each year as holidays. Regular part-time employees will be paid for the hours normally worked on such days. For example, if an employee is not normally scheduled to work the day on which a paid holiday falls, the employee does not receive pay for that day. The City Secretary's Office will publish the schedule of holidays the City will observe after it has been approved by the City Council.

The following holidays are declared official holidays for City employees:

New Year's Eve
 New Year's Day
 Martin Luther King, Jr.'s Birthday
 President's Day
 Good Friday
 Memorial Day
 Independence Day
 Labor Day
 Veterans Day
 Thanksgiving Day
 Christmas Day
 Floating Holiday Day

The following rules apply to holiday leave:

- 1) An employee who has to work on a holiday will be paid the hours worked, in addition to their holiday pay.
- 2) If an employee is absent the day before or the day after a holiday without advance approved leave, the employee will **not** be paid for the extra day **unless** he or she submits a doctor's certification that the employee was sick that day **and** the employee has accrued sick leave to cover the extra day.
- 3) When an employee's regular day off falls on a holiday, the employee will be provided an alternate day off for the holiday, which shall be taken within the same month the holiday falls in. Some departments may schedule alternate holidays at the beginning of the year for their round-the-clock shift employees.
- 4) Holidays falling within an employee's approved vacation leave, or within any other approved paid period of absence, will be paid as a holiday and will not be counted against that leave.
- 5) Effective January 1, 2009, City of Bay City employees will be granted one floating holiday per calendar year. The floating holiday will be in addition to the twelve (12) Council approved holidays. If not taken during the year, the floating holiday will not be carried over, nor will it be paid at the time of termination. In order to receive this holiday, an employee must:
 - a.) Be a regular full-time employee;
 - b.) Be employed by the City of Bay City for at least one year; and
 - c.) Complete a Floating Holiday Request form and submit the completed form to his or her supervisor or Department Head prior to the leave request date.

8.5 SICK LEAVE

8.5.1 ELIGIBILITY AND ACCRUAL

Regular full-time employees earn 96 hours of sick leave per calendar year, or a total of 12 days. Each regular part-time employee accrues sick leave proportionately based on the hours worked per pay period. Seasonal and temporary employees do not earn sick leave.

Sick leave is accrued each pay period. For full-time employees, sick leave accrues as shown below:

Calculation: (25 pay periods at 3.69 hours per pay period)
 + (1 pay period at 3.75 hours)
 = 92.25 hours + 3.75 hours = 96 hours per year

8.5.2 USES OF SICK LEAVE

Eligible employees with earned sick leave may use it if the employee is absent from work due to:

- 1) Personal illness or physical or mental incapacity;
- 2) Medical, dental, or optical examinations or treatments;
- 3) Medical quarantine resulting from exposure to a contagious disease; or
- 4) Illness of a member of the employee's immediate family who requires the employee's personal care and attention. For this purpose, immediate family is defined as the employee's spouse, child, or any other relative who resides in the employee's household or who is dependent on the employee for care.

Sick leave may be used during the introductory period; however, sick leave may not be used in advance of being earned.

Sick leave may be taken in as little as quarter (.25) hour increments.

8.5.3 CARRYOVER

Sick leave has no maximum accrual and can be carried over every year, but unused accrued sick leave will not be paid upon termination.

8.5.4 MEDICAL STATEMENT

After an employee has used three or more consecutive days of sick leave, the employee must furnish written verification by a physician of medical disability precluding availability for duty

and releasing the employee to return to work. The City retains the right to request a physician's verification for any absence due to illness.

8.5.5 SICK LEAVE POOL

The City maintains a sick leave pool to provide for the alleviation of hardships incurred by an employee and the employee's immediate family if a life-threatening illness or injury forces the employee to exhaust all available sick leave, vacation leave, and compensatory leave. The sick leave pool is intended to lessen financial hardship caused to sick leave pool members by providing a source of additional paid sick leave. Routine pregnancy/maternity is not considered a catastrophic illness or injury. However, severe pregnancy-related illness or complications afflicting mother or child may be considered.

Definitions for the purpose of the sick leave pool are as follows:

1. Catastrophic illness or injury is defined as a life-threatening illness or injury, incurred by a Sick Leave Pool member or the member's immediate family member, that forces the member to exhaust all accrued paid leave time and for this policy would result in the member being placed into an unpaid leave status.
2. Employee is defined as a regular full-time employee who has been employed by the City for one continuous year.
3. Immediate Family Member is defined as an employee's spouse, child, or any other relative who resides in the employee's household or who is dependent on the employee for care.
4. Life-threatening is defined as a disease or condition from which the likelihood of death is probable unless the course of the disease or condition is interrupted. Life-threatening illnesses and injuries include, but are not limited to: serious or terminal illness such as cancer, and serious or life-threatening accidents or injuries. Chronic illnesses or injuries which result in intermittent absences from work, such as HIV or kidney disease requiring dialysis, may also be considered life-threatening. Life-threatening illness or injury does not include: non-emergency elective surgery; injuries covered by workers' compensation claims; disabilities from drug or alcohol abuse; and self-inflicted injuries.
5. Sick Leave Pool is defined as the accumulated sick leave hours donated by employees for use in accordance with this policy.
6. Sick Leave Pool Administrator is defined as committee made up of the City Secretary or designee, affected employee's Department Director, and the Mayor designated in this policy to administer the Sick Leave Pool Policy.

In order for an employee to be considered eligible for the Sick Leave Pool, an employee is required to complete an enrollment form; one has to be employed by the City of Bay City for one consecutive year; and an employee has to donate at least one hour from their own personal Sick Leave bank. Employees may contribute a maximum of ninety-six (96) hours of their earned sick leave to the pool. Contributions to the pool are strictly voluntary. The contributor may not designate the recipient of his or her donated sick leave.

An employee may donate any unused accrued sick leave to the Sick Leave Pool upon separation, with the completion of the Donation form.

Sick leave pool hours may not be used in conjunction with a workers' compensation claim by an employee.

An employee must be enrolled in the Sick Leave Pool in order to request leave. A request to withdraw form must be submitted, prior to the exhaustion of your personal leave bank. The employee must provide the Sick Leave Pool Administrator with a physician's statement as to the nature of the illness, surgery, or temporary disability, including the expected duration of the employee's absence.

The City Secretary is responsible for developing and implementing the procedures for contributing sick leave hours to, or withdrawing sick leave hours from the pool. However, the City Secretary, the employee's Department Director, and the Mayor determine the approval or denial to withdraw from the pool. The City Secretary is also responsible for communicating and interpreting the procedures of this policy to the employees.

The Sick Leave Pool Administrator shall consider the information contained in the request form, the number of pending request forms, and the number of hours available in the Sick Leave Pool. The Sick Leave Pool Administrator shall not award more than one-third ($\frac{1}{3}$) of the hours in the Sick Leave Pool based upon any single request for withdrawal of hours.

Employees on extended leave must report by telephone to the City Secretary's Office at least once a week, as well as immediately following any doctor's appointment, with an update as to the expected duration of the employee's absence.

Employee utilizing Sick Leave Pool hours do not qualify for the accrual of benefits (sick, vacation, holiday, etc).

8.5.6 ILLNESS WHILE ON VACATION LEAVE

When an illness or physical incapacity occurs during the time an employee is on vacation leave, accrued sick leave may be granted to cover the period of illness or incapacity and the charge against vacation leave reduced accordingly. Application for such substitution must be supported by a medical certificate or other acceptable evidence, and application must be made immediately upon the employee's return to duty.

8.5.7 CANCELLATION UPON TERMINATION

Unused sick leave is canceled upon termination of employment, without compensation to the employee. The employee can voluntarily donate this unused sick leave to the sick leave pool.

8.5.8 OUTSIDE EMPLOYMENT

Employees who are on approved sick leave may not work a second job while on sick leave, even if they have written authorization from the Mayor to work a second job. Any exception to this policy must be obtained in writing from the Mayor.

8.6 FAMILY AND MEDICAL LEAVE (FMLA)

All governmental employers are covered under the Family and Medical Leave Act (FMLA). City of Bay City employees are eligible for FMLA leave. Under the FMLA, eligible employees may take up to twelve (12) weeks of unpaid leave for specified family and medical reasons within a 12-month period or 26 weeks for military FMLA leave.

8.6.1 DEFINITIONS

A **“12-Month Period”** means a rolling 12-month period measured backward from the date leave is taken. The twelve (12)-month period during which an employee may use a maximum of twelve (12) workweeks of this type of leave (or a maximum of twenty-six (26) workweeks for military FMLA leave) is measured forward from the date on which the employee’s first Family and Medical Leave Act (FMLA) leave begins. A **“serious health condition”** means an illness, injury, impairment, or physical or mental condition that involves any period of incapacity or treatment connected with in-patient (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such in-patient care or continuing treatment by a health care provider, which includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities).

“Child” A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is standing in the place of a parent, who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary.

“Parent” A biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.

“Spouse” A husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage.

“Family Member” is defined only to include parent, spouse, son and daughter.

A **“Health care provider”** who may provide certification of a serious health condition includes:

1. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; Podiatrist, dentists, clinical psychologists, optometrists, and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice and perform within the scope of their practices under state law;
2. Nurse practitioners, nurse mid-wives, and clinical social workers authorized to practice and perform within the scope of their practice, as defined under state law;
3. Any health care provider recognized by the employer or the employer’s group health plan benefits director;
4. A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

“Covered Active Duty” means (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment with the Armed Forces to a foreign country; and (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment with the Armed Forces, duty during the deployment with the Armed Forces to a foreign country where they may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

“Covered Service Member” means (A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

“Outpatient Status”, with respect to a covered service member, means the status of a member of the Armed Forces assigned to--

- a. a military medical treatment facility as an outpatient; or
- b. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Next of Kin” means the nearest blood relative of a Covered Service member.

A **“12-Month Service member Period”** means a single 12-month period measured forward from the first day Service member Family Leave is taken.

“Serious injury or illness”--

- a. in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- b. in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released under conditions that were not dishonorable.

“Qualifying Exigency” includes: 1) notification of a call to covered active duty seven or fewer days from date of deployment; 2) military events and related activities, including post-deployment activities (e.g. official ceremonies, support programs, counseling, etc. related to covered active duty or a call to such); 3) attending to childcare and school activities; 4) attending to financial and legal matters; 5) to spend up to five days with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment; and, 6) any

additional activities related to the call to covered active duty otherwise agreed to by the employer and employee.

8.6.2 COVERAGE AND ELIGIBILITY

To be eligible for family/medical leave an employee must have worked for the City for at least 12 months total and have worked at least 1250 hours over the previous 12-month period.

1. An eligible employee is entitled to twelve (12) unpaid workweeks of leave during any twelve (12) month period for the following purposes or up to twenty-six unpaid workweeks of leave during any twelve (12)-month period for military caregiver circumstances. To care for a child following birth or placement for adoption or foster care of the child (only within twelve (12) months of the birth or placement); or
2. To care for a spouse, child (including step-child), or parent with a serious health condition; or
3. The employee's own serious health condition that makes the employee unable to perform the essential functions of his or her job; or
4. Qualification as the spouse, son, daughter, parent, or nearest blood relative of a wounded military service member who suffered an injury or illness while on active duty that rendered the service member unable to perform the duties of his or her military grade (this leave may be for up to twenty-six (26) weeks during one twelve (12)-month period and a husband and wife can use no more than twenty-six (26) weeks combined); or
5. Qualification as the spouse, son, daughter, or parent of a person eligible for qualifying exigency military leave. A "qualifying exigency" under military family leave is a non-medical activity that is directly related to the covered military member's active duty or call to active duty status. Exigency leave applies only under a federal call or order to active duty (not a state call to active duty unless by order of the President of the United States). Such active duty or call/order to active duty is only made to members of the National Guard or Reserve components or a retired member of the Regular Armed Forces or Reserve. An employee may not take exigency leave if the service member is a member of the Regular Armed Forces. For an activity to qualify as an exigency, it must fall within one (1) of seven (7) categories of activities or be mutually agreed to by the employer and employee. The seven (7) categories of qualifying exigencies are as follows:
 - a. Short-notice deployment (leave permitted up to seven (7) days if the military member receives seven (7) or fewer days' notice of a call to active duty);
 - b. Attending certain military events and related activities;
 - c. Arranging for alternative childcare;
 - d. Addressing certain financial and legal arrangements;
 - e. Attending counseling by a non-medical counselor (such as a member of the clergy);
 - f. Rest and recuperation (leave permitted up to five (5) days when the military member is on temporary rest and recuperation leave); and
 - g. Attending post-deployment military activities.

8.6.3 INTERMITTENT OR REDUCED LEAVE

“Intermittent/Reduced Schedule Leave” means taking leave in blocks of time or by reducing the employee’s weekly or daily work schedule. An employee may take intermittent leave in increments as low as 30 minutes. If the leave is unpaid the City will reduce the employee’s salary based on the amount of time actually worked.

- a. If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent/reduced schedule leave is subject to the employer’s approval.
- b. FMLA leave may be taken intermittently/reduced schedule whenever medically necessary to care for a seriously ill family member or because the employee is seriously ill and unable to work.
- c. Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer’s operations, subject to the approval of the employee’s health care provider.
- d. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.

8.6.4 SERIOUS HEALTH CONDITION

A serious health condition is one that (a) requires visits for treatment by a health care provider at least twice a year; (b) continues over an extended period of time (including recurring episodes of a condition); and (c) may cause episodic incapacity rather than a continuing period of incapacity.

8.6.5 CALCULATION OF 12-MONTH PERIOD

The City of Bay City calculates FMLA leave on a rolling basis. The twelve (12)-month period during which an employee may use a maximum of twelve (12) workweeks of this type of leave (or a maximum of twenty-six (26) workweeks for military FMLA leave) is measured forward from the date on which the employee’s first Family and Medical Leave Act (FMLA) leave begins.

8.6.6 DEFINITION OF FAMILY MEMBERS

"Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent. The child must be under eighteen (18) years of age or an individual eighteen (18) years of age or older who is incapable of self-care because of a mental or physical disability. "Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage, including common law marriage. Military family leave also includes the parent of a covered service member, son or daughter of a covered service member, next of kin of a covered service member, and son or daughter on active duty or called to active duty status.

8.6.7 LIMITATIONS/RESTRICTIONS

Leave may be taken on an intermittent or reduced basis for the birth or adoption of a child only if the arrangement is agreed to by the Department Head. An employee may take intermittent leave in increments as low as 30 minutes. However, leave for serious health conditions – either of an eligible family member of the employee or the employee himself or herself – may be taken intermittently or on a reduced schedule if medically necessary, provided that the other conditions of these policies are met.

8.6.8 TEMPORARY TRANSFER

If the employee's request for intermittent leave is foreseeable, based on planned medical treatment, the city may require the employee to transfer temporarily to an alternative position, with equivalent pay and benefits, that better accommodates recurring periods of leave.

8.6.9 MAXIMUM DURATION

The total cumulative maximum period of time which an employee may be absent from work on family leave during any twelve (12)-month period is twelve (12) weeks, regardless of whether all or a portion of the leave period is paid or unpaid. (There is an exception for up to twenty-six (26) weeks of military caregiver leave in a twelve (12)-month period on a per-covered-service-member, per-injury basis.) If an employee has accrued sick, vacation, compensatory, or any other type of qualifying leave on the books at the time that the family leave commences, the employee must exhaust those leave balances, if applicable to the circumstance, before being eligible for unpaid family leave. Once the employee's applicable leave balances have been exhausted, the city will then provide enough unpaid family leave to total twelve (12) weeks (or twenty-six (26) weeks for military caregivers) of combined paid and unpaid leave. During the unpaid portion of an employee's family leave period, the employee accrues no additional vacation leave, sick leave, or any other type of leave. Other employee benefits remain in place.

8.6.10 PART-TIME/VARIABLE HOUR EMPLOYEES

If an employee works a part-time schedule, the amount of leave to which the employee is entitled is determined on a pro rata or proportional basis, provided that the other requirements for eligibility are met.

8.6.11 NOTICE

When an eligible FMLA circumstance occurs for an employee, the employee must contact the City Secretary and complete a request for family leave, with the leave request specifying the first date of absence or expected absence. In the case of leave for the birth or placement of a child, an employee must provide at least thirty (30) days' advance notice before the date on which the leave is expected to begin. If the employee is unable to provide thirty (30) days' notice, he or she must provide as much notice as is practicable, usually within one or two business days of the date on

which the employee is aware of the need to request leave. In the case of leave for a serious medical condition, if the leave is foreseeable, based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to disrupt the city's operations unduly. The same advance notice requirements apply. In the case of exigency leave, whether foreseeable or unforeseeable, the employee must notify the City Secretary and provide appropriate paperwork as soon as practicable and definitely within fifteen (15) days unless unusual circumstances exist.

8.6.12 CITY DESIGNATION OF FMLA LEAVE

The city will provide an employee with a designation notice stating whether the employee's leave has been designated as FMLA leave or not. This notice will be provided whether or not the employee has requested FMLA leave. If the employee does not request family leave, yet requests the use of accrued leave, and a condition of FMLA eligibility exists, then the city may designate the leave as family leave. A city employee must respond to the city's questions in order to determine if the absence is FMLA-qualifying. Failure to respond to the city's inquiries may result in denial of FMLA protection if the city is unable to determine whether the leave is FMLA qualifying. Employees must also follow the city's usual notice and procedural requirements for requesting leave and calling in absences.

If the city designates an employee's leave as FMLA leave, without a request by the employee, then the city will notify the employee of the FMLA designation, normally within five (5) business days of the city's determination regarding the leave. The city's notification to the employee of FMLA designation may be communicated orally, but must be confirmed in writing no later than the next regular payday (unless less than a week remains until the next payday).

The designation notice will specify the amount of leave that will be counted as FMLA leave if known, and if not known at that time, the designation notice will be provided upon the employee's request, but no more often than every thirty (30) days (if leave was taken during the prior thirty (30) days). This notice will also state whether a fitness-for-duty certification will be required for the employee to return to work.

8.6.13 CERTIFICATION REQUIREMENTS

An employee must submit a complete and sufficient medical certification within fifteen (15) days (or longer if the employee has made diligent, good faith efforts to obtain it without success). Family and medical leave may be denied by the city if complete and sufficient medical certification is not submitted within the fifteen (15) days. If the employee submits certification in a timely manner, but the documentation is not complete or sufficient, the city will provide the employee with a list of what information is still needed and will allow the employee seven (7) calendar days to cure the deficiencies. If the employee does not correct the deficiencies within the seven (7) calendar days, the leave may be denied.

The city may also contact the employee's health care provider directly for verification or clarification if the employee does not cure the deficiencies within the required seven (7) calendar days. If such contact with the health care provider would involve individually-identifiable health information, the city will obtain the employee's permission before requesting the information. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and the ADA Amendments Act of*

2008; Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended; and Ragsdale v. Wolverine Worldwide Inc.)

Certification requirements differ for the various types of family and medical leave:

1. **Extended Illness or Temporary Disability.** An employee requesting a paid or unpaid family leave of absence for extended illness or temporary disability must submit to the City Secretary (1) a health care provider's statement as to the date upon which the employee is no longer able to perform his or her duties, or (2) a statement that the employee is needed to care for a spouse, parent, or child, with the expected length of the recuperation period, or an estimate of the time required to care for the family member, and appropriate medical facts regarding the condition. In addition, the employee must also provide the City Secretary with a written statement from the employee concerning his or her intentions about returning to work.

An employee on family leave must contact his or her supervisor at least once each workweek unless another schedule satisfactory to the city has been established in writing and signed by the Department Head and the employee. The city may also require subsequent re-certifications as reasonably needed. Failure to provide required medical status reports or to contact the office on the schedule required by the Department Head will result in disciplinary action.

2. **Military Caregiver Leave – Automatic Emergency Certification.** If a Department of Defense health care provider has determined that the injury or illness of a service member is serious enough to warrant the immediate presence of a family member at a service member's bedside, an invitational travel order (ITO) or invitational travel authorization (ITA) is issued, which constitutes automatic certification of the serious injury or illness for the period specified on the ITO or ITA. If the employee does not submit an ITO or ITA, the employee must submit a medical certification as specified above.
3. **Military Caregiver Leave – General.** An employee requesting a paid or unpaid family leave of absence for military caregiver leave must submit to the Department Head (1) a health care provider's statement as to the date upon which the service member needs the employee's care and expected duration of the care, and (2) a statement from the employee or the service member that the employee is needed to care for a spouse, son or daughter, parent, or next of kin.
4. **Military Exigency Leave.** An employee requesting a paid or unpaid family leave of absence for military exigency leave must provide two types of certification to the City Secretary: (1) a certification that the covered military member is a member of the National Guard or Reserves who is on active federal duty or called to active federal duty (typically a copy of the military member's active duty orders); and (2) a statement from the employee (including available written support documentation) about the nature and details of the specific exigency, the amount of leave needed, and the employee's relationship to the military member.

8.6.14 SECOND, THIRD OPINIONS

The city may require a second opinion, and, if conflicting, a third opinion from a health care provider as to the need for and scheduling of family leave. The second and third opinions, if sought and obtained by the city, will be paid for by the city and will be obtained from independent health care providers who are not employed by the city. If a third opinion is necessary, the third opinion obtained is final.

8.6.15 HOLIDAYS FALLING DURING FMLA LEAVE PERIOD

If an employee is on paid or unpaid family and medical leave, and the employee is absent for an entire week that includes a holiday, the holiday time will count as FMLA leave toward the maximum allowable FMLA leave period.

8.6.16 RECERTIFICATION

The city requires an employee using FMLA leave to provide recertification as to the need for such leave every six (6) months in connection with an absence. In addition, the city requires recertification at any time during FMLA leave if the employee seeks an extension of the FMLA leave. The recertification requirements are the same as the initial certification requirements. Except for the military leave provisions of FMLA, the city may provide the employee's health care provider with the employee's attendance records and ask whether the leave taken has been consistent with the employee's serious health condition.

8.6.17 RETURN TO WORK/ASSURANCES

After completion of an approved family and medical leave period, an employee will be returned either to the same position he or she held before the leave began or to a position equivalent to the previously held position in pay, benefits, and other terms and conditions of employment. This policy may be modified for "key employees," defined as those salaried employees in the top 10 percent of the city's workforce. Key employees will be notified in advance of their status.

If the reason for family leave was an employee's own personal health condition, the employee must provide the following before being allowed to return to work: a written statement from the appropriate physician and/or other licensed health care provider certifying that the employee has been released to return to work and that the employee can perform the essential functions of the job, as well as listing any limitation(s) on the employee's ability to perform the essential functions of the job.

An employee must return to work as soon as the reason for the family and medical leave has ended. Failure to return to work when the reason for the leave has ended may result in disciplinary action, up to and including termination of employment. If an employee on family and medical leave returns to work in the department to which he or she is assigned, the supervisor must notify the City Secretary immediately before allowing the employee to resume work, to ensure that the appropriate documentation has been filed.

8.6.18 FITNESS FOR DUTY CERTIFICATION

If the city requires a fitness for duty certification prior to the employee's return to work, that requirement will be stated in the city's designation of the FMLA leave. The employee must participate and cooperate in the fitness for duty process, including providing complete and sufficient certification and/or providing sufficient authorization to the employee's health care

provider to provide information directly to the city. If the employee does not participate and cooperate fully in this process, he or she will lose his or her rights to reinstatement under the law unless the employee has requested and is eligible for additional FMLA leave. If the employee has used intermittent FMLA leave during the previous thirty (30)-day period, and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, the city may require fitness for duty testing every thirty (30) days.

8.6.19 HEALTH INSURANCE COVERAGE WHILE ON FMLA LEAVE

Regardless of whether the family leave period is paid, unpaid, or a combination of paid and unpaid, the employee's health insurance coverage will be continued in the same manner and at the same level as it would have been had the employee continued in employment for the duration of the family leave period.

If the employee wishes to continue dependent insurance, the employee must pay the premium for that coverage to the city no later than the last working day of each month the employee is on leave without pay (deductions will be made as usual while the employee is in pay status, using approved leave time). However, should the employee decide, at any time after family and medical leave begins, that he or she will not return to work at the city, the employee must reimburse the city for health coverage premiums paid by the city that normally would have been paid by the employee during the family leave period, unless the reason for not returning to work is the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the employee's control. This is subject to certification at the request of the city to be provided by the employee's physician and/or other licensed health care provider.

8.6.20 RETENTION OF BENEFITS

An employee on family leave does not lose any previously accrued seniority or employment benefits, but does not earn any leave credits or other benefits during the unpaid portion of the leave.

8.6.21 POSTING OF SUMMARY OF ACT

The city has posted a summary of the Family and Medical Leave Act on a central bulletin board for employees' information, within each City department building.

(Legal references: Family and Medical Leave Act of 1993 (Pub. L. 103-3), as amended; and National Defense Authorization Act of 2008 (Pub. L. 110-181); and related U. S. Department of Labor regulations).

8.6.22 REQUEST FOR LEAVE IMMEDIATELY FOLLOWING FAMILY AND MEDICAL LEAVE

If an employee requests additional leave beyond the twelve (12)-week maximum allowable under the family and medical leave provisions of these policies, any extension granted will be under the terms set out in Section 8.7, **Other Leaves of Absence**. Employees should read the referenced section carefully and understand the differences between these two types of leaves before requesting an extension.

8.6.23 DOCUMENTATION

All documentation regarding family leave will be filed in the employee's medical file, which is maintained separate from the personnel files, and is accessible to a limited number of persons, and only on a "need-to-know" basis. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended; and Ragsdale v. Wolverine Worldwide Inc.)*

8.7 OTHER LEAVES OF ABSENCE

The approval of a leave of absence from duty maybe in the form of a pay or non-pay status. Granting a leave of absence is at the discretion of the Department Head, in consultation with the City Secretary. This type of leave is not authorized unless there is a reasonable expectation that the employee will return to employment with the city at the end of the approved period.

Employees on leave of absence in a pay status, may receive compensation, but will not accrue benefits. Employees on leave of absence in a non-pay status, receive no compensation and accrue no benefits. However, previously accrued leave balances, benefits, and seniority are retained during leaves of absence unless otherwise prohibited by the terms or provisions of the benefit programs or by these policies. Medical insurance can be continued if the employee pays the employee and/or the dependent premiums in full and in a timely manner.

8.7.1 REVOCATION OF LEAVE OF ABSENCE

A leave of absence may be revoked upon receipt of evidence submitted that the cause for granting such leave was misrepresented or has ceased to exist.

8.7.2 AUTHORIZED REASONS FOR A LEAVE OF ABSENCE

A leave of absence may be appropriate for the following reasons:

1. Recovery from extended illness or temporary disability, including using leave without pay to add to the allowable 12-week period of family leave; pregnancy is treated in the same manner as any other extended illness or temporary disability (see also the Section 8.6, **Family and Medical Leave**);
2. Educational purposes when successful completion will benefit the city;

3. Public service assignments;
4. Seeking public office;
5. Personnel exchange programs which emphasize intergovernmental relations; or
6. Any other reason which, in the judgment of the Department Head and City Secretary, merits a leave of absence.

8.7.3 APPROVAL OF LEAVE OF ABSENCE

An approval of a request for a leave of absence is at the discretion of the Department Head, in consultation with the City Secretary, and is based upon the employee's length of service with the city and past attendance record; the department's needs; and prospect for temporary replacement of the employee or reassignment of the employee's duties. A leave of absence will be limited to one hundred eighty days (180) days. The above timeframe shall include time spent on FMLA.

8.7.4 RETURN TO WORK AFTER A LEAVE OF ABSENCE

At the expiration of an authorized leave of absence, every effort will be made to reinstate the employee in the same, or a comparable, position. However, if no vacancy exists and a reasonable effort to place the employee in another position has been unsuccessful, the employee will be separated and paid any applicable accrued benefits. See also Section 8.6, **Family and Medical Leave** and Section 8.9, **Military Leave** for specific provisions relating to leaves of absence for those purposes.

8.7.5 SEPARATION OF EMPLOYMENT

If an employee has met the maximum of 180 days, and is not medically able to return to perform the duties in which he or she was hired to perform, with reasonable accommodations, the employee will be separated from employment, and paid any applicable accrued benefits.

8.8 BEREAVEMENT LEAVE

Regular full-time and part-time employees may receive paid bereavement leave for the purpose of attending funerals, making funeral arrangements or attending to the affairs of a deceased relative. For the purposes of this section a relative will be described and allotted bereavement leave as follows: relatives within the first (1st) degree of consanguinity and affinity kinship will receive five (5) days; and relatives within the second (2nd) degree of consanguinity and affinity kinship will receive three (3) days of bereavement leave. Bereavement leave may be offered in increments as low as two (2) hours, up to the maximum, depending on the type of kinship.

Leave taken to attend funerals for any other family member or friend must be taken as vacation, compensatory leave, floating holiday or a leave of absence. The supervisor and/or Department Head may require the employee to provide proof of death such as an obituary notice.

8.9 MILITARY LEAVE AND YOUR RIGHTS UNDER USERRA

Regular employees who are members of the State Military Forces or members of any of the Reserve Components of the Armed Forces of the United States are entitled to a temporary leave of absence from their duties, without loss of time or efficiency rating, vacation time, or salary on all days during which they are engaged in authorized training or duty ordered by proper authority, normally not to exceed fifteen (15) days in any one (1) federal fiscal year. Employees will continue to receive pay from the city during this authorized training.

Requests for approval of military leave must have copies of the relevant military orders attached. Confirmation that military duty was performed must be provided by the employee. Unused military leave does not carry over to the next year.

Regular employees who are ordered to extended active duty with the state or federal military forces are entitled to all of the reemployment rights and benefits provided by law upon their release from active duty. Before returning to duty, the employee must provide the city with the appropriate notice and documents specified in the state and federal statutes in effect at the time. *(Also, see the section of these policies headed “Family and Medical Leave.”)*

The city will abide by the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA) and will grant military leave to all eligible full-time and part-time employees. Military leave will be granted to full-time and part-time employees for a period of four years plus a one-year voluntary extension of active duty (five years total) if this is at the request and for the convenience of the United States government.

As with any leave of absence, employees must provide advance notice to the Department Head and City Secretary of the employee’s intent to take a military leave and must provide appropriate documentation unless giving such notice is impossible, unreasonable, or precluded by military necessity.

An employee’s salary will not continue during an extended military leave unless required by law. However, an employee may request to use any accrued vacation, compensatory time, or personal leave time during military leave. Benefit coverage will continue for 31 days as long as the employee pays the normal portion of the cost of benefits. For leaves lasting longer than 31 days, an employee will be eligible to continue health benefits under COBRA and will be required to pay 102 percent of the total cost of health benefits if he or she wishes to continue benefits.

Upon return from military leave, an employee will be reinstated with the same seniority, pay, status, and benefit rights that he or she would have had if the employee had worked continuously. Employees must apply for employment within 90 days of discharge from the military (shorter periods are required for shorter periods of duty). Employees who fail to report for work within the prescribed time after completion of military service will be considered to have voluntarily terminated their employment.

If the employee’s military service was for less than 90 days, the city will restore the employee to the same job the employee held at the time the leave commenced. If military service was longer than 90 days, the employee will be restored to the same job or a similar job. There are special extensions of time for returning

employees who are hospitalized for or convalescing from injuries that incurred during or were aggravated by military service.

If the employee participated in the city's TMRS retirement plan at the time the military leave commenced, the employee will be permitted to make additional contributions to the plan. Employees may initiate these additional payments as of their reemployment date and continue them for the period of time permitted by law.

If a city employee requests extended military leave, the City Secretary will seek the advice of the city's legal counsel to ensure the city's compliance with both the state and federal laws regarding employees called to military service. Likewise, when an employee returns from military service, the City Secretary will consult the city's legal counsel to ensure that all rights and privileges of re-employment are provided to the employee.

Upon return from a military leave, the city may require a period of retraining and may require the returning employee to complete physical and psychological examinations with medical professionals of the city's choice and paid for by the city.

(Legal reference: V.T.C.A., Government Code, Section 431.005 and Section 613.001-613.005; Fed. 38, U.S. Code Ann., Chapter 43; Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, as amended; FMLA, as amended.)

8.10 JURY/CITIZENSHIP LEAVE

Employees are granted citizenship leave with pay for jury duty, for serving as a subpoenaed witness in an official proceeding, and for the purpose of voting. In the case of jury duty and witness duty, the employee must present evidence of the requirement to attend and must notify his or her supervisor at the earliest opportunity of the upcoming absence and expected date and time of return, so that replacement personnel can be arranged if required.

When an employee has completed citizenship leave, he or she must report to the city for duty for the remainder of the workday. If the employee will be absent from work for more than one workday on citizenship leave, he or she must notify his or her department daily at the beginning of each workday.

The employee shall be granted jury leave and will receive his or her regular salary from the City during such service. In order to receive pay, however, an employee must present to the supervisor a statement from the court clerk attesting to the days of jury or subpoena service. Acceptable documentation includes a subpoena, jury notice, and/or a letter of request from an attorney of record or prosecuting attorney on request of a hearing officer. The employee retains any fees paid by the courts.

Court appearances for testimony, investigation, and court preparation as a result of official duties as a City of Bay employee are compensated as actual hours worked and are not classified as paid leave, except in cases in which the employee is a plaintiff against the City. In cases where an employee is a plaintiff against the City of Bay City, the employee may utilize accrued paid leave. Otherwise all time off required will be considered leave without pay.

8.11 LEAVE OF ABSENCE WITHOUT PAY

No employee, with accrued vacation or accrued sick leave may request leave without pay. Unpaid leave of absence will be granted only after all other paid leaves (vacation, compensatory, time, sick leave, and floating holiday) and/or leave authorized under the Family Medical Leave Act (FMLA) are exhausted. A leave of absence without pay for a reason acceptable to the City may be granted to regular full-time and regular part-time employees, provided the request by the employee is in writing and is made at least ten (10) days prior to the beginning date of the leave of absence except in an emergency situation. The granting of leave without pay must be pre-approved by the Department Head or Supervisor.

8.12 INJURY LEAVE

For information on occupational disability or injury leave for bona fide, on-the-job, work-related injuries, please see the sections in this manual under the main heading Section 9, Health and Safety.

8.13 USING LEAVE IN COMBINATION

When an employee who is on sick leave has exhausted his or her earned sick leave, the employee will automatically be placed on vacation leave if (1) the employee has accrued vacation leave available, and (2) the employee has not requested a temporary leave of absence without pay.

Sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the employee's Department Head, other types of leave may be used in combination or coupled with holidays if the combination is determined to be in the best interests of the city and the employee.

8.14 DURATION OF LEAVE

With the exception of leaves of absence for military duty, no leave of absence, by itself or in combination with other periods of leave, may last longer than six months (180 days). Any employee who for any reason or combination of reasons misses a total of six months of work in a twelve-month period, or a total of nine months of work in an eighteen-month period, will be separated from employment due to unavailability for work, subject to any reasonable accommodation duties the City may have under the ADA or similar law. Any employee so separated will be eligible for rehire and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings.

9. HEALTH AND SAFETY/WORKERS' COMPENSATION

9.1 SAFETY POLICY

It is the policy of the city to make every effort to provide healthful and safe working conditions for all of its employees.

9.2 EMPLOYEE RESPONSIBILITIES AND REPORTS

Employees are responsible for conducting their work activities in a manner that is protective of their own health and safety, as well as the health and safety of other employees and the customers served by the city.

An employee must report every on-the-job accident, no matter how minor, to his or her supervisor immediately following such an occurrence. The supervisor is responsible for notifying the City Secretary and for filing a written accident report with the City Secretary's office within twenty-four (24) hours of being made aware of an accident.

Failure to report an on-the-job injury, no matter how minor, is grounds for disciplinary action.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.3 EMPLOYEE SAFETY SUGGESTIONS

Employees are to report immediately to their Department Head any conditions that in their judgment threaten the health and safety of employees and visitors.

Employees are encouraged to make suggestions to their Department Head or to the City Secretary for improvements that would make the city workplace safer or more healthful.

9.4 FITNESS REQUIREMENTS

It is the responsibility of each employee to maintain the standards of fitness required for performing their job. The immediate supervisor may require an employee to submit to an examination by a City-approved physician when it appears that the physical or mental condition of an employee either (1) may prohibit him or her from adequately performing the duties of the job or (2) constitutes a hazard to persons or property.

The employee will be required, as a condition of continued employment, to authorize the physician to disclose the results of the examination to the City Secretary. The employee will be granted administrative leave for the time required for such an examination, which shall be conducted without expense to the employee and shall be for the sole purpose of determining the employee's condition relative to the requirements of the job. The examining physician shall make a recommendation as to whether the employee can perform the essential functions of the job.

9.5 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION

9.5.1 INSURANCE

The city provides workers' compensation insurance for its employees. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of a bona fide, on-the-job, work-related injury for more than one week. All workers' compensation insurance claim forms must be submitted to the City Secretary immediately for appropriate action to be taken.

The Texas Municipal League contracts the City's Worker's compensation physician services through the Political Subdivision Workers' Compensation Alliance (Alliance). Injured employees must choose a treating doctor from the Alliance's list of doctors designated as treating doctors. You must go to a treating doctor for all health care for an on-the-job injury. If you need a specialist, your treating doctor must refer you. If you need emergency care, you may seek emergency treatment. Please be aware that you may have to pay the bill if you receive health care from a doctor other than an Alliance doctor without approval from the Texas Municipal League. Alliance contracting services areas are subject to change and you should confirm that your treating doctor is within the Alliance before receiving services. To locate an approved Alliance treating doctor in your area, visit www.pswca.org or contact the Alliance at 1-866-997-7922.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.5.2 MEDICAL ATTENTION

If an on-the-job injury occurs, which requires medical treatment, the employee should go to a physician that has been previously approved by the Alliance, for initial evaluation. If the injury is life threatening the employee should be taken to the nearest hospital emergency room immediately. If an employee is injured outside the regular business hours and immediate medical attention is needed, the employee should be taken to the nearest hospital emergency room or urgent care center for treatment. Advise the hospital personnel that the injury occurred on the job and should be charged as workers' compensation.

The treating physician should indicate length of time that an employee needs to be off work for an on-the-job injury or a personal injury. This information should be given to the employee's Supervisor and City Secretary's Office immediately. Medical documentation from a treating physician is required for time missed in excess of 3 consecutive days due to illness, job related injuries or personal injuries. Any restrictions indicated by the physician must be outlined in the work release form after review of the employee's job description. An injured employee DOES NOT PAY for treatment received under workers' compensation. Employees should never use his/her personal insurance card for a work related injury.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.5.3 INITIATION OF INJURY LEAVE

The employee is responsible for notification to his or her supervisor the first day of absence due to illness or injury. An employee with a personal injury, illness, or a workers' compensation injury must report their status at least once a week and after all scheduled appointments. Employees must provide the City Secretary's Office with their work status reports after the doctor's appointments. The City must be aware of the employee's status in order to plan and assign work duties and responsibilities in an efficient manner. The employee must advise the supervisor of any changes that may occur. These could be appointment changes, treatment changes, etc. An employee who fails to contact his/her supervisor in accordance with these requirements will be subject to disciplinary action in accordance with the City's disciplinary policy.

9.5.4 COMPENSATION

If a full-time employee sustains a bona fide, on-the-job, work-related injury which renders him or her unfit for performing the duties of the job, and if accrued sick leave is available, the employee is placed on sick leave status and receives full pay minus normal deductions for up to one week.

After the one-week waiting period, the employee is taken off of the city's payroll and receives only the workers' compensation payment. The employee may not use accrued sick leave to supplement workers' compensation payments.

An employee receiving workers' compensation payments does not accrue vacation or sick leave and is not entitled to receive holiday pay.

9.5.6 TERMINATION OF INJURY LEAVE

Injury leave may be terminated at any time without prior notice. The City Secretary will terminate the injury leave upon receipt of evidence that the employee, while able to return to work, has not done so.

9.5.7 CONTINUATION OF SUPPLEMENTAL AND/OR DEPENDENT'S INSURANCE

To continue dependent's insurance when the employee is on injury leave and no longer receiving a regular city paycheck, the city will continue to pay both the employee's and dependent's insurance. However, the employee must reimburse the city on a monthly basis for any supplemental insurance and/or dependent coverage throughout the leave period.

9.5.8 EXCLUSIONS

An injury is not covered for workers' compensation benefits if the injury:

1. Occurred while the employee was in a state of intoxication;
2. Was caused by the employee's willful attempt to injure himself or herself or to unlawfully injure another person;
3. Arose out of an act of a third person intended to injure the employee because of a personal reason and not directed at the employee as an employee or because of the employment;
4. Arose out of voluntary participation in an off-duty recreational, social, or athletic activity that did not constitute part of the employee's work-related duties, unless the activity is a reasonable expectancy of or is expressly or implied by required by the employment; or
5. Arose out of an act of God, unless the employment exposes the employee to a greater risk of injury from an act of God than ordinarily applies to the general public;
6. If the employee's horseplay was a producing cause of the injury; or
7. Arose while an employee performed a secondary job.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. Seq)

9.5.9 REPORTING REQUIREMENTS

Employees who are injured in the course and scope of employment with the City must immediately notify their supervisor. All injuries need to be reported immediately to the City Secretary's office. If the employee is unable to complete the report due to the injury or fails to complete the report, the supervisor must complete it on the employee's behalf.

An injured employee must report all injuries that occur in the course and scope of employment, even minor ones. All injuries must be reported at the time they occur. While an injury may seem minor and can be treated with first aid on the job, complications may arise at a later time. Minor injuries are to be recorded in an incident log maintained by the department or division. If an injury is reported promptly, usually the facts are clearer. Prompt reporting will avoid the problem of employees and supervisors trying to recall what happened at a later date. An employee cannot be terminated, disciplined or otherwise retaliated against for filing a workers' compensation claim in good faith.

When an employee suffers injury on the job, and is unable to return to full duty work after six (6) months the City Secretary may conclude that the employee be terminated.

9.5.10 RETURN TO SERVICE

An employee on injury leave who wishes to return to work must provide the City Secretary with a written statement from the attending physician, certifying that the employee has been released to return to work and specifying the type(s) of work he or she is capable of performing, as well as any limitation(s), before the employee may return to work. An employee on injury leave must report to work after approval of either the employee's attending physician or an independent physician paid by the city. Failure to return to work when directed will result in appropriate disciplinary action.

9.5.11 LIGHT DUTY STATUS

Light duty is considered to be a rehabilitative tool in assisting an employee to regain or maintain his or her work tolerance. Working can give the injured worker a feeling of worth as well as help to prevent post-injury illness or emotional problems. Light duty assignments must be for a defined period of time or special project. The City does not create light duty work, it must be meaningful work needed to be completed for the City's business. Light duty assignments are not intended to be permanent.

The concept of light duty applies to employees who sustain an injury on the job or job related illness at work, which temporarily prevents them from performing their normal duties, but nonetheless leaves them with some restrictions from performing their regular work temporarily. Light duty may also be available when an employee is released from personal injury with restrictions. The Mayor may require an employee to accept a light duty assignment within the employee's own department or in another department if such work is available. Work related injuries take precedence over personal injuries for available light duty assignments.

Guidelines for light duty are as follows:

1. If an employee is released for light duty by the treating physician, the City Secretary's Office will verify whether there are duties available within the employee's department that meet the restrictions imposed by the treating physician. If there is not a light duty position in an employee's current department, light duty may be available in another department. In that event, the employee's department will continue to carry the employee on their payroll and the employee will report to the other department for light duty.

2. Employees entering this program must have the expectation from their doctor that they will be able to return to full duty status within a period of ninety (90) calendar days (three months).
3. The length of the employee's light duty status will be determined by the appropriate documentation of the employee's condition by his or her doctor. On request by the Department Head, the City Secretary may recommend an extension beyond the ninety (90) days if modified duty work is available. The City will not create light duty work. The extension will only be considered on the prognosis from the doctor that the employee will be able to return to full duty within thirty (30) additional days.
4. The employee must report to the supervisor in the department or division in which he or she is assigned to work, follow all of the department's policies and procedures, any policies and procedures applicable to the light duty assignment area, and all City policies and procedures. If behavior in the department or division is unacceptable to the supervisor, the light duty employee will be removed and may be subject to disciplinary action.
5. Employees participating in the light duty program may not normally work any overtime or compensatory time, except in emergency situations as approved by the Department Head. Employees must have any previously approved second jobs re-approved to ensure it is within the doctor's restrictions. Employees are prohibited from any work, conduct, or behavior that would inhibit the healing process of the work related injury and/or the employee's healthy return to work. This will be in effect until his or her doctor releases the employee for full duty.
6. Light duty workers will be assigned where the work to be completed matches the restrictions placed on the employee by the treating physician. Supervisors are responsible for supervising the work of the injured employee so that the performance standards of the assigned position are met and notifying the City Secretary if they are not met.

Light duty assignments are temporary and will be discontinued if or when any of the following occur:

1. The treating physician returns the injured employee to full duty with no restrictions;
2. The treating physician temporarily prohibits the injured employee from continuing with a light duty assignment;
3. If there is no longer any task available within the City which can be performed by the injured employee, given their current restrictions;
4. The injured employee fails to meet the performance measures of the assigned position;
5. The treating physician indicates that the injured employee has reached maximum improvement or will not ever be able to return to the prior position;
6. An injured employee has been on a light duty assignment for the maximum period provided by this policy; or
7. The injured employee fails to comply with all rules, regulations, or stipulations of the light duty program and/or policies of the City of Bay City.

9.5.12 FINAL RELEASE OR SETTLEMENT

At the time of final release or settlement of a workers' compensation claim, the employee must furnish the city with a certificate from the employee's physician stating that the employee is able to return to work. The certificate must also specify any limitation(s) on the employee's physical condition and the estimated duration of the limitation(s). The city will then evaluate the employee's physical condition and determine whether he or she can perform the duties of the job previously held. If:

1. The employee cannot perform his or her previous duties, or
2. No vacancy exists, or
3. No other suitable position is available, and
4. A reasonable effort has been made to place the employee in a suitable position, then
5. He or she will be separated and paid accrued and earned benefits.

If the employee is separated from city employment at this point, the City Secretary or his or her designee will:

1. Send the employee a certified, return receipt requested, letter;
2. Explain the circumstances, outlining the reasonable effort made to place the employee in a suitable position;
3. Inform the employee that he or she has been separated from city employment and that he or she will be mailed a final paycheck, if applicable, for any accrued and payable leave benefits; and
4. Inform the employee that he or she may apply for any future vacancy for which the employee considers himself or herself to be qualified. A copy of this correspondence will be placed in the employee's personnel file.

9.5.13 CLAIMS REVIEW

As an additional means of evaluating injuries and attempting to correct the causes of those injuries, the City Secretary will review serious injuries to determine their causes, and to recommend corrective actions to be taken in the future.

9.5.14 PRIVACY PROTECTION

The privacy of individuals' medical records and personal health information will be protected in all transmittals to and from insurance carriers and health care providers. In addition, city personnel who receive personal health information about employees will protect the privacy of individuals' personal health information: any conversations regarding an employee's personal health condition or status will be held only with city personnel with a need to know the information, and only in locations where the conversation may not be overheard. The only exception is when the employee has released the information to others himself or herself. (*Legal reference: Health Insurance Portability and Accountability Act of 1996, as amended.*)

9.5.15 FRAUD

Workers' compensation benefits are intended for employees with legitimate on-the-job injuries or illnesses and are intended for employees with serious injuries who are unable to work in any capacity at the City of Bay City or elsewhere due their injury or illness. A workers' compensation claim that is not due to a legitimate injury sustained in the course and scope of employment at the City of Bay City is considered fraud. A current or former employee who has filed a workers' compensation claim that is determined to be fraudulent is responsible for reimbursing the workers' compensation carrier for all medical and income benefits received. In addition, the employee is subject to disciplinary action up to and including termination of employment and punishment under Texas state law. Administrative fines may be incurred by an employee who misrepresents facts relating to a worker's compensation claim.

An employee or former employee who has filed a workers' compensation claim reporting lost time due to the injury/illness is responsible for reporting any employment or income earned during lost time from the City of Bay City. Also, an employee who is a candidate or participant in a light duty or alternative duty temporary job assignment under the city's return to work program is responsible for reporting any employment or income earned while performing modified or alternative duty to the city's workers' compensation carrier. Failure to do so may be considered fraud and is punishable in accordance with Texas state law as described in this policy.

Under the Texas Labor Code, an individual commits criminal fraud, punishable as a Class A misdemeanor or state jail felony, depending upon the amount of money involved, and can be criminally prosecuted if he or she has the intent to obtain or deny payment of benefits for himself or herself or another and knowingly or intentionally does one or more of the following:

- Makes a false or misleading statement;
- Misrepresents or conceals a material fact; or
- Fabricates, alters, conceals, or destroys a document other than a governmental record.

Under the Texas Labor Code, an individual commits administrative fraud, which can result in an administrative penalty of up to \$5,000, and can be prosecuted if he or she has the intent to obtain or deny payment of benefits for himself or herself or another and knowingly or intentionally does one or more of the following:

- Makes a false or misleading statement;
- Misrepresents or conceals a material fact;
- Fabricates, alters, conceals, or destroys a document other than a governmental record; or
- Conspires to commit an act described by one of the three listed above.

Employees are encouraged to report suspected workers' compensation fraud by another employee or former employee to the City Secretary, the City Council, and/or to the Texas Workers' Compensation Commission as soon as possible. A report may be made anonymously over the telephone phone or in writing, provided the employee provides adequate details of the circumstances surrounding the alleged fraud.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

10. SUBSTANCE ABUSE AND ALCOHOL MISUSE

10.1 SCOPE AND INTENT

The following policy has been adopted to implement the City of Bay City's desire to establish itself as a drug-free workplace. In all instances where reference is made to alcohol, drugs, or other controlled substances, the references include inhalants.

All employees and candidates for employment are subject to the provisions of this policy.

The primary objective of the City of Bay City in adopting this policy is to contribute to the maintenance of the safe and productive work environment for its employees. Management believes that it is in the best interest of the City and its employees to maintain a work environment in which the health and safety of employees and guests are protected and City business is conducted efficiently. This requires the maintenance of a work environment free from drugs, alcohol, and inhalants.

The intent of the policy is as follows:

1. To provide clear guidelines and consistent procedures for handling incidents of employees' use of alcohol, drugs, or controlled substances that affect job performance, and to make every effort to institute and maintain a drug-free workplace;
2. To ensure that employees conform to all state and federal laws and regulations regarding alcohol, drugs, or controlled substances; and
3. To provide substance abuse prevention education for all employees.

10.2 DRUG-FREE WORKPLACE

It is the policy of the City of Bay City to maintain a drug-free workplace.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, alcohol, or inhalants is prohibited in the workplace of the city. In addition, the city prohibits employees from being under the influence of alcohol, drugs, or inhalants in the workplace or while on duty for the city. Employees who violate this policy will be subject to disciplinary action up to and including termination as provided for under Section 12, **Discipline** section of these policies.

An employee who violates this policy is subject to discipline up to and including termination. The city has a drug-free awareness program providing information about the dangers of drug abuse in the workplace, the city's policy of maintaining a drug-free workplace, available drug counseling and rehabilitation, and the penalties that may be imposed on employees for drug abuse violations occurring in the workplace. Employees of the city are furnished a copy of this policy.

An employee of the city is to abide by the terms of the city's drug-free workplace policy and must notify the City Secretary if he or she is convicted of a criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction. The city will notify any funding agency providing federal funds to the city of a conviction by a covered employee for violation of this policy within ten (10) days after receiving notice under the above paragraph from an employee, or otherwise receiving actual notice of such conviction. An employee convicted of violation of a criminal drug statute for a violation occurring in the work place is subject to discipline including termination. The city will make a good faith effort to continue to maintain a drug-free and alcohol-free workplace through the implementation of this policy.

(Legal reference: U.S. Drug-Free Workplace Act of 1988, as amended, and Texas Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 41i.)

10.3 GENERAL POLICY

The following information is general in nature and is not intended to represent the City's drug and alcohol policy in its entirety.

City employees shall not take any narcotic or dangerous substance unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine must notify the City Secretary of the medication prescribed and the nature of the illness or injury if the medication could affect the employee's safety or the safety of others in his or her job. The City Secretary will notify the supervisor and Department Head that the employee cannot perform the part of the job would be impacted negatively by the medication, while keeping confidential the employee's personal health information. If this makes it impossible for the employee to perform his or her job temporarily, and no other job is available which would not pose a risk, then the employee will be sent home and the situation will be evaluated as to the likelihood of the employee being able to return to the job in a reasonable period of time. *(Legal reference: Health Insurance Portability and Accountability Act (HIPAA), as amended.)*

Any statutory-defined illegal use of drugs by an employee, whether during or outside city employment hours, will not be tolerated.

City employees who have a reasonable basis to believe that another employee is illegally using drugs or narcotics or is abusing alcohol must report the facts and circumstances immediately to their supervisor.

Failure to comply with the intent or provisions of this policy may be used as grounds for disciplinary action. Refusal by an employee to take the required drug test or follow this general policy will result in immediate relief from City duties pending disposition of any administrative personnel action.

If a covered employee fails a drug or alcohol test, the City may terminate the employee immediately, in which case the City will inform the employee where he or she can get help.

10.4 SUPERVISORY RESPONSIBILITIES

Supervisory responsibilities include participating in communicating this policy to the employees, identifying any employee behavior which may indicate a violation of this policy, and reporting to management when the supervisor has reason to believe this policy may have been violated.

Every supervisor covered by this policy will receive training that will assist in identifying performance indicators of probable drug use or alcohol misuse.

10.5 REHABILITATION

The City of Bay City recognizes drug dependence as an illness and a major health problem. The City also recognizes drug abuse as a potential health, safety, and security problem. We encourage employees that need help in dealing with such problems to use our health insurance plan as appropriate. Conscientious efforts to seek such help will not be used as a basis for disciplinary action. Once an employee is found to have violated this policy, however, his or her offer to seek rehabilitation on a voluntary basis will not necessarily limit disciplinary action, and may have no bearing whatsoever.

An employee with an alcohol or substance abuse problem may be referred to a rehabilitation facility. Some types of rehabilitation may be covered by the City medical plan. In such instances, the employee is responsible for any required deductibles and co-payments. Otherwise, the employee is responsible for all charges associated with rehabilitation. Upon acceptance of the offer for rehabilitation, the employee must adhere to the requirements of the rehabilitation program. Any failure to adhere will result in discipline up to and including dismissal.

10.6 RETURN TO WORK

An employee with an alcohol or substance abuse problem may be returned to his or her position after having successfully completed a City-approved rehabilitation program. Any violation of this policy subsequent to completion of rehabilitation will result in immediate dismissal.

10.7 DRUG AND ALCOHOL TESTS

Employees who operate vehicles or equipment that require possession of a commercial driver's license (CDL) are subject to five (5) types of testing for both drugs and alcohol: pre-employment, post-accident, random, reasonable suspicion, and return to duty. Drug testing is for five (5) types of narcotics: marijuana, opiates, amphetamines, PCP, and cocaine.

An employee who tests positive for drugs or for whom a breathalyzer/intoxilyzer test shows an alcohol content of over .04 percent must and will be taken off the road immediately and referred to a Substance Abuse Professional (SAP). An employee who is shown to have an alcohol content between .02 and .039 percent must and will be taken off the road immediately for a period of twenty-four (24) hours.

10.7.1 PRE-EMPLOYMENT TESTING

In addition to performing pre-employment tests after extending an offer of employment to each potential employee, the City must and will request the results of U.S. Department of Transportation drug tests from previous employers for all new employees in safety-sensitive positions. Failure to submit to the required testing, or a positive test result, will result in disqualification from employment.

10.7.2 POST-ACCIDENT TESTING

Drug and alcohol testing must and will be performed on any City employee involved in an accident, if the accident results in either: 1) damages to City property that are considered reportable; 2) third-party property damage; 3) damages to third-party property, that are caused by City employees; 4) the employee or another person having to seek medical attention; 5) the loss of human life; or 6) the City driver being given a citation for a moving violation as a result of an accident. If the above criteria are not met, drug testing is not required. Drug testing must and will be performed within thirty-two (32) hours of an accident; alcohol testing should be performed within two (2) hours of an accident, or as soon as reasonably possible thereafter. Failure to submit to the required testing will result in disciplinary action up to and including discharge.

10.7.3 REASONABLE SUSPICION TESTING

All supervisors of covered employees must have undergone a minimum of two (2) hours of U.S. Department of Transportation-approved training in how to identify the symptoms of drug and alcohol abuse before the supervisor may decide to test an employee based on reasonable suspicion. Reasonable suspicion is a decision that a supervisor needs to make based on objective factors such as appearance or actions of the employee. If a supervisor believes a reasonable suspicion exists that an employee under his or her supervision is abusing alcohol or drugs, the supervisor must obtain the concurrence of the Department Head and the City Secretary before sending the employee for drug and alcohol screening. If either the Department Head or the City Secretary is not available, the supervisor must obtain the concurrence of another Department Head and/or the Mayor before proceeding.

If an employee fails to submit to the required testing, the employee will be subject to disciplinary action up to and including discharge.

10.7.4 RANDOM TESTING

For vehicle operator positions which require a commercial driver's license (CDL), the City is required to perform unscheduled, random tests of covered employees at a rate of 50 percent of the total number of covered positions per year. The City may also randomly test other positions designated by the City as safety sensitive positions. Employees in safety sensitive positions will be notified by the City that they are subject to the random drug and alcohol testing procedures of the City well in advance of being sent for drug and alcohol screening.

If an employee fails to submit to the required testing, the employee will be subject to disciplinary action up to and including discharge.

10.7.5 RETURN-TO-DUTY TESTING

Test results of return-to-duty testing for alcohol abuse must show a content of less than .02 percent. Test results for drug use must be negative. Failing a second drug or alcohol test will result automatically in immediate discharge.

If a covered employee fails a drug or alcohol test, the City is required to and will ensure that the employee is evaluated by a substance abuse professional (SAP) unless the employee is immediately terminated, in which case the City will inform the employee where he or she can get help.

After returning to work following treatment, an employee will be required to submit to periodic testing as specified in the U.S. Department of Transportation rules. Failure of another drug or alcohol test will result in immediate discharge.

10.7.6 FAILING A DRUG OR ALCOHOL TEST

An employee who is shown to have an alcohol content between .02 and .039 percent must and will be taken off the road immediately for the remainder of the employee's shift or a period of twenty-four (24) hours, whichever is appropriate. An employee who tests positive for drugs or for whom a breathalyzer/intoxilyzer test shows an alcohol content of over .04 percent or higher must and will be taken off the road immediately and, if not terminated, must be referred to a Substance Abuse Professional (SAP) for evaluation. If the employee refuses to be evaluated by a SAP, the employee will be terminated immediately. If the employee is terminated, the City will inform the employee where he or she can get help. An employee who is not terminated will be in an unpaid status for the specific time for which he or she is suspended. The employee must successfully pass a drug and alcohol test before being returned to work.

(Legal reference: Omnibus Transportation Employee Testing Act of 1991, U.S. Department of Transportation S9 FR 7302-7625; effective date: January 1, 1996).

11. USE OF AND ACCOUNTABILITY FOR CITY EQUIPMENT AND PROPERTY

11.1 USE OF CITY PROPERTY – GENERAL

Within the limits of budgets and available technology, the City's policy is to provide each employee with the equipment and tools to conduct his or her City business in a safe and effective manner. For some employees, this includes use of vehicles and motorized equipment.

11.2 USE OF TOOLS, EQUIPMENT, PROPERTY, AND VEHICLES

Each employee is responsible for the proper use and maintenance of equipment, tools, vehicles, or motorized equipment, and other City property assigned to the employee for use in City operations.

Use of City equipment, tools, vehicles, motorized equipment, or supplies for private or political purposes is strictly prohibited.

City computers, electronic equipment, and software are to be used for City business. No software other than software approved by the City or an employee's Department Head may be installed, kept, or used on a City computer or other electronic hardware. This limitation on software is to avoid software that may interfere with the operation of the City's computer systems and other electronic hardware or may contain computer viruses that could cause operational problems or the loss of City data. Access to the internet, e-mail and messaging, and voice mail through City computers and other electronic hardware is for City business only. See also the sections of these policies relating to Section 2.10, **Communications** and Section 2 **Employee Responsibilities**.

City property, including but not limited to facilities, desks, files, vehicles, motorized equipment, telephones, and computers, is subject to City inspection and removal of illegal or unauthorized items. There is no expectation of privacy. See also the Section 1.16 of these policies relating to "**Searches**."

11.3 VALID DRIVER'S LICENSE

Operators of vehicles and motorized equipment used in City business are required to have the valid State of Texas driver's license necessary for legal operation of that vehicle or equipment and to notify their Department Head of any changes of status or suspensions in licenses. A Department Head or the City Secretary will conduct annual periodic checks of the driving records of employees who operate City vehicles or are required to use their personal vehicle to conduct City business. Failure to maintain a safe driving record may be grounds for disciplinary action including dismissal.

Suspension, revocation, or lapse in the validity of the required driver's license of an employee who operates vehicles or motorized equipment in the conduct of City business may result in termination or re-assignment of the employee.

11.4 ACCIDENT REPORTING

Any accident on City property, at a City worksite, or involving a City vehicle or motorized equipment must be reported immediately to the Police Department and Department Head. The employee will notify their immediate supervisor after contacting the Police Department.

An employee observing or involved in a motor vehicle accident must immediately notify the Police Department dispatch office.

An employee witnessing or involved in an accident must stay on the accident scene until released by his or her Department Head or the Chief of Police or a designee of one of these persons.

11.5 CITY-OWNED VEHICLE AND EQUIPMENT USE

11.5.1 PURPOSE

The purpose of this policy is to define and describe the usage parameters related to the operation of City of Bay City vehicles and motor-driven equipment by City employees:

- a.) Ensure the safety and well-being of City employees;
- b.) Facilitate the efficient and effective usage of City vehicle and motor-driven equipment use;
- c.) Minimize liability to the City and set standardized disciplinary procedures;
- d.) Establish standard requirements and procedures for all City of Bay City employees who drive a City-owned motor vehicle or motor-driven equipment in the course of City business.

City-owned vehicles and equipment must meet certain standards and following the requirements outlined in this policy. Some departments have additional vehicle use policies, and in the case of conflict, the most restrictive provision shall apply unless specifically stated herein.

Supervisors and Department Heads are responsible for implementing and enforcing this policy. All employees who operate City vehicles and equipment shall be briefed by their immediate supervisor on this policy, and shall be informed that violation of this policy can result in suspension, demotion, or termination.

11.6 DEFINITIONS

The items defined within this section of this policy shall apply only to this section of the policy.

“City-owned Vehicle or Piece of Equipment” A vehicle or piece of equipment owned or leased by the City of Bay City.

“City Motor-Driven Equipment” does not include (a) equipment used in connection with the operation of floodgates or water release equipment by river authorities (b) medical equipment, such as iron lungs located in hospitals.

“Driving record check” A driver’s license status check and driving record history check requested through the City’s designated company.

“De Minimis” Latin for “of minimum importance.” Essentially refers to something that is so little, small, miniscule or tiny that the law does not refer to it and will not consider it.

“Driver” Operator of a motor vehicle, motor driven equipment or equipment attached to vehicle or motor driven equipment.

“Preventable” The employee failed to exercise every reasonable precaution to prevent the accident.

“Chargeable” The employee violated a State traffic law; violated an established department safety policy or practice, or both. The employee was at fault or contributed to the cause of the accident.

“Employee” means a person, including an officer or agent, who is paid by the City of Bay City, but does not include an independent contractor, an agent or employee of an independent contractor, or a person who performs tasks the details of which the City of Bay City does not have the legal right to control.

“Take home vehicle” A City-owned vehicle which may be stored at an assigned employee’s residence, if the employee resides within the City of Bay City city limits, or has received approval from their Department Head if the employee resides outside the city limits.

“Scope of Employment” means the performance for City of Bay City of the duties of an employee’s office or employment and includes being in or about performance of a task lawfully assigned to an employee by competent authority.

“Vehicle accident” Includes all accidents or incidents involving personal injury or property damage to, or caused by, a City vehicle, motor driven equipment, or equipment attached to a vehicle or motor driven equipment.

11.7 UTILIZATION OF VEHICLES AND EQUIPMENT

City-owned vehicles and motor-driven equipment shall not be used for ~~purely~~ personal reasons or personal business. This prohibits the hauling of personal property from one place to another, personal shopping trips, and non-business related transportation of family members.

Only City employees and City Council member are authorized to travel in a City vehicle and equipment unless authorized by supervisors or Department Heads.

11.7.1 TAKE HOME VEHICLES

In accordance with IRS requirements, personal use of vehicles is not allowed other than commuting to and from work and de minimis personal use. The IRS regulations consider use of City vehicles for commuting as income. This will be accounted for on an employee’s timesheet, and to the IRS as required on the employee’s W-2 form. Employees driving a City owned vehicle home (excluding Police Department vehicles) must document daily usage of the vehicle on their timesheet. Each employee should log the usage in the "City Vehicle Driven Home" column. The number one (1) should be entered each day the vehicle is driven home, including weekends. The column will automatically provide a grand total.

For example: If an employee drives a City owned vehicle home Monday through Friday for both weeks during a pay period, the employee would enter the number one (1) for each day and the column grand total would be 10.

Calculation: Usage will be recorded in the payroll system by multiplying the daily dollar amount times the days driven home. **Example:** \$3.00/day x 10 days = \$30.00 entered in the employee record.

Department Heads and/or supervisors are responsible for ensuring that employees properly log the correct days when vehicles were taken home on the timesheets.

Vehicles assignments shall be evaluated based on department provided services, special/critical needs, special skills, emergency status, and frequency of recall after hours. The Department Head will consider the following criteria in approving an employee to be permitted to take a City vehicle home after normal work hours:

- The employee is the primary operator of the vehicle;
- The employee meets the City of Bay City's driving requirements;
- The employee has not had his or her driving privileges revoked or suspended within the last five (5) years;
- The vehicle is to be used to respond to emergencies or as a part of on-call responsibilities;
- The vehicle is used to contribute to the efficiency and/or effectiveness of City operations; and
- The employee does not receive a car allowance.

Take home authorization may be revoked:

- The employee uses the vehicle for personal reasons;
- The employee violates any federal or state law;
- The employee allows any non-employee or City official to travel in the vehicle or motor-driven equipment without authority;
- The employee fails to comply with the provisions of this policy;
- The employee has a change in job assignment, duties or responsibilities such as that a take home vehicle is no longer justified; or
- When it is in the best interest of the City of Bay City.

NOTE: Employees operating take-home City-owned vehicles who submit leave notices for three (3) or more consecutive workdays must make arrangements with their supervisors to leave the vehicle and keys for use by other City personnel during such period.

11.7.2 ELIGIBILITY FOR OPERATING CITY-OWNED VEHICLES AND EQUIPMENT

No employee shall operate a City vehicle or a piece of equipment without first being trained, instructed, licensed, or certified, as may be applicable in its proper operation and use. An employee that knowingly operates a City vehicle or a piece of equipment without the proper license, or does not notify their supervisor of their suspended or expired license, will be subject to disciplinary action, up to and including termination.

To be eligible to operate a City-owned vehicle or piece of equipment, employees shall:

- Be a minimum of 18 years of age;
- Maintain a valid Texas driver's license of the type that is required for the vehicle/equipment being operated;
- Have an acceptable driving record. An acceptable driving record shall mean that the employee or applicant has:

- No more than three (3) moving violations within the preceding two years;
- No more than two (2) moving violations within the preceding twelve (12) month period resulting in conviction. (Evidence of traffic violations includes, but is not limited to: convictions, “no contest” pleas, dismissal for defensive driving purposes, receiving deferred adjudication and current charges;
- Not have been convicted of driving while intoxicated within the preceding three (3) years.

By applying for, or continuing employment, in a position that may involve driving a City vehicle or operating City-owned equipment, an employee thereby consents to checks of his or her driving record.

Employees who drive City-owned vehicles on City business must notify their supervisor immediately of any change in driver’s license status, including any State suspension, revocation, or restriction. These violations may result in the immediate suspension of the employee’s privilege to operate a City-owned vehicle or equipment. Additionally, the employee may be subject to disciplinary action, up to and including termination.

If an employee is charged with DWI/DUI, City driving privileges shall be immediately suspended pending the final disposition of the charge. If convicted, the employee may be subject to termination. Additionally, an employee who usually drives a City vehicle for business purposes, who has his driving privileges suspended, may not drive his or her personal vehicle to conduct City business, unless such personal use is approved by the employee’s Department Head, and he or she obtains a State Occupational license as necessary. Occupational licenses are not granted to operate commercial vehicles including the City of Bay City’s vehicles. The employee is required to provide a copy of his or her occupational license to his or her Department Head, and the City Secretary’s Office. The employee must comply with all of the restrictions of the occupational license. If an employee’s occupational license restrictions are determined to prevent the employee from accomplishing his or her work, then the employee may be terminated.

11.7.3 GENERAL MAINTENANCE AND CONDITION OF VEHICLES

Supervisors and Department Heads are responsible for the overall condition of the vehicles assigned to their departments. Supervisors and Department Heads shall ensure that all vehicles are maintained in optimum running condition for maximum fuel economy and life span. Vehicles will be kept clean at all times, inside and out.

Employees shall not:

- Smoke or utilize any tobacco products inside City owned vehicles or motor-driven equipment;
- Employees shall not possess, purchase or be under the influence of drugs or alcoholic beverages while operating City vehicles or motor-driven equipment;
- Alter the body, design, appearance, or markings of the vehicle;
- Use fuel, oil, or other substances not approved by the Equipment Division; or
- Perform mechanical repairs, unless authorized by the Equipment Division.

Each day, employees who operate City owned-vehicles or motor-driven equipment shall ensure the vehicle or equipment is in a safe, clean, and operable condition by checking the fuel, fluid levels, tires, and overall condition of the vehicle. Employees shall immediately report deficiencies to a supervisor who will take appropriate action to allow a vehicle or piece of equipment to remain in service or remove it for repair. Under no circumstances shall a vehicle or piece of equipment be allowed to remain in service that has a serious safety defect, such as slick tires, leaking fuel lines, exhaust entering passenger compartment, or defective brakes.

Vehicles shall be kept sufficiently fueled for emergency responses. City personnel shall only keep authorized City equipment and authorized personal equipment in the assigned vehicle.

11.7.4 VEHICLE AND EQUIPMENT ACCIDENTS

If an employee is involved in an accident while driving a City vehicle, that individual will be required to follow the specific accident-reporting procedure outlined by the department. The following steps should be followed by all employees:

- Stop his or her vehicle at the scene of the crash, without obstructing traffic more than necessary, and stay at the scene of the accident;
- Activate warning/safety lights;
- Contact the Police Department or Sheriff's Department as applicable;
- Contact his or her supervisor; and
- Give a statement of facts of the sequence of events to the investigating officer.

The employee's supervisor will investigate all accidents involving a City vehicle that is a part of their departmental fleet. The supervisor and employee will complete and submit an Accident Investigation Report within 48 hours of the accident to the City Secretary's Office.

An employee that fails to report an accident or injury within (8) eight hours of the accident, or who falsifies any information pertaining to an accident, will be subject to disciplinary action, up to and including termination.

In the event that an accident occurs outside of Matagorda County while conducting City business, in a City vehicle, the City of Bay City will adhere to the decision of the investigative agency/officer regarding the need for drug testing. Otherwise, if the vehicle is operable from a safety standpoint, and the driver is not injured or impaired, the employee may either continue with his or her City business, or return back to his or her base of operation.

11.7.5 RESPONSIBILITIES OF VEHICLE AND EQUIPMENT OPERATORS

1. Employees shall operate City vehicles and equipment in a safe and courteous manner at all times. Unsafe, negligent, or reckless driving is prohibited. Drivers must obey all laws.
2. When unattended, City vehicles shall be legally parked and properly locked.

3. Employees who operate City owned vehicles or motor-driven equipment shall keep vehicle doors and trunk locked at all times with the ignition turned off and keys in their possession upon every exit of vehicle or motor-driven equipment. At no time should a vehicle be left unattended with engine operating and/or keys in or on the vehicle.
4. Employees utilizing City owned vehicles or motor-driven equipment are strongly encouraged to find a safe and secure location and stop their vehicles to use cellular phones, lap top computers or pagers. Before returning a “pool” vehicle, employees shall ensure that the vehicle has been fueled and that standard maintenance checks have been performed.
5. Employees must immediately report damage or vandalism to their supervisor.
6. When stopped on any roadway or on the shoulder of a roadway, the driver of a City vehicle shall activate warning/safety lights except when lawfully parked at the curb or street side.
7. Employees who use City-owned vehicles and motor-driven equipment should be aware that the operation and appearance of such vehicles reflects on the professionalism of the driver, their respective department, and the City. Accordingly, personnel must be constantly aware of their actions and ensure that their behavior, appearance and operation exhibit the highest level of professionalism and courtesy.

11.7.6 DISCIPLINARY ACTION

Supervisors will use the following guidelines to make a decision regarding disciplinary action after a thorough review of all circumstances.

The following shall be grounds for disciplinary action. Such disciplinary action may include suspension or revocation of the use of an assigned vehicle, suspension, or termination.

- **Negligence, abuse, or misuse.** Negligence, abuse, or misuse on the part of an employee in the care or operation of City-owned vehicles or equipment.
- **Failure to follow procedures and regulations.** Failure of an employee to follow the procedures and regulations governing the use of the individually assigned vehicle established herein.
- **Traffic law violations.** Violations of any traffic law pertaining to the use and operation of a motor vehicle while operating a City vehicle.
- **Criminal law violations.** Violations of any criminal law in the use of operation of the assigned vehicle pursuant to any law of the State of Texas, City Ordinance, or Federal Law.
- **Operating vehicle while possessing/under the influence of drugs or alcohol.** Operating a City vehicle while possessing or being under the influence of alcohol or drugs, or consuming alcoholic beverages or using drugs in a City vehicle (immediate termination).
- **Excessive accidents.** Employees having a combination of two or more Preventable or Chargeable accidents within 36 months.

The first preventable vehicle or equipment incident will result in written a reprimand. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The supervisor will inform the employee of possible consequences, if the problem is not corrected.

The second preventable vehicle or equipment incident within three (3) years of the first preventable incident will result in suspension and three (3) month probation. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The supervisor will inform the employee of the possible consequences, if the problem is not corrected.

The third preventable vehicle or equipment incident within three (3) years of the first preventable incident will result in immediate termination.

As an additional countermeasure leading to reduced driver-error and ticketed incidents, employees may be required to take a Defensive Driving or a Municipal Vehicle Operations course offered through Texas Municipal League. Employees may also be required to complete additional operator training if it is identified as a contributing factor in the incident.

Employees who fail to report incidents in accordance with department policy may be disciplined, up to and including termination.

12. DISCIPLINE

12.1 PROGRESSIVE DISCIPLINE

The Department Head may approve or take disciplinary action against an employee at any time. The severity of the discipline depends upon the nature of the infraction. The City may, but not necessarily will, use a progressive discipline system.

While the disciplinary steps may not occur in the following order, the progressive discipline system may include, but is not limited to, any or all of the following steps when appropriate to the circumstances. The level of discipline will vary according to the nature of the infraction.

For those infractions that will be subjected to the progressive disciplinary system, the system will progress as follows:

- **Oral Warnings** with written records of each warning maintained by the Department Head or City Secretary's Office;
- **Written Reprimands** which the supervisor and Department Head must in all cases cause to be placed in the employee's personnel file;
- **Suspension from duty, with pay or without pay.** Suspension without pay is only permissible for serious workplace misconduct infractions, for up to thirty (30) days and renewable after informal review of the circumstances. *(Legal reference U.S. Fair Labor Standards Act of 1938, as amended.)*
- **Demotion;** and/or
- **Separation** by involuntary dismissal.

The progression of disciplinary measures listed above is a general guideline only. The City may deviate from this progressive system, skip or eliminate any step(s), or apply any other form or process of discipline, at its sole and absolute discretion, at any time.

Disciplinary action does not automatically or permanently disqualify an employee from consideration for future promotion, pay increases, commendations, or other beneficial official personnel actions.

For additional information regarding procedures to be followed if the discipline results in separation by involuntary dismissal see the following sections of these policies relating to Separations.

12.2 DISCIPLINE – GENERAL

At-Will Employment. Employees of the City serve "at will" and, within the provisions of state and federal law regarding public employment, can be disciplined or may be dismissed at any time, with or without notice, for any reason or no reason. Some of the employee actions that may result in discipline or termination include, but are not limited to, the following:

- **Insubordination;**
- **Absence Without Leave,** including absence without permission, failure to notify the City of sick leave, and repeated tardiness or early departure;
- **Endangering the Safety of the Employee and/or Other Persons,** through negligent or willful acts;
- **Use of Alcohol or Illegal Drugs** while on duty or in a vehicle being used for City business;
- **Alcohol or Drug Abuse** while on or off duty which may affect the performance or safety of the employee or of other persons;
- **Unauthorized Use or Theft of Public Funds or Property;**
- **Unsatisfactory Performance or Conduct;**
- **Violation of any of the Requirements of These Personnel Policies;**
- **Conviction** of a felony;
- **Conviction of Official Misconduct,** oppression, or perjury;
- **Possession of Unauthorized Firearms or Weapons** in the workplace;
- **Falsification of Documents or Records;**
- **Unauthorized Use of Official Information** or unauthorized disclosure of confidential information;
- **Unauthorized or Abusive Use of Official Authority;**
- **Sexual Harassment or Any Type of Harassment** by a City employee;
- **Failure to Observe the City's Policies Regarding Communications** with the public (see "Communications" section in **Employee Responsibility** chapter);
- **Incompetence or Neglect of Duty;**
- **Failure to be Considerate of Co-workers;**

- **Violation of tobacco and smoking policies of the City;**
- **Disruptive Behavior**, including profanity or abusive language, which impairs the performance of others; or
- **Driving with a suspended or expired license.**

12.3 CRIMINAL HISTORY

An employee must immediately report to the City Secretary any misdemeanor or felony arrest, charge, indictment, conviction, deferred adjudication or a plea of nolo contendere, whether related to on-duty or off-duty conduct, within 72 hours of the incident. However, employees who do not drive as part of their job duties with the City are not required to report misdemeanor traffic violations. While charges are pending, the City Secretary, in consultation with the City's legal counsel, will determine whether the employee will remain in his or her current position, be placed on administrative leave, transferred, demoted, or released from City service. An employee who fails to timely report any events described herein may be disciplined up to and including termination.

12.4 FELONIES AND MISDEMEANORS

An employee charged or indicted for a felony or misdemeanor, or accused by information of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are completed and all related administrative matters are concluded. In most instances, however, the City will conduct its own investigation and take appropriate action before the matter is fully adjudicated. The City Secretary, in consultation with the City Attorney, will make such a determination. An employee on administrative leave may be reinstated to the position held before being placed on administrative leave (if available) without loss of benefits if the indictment or information is dismissed, the City finds the charges to be without merit, the employee is acquitted, or the conviction is reversed on appeal.

12.5 DISCIPLINARY CONFERENCE

A disciplinary conference will normally be scheduled prior to the imposition of a disciplinary suspension, demotion or termination. The direct supervisor, the affected employee, the City Secretary (or designee) and anyone else deemed necessary by the Department Head or City Secretary typically attend the disciplinary conference. During the conference, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will usually be given two (2) days' advance notice prior to the conference. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after a disciplinary conference. The employee will be notified of the City's determination following a disciplinary conference.

12.6 ADMINISTRATIVE LEAVE

During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the charged employee on administrative leave. The leave may be with or without pay.

12.7 IMPROPER DEDUCTIONS

Improper deductions will not be made from any employee's pay for disciplinary reasons stemming from performance or attendance issues. If an improper deduction is made, the employee will be reimbursed promptly upon the City's learning of the improper deduction. Deductions for full or partial days are permissible in cases of serious workplace misconduct. See the chapter on Employee Compensation and Advancement for additional details.

13. RESOLUTION OF DISPUTES/GRIEVANCES

13.1 GRIEVANCE POLICY

It is the policy of the City, insofar as possible, to prevent the occurrence of grievances and to deal promptly with those which occur. The purpose of the grievance system is to resolve any dispute between the City and an employee as quickly as possible, and at as low an administrative level as possible, to ensure efficient work operations and maintain employee morale. No adverse action will be taken against an employee for reason of his or her exercise of the grievance right.

A grievance may be filed by a regular employee on one (1) or more of the following grounds, within 48 hours of the issue:

- Improper application of rules, regulations, and procedures (but not the rules, regulations, and procedures themselves);
- Unfair treatment;
- Illegal discrimination based on race, religion, color, sex (including sexual harassment), age, disability, or national origin;
- Disciplinary action (excluding suspension, demotion, and/or termination);
- Improper application of pay and fringe benefit rules; or
- Improper working conditions.

The City follows a progressive grievance procedure which ensures regular employees due process in the City's consideration of their work-related grievances: the right to mount a defense and the right to present written response(s) regarding resolution of the grievance.

13.2 PROCEDURE

The following procedures are applicable to regular full-time employees.

13.2.1 INFORMAL GRIEVANCES

The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his or her supervisor. If this informal conference does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she must file a formal, written grievance.

13.2.2 FORMAL GRIEVANCES

Formal grievances must be in writing, signed by the employee, and presented to the employee's Department Head within ten (10) working days after the incident occurred that is the basis of the grievance. A statement of the specific remedial action requested by the employee must be included in the written grievance.

After being presented with a written and signed grievance, the Department Head will:

- Meet with the employee and such other persons as may be necessary to gather the facts within ten (10) working days after the grievance is filed;
- Attempt to resolve the grievance with the employee, and, if requested by the employee, with the employee's representative; and
- Communicate the decision to the employee in writing within ten (10) working days after the meeting with the employee

If the employee either receives no written resolution from the Department Head within ten (10) working days from the date the appeal was filed, or the employee is not satisfied with the proposed resolution, he or she may file a written appeal with the Mayor within ten (10) working days. The Mayor will review the facts and the file, may meet with the parties involved, and will respond in writing to the employee within fifteen (15) working days of the date on which the appeal was received. The decision of the Mayor is final.

13.2.3 MAXIMUM TIME PERIODS

At each stage of the grievance process, the time periods specified are maximums. Grievances should be dealt with promptly and written responses provided as quickly as possible, preferably within five (5) working days in simple grievance matters.

13.2.4 GRIEVANCES RELATING TO ~~SEXUAL~~ HARASSMENT OR DISCRIMINATION

If the employee's grievance is related to alleged ~~sexual~~ harassment or discrimination by the Department Head or the Mayor on the basis of race, color, religion, sex, national origin, age, or disability, then the initial written grievance may, at the employee's option, be submitted directly to the City Attorney. In such an instance, to allow adequate time for investigation of the grievance, the total cumulative time period which would have been allowed at the other steps in the grievance process will be the maximum time period before written resolution of the grievance is required to be received by the employee.

13.2.5 GRIEVANCES RELATING TO SUSPENSION, DEMOTION AND/OR TERMINATION

Demotions. An employee, other than a department head (hereinafter “Director”), may appeal a demotion to the grievance committee. The grievance must be filed in writing in the office of the City Secretary within 24 hours of the demotion.

The grievance committee will be made up of City Secretary or designee, the Director over the employee’s department; and a Director selected by the employee. If the City Secretary is the person issuing the disciplinary action, then a third party would select a Director to sit in the City Secretary’s place

The grievance committee will hear from the employee and review any and all submitted documentation relating to the grievance. The committee will review and discuss the grievance and render a decision no later than 72 hours from the time the committee met.

The decision rendered by the committee will be final.

Suspensions and terminations. The suspension or termination of employment or office of department heads (directors), non-elected officers or employees shall be in accordance with Section 7.05 of the City Charter.

In accordance with Section 7.05 (f) of the City Charter employees, other than a department head (director), shall be removed by their respective department head (director) with the consent of the Mayor. These policies provide for a grievance process that shall allow an affected employee to submit a grievance to the grievance committee, prior to the Mayor’s decision on the Department Head’s action to terminate the employee. The recommendation of the grievance committee shall be advisory only, and the Mayor may, but is not required to, follow the recommendation of the grievance committee when making such determination. To invoke the grievance committee’s authority under this section, the employee must file a written grievance, with the City Secretary, within the time period prescribed for appeals of demotions. The grievance committee shall make a recommendation to the Mayor within the time period prescribed for it to make a decision on a grievance of a demotion.

If no appeal is made during the prescribed time period the Mayor may immediately make a decision regarding the termination or suspension. If an appeal is made the Mayor shall wait until a recommendation is made by the grievance committee, or five days after the action of the Director to termination or suspend the employee, whichever occurs first, to render a decision regarding the termination or suspension.

If the grievance committee timely submits a recommendation to the Mayor, and the Mayor fails to make a decision on the director’s action, within three days of receiving the grievance committee’s recommendation, it shall be presumed that the grievance committee’s recommendation has been adopted by the Mayor and shall be deemed the Mayor’s determination on the subject.

The decision of the Mayor is final subject to the employee’s right to appeal in accordance with Section 7.05 (g) of the City’s Charter. Any appeal to City Council must be made in writing and submitted to the City Secretary within five days of the date that the Mayor confirms the Director’s decision to terminate or suspend the employee.

Note: Nothing in these policies may be interpreted to diminish City Council's inherent right, as stated under Section 7.05 (f) of the Charter to suspend, with or without pay, or remove, all non-elected City officers and any employees upon four affirmative votes of the Council for suspension or removal, with or without the recommendation of the Mayor; provide that such action is posted as an agenda item at a regular or special Council meeting

13.2.6 DOCUMENTATION

Copies of all documentation relating to the grievance will be filed by the City Secretary in the employee's personnel file immediately upon conclusion of each step in the grievance process.

14. JOB (CLASS) DESCRIPTIONS AND PERFORMANCE EVALUATION

14.1 JOB DESCRIPTIONS

The City Secretary establishes and periodically reviews an official job (class) description for each position in the City.

14.2 DISTRIBUTION

The job description for each employee's position will be (1) given to the employee, (2) reviewed by the employee, and (3) placed in the employee's personnel file along with a certification that the employee has reviewed it. In addition, each employee is given a copy of the job description to keep.

14.3 REQUESTS FOR CLARIFICATION

In the absence of any request for clarification, each employee is considered (1) to understand the responsibilities assigned to the position that he or she occupies, and (2) to agree to perform the responsibilities shown on the job description.

14.4 EMPLOYEE PERFORMANCE EVALUATIONS

The City Secretary will provide for Department Heads and supervisors to conduct a written performance evaluation of, and an evaluation interview with, each City employee at least annually. Final, signed copies of performance evaluation records are maintained in each employee's personnel file.

15. PROFESSIONAL DEVELOPMENT AND EDUCATIONAL REIMBURSEMENT

15.1 PROFESSIONAL DEVELOPMENT – GENERAL

The City encourages its employees to take advantage of high quality educational or training opportunities and professional memberships which are related to, and will enhance, the performance of their work for the City.

An employee's Department Head must approve educational and training courses that require payment by the City, release from City duty, or which might interfere with the employee's duties for the City.

15.2 REQUIRED ATTENDANCE AT SEMINARS

When the City requires an employee to attend any educational or training course, conference, or seminar, the City will provide the necessary time off with pay and will reimburse the employee for associated costs, including tuition or registration fees and authorized and documented travel, meals, and lodging. When appropriate, the City may prepay registration fees, hotel costs, and/or airline or other public transportation costs directly to the entity involved. See additional information in section 17 of these policies under the main heading "Travel and Business Expenses."

15.3 TUITION REIMBURSEMENT

At the discretion of the Mayor and within approved budget limits, the City may reimburse an employee for tuition payments and fees necessary to attend a course that will prepare the employee to better serve the City.

15.4 OPTIONAL CONFERENCES AND TRAINING

At the discretion of the Mayor and within approved budget limits, the City may reimburse an employee for cost of fees, travel, and related expenses to attend professional and technical education and training conferences.

16. SEPARATIONS

16.1 TYPES OF SEPARATIONS

The City of Bay City understands that varying circumstances do cause employees to voluntarily resign employment. Should this time come you are asked to follow the guidelines below.

Separations from employment with the City are designated as one of the following types:

- Resignation;
- Retirement;
- Reduction in Force;
- Dismissal;
- Disability; or
- Death.

An employee previously employed by the City of Bay City will be deemed eligible or ineligible for future employment with the City. A committee of the City Secretary or designee, past employee's Department Director, and the Mayor will determine rehire eligibility.

16.2 RESIGNATIONS

16.2.1 RESIGNATION PROCESSING

An employee who intends to resign is requested to notify the City Secretary in writing at least ten (10) working days prior to the employee's planned last day of work.

The written resignation shall include the requested effective date of the resignation and signature of the employee. The reason(s) for resigning may be included in the written statement, but it is not required. An employee's resignation is effective in accordance with its terms when a supervisor or Department Head, who has authority to hire the employee's replacement, accepts the resignation. The notice of resignation is placed in the employee's personnel file, in the City Secretary's Office.

Oral resignations will not be accepted.

An absence in excess of one hundred eighty (180) days – An employee who is absent from work for more than 180 calendar days, for any reason except active military service, will be terminated. Brief appearances at work during an overall absence of 180 days will not prevent the City from terminating an employee if determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the duties of his or her actual position for a period of 180 days may be terminated.

Nothing in this policy guarantees an employee ongoing employment for 180 days (or for any other period of time) if it is determined that the employee will be unable to return to full-time active duty within a 180-day period. In other words, the City may elect to end the employee's employment before the expiration of 180 days if it is unlikely that the employee will be able to return to full-time active duty at the end of 180 days. An employee who has a paid leave balance remaining at the end of 180 days will be terminated and paid for the leave balance. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act, as amended, including considering extending leave as a reasonable accommodation.

16.2.2 REQUEST TO WITHDRAW RESIGNATION

An employee wishing to request the withdrawal of an accepted resignation shall submit a written statement to the supervisor or the Department Head outlining the basis for the request prior to the effective date of the resignation. Once a resignation is tendered by the employee and accepted as provided in this section, it may not be withdrawn unless the supervisor or Department Head agrees.

16.3 RETIREMENT

An employee eligible for retirement must notify the City Secretary before his or her planned date of retirement. Notice requirements of the Texas Municipal Retirement System must be met if the retiring employee wishes to begin retirement benefits immediately upon separation from the City.

An employee that is eligible for retirement may retain his or her health insurance benefits through the City. The retiree will become responsible for the full premium of the benefits they select. A retired employee who elects to continue health benefit coverage under this section, and who subsequently elects to discontinue their elected coverage, would no longer be eligible for coverage with the City.

See the Texas Municipal Retirement System's information guide for additional information on retirement.

As approved by City Council during a regular Council Meeting dated May 3, 1990, employees that are eligible for retirement have the opportunity to receive a party or separation pay. An employee with ten to fifteen (10-15) years of service credit may receive a maximum of two hundred dollars (\$200) towards a party and two hundred (\$200) towards a gift. An employee with sixteen to twenty-five (16 - 25) years of service credit may receive a maximum of three hundred dollars (\$300) towards a party and (\$300) three hundred dollars towards a gift. An employee with twenty-six years (26+) or more years of service credit may receive a maximum of three hundred dollars (\$300) towards a party and (\$500) five hundred dollars towards a gift. Under no circumstance will an employee be paid cash.

16.4 REDUCTION-IN-FORCE (LAYOFFS)

A reduction-in-force is a non-disciplinary decrease in the number of authorized positions. Whenever possible, the employee reduction from one department or division may be absorbed by transfers to suitable positions elsewhere. Such situations will not necessarily be at the same pay rate or grade.

The City of Bay City reserves the right to determine the number of and type of personnel required to maintain the functions of the organization. The following are illustrative, but not all inclusive, of the possible basis for a reduction in force:

1. A discontinuation of or reduction in demand for service.
2. A change in level or source of funding.
3. Technological developments that reduce staffing requirements.
4. To accomplish economic or staffing efficiency.
5. Privatization of service/contracting out.
6. Requirements of state and/or federal laws.

The Mayor and the City Secretary shall notify Department Heads of any required employee reductions. The Department Heads shall recommend to the City Secretary which service and/or positions should be deleted. The Mayor shall create a plan that provides a written explanation of whether the layoff plan will impact current service or production. Whenever it is possible, employees that may be affected by a reduction-in-force will be given at least a forty-five (45)-day notice of the imminent loss of employment.

When reductions in force are necessary, decisions on individual separations will be made after considering:

1. The relative necessity of each position to the organization,
2. The performance record of each employee,
3. Qualifications of the employee for remaining positions with the City, and
4. The employee's length of service with the City.

Employees who have been laid off may reapply to the City for other positions. Qualified former employees will be given priority consideration in the event of a vacancy.

When a regular employee who has completed the introductory period is dismissed as a result of a reduction-in-force, he or she will be given written notice and will be paid in full to the time of separation, including payable accrued benefits. In addition, the Department Head will attempt to guide the employee to any available, suitable job openings in the area for which the employee qualifies.

16.5 DISMISSAL

The City of Bay City operates under the legal doctrine of "employment-at-will" and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. Every effort will be made to ensure that employee dismissals are not made in an arbitrary and capricious manner; however, these personnel policies do not constitute an employment agreement between the City and any of its employees and in no way limit or restrict the at-will nature of employment. The City has the right to change these policies at any time, without prior notice to employees.

16.6 DISABILITY

In cases of long-term disability during which an employee is unable to return to work for a period of time that would cause an undue hardship for the city to hold the position open, and if no position is available which the employee could perform with a reasonable accommodation by the City, the employee will be separated from employment with the City. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008.)*

See Section 9 of these policies on “**Health and Safety**” for details on occupational disability resulting from bona fide, on-the-job, work-related injuries and Section 8.6 on “**Family Medical Leave.**”

16.7 DEATH

If a City employee dies, his or her estate receives all pay due and any earned and payable benefits as of the date of death, unless a specific beneficiary for unpaid compensation has been named by employee in a signed designation filed with the City.

16.8 CALCULATION OF SEPARATION PAY

Upon separation from City employment, a regular employee who has completed his or her one full continuous year will be paid for earned, but unused vacation leave up to the maximum allowable accumulation limit. The separation date for all employees is the last day of actual work or approved leave. Final pay received by the employee will not be construed to extend employment with the City of Bay City beyond the separation date.

Payment for leave balances, excluding sick leave, will be included in the employee's final paycheck and will be calculated in the following manner:

- The total work time and allowable vacation (see Section 8.3 on "Vacation Leave" to determine allowable vacation) and compensatory leave time for nonexempt employees will be calculated as a total number of hours for which compensation is due. The regular hourly rate will be determined by dividing the employee's regular annual salary by 2080 working hours per year. Any amount paid for unused vacation will be based on the hourly rate in effect for the employee at the time of termination.
- For employees who are subject to the Fair Labor Standards Act, any overtime hours worked during the employee's final pay period, which have not been compensated through any of the time-off methods described under Section 6.7 "Overtime Compensation" section in these policies, will be paid in the final paycheck at a rate of one and one-half times the employee's regular hourly rate for each overtime hour worked.
- Unused sick leave may be donated to the City's Sick Leave Pool, or it will be canceled upon termination of employment. The employee will not be compensated for it.

The employee will receive his or her final paycheck, in paper check form, on the City's first regular payday following the employee's separation. Direct deposit is not available, if receiving a final paycheck.

16.9 EXIT INTERVIEWS AND RECORDS

Each employee who leaves City employment is requested to participate in an exit interview, at which time the City Secretary, or his or her designee, restates the type of separation (resignation, retirement, reduction-in-force, disability, or dismissal) and, in the case of voluntary separations, documents the reason(s) the employee is leaving and seeks suggestions about employment-related matters. These comments are documented on an exit interview form.

16.10 CONTINUATION OF GROUP HEALTH INSURANCE (COBRA)

The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended, allows certain individuals the option of continuing their group health insurance, at the individuals' full expense, under specific conditions. An employee must notify the City Secretary of any qualifying event, and the City Secretary will notify the city's health insurance plan administrator. The following paragraphs summarize the benefits provided under COBRA.

16.10.1 ELIGIBLE EMPLOYEE

To be eligible for continuation coverage, an individual must be an employee of the City covered by the City's group health plan or an individual who is otherwise covered under the plan.

16.10.2 ELIGIBLE CIRCUMSTANCE

An eligible employee has the right to choose continuation coverage if he or she loses group health coverage because of a reduction in his or her hours of employment or the termination of his or her employment (for reasons other than gross misconduct on the employee's part).

The spouse of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons:

- 1.) The death of the employee;
- 2.) Termination of the employee (for reasons other than gross misconduct);
- 3.) Divorce or legal separation from the employee; or
- 4.) The employee applies for and becomes entitled to Medicare.

The dependent child of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons

- 1.) The death of a parent;
- 2.) The termination of a parent's employment (for reasons other than gross misconduct), or reduction in a parent's hours of employment with the City;
- 3.) Parents' divorce or legal separation;
- 4.) A parent applies for and becomes entitled to Medicare; or
- 5.) The dependent ceases to be a "dependent child" under the city's group health plan.

16.10.3 NOTICE

Under COBRA, the covered worker or family member has the responsibility to notify the City Secretary of a divorce, legal separation, or a child losing dependent status under the City's group health plan within sixty (60) days of the event or within sixty (60) days of the date on which coverage would be lost because of the event. The City Secretary has the responsibility to notify the plan administrator of the covered worker's death, termination of employment, reduction in hours, or entitlement to Medicare.

When the plan administrator is notified that one of the above events has occurred, the plan administrator will notify the covered worker or family member that he or she has the right to choose continuation coverage. The covered worker or family member then has at least sixty (60) days from the date on which he or she would otherwise lose coverage to inform the plan administrator that he or she wants continuation coverage. If the covered worker or family member does not choose continuation of coverage, group health insurance coverage will end. If the covered worker or family member chooses continuation of coverage, the City's plan administrator will provide coverage that, as of the time that coverage is being provided, is identical to the coverage provided under the insurance plan to similarly situated employees or family members.

If the person's payment is not received by the last day of the month, the City will notify the insurance carrier that the payment was not received. If this occurs, the City will drop the person from coverage.

16.10.4 LIMITATIONS AND EXTENSIONS

Continuation coverage is limited to thirty-six (36) months, unless the covered worker or family member lost group health coverage because of a termination of employment or reduction in hours. In that case, the continuation coverage period is eighteen (18) months. The eighteen (18)-month period may be extended to thirty-six (36) months if other events (e.g., divorce, legal separation, death, or Medicare entitlement) occur during that eighteen (18)-month period. Moreover, the eighteen (18)-month period may be extended for an additional eleven (11) months (for a total of twenty-nine (29) months) if an individual is determined to be disabled (under the rules for Social Security disability benefits) and the plan administrator is notified of that determination within sixty (60) days. An individual who receives the extended coverage due to a

disability must notify the plan administrator when it is determined (for the purposes of Social Security disability benefits) that the individual is no longer disabled.

Continuation coverage may be cut short of the full coverage for any of the following reasons:

- 1.) The City no longer provides group health coverage to any of its employees;
- 2.) The premium for continuation coverage is not paid by the employee in a timely manner;
- 3.) The covered worker or family member becomes eligible for Medicare;
- 4.) There has been a final determination that the covered employee or family member is no longer disabled (in the case of beneficiaries who qualified for the extra eleven (11) months of continuation coverage based on their disability at termination); or
- 5.) The covered worker or family member becomes covered under another group health plan that does not contain any provision restricting or limiting coverage of a "preexisting medical condition."

(Legal reference: U.S. COBRA of 1985, as amended; Health Insurance Portability Act of 1996, as amended; and ERISA Technical Release No. 96-1.)

16.11 ABANDONMENT OF POSITION

An absence of two (2) consecutive workdays shall be considered to have abandoned the job without notice, effective at the end of their normal shift on the second day.

17. TRAVEL AND BUSINESS EXPENSES

17.1 PURPOSE

Department Head It is the policy of the City of Bay City that employees be fully reimbursed for necessary and reasonable job-related expenses incurred in the authorized conduct of City business. Any travel for which any reimbursement will be requested must have prior approval from the employee's immediate supervisor. All requests for reimbursement of expenses are subject to requirements of documentation and reasonableness, and will be honored in conference with these adopted policies and procedures. Expenses which are not permitted under the terms of grants, contracts or agreements with other agencies shall not be charged as costs to those grants, contracts or agreements.

Employees receiving a travel advance **must** submit a completed travel expense report to the Finance Department no later than **three** (3) business days after returning from the trip.

17.2 IN-CITY TRAVEL

All necessary travel by City employee for authorized conduct of City business within the City is authorized. Reimbursements by employees for the use of private vehicles is made monthly upon submission of required report and request forms. Mileage is reimbursed at the rate established by the Internal Revenue Service (IRS). Employees are expected to use the shortest distance between destinations for all travel. Travel between the employee's residence and a City office is not allowed for reimbursement.

17.3 OUT-OF-CITY TRAVEL

Out-of-City travel by City employees is permitted, provided that it is authorized in advance by the employee's Department Head. In the case of Department Heads, the travel requires prior approval of the Mayor. All out-of-state requires prior authorization of the Mayor. Travel reimbursement requests must not exceed departmental budgetary limitations. Reimbursements for out-of-city travel will be made on the most economical conveyance that is reasonably available. When private vehicles are used, reimbursement is allowed on the basis of the mileage reimbursement rate or the least expensive airfare, whichever is less. If no airfare is service is available to the authorized destination, actual mileage is allowed. The difference in cost between first class air accommodations and the least expensive air accommodations are available and with the Mayor's approval.

Some employees may be required to use their personal vehicles for City business in their daily work. In these cases, the employee may receive a regular monthly allowance from the City. In such cases, the employee will receive additional reimbursement for out-of-region travel at the regular mileage reimbursement rate unless the allowance agreement specifically states that out-of-region travel is included in the monthly allowance. The region is defined as within 200 miles.

17.4 SUBSISTENCE EXPENSES

Employees engaged in necessary and authorized travel are reimbursed for actual subsistence expenses, subject to documentation and reasonableness, as long as they meet the IRS guidelines for “away from home, which includes an overnight stay. A per diem allowance will be permitted, according to the following schedule:

The per diem allowance shall not exceed the maximum daily allowance as prescribed by the IRS based on locality for the meals and incidental expenses. The employee will receive a percentage of the per diem for the day of departure and the day of return based on the following:

- Departure time before 8:00 a.m. – 100%
- Departure time between 8:01 a.m. and 12:00 p.m. (noon) – 75%
- Departure time between 12:01 p.m. (noon) and 5:00 p.m. – 50%
- Departure time between 5:01 p.m. – 25%
- Return time before 8:00 a.m. – 25%
- Return time between 8:01 a.m. and 12:00 (noon) – 50%
- Return time between 12:01 p.m. (noon) and 5:00 p.m. – 75%
- Return time after 5:01 p.m. – 100%

Subsistence expenses will generally be for lodging, business-related telephone calls, registration, local transportation, and parking. The per diem will cover meals and incidentals (i.e. tolls and gratuities). Employees may receive \$15.00 towards lunch for a one-day travel. Employees must present to their supervisor a detailed receipt outlining the cost to receive the reimbursement.

Costs of personal entertainment, amusements, personal items, gifts, social activities, personal telephone calls, expenditure of city representative’s spouses, or alcoholic beverages are not allowable for reimbursement.

The City is not exempt from state or local Hotel Occupancy Taxes. Only state, federal, religious, and public education entities are exempt from Hotel Occupancy Taxes.

All expense, other than per diem expenses, must be accompanied by written receipt in order to receive reimbursement. If the employee chooses to be reimbursed for meals and incidentals instead of receiving the prescribed per diem, written detailed receipts for all expenses must accompany the request for reimbursement. The reimbursement cannot exceed the IRS prescribed per diem allowance and they cannot obtain per diem for one day and reimbursement of receipts for another day on the same travel reimbursement request.

17.5 CREDIT CARD POLICY

17.5.1 PURPOSE

The purpose of the City of Bay City credit card policy is to establish the use of City credit cards in the course of performing City business. The City of Bay City recognizes that officials and department directors are required to make expenditures of funds in the course of performing their functions in municipal government. The use of credit cards is beneficial to the taxpayer, and enables the City to be more effective and efficient, and more accountable to the public than some of the older, more traditional financial methods. City credit cards provide detailed purchase histories and other important recordkeeping and time saving information. Federal and state governments are wisely using credit cards to reduce paperwork, personnel, and other costs related to financial management. Local governments and virtually all private enterprises are implementing similar uses, and the City of Bay City should reap the benefits of this technology.

17.5.2 ISSUANCE

Bank business credit cards will be issued to all departments. The department directors to whom the cards is issued are responsible for the cards and their proper use. The Mayor and members of the City Council have final approval authority on credit card issuance. The Finance Department is responsible for verifying and reconciling all credit card usage and charges pursuant to this policy and the City's Travel Expense Report. City credit cards may not be used in lieu of the normal purchasing procedures of the City. Credit cards may be used to make lodging reservations and conference reservations or to pay for lodging, meals, and incidental travel expenses. Credit cards may also be used for secured site online purchasing when conventional methods are not available or time is a factor.

An employee should make every effort to inform companies of the City's tax exempt status to help avoid paying sales tax.

17.5.3 USAGE

The maximum single transaction amount is limited to \$2,500.00 without prior written authorization. The card is for procurement purposes only and the balance must be paid monthly to avoid interest charges. All technology related purchases must be made through the IT Department.

Personal use of credit cards is **strictly prohibited** and is subject to disciplinary action. Other prohibited uses include cash advances and alcoholic beverage purchases. A cardholder who makes an unauthorized purchase or carelessly uses the City credit card is personally liable for the total amount of the unauthorized purchase. In addition, the employee is subject to disciplinary action.

In the event a card is lost or stolen, the responsible employee must immediately notify the City Treasurer.

17.5.4 RECONCILIATION

Credit Card activity must be reconciled as established below:

- 1.) The cardholder will submit receipts and/or documentation describing and appropriately coding each transaction.

- 2.) Detailed receipts/documentation should be completed on the expense report and the card returned to the responsible department director no later than three (3) days after use. In the event of a lost or missing receipt, the responsible party must complete a statement explaining the absence of the documentation and confirming that the expenses were legitimately incurred in the conduct of municipal business. Undocumented expenses will be subject to employee reimbursement to the City directly or through payroll adjustments.

17.5.5 CANCELLATION

The Mayor, with the advice of the City Treasurer, may cancel or order the surrender of any City credit card which appears to be misused or abused, and will take the appropriate disciplinary action as provided by these policies.

CITY OF BAY CITY

EMPLOYEE GUIDELINES

FOR CITY EMPLOYEES



Revised, per Ordinance No. ~~4494~~, passed and approved on February ~~1327~~, 2014.

NOTICE TO EMPLOYEES

This manual is designed to acquaint you with the City of Bay City and provide you with information about working conditions, employee benefits, and some of the policies affecting your employment. You should read, understand, and comply with all provisions of the manual. It describes many of your responsibilities as an employee and outlines the programs developed by the City of Bay City to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth.

No employee manual can anticipate every circumstance or question about policy. As the City of Bay City continues to grow, the need may arise and the City of Bay City reserves the right to revise, supplement, or rescind any policies or portion of the manual from time to time as it deems appropriate, in its sole and absolute discretion. The only exception to any changes is our employment-at-will policy permitting you or the City of Bay City to end our relationship for any reason at any time.

The City of Bay City operates under the legal doctrine of **voluntary employment-at-will** and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. No representations to the contrary by any employee will be binding unless reduced to writing and signed as authorized by the Mayor. Texas law allows the City of Bay City to maintain this at-will employment relationship with its employees.

No policies or procedures contained in this document or in any other City of Bay City memorandum, manual, or publication may be construed to create a contractual employment relationship, nor do policies and procedures contained in this manual give rise to any contractual rights of any kind. This document is not intended to, nor does it, create a contract of employment between an employee and the City of Bay City. Further, this manual and its contents do not modify the City of Bay City's employment-at-will relationship with each of its employees.

These policies and procedures may be modified or withdrawn at any time, with or without notice. Although printed copies will be distributed to City of Bay City employees, the most current version of the *City of Bay City Employee Guidelines for City Employees* will be the copy maintained in the City Secretary's office.

If any statement in these policies is not completely clear to you, ask the City Secretary or the Mayor.

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CITY OF BAY CITY EMPLOYEE GUIDELINES

1. GENERAL PROVISIONS

1.1 AUTHORITY

These policies completely replace and supersede any and all personnel policies/employee guidelines previously adopted, individually or as a set of policies, by the City Council. As provided by the City Charter, the Mayor has the authority to exercise control over all departments and divisions of the City and to supervise all officers and employees of the City.

The City Secretary is assigned responsibility for developing, administering, and explaining personnel policies and procedures for all City employees. The City Secretary is delegated the authority to implement and explain policies and procedures as specified by this manual. The final authority in the form of review and approval is reserved to the Mayor and City Council as specified by the City Charter.

No employee manual can anticipate every circumstance or question about policy. As the City continues to grow and as the need may arise, the City reserves the right to revise, supplement or rescind any policies or portion of the manual from time to time as it deems appropriate, in its sole and absolute discretion. The only exception to any changes is the “at-will” employment policy permitting the employee or the City to end the employment relationship for any reason at any time. Any future changes to this manual shall be communicated to employees through official notices.

Department Directors and subordinate management personnel are responsible for the administration and enforcement of these policies and procedures and for cooperating with the City Secretary in the discharge of his/her responsibilities.

1.2 SUNSET CLAUSE

In order to stay abreast of internal and external changes, the City Secretary will propose amendments to the policies as state and federal laws and regulations mandate changes. In addition, the City Council of the City of Bay City will review the personnel guidelines every three (3) years, to make any necessary changes.

1.3 SEVERABILITY (EACH POLICY STANDS ON ITS OWN)

The provisions of these policies are severable, and if any provision or part of a provision is held invalid, illegal, or unenforceable, this shall not affect the validity of the remaining provisions or parts of provisions, which shall remain in force and effect.

In addition, if the City fails or refuses to enforce any provision in these policies, that failure or refusal to enforce a policy will not cause a waiver of any other provision in these policies.

1.4 PURPOSE

The purpose of these policies and procedures is to provide efficient and effective City services and operations by satisfied and productive City employees. These policies and procedures are designed to fulfill this purpose by:

- 1.) Providing a fair and equal opportunity to all qualified persons who enter into and advance in employment on the basis of merit as ascertained through fair and practical methods of personnel management;
- 2.) Promoting and increasing effective, efficient and economical municipal service;
- 3.) Maintaining recruitment and advancement practices that will make the service of the City attractive as a career and that will encourage each employee to render excellent service to the City;
- 4.) an employee's right to be treated with respect, dignity, and fairness;
- 5.) Promoting high morale among City employees by providing good working relationships, uniform city-wide application of personnel policies, opportunities for advancement where possible, and consideration for employee welfare; and
- 6.) Ensuring that the City and its employees comply fully with all federal, state, and local laws in relation to employment and working conditions.

1.5 APPLICABILITY

These personnel policies apply equally to all employees unless a class of employees is specifically exempted by these policies.

Unless specifically stated, these policies do not apply to elected or appointed City Officials; members of city boards or commissions, independent contractors, or volunteers; unless they are appointed by Council and employed in a full time capacity by the City..

In cases where federal or state laws or regulations supersede these policies for specific groups of employees, such laws or regulations will substitute for these personnel policies only insofar as necessary for compliance.

1.6 RESPONSIBILITY FOR IMPLEMENTATION

The Mayor and the City Secretary are responsible for implementation of these policies.

1.7 AMENDMENTS

Because the City is a growing and changing organization, it may be necessary to modify these policies at any time with or without advance notice to the employees. The City Secretary is responsible for recommending to Council any changes, additions or deletion to this policy; but it is the City Council that has the sole discretion to unilaterally amend the personnel policy at any time with or without notice, and for any reason it deems appropriate. The Council may revise the policy in whole, in part, or elect to not have any written personnel policy.

1.8 EMPLOYEES RECEIVE PERSONNEL POLICIES

Each employee is provided a copy of the personnel policies and is required to read the manual carefully and to adhere to the rules and regulations established in the policies. Potential employees will be provided the City's personnel policy, prior to completing the new hire paperwork. The potential employee is to read and understand the policy. On the first scheduled day of work the City Secretary or his or her designee will review the policy with the new hire. Each employee is required to sign a form stating that he or she has received and read the personnel policies and acknowledge that he or she understands the policies contained in it.

The City Secretary maintains the official set of the personnel policies with all revisions for reference by employees. In addition, the City Secretary will distribute a complete copy of these policies and copies of subsequent revisions to each employee. If a question arises about a particular policy or version, the official set of policies maintained by the City Secretary should be consulted and will control.

The City has the right to change these policies at any time, without prior notice to employees. Revisions and amendments will be distributed to employees.

1.9 AT-WILL EMPLOYMENT

The City of Bay City operates under the legal doctrine of voluntary employment-at-will and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. No representations to the contrary by any employee will be binding unless reduced to writing and signed as authorized by the Mayor. Texas law allows the City of Bay City to maintain this at-will employment relationship with its employees.

No policies or procedures contained in this document or in any other City of Bay City memorandum, manual, or publication may be construed to create a contractual employment relationship, nor do policies and procedures contained in this manual give rise to any contractual rights of any kind. This document is not intended to, nor does it, create a contract of employment between an employee and the City of Bay City. Further, this manual and its contents do not modify the City of Bay City's employment-at-will relationship with each of its employees.

1.10 EQUAL EMPLOYMENT OPPORTUNITY - GENERAL

It is the policy of the City of Bay City to prohibit discrimination against any person in job structuring, recruitment, examination, selection, appointment, placement, training, upward mobility, discipline, or any other aspect of personnel administration based on a person's race, age, sex, religion, color, disability, national origin, genetic information that could reveal a possible predisposition to certain diseases, or any other non-merit factor. Personnel decisions will be made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform a specific job.

An employee will not engage in conduct at work that involves joking, derogatory remarks, or the display of images or symbols that demonstrate racial, age, sex, religious, or ethnic discrimination. Reports of such conduct will be investigated, and disciplinary action will be taken, if appropriate.

The city prohibits retaliation or discrimination against any employee for opposing an unlawful or discriminatory employment practice, or for alleging such a practice or participating in an investigation of an allegation of discrimination.

(Legal reference: U.S. Civil Rights Acts of 1871 and 1964, as amended; Lilly Ledbetter Fair Pay Act of 2007; Genetic Information Nondiscrimination Act of 2009; V.T.C.A. Civil Practices and Remedies Code, Chapter 106; Texas Commission on Human Rights Act, V.T.C.A. Government Code, Sec. 461; V.T.C.A. Labor Code, Chapters 21-22; U.S. Age Discrimination in Employment Act of 1967, as amended; U.S. Rehabilitation Act of 1973, as amended; U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; U.S. Executive Order 11246; U.S. Equal Pay Act; V.T.C.A. Health and Safety Code, Chapters 592.)

1.11 SEXUAL HARASSMENT

1.11.1 GENERAL POLICY AND DEFINITION

It shall be the policy of the City of Bay City to provide and maintain a work environment free of sexual harassment, sexual exploitation, and sexual intimidation by employees, contractors, vendors, members of the City Council, the Mayor, or visitors to the workplace. The City of Bay City has a "zero tolerance" policy regarding sexual harassment; sexual harassment will not be tolerated by the City. The City will investigate any complaint of sexual harassment promptly. All employees are expected to comply with this policy, and failure to do so will result in disciplinary action up to and including immediate termination.

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964, as amended, and **will not** be tolerated by the City of Bay City. Sexual harassment can occur in many forms, including but not limited to, unwelcome physical contact, verbal abuse, leering, gestures, and more subtle advances and pressure inviting sexual activity. Such conduct is unlawful where:

- 1) Submission to such conduct is made a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual (i.e., denial of a pay increase, promotion, transfer, leave of absence, imposing disciplinary action, promising to withhold disciplinary action, etc.); or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, or creating an intimidating, hostile or offensive working environment.

Several factors are important for you to note:

- 1) The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex;
- 2) The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee;
- 3) The victim does not have to be the person harassed but could be anyone affected by the offensive conduct;
- 4) Unlawful sexual harassment may occur without economic injury to or discharge of the victim; or
- 5) Any circumstance in which the harasser's conduct is unwelcomed.

1.11.2 EXAMPLES OF SEXUAL HARASSMENT

It is illegal and against the City's policy for anyone, male or female, to harass a city worker or to create a hostile working environment by either committing or encouraging any of the following. This policy extends to city employees, contractors, vendors, members of the City Council, the Mayor, or visitors to the workplace.

- Physical assaults on another employee, including but not limited to, rape, sexual battery, molestation, or attempts to commit these assaults; or
- Intentional physical contact that is sexual in nature, including but not limited to, touching, pinching, patting, or brushing up against another employee's body; or
- Unwanted sexual advances, propositions, or sexual comments, including sexual gestures, jokes, or comments made in the presence of any employee who has indicated in any way that such conduct in his or her presence is unwelcome; or
- Posting or displaying pictures, posters, calendars, graffiti, objects, images, or other materials that are sexual in nature or pornographic.

The creation of an intimidating, hostile, or offensive working environment includes such actions as persistent sexual comments or the display of obscene or sexually oriented photographs, images, or drawings. However, actions that arise out of a personal or social relationship and are not intended to have a discriminatory employment effect might not be viewed as harassment. The city will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation.

1.11.3 HOW TO REPORT SEXUAL HARASSMENT

If an employee is either subjected to or witnesses sexual harassment, he or she should immediately inform the harasser that the conduct is offensive and insist that it stop. If sexual harassment continues, the employee should report the matter to his/her immediate supervisor, within twenty-four (24) hours. If you are unable or unwilling to speak with your supervisor about the harassment, you should report the incident directly to the City Secretary or the Mayor. If the City Secretary or the Mayor is the source of the alleged harassment, the employee should report the problem directly to the City Attorney.

1.11.4 SUPERVISOR RESPONSIBILITY AND COMPLAINT PROCEDURE

Each supervisor has the responsibility to maintain the workplace free of sexual harassment and to ensure that employees are not subjected to insulting, degrading, or exploitative sexual treatment.

1.11.5 DUTIES OF EMPLOYEES

The complainant—If you are making the complaint, the investigator will need to know all the details, unpleasant though they will be to recount. The investigator has a duty to be fair to everyone involved and needs as much information as possible. Be prepared to give the following information:

- 1) The names of everyone who might have seen or heard about the offensive conduct;
- 2) The names of everyone who may have had a similar experience with the alleged harasser;
- 3) A chronology—when and where each incident occurred;
- 4) The reasons why you did not report the incidents earlier (if you have delayed at all); and
- 5) Your thoughts on what the employer should do to correct the problem and maintain a harassment-free environment.

The accused—If you are the person accused of harassment, you must remember that you have a duty to cooperate in the investigation, regardless of whether you believe the allegations to be true or false. You will be expected to answer questions completely and honestly. You may be asked not to communicate with certain individuals during the course of the investigation. You must remember that you are not to retaliate against the person who made the complaint or against anyone who participates in any way in the investigation. You must treat them in the same fair and even-handed manner you would if no complaint had ever been raised. Failure to abide by these rules may result in discipline against you, even if the investigation shows no harassment occurred.

A potential witness—You may be asked to provide details concerning alleged harassment between other employees. You have a duty to respond truthfully to the questions concerning these allegations.

1.11.6 SEXUAL HARASSMENT INVESTIGATIONS

The city's grievance procedure provides procedures for reporting alleged sexual harassment. The city will investigate such reports immediately. The City Secretary will arrange for each complaint of sexual harassment to be investigated. As soon as an employee reports an incident to the City Secretary or the Mayor, the City Secretary is responsible for investigating it (even if the employee does not want anything said or done about it). The City Secretary will:

- Obtain facts and views from the persons involved as well as from any witnesses. The person(s) accused of discrimination or sexual harassment will be advised of the allegations and given the chance to respond.
- Keep records of the investigation. Documentation will be kept of all phases of the investigation, from the initial complaint to any written warning or action taken.
- Attempt to resolve the complaint. The City Secretary will present findings and recommendations to the appropriate parties.
- Maintain privacy and confidentiality to the extent possible. Most aspects of the investigation are confidential. Once the employee has contacted the City Secretary, any discussion regarding the issue should be limited to those directly involved with the investigation.

Any employee who knowingly or maliciously makes a false sexual harassment complaint or report will be subject to appropriate disciplinary action.

1.11.7 RETALIATION IS PROHIBITED

An employee will not be subjected to retaliation for pursuing a sexual harassment complaint.

1.11.8 EMPLOYEES ACKNOWLEDGE RECEIPT OF POLICY

To emphasize the importance of this policy and ensure employees' understanding, the City requires each employee to sign a statement acknowledging receipt and understanding of this Sexual Harassment Policy. The signed acknowledgement is kept in the employee's personnel file.

(Legal reference: Title VII of the U.S. Civil Rights Act, Section 703, as interpreted by EEOC: Sex Discrimination Guidelines, Section 1604.11; Meritor Savings Bank v. Vinson, U.S. Supreme Court, 1986; the Lilly Ledbetter Fair Pay Act of 2007; and the Genetic Information Nondiscrimination Act of 2009.)

1.11.9 ANTI-HARASSMENT POLICY

Many forms of harassment, including harassment due to one's race, ethnicity, gender, religion, sexual orientation or sexual harassment, are prohibited by federal and state laws. It is the City's policy to prohibit harassment of any kind, and the City of Bay City will take appropriate action swiftly to address any violations of this policy. The definition of harassment is verbal or physical conduct designed to threaten, intimidate or coerce. Also, verbal taunting (including racial and ethnic slurs) that, in the employee's opinion, impairs his or her ability to perform his or her job. Examples of harassment are:

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- 1.) Verbal: Comments that are not flattering or are unwelcome regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, body disability or appearances, epithets, slurs, and/or negative stereotyping.
- 2.) Nonverbal: Distribution, display, or discussion or any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility or aversion toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, body disability or appearances, gender identity, martial or other protected status.

Any allegation of harassment, other than sexual harassment, shall be addressed in accordance with the Disciplinary Procedures in Section 12 Discipline of these Guidelines. Allegations of Sexual Harassment shall be addressed in accordance with this section, Section 1.11 and Section 12 Discipline of these Guidelines.

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1.12 PERSONS WITH DISABILITIES

1.12.1 PURPOSE

It is the policy of the City to make its employment application process, employee activities, working environment, employee benefits, employee training, and employee advancement process accessible to persons with disabilities and to make reasonable accommodations to a qualified individual with a disability who is an applicant or employee, unless that accommodation will place an undue hardship on city finances or operations, or will pose a danger to the applicant, the employee, or others.

The City of Bay City, Texas offers equal employment opportunity to qualified individuals with a disability and strictly prohibits discrimination against qualified individuals on the basis of disability. In compliance with the Americans with Disabilities Act (ADA) of 1990 as amended, the City will provide reasonable accommodations to otherwise qualified individuals with disabilities as prescribed in accordance with the Act.

The City recognizes that employees with life-threatening and/or infectious illnesses or physical and/or mental disability may wish to continue to engage in as many of their normal pursuits as their condition allows. The City will allow such individuals to continue with their employment as long as they are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship to the City and with medical evidence which indicates their condition does not present a direct threat to themselves or others.

1.12.2 DEFINITIONS:

"Disability" refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual. A major life activity is considered to be substantially limited if an individual cannot perform the activity at all or is limited in the "condition, manner, or duration under when an individual can perform" the activity when compared to what an average person can do. An individual who has such an impairment has a record of such an impairment is also deemed a "disabled individual." An individual may also be deemed "disabled" if the person is regarded as

having such impairment. Pursuant to the ADA, if the condition is transitory and minor with an actual or expected duration of 6 months or less, then the condition does not qualify as a disability.

“Direct threat to safety” refers to a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

“Essential job functions” refers to those activities of a job that are the core to performing the job in question and must be performed with or without an accommodation.

“Major life activity” may include things such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating or working. A “major life activity” may also include bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive systems (this list is illustrative but not exclusive).

“Qualified Individual with a Disability” refers to an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or has applied for.

“Reasonable Accommodation” refers to making existing facilities readily accessible to and usable by individuals with disabilities, including but not limited to; job restructuring, part-time or modified work schedules, reassignment to an existing vacant position, acquisition or modification of equipment or devices, adjustment or modification of examinations, adjustment or modification of training materials, adjustment or modification of policies, and similar activities.

An accommodation is reasonable if it does not pose an undue hardship to the City of Bay City, Texas.

“Undue Hardship” refers to an action requiring significant difficulty or expense by the employer. The factors to be considered in determining an undue hardship include: (1) the nature and cost of the accommodation; (2) the overall financial resources of the facility at which the reasonable accommodation is to be made; (3) the number of persons employed at the facility; (4) the effect on expenses and resources or other impact upon that facility; (5) the overall financial resources of the City; (6) the overall number of employees and facilities; (7) the operations of the particular facility as well as the entire City; and (8) the relationship of the particular facility to the City. These factors are not exclusive as undue hardship can include an action requiring significant difficulty or expense (e.g. an action is unduly costly, extensive, substantial, and disruptive or fundamentally alters the nature of city business).

1.12.3 REQUESTS FOR ACCOMMODATIONS

City of Bay City, Texas employees are responsible for bringing up any disability related issues. The request form may be found in the City Secretary’s Office. A “reasonable accommodation” may be provided when it enables the employee to perform the essential functions of the job, does not cause undue hardship, and does not cause a threat to safety.

Procedure

1. The request for a “reasonable accommodation” should be directed to the employee’s department director/designee and should be made in writing.

2. The Department Director/Designee with the assistance of City Secretary/Designee determines if the employee is a qualified individual with a disability. If the impairment is not obvious, the Department Director/Designee should request that the employee submit documentation from a qualified professional, such as a physician and it must include:
 - a. Diagnosis to substantiate the existence of the impairment;
 - b. Evaluation of functional limitations which impact performance of the essential functions of the job or access to benefits of employment;
 - c. A functional job description provided by the qualified professional for the purposes of this evaluation
 - d. Note; the employee is responsible for acquiring the diagnosis and evaluation.
3. The employee and the Department Director/Designee discuss functional limitations:
 - a. If the employee has a disability as defined by the ADA, the employee and Department Director will discuss the specific physical or mental abilities only as they relate to the performance of essential functions of the job or access to benefits and privileges of employment; and
 - b. Assess and discuss how these barriers can be overcome with accommodation.
4. The Department Director/Designee and City Secretary/Designee will identify and communicate to the employee a reasonable accommodation. The accommodation will be determined on a case by case basis taking into consideration the documentation and information provided by the employee.
5. When a reasonable accommodation cannot be provided, the City Secretary will discuss with the employee what options are available.

1.12.4 COMPLAINTS AND GRIEVANCE PROCEDURE

Employees who have a complaint involving potential violations of the Americans with Disabilities Act or ADAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately report such complaint as outlined in the City's Sexual Harassment Policy.

Should the employee disagree with the findings of the City Secretary/Designee, the employee may appeal the decision within five (5) working days to the Mayor/Designee. The request for appeal must be provided in writing. The decision of the Mayor/Designee will be final.

(Legal Reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008.)

1.13 CITY PROPERTY

"City Property" means any real or personal property owned, leased, or used for city business. This includes facilities, buildings, premises, land, parks, rights-of-way, vehicles, sites of city-sponsored events, office furniture, machines, City records, and tools.

City records will be defined for the purposes of these guidelines as Local Government Record, which is defined by the Texas Local Government Code §201.003(8). A Local Government Record means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created, or

received by a local government or any of its officers or employees pursuant to law, including an ordinance or in the transaction of public business.

1.14 VIOLENCE IN THE WORKPLACE

The safety and security of all City employees and other persons on City premises or work sites is of primary importance to the City of Bay City. Threats, threatening or abusive behavior, or acts of violence against citizens, employees or officials, visitors, or other individuals on City premises or equipment is prohibited.

This policy applies to City employees, City officials, City contractors and vendors, and any other persons present on City property or worksites or at City-sponsored events.

Violators of this policy are subject to disciplinary action, up to and including discharge, and to prosecution.

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on City property or equipment will be removed from the City property as quickly as safety permits. The City of Bay City's response to violent acts, threats, or behavior may include, but is not limited to, employment suspension or termination, suspension or termination of business relationships, or criminal prosecution of the persons involved and/or request of a restraining order from the appropriate judicial official.

City employees are responsible for notifying their supervisor or the City Secretary of any threats, or threatening behavior, that they witness or receive, in addition to any threats that they are told another person witnessed or received, that occurred on City property, or while on City equipment, or in relation to City business. Employees are responsible for making these reports regardless of the relationship between the individual initiating the threat or threatening behavior and the person(s) being threatened.

A City employee or official who applies for or obtains a protective or restraining order which lists the City of Bay City premises or equipment as protected areas, must immediately provide their supervisor or the City Secretary with a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order that is made permanent. The City Secretary will forward the order to the City Attorney. Unless otherwise required by law, any information of this nature will be released on a need to know basis only to the appropriate law enforcement, management, and/or administrative personnel.

1.15 WEAPONS

The City of Bay City prohibits any applicant, employee, contractor, subcontractor, vendor, agent, representative, or officials from possessing, using, concealing, carrying or maintaining weapons of any kind on City property or on City equipment, or while representing the City in any capacity. This prohibition includes carrying or maintaining a concealed weapon or handgun in any City vehicle used in connection with employment. Prohibited weapons include, but are not limited to, the following:

- All firearms;

- Knives with blades more than five inches in length;
- Any form of explosive weapon or other explosive device;
- Any knife, chain, club, axe, or instrument when carried or displayed as a weapon;
- Any explosive or incendiary devices; or Noxious, caustic, or toxic chemicals.

This policy does not apply to a peace officer or animal control officer employed by, or assigned to duty with, the City.

Pursuant to Texas Labor Code §52.061, this policy does not apply to an employee who holds a license to carry a concealed handgun under Chapter 411 of the Texas Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the City provides for employees. Employees licensed to carry concealed weapons must report to the Chief of Police their identity and license plate numbers of all vehicles that employee may park in City parking lots.

If an employee is unsure whether an item is covered by this policy, he or she should contact the City Secretary for verification. Any violation of this policy will result in disciplinary action up to and including termination.

While the City has a policy prohibiting weapons, nothing in this policy shall be construed as creating any duty or obligation on the City's part to take any actions beyond those required of an employer by existing law.

1.16 SEARCHES

The City reserves the right to make general or random searches of City property, premises, and equipment to include buildings, parking lots, vehicles, lockers, closets, and desks without the consent of employees. The objects of searches may include alcohol, prohibited drugs, drug paraphernalia, pornography, explosives, firearms, knives, or other prohibited weapons, or unauthorized City property or information.

The use by employees of privately owned padlocks or other locking mechanisms for City property is prohibited, unless the key or the combination to the lock is provided to the employee's supervisor or to his or her designee. If an employee does use a privately owned padlock or other locking mechanism on any City property, the City may remove it at any time, and the employee will not be entitled to any reimbursement for damage to the mechanism. The use of any privately owned padlock or other locking mechanism for City property does not create an expectation of privacy with regard to any contents within the locked city property.

Objects brought into the workplace by an employee, such as personal effects, purses, briefcases, vehicles, bags, boxes, or electronic devices, may be subject to search at any time if an individualized reasonable suspicion or probable cause exists that alcohol, prohibited drugs, drug paraphernalia, pornography, explosives, prohibited weapons, or unauthorized City property may be found. If the employee is available, he or she will be asked to consent to the search, but the search may not be dependent upon that consent.

Any search will be conducted as privately as possible, involving only persons with a need to know and only with the authorization of the Mayor, City Secretary, or Police Chief.

1.17 EMPLOYEE PERSONNEL RECORDS

1.17.1 PERSONNEL FILES – GENERAL

Personnel files are maintained in the City Secretary's office.

Information in an employee's personnel file is public information and must be disclosed upon request unless specific items are excepted from disclosure by law. No information from any record placed in an employee's file will be communicated to any person or organization except by the City Secretary, the Mayor, or by another employee authorized to do so by the Mayor.

Each employee may choose whether the city discloses the employee's home address and telephone number. A form for this purpose is available from the City Secretary. If a new employee does not request confidentiality within the first 14 days of employment, the home address and telephone number on file are considered public information. Employees may change their elections for disclosure or confidentiality at any time by contacting the City Secretary. (Legal reference: *Public Information Act, V.T.C.A. Government Code, Sec. 552.024.*)

An employee or his or her representative designated in writing may examine the employee's personnel file upon request during normal working hours in the presence of the City Secretary at the city offices. The employee may request copies of items or materials in his or her personnel file but may not remove anything from the file. Once the employment relationship between the City and an employee ends, the employee will no longer have the ability to view their personnel file.

It is the responsibility of the employee to provide the City Secretary with any changes in or corrections to information recorded in their individual personnel files such as:

- Home address;
- Telephone number;
- Person to be notified in case of emergency;
- Change in marital status or in the number of dependents (for the purposes of health insurance and income tax withholding);
- Change in beneficiary for life insurance and retirement benefits;
- Any additional schooling, certificates, or degrees earned during the course of your employment;
- Any changes in Social Security or driver's license numbers;
- Or other pertinent information.

(Legal reference: V.T.C.A. Government Code, Sec. 552.102)

1.17.2 CONTENTS OF PERSONNEL FILES

An employee's official personnel file contains:

- An employment record;
- A copy of the employee's application for employment/resume;
- A copy of the employment offer letter;
- A signed copy of the employee's acknowledgment of having reviewed a copy of the City of Bay City Employee Guidelines for Employees;
- The employee's current job description and job description(s) for other positions held with the City;
- The election to disclose or keep confidential home address and home telephone number form;
- Personnel action forms;
- Records of any citations for excellence, awards for good performance, or job-related training/education;
- Records of any disciplinary action(s);
- Performance evaluations;
- Copies of any grievances and related materials;
- Any other pertinent information having a bearing on the employee's status; and
- Any written statements from the employee explaining, rebutting, or clarifying other items in the file.

An employee's personnel file does not contain information regarding an employee's medical record(s), nor does it contain any information relating to drug or alcohol testing. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the City Secretary has routine access to employee medical records. (Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008, and Health Insurance Portability and Accountability Act of 1996, as amended.)

1.17.3 EMPLOYEE LEAVE RECORDS

Official records of earned vacation leave, sick leave, compensatory leave, and of leave usage are kept for each employee by the City Secretary at the end of each calendar year. Leave records are updated at the close of each pay period. Leave balances are shown on the official record to reflect any remaining leave to which an employee is entitled.

2. EMPLOYEE RESPONSIBILITIES

2.1 EMPLOYEE RESPONSIBILITIES – GENERAL

2.1.1 WORK ETHIC

The City is a public organization. Its employees are expected to adhere to high standards of service that emphasize professionalism, courtesy, and avoidance of even the appearance of illegal or unethical conduct at all times. Employees shall, during both working and non-working hours, act in a manner which will inspire public trust in their integrity, impartiality, and devotion to the best interests of the City, its customers, and citizens. Employees are required to give a full day's work, to carry out efficiently the work tasks assigned as their responsibilities, to maintain good moral conduct, and to do their parts in maintaining good relationships with the City's customers, their supervisors, and their fellow employees.

Prompt settlement of lawful bills is your solemn obligation wherever you work. As an employee of the City, your obligation to pay bills on time becomes even more serious. The reputation of all municipal employees can be directly affected by your actions. All employees are expected to keep their personal financial affairs in good order. Failure to pay just debts, including taxes, may constitute grounds for disciplinary action.

City employees may be offered honorariums¹. If the employee is being paid by the City for the time for which the honorarium will be received, the honorarium must be rejected.

The City may require some positions to obtain a notary license. In that event an employee shall be required to use their license in an ethical manner. An employee shall only notarize City related documents with their City paid notary during business hours.

2.1.2 USE OF PERSONAL CELL PHONES

Employees may be permitted to bring their personal cell phones to work, but excessive use of personal cell phones during working hours will not be tolerated. Any employee who violates this policy will be subject to disciplinary action. Individual departments or units may impose stricter rules regarding use of personal cell phones.

¹ Honorarium can be defined as a payment for service.

2.2 PROFESSIONAL APPEARANCE

While the City does not have a formal dress code, employees are expected to exercise regular hygiene care and to dress and groom themselves in a neat and tasteful manner which is appropriate to the particular job being performed. Every attempt should be made to keep tattoos covered and inconspicuous. Expensive clothes are not necessary, but a neat, well-groomed appearance and a courteous attitude are necessary in creating and maintaining a professional, favorable image of the City's work force. Employees in certain departments are required to wear uniforms which must be maintained and worn in a clean, neat manner.

The acceptable professional business attire guidelines are as follows:

1. Slacks.
 - a. Jeans and/or khakis can be worn on Friday's only with a blouse (woman) as described below, or a City polo shirt is acceptable.
 - b. No shorts.
2. Dresses and skirts should be of a professional nature. The length should be knee length or near knee length.
3. Tailored capris.
4. Dress Shirts and Polo Shirts.
 - a. Women's blouses must be professional and modest.
 - i. No low cut tops,
 - ii. No tank tops, unless worn under a shirt or jacket.
 - iii. No t-shirts.
 - iv. No exposed bra straps.
 - b. Men's: every attempt should be made to tuck in shirts when working in the office.
 - i. No tank tops
 - ii. No t-shirts
 - c. Advertising and Comments on shirts will not be acceptable, unless advertising for a future City event or project.
5. Shoes.
 - a. Dress strappy sandals with a heel that have a back or strap.
 - b. Closed toe shoes.
 - c. Boots.
 - d. Tennis shoes (only on Friday).
 - e. No flip flops and/or beach flip flop shoes.

2.3 PERSONAL VISITORS IN THE WORKPLACE

In the event that a non-work related person visits an employee during working hours, the employee is responsible for the conduct and safety of his or her visitor(s). Personal visits with City employees should be limited so as not to be unduly disruptive of the work environment. In some City facilities or areas, personal visitors may be prohibited, i.e., the dispatch area in the Police Department. Individual departments may impose stricter rules regarding personal visitors in the workplace.

2.4 TIMELINESS AND ATTENDANCE

Punctuality in reporting for work and regular attendance are absolutely essential to the City's fulfillment of its mission to the citizens of our community. Employees are required to be at their places of work or performing their assigned duties in accordance with the work schedules established for their department or division, unless officially excused by their supervisor. Any employee that fails to report for duty, is repeatedly tardy, leaves the workplace without proper authorization, or misuses leave, is subject to disciplinary action, up to and including termination. All departments will maintain attendance records.

2.4.1 GUIDELINES

- 1.) When you have advance knowledge of an impending absence, you must request permission to be absent at least three (3) days (72 hours) in advance of the scheduled absence. The request must be directed to and approved by your supervisor. Some departments may have stricter requirements because of scheduling and shifts.
- 2.) If because of some personal or family emergency or illness, you are unable to provide advance notice of your absence, you must notify **your supervisor** as soon as permitted by the emergency circumstance. The notification should occur no less than fifteen (15) minutes prior to the start of your scheduled shift. Incidental knowledge of the planned absence by the City as a result of comments of other employees, emails, or information from public communications sources does not constitute notice to the City from the employee.
- 3.) Tardiness is defined as one (1) minute past the start of your shift. If you expect to be late you must call your supervisor and inform him or her of the delay.
- 4.) An unexcused absence occurs when an employee's supervisor or Department Head has not been properly notified that an employee will be late or absent.
- 5.) If you are not able to reach your immediate supervisor or Department Head, notify the City Secretary's Office of your absence or tardiness. **It is not acceptable, except under emergency situations, to have a family member or friend call in to arrange absence notices.** Absences that are not specifically covered by the City's employee benefit program will be without pay.
- 6.) If you are absent from your job, due to an illness, for three (3) or more consecutive workdays, you must submit a doctor's note upon your return. The doctor's note should provide the date of your illness or injury, an explanation of the nature of your illness or injury, and a release that allows you to return to work without limitation.
- 7.) Departments may allow for an employee to utilize flex-time to address unforeseen situations that may arise.

See also Section 8 "Leave Time" of these policies for matters involving planned absences.

2.4.2 DISCIPLINE

An employee who fails to properly notify the appropriate personnel in advance of an absence or tardiness will be subject to disciplinary action, up to and including termination of employment.

An employee who fails to report, is habitually tardy, leaves the workplace without proper authorization, has unacceptable absenteeism or misuses leave will be subject to disciplinary action, up to and including termination of employment.

If you have been absent and the City has not heard from you for two (2) consecutive work days, you will be considered to have quit your job.

2.4.3 PROGRESSIVE DISCIPLINE

1. An employee with two (2) unexcused absences or tardies in one month will receive a first written reprimand. The written reprimand should be signed by the employee and the supervisor and a copy placed in the employee's personnel file.
2. An employee with six (6) unexcused absences or tardies in a two month period will receive a second written reprimand. The written reprimand should be signed by the employee and the supervisor and a copy placed in the employee's personnel file.
3. An employee with eight (8) unexcused absences or tardies in a three month period will be terminated.

2.5 OUTSIDE EMPLOYMENT

An employee of the City of Bay City will not be permitted to engage in outside employment where such employment conflicts or interferes with the performance of duties with the City. An employee must seek approval from his or her director and/or supervisor before accepting outside employment. Work requirements including overtime will have precedence over any other employment. Law enforcement personnel must receive the express written approval of their supervisors and of the Chief of Police for any outside employment in law enforcement or security work. The following guidelines shall also apply with regard to outside employment:

- 1) A full-time regular employee will consider their job with the City as their primary job.
- 2) If an employee is planning on taking an additional job, including self-employment, prior notification must first be given to their immediate supervisor and the department director.
- 3) Permission will not be granted for an employee to work with an organization or municipality that is in competition with or presents a potential conflict of interest with the City of Bay City.
- 4) Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If the work standards or performance of an employee of the City suffers and it is determined to be caused by outside employment, permission to work at the outside job may be rescinded, or the employee may be subject to discharge.

- 5) If a City employee is injured on the job in the course of employment outside of his or her employment with the City, the employee is not eligible to file a workers' compensation claim against the City for benefits related to the injury, regardless of the fact that the City may have approved of the outside employment.
- 6) The City employee will notify their supervisor immediately upon any change in outside employment status or condition.

Approval for outside employment as set out in this policy does not authorize an employee on Family and Medical Leave (FMLA) leave, sick leave, disability leave, workers' compensation leave, or an unpaid leave of absence, to engage in outside employment. Under no circumstances may an employee on FMLA leave, sick leave, disability leave, workers' compensation leave, or an unpaid leave of absence, engage in outside employment as defined in this policy unless expressly authorized in writing by the Mayor.

2.6 GIFTS AND GRATUITIES

A City employee may not solicit, accept, or agree to accept any substantial gift, gratuity, favor, loan, free service, or anything else of monetary value that might tend to influence the employee's official actions or impair his or her independence of judgment in the performance of duties for the City. See "Conflict of Interest" section below.

Employees (and their relatives and significant others) may not receive any income or other material gain from anyone outside the City for services provided by the employee in the performance of his or her job with the City. "Significant others" means engaged couples or relationships between individuals the substance of which reflects a marital relationship.

An employee who accepts the following will not be considered in violation of this policy:

- A non-financial award publicly presented in recognition of public service;
- An occasional meal where business is discussed;
- Tee-shirts, caps, and other similar promotional material; or
- A gift which would have been offered or given to the employee even if the employee were not a City employee.

2.7 CONFLICT OF INTEREST

An employee of the city may not have a financial interest in the profit of any contract, service, or other work performed for the City or derive personal profit directly or indirectly from any contract, purchase, lease, sale, or service between the City and any person or company.

An employee may not:

- 1.) Solicit or accept or agree to accept a financial benefit, other than from the City, that might reasonably tend to influence his or her performance of duties for the City or

that he or she knows or should know is offered with intent to influence the employee's performance;

- 2.) Accept employment or compensation that might reasonably induce him or her to disclose confidential information acquired in the performance of official duties;
- 3.) Accept outside employment or compensation that might reasonably tend to impair independence of judgment in the performance of duties for the City;
- 4.) Make any personal investment that might reasonably be expected to create a substantial conflict between the employee's private interest and duties for the City; or
- 5.) Solicit or accept or agree to accept a financial benefit from another person in exchange for having performed duties as a City employee in favor of that person.

(Legal reference: V.T.C.A., Local Government Code, Section 171; V.T.C.A. Penal Code, Chapter 36).

2.8 POLITICAL ACTIVITY LIMITED

Employees of the City are encouraged to vote and to exercise other prerogatives of citizenship consistent with state and federal law and these policies.

An employee may not:

- 1.) Use his or her official authority or influence to interfere with or affect the result of an election or nomination for office; or
- 2.) Directly or indirectly coerce, attempt to coerce, command, or advise a local or state officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose.

2.8.1 EMPLOYEES COVERED BY FEDERAL HATCH ACT

In addition, a City employee who is subject to the provisions of the Federal Hatch Act may not be a candidate for elective office in a partisan election. (A partisan election is an election in which candidates are to be nominated or elected to represent a party whose candidates for presidential electors received votes in the last preceding election at which presidential electors were selected). City employees are subject to this additional Hatch Act restriction if their principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the federal government. *(Legal reference: V.T.C.A., Penal Code, Chapter 36; Hatch Act: 5, U.S. Code, 1501 - 1508, as amended, P.L. 93-443.)*

2.8.2 NO POLITICAL ACTIVITY IN CITY UNIFORM

City employees are prohibited from participating in any way in any partisan political activity while wearing a City uniform, shirt, badge, nametag, or emblem, regardless of whether the employee is on duty or on his or her own time. In addition, City owned premises, property, vehicles, and equipment may not be used for displaying campaign materials or for conducting any

partisan political activity. However, use of the Service Center (USO) will be excepted from this rule on Election Day.

2.8.3 INVOLVEMENT IN LOCAL ELECTIONS

- 1.) All employees must notify their supervisor when seeking or accepting nomination or election to any public office that provides remuneration for the same. Employees who are elected or appointed to a public office are required to resign from City employment, if the candidacy or position creates a conflict of interest with their City position, or the position provides for remuneration. (*Legal Reference: Article 16, Sec. 40, Constitution, State of Texas*).
- 2.) No employee, while in uniform, of the City shall circulate petitions or campaign literature for candidates for City offices or in any way be concerned with soliciting or receiving any subscriptions, contributions, or political service from any person on behalf of such candidate or elected official.
- 3.) All employees of the City shall refrain from using their influence publicly in any way regarding any candidate for elective City office or regarding any election where an issue or proposal involves only City employees.
- 4.) No employee, while in uniform, shall engage in political activities while on his/her working hours with the City. Political activity includes wearing political buttons, handing out political literature, and the like.

An employee's political activity, not in violation of this section, will not be used in determining his or her compensation, eligibility for promotion or assignment, leave or travel request, or in applying any other employment practices to the employee. Likewise, no employee will be threatened or otherwise disciplined, terminated, or deprived of his or her employment rights for refusing to participate in such activities.

2.9 NON-DISCLOSURE POLICY

The City recognizes the right of all of its employees to speak out on matters of public concern, even when they disagree with an official policy or regulation. Employees should refrain, however, from:

- 1.) Releasing confidential information about business negotiations conducted by the City, where such disclosure would give an unfair advantage to a party to those negotiations;
- 2.) Releasing information regarding an ongoing investigation, where such disclosure would interfere with or compromise the efficient conduct of the investigation or the protection of confidential informants;
- 3.) Spreading malicious gossip about anyone in the community, where the employee knows the assertions are false or acts with reckless disregard for their truth or falsity;
- 4.) Misrepresenting official City or department policy; or

5.) Acting without permission as an official spokesperson for the City or for a department.

Any employee violating this rule may be subject to disciplinary action. Questions regarding this rule should be presented to the employee's Department Head, who will seek appropriate guidance through the City Attorney.

2.10 COMMUNICATIONS

From time to time, an employee may be given directions from persons outside the normal chain of command. In such cases, it is the employee's responsibility to notify his or her Department Head about the direction, its purpose, and the relevant facts of the situation. Failure to do so in a timely manner may result in disciplinary action.

In the event that an employee is given conflicting instructions from more than one person who occupies a position which is higher than the employee's position in the City's hierarchy, the employee is required to notify his or her supervisor and the Mayor of the conflicting instructions.

An employee may request that a matter be considered by the City Council by submitting the item in writing to the Mayor. The Mayor will determine whether if, and in what form, an item suggested by an employee may be submitted to the City Council.

Communication with the public and with the news media about City issues or problems is the responsibility of the Mayor and the City Council. Employees are to refer members of the public or the news media to a departmental public information officer or the Mayor.

2.11 OFFICE DONATIONS ARE VOLUNTARY

No employee will be forced to contribute or make donations to any fund or collection. Any voluntary office collection must be approved by the Department Head.

2.12 COMPUTERS AND ELECTRONIC COMMUNICATION DEVICES ARE FOR CITY BUSINESS

2.12.1 CITY EQUIPMENT FOR CITY BUSINESS USES

City computers and electronic communication devices, including telephones, voice mail, cellular telephones, e-mail and messaging, internet connections, and fax machines, are to be used for City business. There is no expectation of privacy for an employee using these systems.

Any form of electronic communication creates a written business record that can be subpoenaed and used as evidence in litigation or regulatory investigations, or can be subject to an Open Records Request from the public.

2.12.2 NO OR LIMITED PERSONAL USE

Occasional use of local telephone service for personal communications is permissible if the length and number of such communications are kept to a minimum and if there is no charge to the City for a metered service. Employees in some departments may be allowed to carry and use personal cell phones, provided that the employee does not use the personal cell phone for excessive personal calls. Excessive personal use of telephones, whether City lines or personal cell phones, will not be tolerated, and is subject to disciplinary action.

Use of City communications systems, including telephones, computers, internet, and fax machines, for sending or receiving offensive or harassing statements, sexually oriented materials, illegal transactions, or private business transactions is strictly prohibited.

City employees and officials may not place personal long distance telephone calls on City telephone equipment unless a serious emergency exists and there is no other alternative available to the employee. If personal calls are made which result in a charge to the City, the employee must reimburse the City within 10 days after notification from the City Secretary or her designee. Abuse of City telephones can result in disciplinary actions, up to and including termination.

2.12.3 CITY ISSUED CELLULAR PHONES

Where job needs demand immediate access to an employee, the City may issue a City-owned cellular telephone to an employee for work-related communications. These phones are intended to be used for business purposes and incidental personal calls should be as brief as possible. It is recognized that employees will use City issued cellular phones for personal use. Abuse of City issued cellular phones can result in disciplinary actions, up to and including termination.

The City of Bay City desires to provide its citizens with the highest level of governmental service. Employees are expected to maintain the same degree of etiquette, responsibility and professionalism in the use their cellular phones as is expected of them in the course of their normal job functions. Employees assigned a City issued cellular phone will be required to answer any calls, emails, and/or text messages in a timely manner.

Eligibility and Acquisition. The assignment of a cellular phone is based on an employee's need and level of urgency for two-way communication with his/her office, other City departments, and is intended to increase productivity, increase service to the public, or for use in situations in which necessary communication cannot be provided by any other means. The issuance of a City cellular phone must be fully justifiable prior to an employee receiving it. The type of authorized phone will depend upon the degree and methods of communications required for the employee's position. Cellular phones allowing internet, email, texting, video, and picture capability are limited.

A cellular phone may be issued to an employee who fits the following criteria:

- 1.) City employees who are frequently in a vehicle and must conduct City business while in the field where it can be shown that cost savings and customer service efficiency will be realized with cellular communication.
- 2.) City employees who are on call or part of a 24/7 shift operation and require a means of two-way communication after regular business hours.
- 3.) City employees who have a critical need to maintain accessibility to other department employees or public officials in order to ensure uninterrupted customer service.
- 4.) City employees who need to provide immediate and direct communications with citizens, outside agencies, or other resource entities outside City government.
- 5.) City employees who are involved in emergency response activities.

The Information Technology Department will maintain an inventory of all cellular phones and usage by authorized users. This inventory will include account numbers, telephone numbers, and names of employees who have been assigned telephones. All cell phone purchases and repairs are handled through the I.T. Department.

It is the responsibility of the department director to verify that sufficient funds are budgeted for the monthly operational cost associated with cellular equipment in the department. Cell phone expenditures will be charged to each department's communication line item unless otherwise directed. The purchase of cellular phones is subject to approval by the Department Head. The Department Head shall assign each cellular phone to one specific individual, and ensure appropriate controls are in place for checkout, return, security, and maintenance of the equipment. An employee may obtain accessories for a City phone, other than what is provided, but the accessories shall be paid for by the employee.

Cell Phone Usage. The City recognizes there are occasions in which personal calls need to be made or received on a cellular phone. However, City cell phones are intended to be used for City business. Personal calls must be minimized. The City reserves the right to monitor the use of all City cell phones and has the authority to withhold any unreimbursed amount from an employee's wages.

Prohibited Uses. The following acts will prompt the removal of cell phone usage and/or disciplinary action, up to and including discharge from employment:

- 1.) Any use which violates, local, state, or federal law or City policy or procedures.
- 2.) Utilizing the cell phone while operating a vehicle. Employees are responsible for, and will be held accountable for, safe-driving conditions at all times.
- 3.) Any call which could suitably be made from a standard City telephone or by a less costly communications device.
- 4.) Out-of-country and out of network or roaming calls, except when necessary for business purposes and approved in advance by the employee's direct supervisor.
- 5.) Any calls that are not included within the City's service plan.
- 6.) Any call made in relation to an employee's business enterprise.

- 7.) Sending or choosing to receive a communication that could reasonably be considered offensive, illegal, sexually explicit, threatening, or otherwise inappropriate for the workplace.
- 8.) Any texting while driving.

A conversation held on a cellular phone is not secure; therefore, employees must use discretion and practice reasonable caution in relaying confidential information.

Level of Service. Employees with City paid cell phones may have different levels of service depending upon their position. The City will offer limited and full service cell phone usage to its employees. Limited service will consist of the push to talk feature, while a full service phone will be allowed a wider range of features.

Maintenance. Each employee who is assigned a City cell phone is responsible for good care and maintenance of the assigned device. Reasonable precautions should be made to prevent theft of or damage to the cell phone and related equipment. City owned cell phones should not be taken into environments where the equipment is likely to be damaged or destroyed, unless the possession of the telephone within such an environment is necessary for the performance of an employee's official duties.

Phone equipment that is damaged in the course of business should be brought to the I.T. Department, which will make arrangements for the replacement or repair. Lost or stolen equipment must be reported immediately to the employee's supervisor or Department Head, so the service can be canceled. All costs incurred for replacement or repair will be the responsibility of the user's department, unless the Department Head and I.T. determine that the employee abused the equipment or was negligent, in which case the cost will be the employee's responsibility.

Replacement. Any person who loses or causes a cellular phone to be disabled or non-repairable may request a replacement phone, if the event that caused the damage can be justified as work related. If an employee requires a replacement phone due to employee negligence, the employee will be required to pay for the replacement phone. Multiple replacements may lead to disciplinary action.

2.12.4 CITY COMPUTER SYSTEMS

Electronic mail and messaging and internet access systems, made available by the City to City employees are efficient and valuable business tools. They are also property of the City. City computer systems, including internet access and electronic mail and messaging systems, are to be used for City business. Because all electronic communications systems are City property, there is no expectation of privacy for an employee using these systems. Employees who have excessive computer or internet usage for personal communication will be subject to disciplinary action, up to and including termination.

Any form of electronic communication creates a written business record that can be subpoenaed and used as evidence in litigation or regulatory investigations, or can be subject to an Open Records Request from the public.

Flash drives or other portable storage devices may be used in the workplace only if purchased by the City and issued to the employee. The Mayor or his or her designee may view, without notice, what is on an employee's flash drive or other storage device.

City computer systems, Internet access, voice mail, e-mail, and electronic storage devices may not be used for transmitting, retrieving, or storing any communications, images, or other content of a discriminatory or harassing nature or any materials that are obscene, X-rated, or otherwise inappropriate (except as required in the Police Department for required investigations by the Chief of Police). Harassment using these devices is strictly prohibited. (See Policy on Sexual Harassment). No messages with derogatory or inflammatory remarks about an individual's race, color, age, disability, religion, national origin, sex, physical attributes, or sexual orientation may be transmitted or forwarded using the City systems. No abusive, profane, or offensive language may be transmitted through the City's electronic communications systems. The City's harassment policy applies in full to electronic communications systems. Employees have no expectation of personal privacy regarding any matter created, received, retrieved, stored, or sent from or on the City's computers or electronic communications systems.

The City's computers and electronic communications systems may not be used for a purpose that is illegal, against City policy, or contrary to the City's best interest. Solicitation of non-City business or any use of the City's computers or electronic communications systems for personal gain is prohibited. Employees are prohibited from opening spam messages received on City electronic communications systems and should consider carefully the source before opening e-mail attachments.

The City's guidance is that employees should not use City electronic communications systems to say or write anything that they would not want someone other than the intended receiver to hear or read. Employees should keep in mind that even when an e-mail, instant message, or voice mail message has been deleted from a location, it is still possible to retrieve that message. In addition, the City may identify and monitor the content of internet sites accessed from any City computer.

2.12.5 EMPLOYEES RESPONSIBLE FOR CONTENT OF MESSAGES

Each employee is responsible for the content of all text, audio, or images that he or she accesses, places, or sends over the City's voice mail, e-mail or internet systems (including bulletin boards, online services, or internet sites). Employees must include their name in all messages communicated on the City's voice mail, e-mail, or internet system.

If an employee receives unsolicited voice mail or e-mail messages that appear to violate this policy, the employee should notify his or her supervisor immediately. Similarly, if an employee accidentally accesses an inappropriate web site in the normal course of business, the employee should notify his or her supervisor immediately.

If an employee receives or has access to a message that is not addressed to him or her, the employee is not authorized to read or use information contained in that message.

2.13 SOCIAL MEDIA

The purpose of this policy is to establish procedures for the City's participation in various social media venues and to establish the standards for posting, allowing, or forbidding certain content and commentary on social media sites which include but not limited to Facebook, YouTube, and Twitter. The City encourages the use of social media to convey information from the City to its citizens, to facilitate a sense of community and for residents and to allow businesses to communicate with and obtain information about the City of Bay City online. The City's website will remain the primary avenue for release of information to reach a broader audience and encourage citizen participation. Nothing contained in any social media site constitutes a binding representation, view, position, opinion, agreement or endorsement on behalf of the City of Bay City, Texas.

All Department Heads are responsible for their subordinates' compliance with the provisions of this policy and for investigating non-compliance.

2.13.1 DEFINITIONS

"Social Media" are third-party websites containing information that is intended to facilitate communications, influence interaction with peers and with public audiences about some topic, typically via the Internet and mobile communication networks. Types of social media include but are not limited to, instant messaging, blogging, microblogging, picture and video sharing, and wall postings.

"City Social Media Sites" are pages, sections or postings in Social Media websites that are established or maintained by an employee of the City who is authorized to do so as part of the employee's job. City Social Media Sites are intended to be used for City business, to communicate with office holders or City staff, and/or communicate or gather feedback from residents and other interested parties.

"City Social Media Content" is information posted or provided to a City Social Media Site by a City employee or authorized agent when such activity is a part of the employee or agent's duties.

"Social Networking" is the practice of engaging in business and/or social contacts by making connections via interactive Web-based applications.

"Blog" is a web site that contains an online personal journal with reflections, comments, and often hyperlinks provided by the writer.

"Post" is to display an announcement in a place for public view on a social media.

"Comment" means a response to a City article or social media content submitted by any person or entity.

"Link" is short for "hyperlink" which connects a hypertext file to another location or file typically activated by clicking on a highlighted word or icon at a particular location on the screen.

"Public Information" is any information collected, assembled, or maintained by the City in the transaction of official business pursuant to Chapter 552 of the Texas Government Code.

2.13.2 GUIDELINES

General Regulation of City Social Media Sites

1. All official City presences on social media sites or services are considered an extension of the City's computer information network and are governed by and subject to Section 2.12, City's Computer and Electronic Communication Devices contained in the City's Personnel Guidelines.
2. Respect copyrights and fair use. All postings must comply with applicable federal, state, and local laws, and regulations and retention schedules according to the Texas Local Government Code, Chapters 201 and 205. Records required to be maintained pursuant to the Texas State Library and Archives Commission records retention schedule shall be maintained for the required retention period in a format that preserves the integrity of the original record and is easily accessible using the usual or approved City platforms or tools.
3. Information collected at this site becomes public record that may be subject to inspection and copying by members of the public, unless an exemption in law exists according to the Texas Public Information Act.
4. When possible, links to more information should direct users back to the City's official website for more information, forms, documents, or online services necessary to conduct business with the City.
5. Those wishing to launch new City Social Media sites, add site pages, or add content to the City's site should make their request in writing or via e-mail to the Mayor. If the request is approved, any login and passwords to the information must be shared with the Mayor's Office. No City Social Media Site will be approved without the designation of a specific Department Head who shall be responsible for maintenance of the site.
6. Employees creating or posting information to a City Social Media Site must conduct themselves professional at all times as representatives of the City in accordance with all other City policies.
7. The Mayor may disable a City Social Media site or prohibit posting of City social media content to a site at any time or for any reason, including but not limited to violation of this policy, improper content, lack of use or disinterest by the public, or a department's failure to properly maintain the site. The City reserves the right to remove any content that is not within these guidelines, while retaining said content for the appropriate records retention according to state law.

Content of City Social Media Sites

1. Employees using social media sites, whether as an administrator or as a responder to a posting, will follow these principles:
 - a. Keep post factual and accurate. If a mistake is made, admit to it and post a correction as soon as possible.
 - b. Reply to comments in a timely manners, when a response is appropriate. Never get in an argument with a citizen on a City maintained social media site. Do not respond with opinion or conjecture – only respond with complete facts.
 - c. Understand that postings are widely accessible, not retractable, and will be around for a long time, so consider content carefully.
 - d. Ensure your comments do not violate City's privacy, confidentiality, and applicable legal guidelines for external communication.

- e. Ensure you have the legal right to publish others' material, including photos and articles pulled from other sites.
 - f. Remember that your postings are ultimately your responsibility.
2. Content specifically prohibited:
- a. Profane language or content;
 - b. Any type of political activity;
 - c. Solicitations of commerce;
 - d. Conduct or encouragement of illegal, improvement, or illicit purposes through visual, textual, or auditory posting including but not limited to sexual content or links to sexual content;
 - e. Content that is confidential according to the Texas Public Information Act;
 - f. Content that promotes, foster, or perpetuates discrimination on the basis of race, creed, religion, gender, marital status, national origin, physical or mental disability, or sexual orientation;
 - g. Information or references to the personal addresses, personal telephone numbers, personal e-mail addresses, family members, or other personal information of City officials or City employees;
 - h. Commercial promotions or spam;
 - i. Information that may tend to compromise the safety or security of the public of public systems; or
 - j. Links to websites or "pages" of outside vendors that are not related to the purpose of the media site.
 - k. Comments or content regarding the personality of individuals, personal attacks, or which would be reasonably construed as slanderous, libelous, malicious, offensive, threatening, profane, personally insulting, baseless, or untruthful.
 - l. Comments encouraging illegal activity, violence, or the threat of violence.

2.13.3 EMPLOYEE SOCIAL MEDIA

While the City of Bay City encourages its officials and employees to enjoy and make good use of their off-duty time, certain activities on the part of its employees may become a problem if they have the effect of impairing the work of any employee; harassing, demeaning, or creating a hostile working environment for any employee; disrupting the smooth and orderly flow of work within the City; or harming the goodwill and reputation of the City of Bay City among its citizens or in the community at large. In the area of social media (print, broadcast, digital, and online), officials and employees may use such media in any way they choose as long as such use does not produce the adverse consequences noted above. For this reason, the City of Bay City reminds its employees that the following guidelines apply in their use of social media, both on and off duty:

1. Blogging or posting information of a personal nature on the Internet is strictly prohibited during work hours. Your online presence during work hours can reflect negatively on the City of Bay City. Be aware that your comments, posts, or actions captured via digital or film images also affect the image of the City of Bay City.
2. If the employee's social networking includes any information related to the City, the employee must make it clear to the readers that the views expressed are the employee's alone and not reflective of the views of the City.
3. Employees must abide by all federal law, state law, policies of the City with regard to information sent through the internet. Never disclose any confidential information concerning another

employee, vendor, official of the City in a blog or other posting. Posting of confidential information may violate state law and subject the user to criminal penalty. All requests for City documents must be processed through the Public Information Act.

4. When posting, be respectful to the City of Bay City's co-workers, citizens, vendors, and partners, and be mindful of your physical safety when posting information about yourself or others on any forum. Do not discuss City employees, vendors, issues, or business without express consent.
5. An employee may be disciplined if an employee publishes any personal or confidential information about themselves, another employee, or vendor in any public medium that:
 - a. Has the potential or effect of involving the employee, their co-workers, or the City of Bay City in any kind of dispute or conflict with other employees or third parties;
 - b. Creates a harassing, demeaning, or hostile working environment for any employee;
 - c. Disrupts the smooth and orderly flow of work within the City, or the delivery of services to the City's citizens; or
 - d. Harms the good will and reputation of the City of Bay City among its citizens or in the community at large.
6. Do not ignore copyright laws or cite and/or reference sources inaccurately. Remember that plagiarism applies online.
7. Do not use City of Bay City logos or trademarks without written consent. Do not post pictures of yourself or others containing images of City uniforms, insignia, logos, equipment or work sites, unless they are being posted on City Social Media.
8. Do not post anything on your blog or sites that may constitute a violation of the City's Harassment policy.
9. Content will be monitored to ensure adherence to the Social Media Policy.
10. Employees found in violation of any provision of this policy may be subject to disciplinary action, up to and including termination of employment.

2.14 REQUESTS FOR JOB CLARIFICATION ENCOURAGED

Employees are encouraged to ask supervisors and Department Heads for clarifications of their job duties. In the absence of any request for clarification, the city will assume that each employee understands and accepts the responsibilities assigned to the position which he or she occupies, as set out in the City's job description for that job.

2.15 RETALIATION PROHIBITED

An employee of the City who reports a violation of the law to his or her supervisor or to a law enforcement authority will not be retaliated against by the City for making the report.

2.16 SECRET RECORDINGS

With the exception of law enforcement recordings properly authorized, the City discourages audio or video tape recordings by employees. If an employee elects in the course of City business to tape record any conversation with an outside party, between the employee and any other City employee, or among two or more other City employees, the employee wishing to make the recording must first notify the other person(s) of his or her intent to record the conversation and must obtain the other person(s)' verbal authorization to make the recording. Unauthorized recording of any conversation may result in immediate disciplinary action, up to and including termination.

2.17 RETURN OF CITY PROPERTY AND EQUIPMENT

When an employee terminates or is terminated from City employment, any city property (tools, equipment, badge, keys, etc.) that has been issued to the employee must be returned before the employee leaves City property. Employees will be asked to sign a statement to the effect that if they fail to return City property or equipment, their final paycheck will be deducted the amount of the property, until the property has been properly returned to the City in good working order.

2.18 RESPONSIBILITY FOR CITY FUNDS

Being given responsibility for City funds in any form is a public trust, and the City takes this responsibility very seriously. If a part of your job responsibilities includes any kind of handling or processing of City funds, you are personally and professionally responsible for those funds and will be held accountable for properly accounting for and recordkeeping related to those funds. If City funds for which you are responsible are missing or not properly accounted for, disciplinary action up to and including discharge will be taken. In addition, the City may file charges in the appropriate court of law against any employee who is found to be responsible for missing City funds.

2.19 CONFIDENTIALITY AGREEMENT

All City of Bay City employees understand that they may from time to time have access to highly sensitive and confidential information. This agreement is to be used as an acknowledgement that all employee's job duties include the obligation to maintain the confidentiality of all highly sensitive and confidential information possessed by the City. All employees have a duty to maintain Local Government Records in a secure and professional manner. No information held by the City should be released to a third party unless it is done so in accordance with City policy and the Texas Public Information Act.

All employees of the City understand and agree that the following obligations or conditions of employment with the City:

1. In the course of employment, an employee may have access to Local Government Records as defined by Texas Local Government Code §201.003(8) some or all of which may be considered sensitive or confidential, whether or not it is labeled or identified as such. Information considered sensitive or confidential by the City of Bay City and covered by this agreement may include but is not limited to:
 - Personal information (such as family, health, marital or financial status, home address, phone number, age, social security number, salary or compensation) about City employees, elected officials, associates, etc.;
 - Computer network operations and security;
 - Construction and building plans of facilities;
 - Protected Electronic Health Information;
 - Current or projected financial particulars of the City, including its payroll systems;
 - Public Safety CAD and/or incident information;
 - Critical Infrastructure or Operational Information as defined by the Electric Reliability Council of Texas (ERCOT) or the Homeland Security Department; or
 - Criminal Justice Information System (CJIS) data.
2. An employee of the City of Bay City will treat with the same degree of confidentiality information proprietary to other parties to which he or she may also have access through their employment with the City of Bay City. Such information may include but is not limited to:
 - Private employee documents or communications; or
 - Proprietary vendor information revealed under non-disclosure.
3. Having access to City's sensitive or confidential information through privileged administrator's rights does not grant an employee permission to actively seek, examine, use, transmit, share, copy, or change such information, and an employee will only actively seek, examine, use, transmit, share, copy, or change such information if it is in the exercise of their designated duties or permission to do so has been granted to them either by his or her supervisor or his designee, or by the Department that is considered the keeper of such information, for a stated specific purpose and timeframe.
4. Data should be kept secured both while it is in use by authorized users and when it is stored or archived. No unauthorized user should see or use such data without permission from the data owning Department Director or other appropriate personnel with the authority to grant such access.
5. If an employee is uncertain whether a particular piece of information or data is considered sensitive or confidential, he or she will resolve all uncertainties in favor of preserving the confidentiality of that item, and will promptly seek clarification from their supervisor or his designee before engaging in any conduct that might jeopardize the confidentiality of that item.
6. If, at any time, security or confidentiality of the City's data is thought to be compromised, an employee will promptly notify their department director or if unavailable seek assistance from the City Secretary's Office.

Violation of these confidentiality policies may result in disciplinary measures up to and including termination, or other civil and/or criminal legal action to preserve the confidential nature of the information.

3. EMPLOYMENT PRACTICES

3.1 PROCESS FOR RECRUITMENT

3.1.1 METHODS OF RECRUITMENT

The city has four methods of recruiting and selecting persons to fill vacancies:

- 1.) Promotion or transfer from within;
- 2.) Public announcement (including media announcement and posting of notice for City employees) and competitive consideration of applications for employment;
- 3.) Referral from a job training program or the Texas Workforce Commission; and/or
- 4.) Selection from a valid current eligibility list. A valid current eligibility list is a list of applicants for the same or a similar position for which applications were sought by the City within the last six months.

The City Secretary, in consultation with the Department Head, determines the method(s) of selection to be used in filling each vacancy. It is the City's policy to promote qualified employees whenever possible.

If two or more applicants have substantially equal qualifications and one is a current City employee, the current employee will be given preference over the other applicant(s).

The City **does not** accept applications for employment unless a specific vacancy exists. Persons wishing to apply for a job with the City when a specific vacancy does not exist are informed of the manner of advertising City job announcements and that they may file an application at any time an advertised vacancy exists for which they consider themselves to be qualified.

Applications, interview notes, test results and other interview-related materials must be returned to the City Secretary for proper filing after interviews are complete.

3.1.2 ANNOUNCEMENT OF POSITION OPENINGS

Public announcements of position openings at the City for which there will be competitive consideration are disseminated by the City Secretary in the manner most appropriate for the particular position being filled. Current employees are permitted to apply for positions for which they believe themselves to be qualified. Current employees that apply for open positions shall submit a letter of interest that outlines their years of service, positions held with the City, as well as their qualifications for the position in which they are applying. The length of time during which applications will be accepted will be determined by the City Secretary, with consultation of the Department Head, in accordance with the circumstances that exist at the time.

Depending on the method of posting, current employees are permitted to apply for positions in which they believe to be qualified.

3.1.3 QUALIFICATIONS FOR CITY JOBS

The City maintains a job description which establishes the required knowledge, skills, and abilities for each type of City job along with the acceptable levels of experience and training for each job. The job description sets forth the minimum acceptable qualifications required to fill the position.

If the job description requires that the employee obtain a particular license within a specific period of time, the employee must meet those requirements within the specified time frame or be subject to termination.

The minimum education requirement for any person considered for full-time or part-time employment with the City of Bay City is a high school diploma or GED. The City may require additional educational standards for any position.

The City job description will be reviewed, and updated if necessary, prior to posting a job opening.

3.2 PROCESS AND REQUIREMENTS FOR SELECTION

3.2.1 SELECTION OF CITY EMPLOYEES

In accordance with state law and the City Charter, the following City Officials may be appointed or removed: City Attorney, City Secretary, Police Chief, City Treasurer, and Municipal Judges.

It is the policy of the City to be an equal opportunity employer, and vacancies in the City workforce are filled, by promotion or by initial appointment, on the basis of merit as demonstrated by education, experience, and personal interview. Selections of the best qualified persons are made on the basis of occupational qualifications and job-related factors such as skill, knowledge, education, experience, and ability to perform the specific job.

The Department Head is responsible for determining whether an applicant is technically qualified for the position and if the applicant is compatible with the work environment. The Department Head shall establish selection methods and/or processes used, but the selected methods must be approved prior to their use by the City Secretary.

The City Secretary's Office is responsible for orientation of new employees and for processing their employment forms. The supervisor is responsible for any necessary on-the-job training.

3.2.2 NO UNDERAGE EMPLOYMENT IN HAZARDOUS POSITIONS

Persons under 18 years of age will not be employed by the City in any hazardous position. Persons under age 18 will be required to file with the City Secretary a properly executed minor's release form.

Other age limitations will be applied only as required by state or federal law applicable to the City.

(Legal reference: Child Labor Regulations, Subpart C, issued pursuant to authority conferred by Section 3 (1) of the U.S. Fair Labor Standards Act of 1938, as amended; V.T.C.A. Labor Code, Chapter 51; U.S. Age Discrimination in Employment Act of 1967, as amended.)

3.2.3 APPLICATION FOR EMPLOYMENT REQUIRED

Each person desiring employment with the City must, before employment, fill out the City's official application form and submit other pertinent information regarding his or her education, training and experience. The City will make appropriate inquiries to verify education, experience, character, and required certificates and skills of an applicant prior to employment. In the case of applicants for positions which require driving a vehicle, the City will check the prospective employee's driving record prior to offering the applicant employment. All job applicants must sign a release form permitting the employment history and reference check. The release form is a part of the City's job application form.

Any willful misrepresentation of facts or failure to report pertinent data on the application form or any official employment record may result in dismissal from City employment.

The City will retain each unsuccessful applicant's employment application and related documents for a minimum of two years after receipt of the application in the City Secretary's office. *(Legal reference: 29 Code of Federal Regulations 1602; V.T.C.A. Government Code, Section 441.158; State Library and Archive Commission Local Schedule GR, as amended.)*

3.2.4 NEPOTISM (EMPLOYMENT OF RELATIVES)

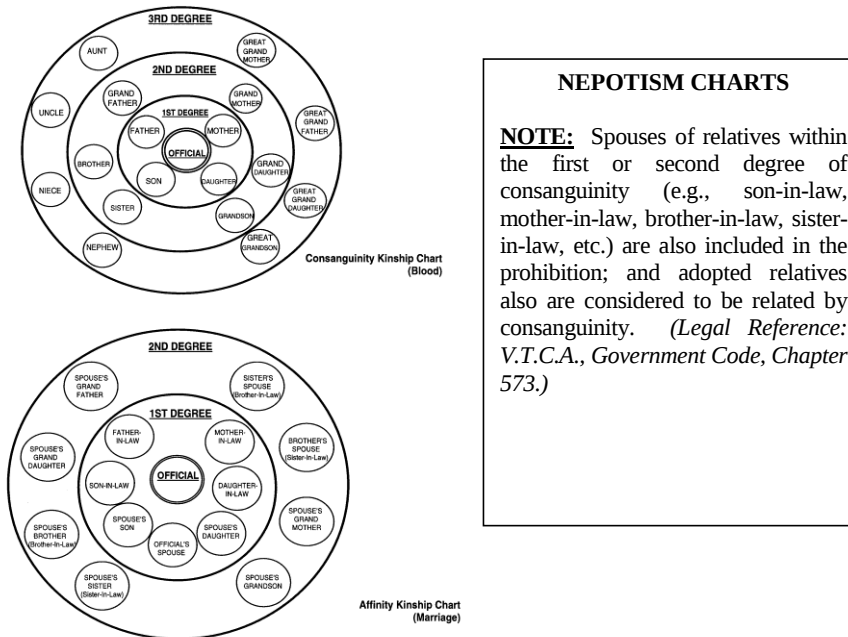
Nepotism is the showing of favoritism toward a relative. The practice of nepotism in hiring personnel or awarding contracts is forbidden by the city. For the purposes of this policy, family member also includes former spouse and significant others (e.g. engaged couples or relationships between individuals of which the substance reflects a marital arrangement).

No person may be hired who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any member of the City Council, the Mayor, or any other officer of the City. No person may continue in City employment who is related in one of the prohibited degrees to the Mayor or to a member of the City Council unless the employee has been employed continuously by the City for a period of:

1. At least 30 days, if the officer, council member, or manager is appointed; or

2. At least six months, if the council member is elected.

Prohibited degrees of relationship are defined in the Nepotism Charts below:



In addition, no personnel action will be taken that would result in an employee supervising another employee who is related within the second degree of affinity or the third degree of consanguinity to the supervisory employee. Prohibited degrees of relationship are defined in the charts above.

The City of Bay City prohibits the hiring, within the same department, individuals within the first and second degree of consanguinity and the first and second degree of affinity. Please refer to the consanguinity and affinity kinship charts in this subsection. The hiring prohibition stated in this paragraph shall not apply to a temporary hire provided the individual who is hired temporary is neither supervised or supervises a relative within the first and second degree of consanguinity and the first and second degree of affinity.

3.2.5 GRANDFATHER CLAUSE

The City is aware that, as of the revision date of this policy, a number of City employees are related, by blood or by marriage, to other City employees. These employees will be "grandfathered" under this policy, meaning they will be permitted to continue their employment with the City as long as the requirements set out in this policy are met. Please be informed that the above "grandfathered" provision is for family relationships as they exist as of the revision

date of this policy. Any future changes to the family relationship and/or the employment status of the affected employee(s) will be governed by the requirements of this policy.

3.2.6 RESIDENCY REQUIREMENT/RESPONSE TIME

Employees who are designated in “on call” status must be able to respond quickly and to arrive at the City’s designated response site within 30 minutes of receiving the page or call. *(Legal reference: V.C.T.A. Local Government Code, Section 150.021 and U.S. Fair Labor Standards Act of 1938, as amended.)*

3.2.7 PHYSICAL STANDARDS FOR CITY JOBS

The City may offer conditional employment to an individual subject to provision of certain medical history and/or successful completion of a medical examination. The City Secretary designates those positions requiring medical history and/or a physical examination. Typically, prospective employees who will be placed in physically demanding positions are required to undergo a pre-employment medical examination. The medical exam will be conducted only after an applicant has been conditionally offered the position. The purpose of this examination is to determine if the applicant is physically able to perform the essential functions of the job for which he/she is being considered, with or without a reasonable accommodation.

This examination will typically consist of a personal health history and a physical examination. The physician will be provided with a current job description for the position that lists the job’s essential functions.

3.2.8 TESTING

Except for drug/alcohol tests, physical examinations, psychological tests for law enforcement officers, and any other tests that may be required by state law, the only performance tests administered for employment or promotion will be specifically job related (“piece-of-the-job”) tests (e.g., typing, operating a computer, operating a piece of equipment, lifting something heavy which is specifically required to be lifted in the job, tabulating columns of numbers, providing writing samples, etc.).

3.2.9 DRUG AND ALCOHOL TESTING

In addition to the physical examination required by the City for all prospective employees, all prospective employees are required to be tested to show no trace of drug dependency, illegal drug usage, or alcohol abuse. All prospective employees are required to pass a drug/alcohol test after a conditional offer of employment has been extended, but prior to their first day of work. The offer of employment is contingent upon the prospective employee passing a drug/alcohol test. After employment, any employee may be required to submit to a test for drug dependency or illegal drug use and alcohol abuse. For more information on drug testing or drug usage, see the chapter of these policies on **Substance Abuse and Alcohol Misuse**.

3.2.10 VERIFICATION OF ELIGIBILITY TO WORK

In order to comply with the Immigration Reform and Control Act of 1986, each new employee will be required to complete and sign an INS Form I-9 within three days of his or her first day of employment to provide proof of his or her identity and employment eligibility. In the event the employee has not provided evidence of eligibility to work within the first three days of employment, the employee will not be allowed to continue working and is subject to immediate termination. *(Legal reference:; Federal Immigration Reform and Control Act of 1986, P.L. Number 99-603.)*

3.2.11 DRIVING RECORD

Each City employee who is required to drive a vehicle or operate a piece of equipment which requires a valid driver's license must hold the required license type (e.g., Commercial Driver's License) and must maintain a safe driving record. For this reason, the City will check a prospective employee's driving record prior to offering the applicant employment in a capacity which requires operating a vehicle or piece of equipment that requires a valid driver's license. The City makes periodic checks of an employee's driving record.

Applicants and employees are required to provide the City with any authorizations necessary for the City to perform such a check. An employee who is required to drive as an essential function of his or her job must maintain a driving record satisfactory to the City's general liability insurance carrier. An unsatisfactory driving record, or suspension or revocation of the driver's license of an employee who must operate a motor vehicle as a work requirement will result in reassignment of the employee or dismissal.

3.2.12 DISQUALIFICATION

An applicant or employee is disqualified from employment if the City finds that he or she:

- 1.) Does not meet the minimum qualifications for performance of the duties of the position involved;
- 2.) Knowingly has made a false statement on the application form;
- 3.) Has committed fraud during the selection process;
- 4.) Is not legally permitted to hold the position;
- 5.) Has offered or attempted to offer money, service, or any other thing of value to secure an advantage in the selection process;
- 6.) Does not meet physical requirements as a result of the required physical examination;
or
- 7.) Has not provided proof of citizenship or legal work status in the United States within the first three days of employment.

(Legal reference: V.T.C.A., Government Code, Title 4, Section 415.057; Federal Immigration Reform and Control Act of 1986.)

3.2.13 PRIOR SERVICE WITH THE CITY

An employee previously employed by the City of Bay City will be deemed eligible or ineligible for future employment with the City. A committee of the City Secretary or designee, past employee's Department Director, and the Mayor will determine rehire eligibility.

Employees entering service with the City who have had prior service with the city may be considered for appointment above the customary entry salary level. A break in continuous service with the city, however, forfeits vacation and sick leave benefits accrued prior to the break. All hires, new and rehired, will be placed on a 3-month introductory period.

3.2.14 ORIENTATION AND TRAINING

Before a regular employee begins performing his or her actual duties, he or she will be given a brief orientation by the City Secretary or her designee. The purpose of the session is to enable a new employee to understand better his or her job and its relationship to the overall operation of the city. Prospective new hires will be provided a copy of the personnel guidelines, prior to completing their new hire paperwork. The employee must read and understand the policies. On the first day of orientation the guidelines will be reviewed by the City Secretary or his or her designee.

Training an employee is the responsibility of his or her Department Head or his or her designee. Whenever possible, employees receive on-the-job training under close supervision.

3.2.15 MEDICAL RECORDS

All records relating to the medical condition, medical testing, or drug testing of an employee or prospective employee are maintained separately from employee personnel files. These medical files are confidential and are not released to anyone unless a "need to know" has been clearly established. Only the City Secretary has routine access to employee medical records, and any other access is on a "need-to-know" basis. (*Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; and 45 CFR Parts 160 and 164, Standards for Privacy of Individually Identified Health Information.*)

3.2.16 NOTICE OF PRIVACY PRACTICES

This Notice of Privacy Practices is provided as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). It describes how the City may use or disclose an employee's protected health information, with whom that information may be shared, and the safeguards the City has in place to protect it. This notice also describes an employee's rights to access and amend his/her protected health information. The employee has the right to approve or refuse the release of specific information outside of the City's system except when the release is required or authorized by law or regulation.

"Protected health information" is individually identifiable health information. This information includes demographics, for example, age, address, e-mail address, and relates to the employee's

past, present, or future physical or mental health or condition and related health care services. The City of Bay City is required by law to do the following:

- 1.) Make sure that an employee's protected health information is kept private;
- 2.) Give each employee this notice of the city's legal duties and privacy practices related to the use and disclosure of an employee's protected health information;
- 3.) Follow the terms of the notice currently in effect;
- 4.) Communicate any changes in the notice to each employee.

By law, the City must disclose the employee's health information to that employee unless it has been determined by a competent medical authority that it would be harmful to the employee. The City must also disclose health information to the Secretary of the Department of Health and Human Services (DHHS) for investigations or determinations of City compliance with laws on the protection of the employee's health information.

The City will share the employee's protected health information with third-party "business associates" who perform various activities for the City of Bay City (for example, the City's health insurance carrier, the drug testing administrator). The business associates will also be required to protect the employee's health information.

The City may disclose protected health information during any judicial or administrative proceeding, in response to a court order or administrative tribunal (if such a disclosure is expressly authorized) and in certain conditions in response to a subpoena, discovery request, or other lawful process.

The City may disclose the employee's protected health information to comply with workers' compensation laws and other similar legally established programs.

The employee may exercise the following rights by submitting a written request (depending on the request, the employee may also have rights under the Privacy Act of 1974):

- 1.) The employee may inspect and obtain a copy of his/her protected health information that is contained in a "designated record set" for as long as the City maintains the protected health information;
- 2.) The employee may request the City to provide him/her with an accounting of the disclosures the City has made of the employee's protected health information;
- 3.) The employee may obtain a paper copy of the notice.

This Notice of Privacy Practices is provided to each employee as a requirement of the Health Insurance Portability and Accountability Act (HIPAA). There are several other privacy laws that also apply, including the Freedom of Information Act, the Privacy Act and the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act. These laws have not been superseded and have been taken into consideration in developing City policies and this Notice of how the City will use and disclose the employee's protected health information.

(Legal reference: Health Insurance Portability and Accountability Act (HIPAA), as amended.)

4. TYPES OF EMPLOYMENT

4.1 CATEGORIES OF EMPLOYMENT

It is the intent of this section to clarify the definitions of categories of employment so that employees can understand their employment status and benefit eligibility. These categories do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and the City of Bay City.

There are four categories of employment in the City of Bay City:

- 1.) REGULAR FULL-TIME employees are those who are not in a temporary or seasonal status and are regularly scheduled to work forty (40) hours per week. REGULAR FULL-TIME employees are eligible for all of the City's other benefit programs.
- 2.) REGULAR PART-TIME employees are those who are not assigned a temporary or seasonal status and are regularly scheduled to work at least 20 hours a week but fewer than 40 hours a week. While they do receive all legally mandated benefits (such as Social Security and worker's compensation insurance), they are ineligible for all of the City's other benefit programs.
- 3.) TEMPORARY employees are those who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. These employees may either be classified as TEMPORARY full-time or TEMPORARY part-time. Employment assignments in this category are for a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. TEMPORARY employees retain that status unless until notified of a change. While temporary employees receive all legally mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for all of the City's other benefit programs.
- 4.) SEASONAL employees are those who have established an employment relationship with the City of Bay City but who are assigned to work on an intermittent and/or unpredictable basis. While they receive all legally mandated benefits (such as worker's compensation insurance and Social Security), they are ineligible for all of the City's other benefits programs.

4.2 INTRODUCTORY PERIOD

All new regular employees serve a ninety (90) day introductory period.

The introductory period gives a new employee the opportunity to learn fully the requirements of his or her new job. It gives the city an opportunity to provide on-the-job training and formal training; to evaluate closely the new employee's work; and to make any adjustment to the job or the employee's status necessary to meet the needs of the City.

At the end of the introductory period, an employee's performance is reviewed by his or her supervisor. The employee will receive a mid-point review. If the employee's performance is satisfactory, he or she has successfully completed the introductory period.

Upon satisfactory completion of the introductory period, the employee may receive (if budgeted and recommended) a salary increase with the approval of the City Secretary or the Mayor.

If an employee is transferred, promoted, or demoted, he or she will serve a six (6) month introductory period in the new position beginning with the date of the position change.

Temporary employees do not serve an introductory period upon employment with the City. However, if a temporary employee is later placed in a regular budgeted position, he or she must serve the six (6) month introductory period.

5. EMPLOYEE COMPENSATION AND ADVANCEMENT

5.1 PAY STRUCTURE

Each City employee is paid a salary or wage in accordance with job responsibilities and performance in the position. Periodic surveys of the labor market and comparative analysis with similar size cities are made by the City Secretary's Office to maintain competitive pay scales. The City Secretary is responsible for recommending to the City Council any changes in the Classification and Pay Plan to keep the plan current, uniform, and equitable. Recommended changes in pay policy become effective only after City Council approval.

5.1.1 PAYCHECKS

- 1.) Generally new employees are hired at the minimum of the approved salary range. In exceptional circumstances, based on unique qualifications or recruiting difficulties, the Department Head or the City Secretary, with the Mayor's approval, may offer a higher hiring rate within the salary range appropriate to competitive conditions.
- 2.) City employees are paid on a bi-weekly basis. Payday is every other Friday. Attendance records and other payroll information must be forwarded to payroll no later than 10:00 a.m. (12:00 p.m. for the Warehouse) on the Monday following the reporting period. If you are absent from work on payday and want to designate someone to pick up your check for you, a signed Payroll Authorization Pick-Up Form must be completed prior to the absence. Please see The City Secretary's for the Payroll Authorization Pick-Up Form. No paychecks will be distributed in advance. If a payday falls on a holiday, employees will be paid on the preceding workday.
- 3.) Checks will be ready for pick up on scheduled paydays, within each department. All checks shall be signed for before they are released from the City Secretary's Office.
- 4.) Direct Deposit is currently available for all employees except seasonal employees. If you would like to take advantage of this convenience, please see the City Secretary's Office for a form. A voided check or deposit slip will be required. Upon termination an employee's direct deposit will stop and a manual check will be mailed.
- 5.) No salary advances or loans against future salaries will be made by the city to any employee for any reason.
- 6.) If there is a change in the employee's family status, address, or other factor affecting his or her payroll withholding or benefits status, the employee must obtain, complete, and return to the City Secretary office the appropriate forms for communicating these changes.

5.1.2 DEDUCTIONS

- 1.) With your paycheck, you will receive an earnings statement which itemizes the deductions from your paycheck. These deductions fall into two groups: those required by law and those authorized by you in writing.
 - a.) Deductions will be made from each employee's pay for the following:
 1. Federal Social Security;
 2. Federal income taxes;
 3. Retirement program (Texas Municipal Retirement System) – participation is mandatory;
 4. Court ordered child support; and
 5. Any other deductions required by law.
 - b.) An employee may authorize deductions from his or her paycheck for:
 1. The portion not paid by the City for group health/medical, life insurance, and dental insurance for the employee or dependents;
 2. Deferred Comp 457 Plan;
 3. Supplemental Insurance; and
 4. Such other deductions as may be authorized by the City Council.
- 2.) No deduction will be made from your paycheck unless it is authorized in writing by you or required by law or court order.
- 3.) Under Texas law, the City is not required to take action in the event of garnishment, attachment, or judgments against an employee's earnings. The only exceptions are the collection of overdue income taxes, court-ordered child support payments, and overdue student loan payments. We expect you to deal responsibly with your creditors. It is against City policy for employees to assign their wages to any other person.
- 4.) Your paycheck is payment from the City to you for services you have rendered, less any applicable deductions. When you get your payroll check, make sure the hours, pay rate, and deductions are correct. It is your responsibility to notify your immediate supervisor if you detect errors in a paycheck. This includes over and under payments, errors in deductions, and other information that would cause a discrepancy in your net or gross income.
 - a. If an error occurs, which results in an overpayment to an employee, the employee will be required to reimburse the overpayment to the City. This reimbursement will be deducted in full from the employee's next paycheck. If the error occurs on the employee's final check, corrections must be made in cash or by cashier's check. If the error results in underpayment, the Finance Department will rectify the problem on the next regularly scheduled payday.
 - b. If there is anything incorrect on your paycheck, take it to your supervisor so that he or she may see that any errors are corrected. If you must cash your paycheck before the error can be corrected, save the check stub, which is your earnings statement. Present the check stub to you supervisor immediately. If you do not

report paycheck errors within 30 days, we will treat your silence as proof of your agreement that all calculations are correct.

- 5.) **Employees Covered by FLSA.** Employees whose positions are covered by (non-exempt from) the federal Fair Labor Standards Act will be paid only for actual hours worked unless they are eligible for and authorized to receive benefits under one of the City's paid leave benefits policies.
- 6.) **Employees Exempt from FLSA.** Employees whose positions are exempt from the federal Fair Labor Standards Act are paid on a salary basis and, in general, must be paid their full salary for any week in which they perform work. Their pay may be reduced only in the following circumstances:
 - a. Unless they are eligible for and authorized to receive benefits under one of the City's paid leave policies, employees who are absent for at least a full day because of sickness, disability, or personal reasons will not be paid for that day. If an exempt employee has exhausted his or her earned leave, the employee's pay will not be reduced if the employee is absent for less than a full day because of sickness or disability.
 - b. If an exempt employee violates a safety rule of major significance, his or her pay may be reduced in an amount to be determined by the City as a penalty for that violation. (See also the section in these policies titled "Disciplinary Suspensions for Violating Serious Workplace Conduct or Safety Rules," which also includes non-exempt employees.) When this occurs, the employee's paycheck will be reduced in an amount that is proportionate to the number of days suspended as compared to the full pay period.
 - c. Employees who work fewer than 40 hours during their first or last week of employment with the city will be paid a proportionate part of their full salary for the time actually worked.
 - d. Improper Deductions from Pay. The City will reimburse any exempt employee whose pay is reduced in violation of this policy. Improper deductions from pay are grievable actions under the City's grievance policy.

(Legal reference: Fair Labor Standards Act of 1938, as amended.)

5.2 PROMOTIONS

A promotion is a change in the duty assignment of an employee which results in advancement to a higher position requiring higher qualifications and involving greater responsibility. A promoted employee will always receive a pay increase.

Upon promotion, an employee serves an introductory period of three (3) months in the new position and may be returned to a lower position at any time during the introductory period if performance is inadequate as documented by the Department Head and approved by the Mayor or his or her designee.

5.3 DEMOTIONS

A demotion is a change in duty assignment of an employee to a lower paid position. Demotions may be made for the purpose of voluntary assumption of a less responsible position; as a result of a reclassification of the employee's position; or as a disciplinary measure, because of unsatisfactory performance in a higher position. Disciplinary demotions may involve a decrease in pay.

5.4 DISCIPLINARY SUSPENSIONS FOR VIOLATING SERIOUS WORKPLACE CONDUCT OR SAFETY RULES

5.4.1 EXEMPT EMPLOYEES

If an exempt employee is found to have violated one of the city's policies regarding proper workplace conduct or safety, he or she will be subject to discipline in the form of an unpaid suspension, up to and including termination. Unpaid suspensions for exempt employees will not be used as disciplinary action in cases involving job performance or attendance issues. Both exempt and non-exempt employees may be suspended without pay for one or more full days when they violate any of the following policies:

- A safety rule of major significance;
- Workplace harassment;
- Discrimination;
- Dress and grooming (serious violations only);
- Computer policy;
- Substance abuse;
- Weapons brought to work in violation of this policy and workplace violence;
- Confidential and proprietary information;
- Conduct unbecoming of a City employee;
- Other policies that prohibit serious workplace misconduct.

This policy also extends to off-site and after working hours conduct that has a bearing on the employee's employment with, and/or the reputation of, the City.

5.4.2 NON-EXEMPT EMPLOYEES

Non-exempt City employees may be suspended without pay for any of the issues listed above that are applicable to exempt employees, as well as for time and attendance issues, performance issues, or any other reason deemed appropriate by the supervisor or Department Head.

(Legal reference: U.S. Fair Labor Standards Act (FLSA) of 1938, as amended.)

5.5 ON-CALL PAY

Employees within certain departments will be subject to being placed on the on-call schedule. Each week the on-call schedule will be made available, and will consist of a crew leader and a crew (the number of employees on the crew will be subject to the Department Head or supervisor). Employees designated by their supervisors to be on-call will receive two (2) hours of pay at the regular rate for the week they are assigned to be on-call, if they do not get called-out. Exempt employees are not eligible for on-call pay. See Section 6 on “Work Schedule and Time Reporting” for additional information on on-call status.

5.6 CALL-BACK PAY

Non-exempt employees assigned to call-back duty shall be paid according to the following:

- a.) The crew leader that is on-call will receive one (1) hour of pay, regardless of the number of phone calls he/she receives.
- b.) The crew members will receive two (2) hours for the first call-out. If the employee receives a second call-out the same day, they will only receive the actual time worked.

If an employee does not respond to a call-out, he/she will be subject to disciplinary action, up to and including termination. Exempt employees are not eligible for call-back pay. See the chapter on “Work Schedule and Time Reporting” for additional information on call-back status.

5.7 INTERIM PAY

In some instances when a supervisor or other member of management is absent for an extended period of time, interim pay may be activated for the employee temporarily performing those job duties. Interim pay applies to positions at the Department Head status. The employee who is temporarily promoted or assigned to perform the full range of duties of a higher classified position on an extended-term basis will receive an increase. Such interim pay can only be authorized by the Mayor. Interim pay will be 15% greater than the employee’s regular wage.

It will be the Mayor’s responsibility to return the employee to his or her previous position and rate of pay by the end of the pay period in which the employee is no longer serving in an interim status. The Mayor must complete a Payroll Change Form and submit it to the City Secretary’s Office. In no event shall an employee serve in an interim position for more than six (6) months.

5.8 LONGEVITY PAY

It is the intent of the City of Bay City to pay full-time police officers longevity pay at the rate of \$4 per month for each year of service with the City. Longevity pay is in addition to the employee's regular wage. In computing actual continuous service, time spent on authorized absence for military leave to serve in the Armed Forces of the United States shall be included and time spent on any other authorized absence that does not exceed three months shall be included.

6. WORK SCHEDULE AND TIME REPORTING

6.1 ADMINISTRATIVE WORKWEEK

The official work period for employees is a seven (7)-day period beginning at 12:01 a.m. on Sunday and ending seven (7) calendar days thereafter.

Normal working hours for most employees are 8:00 a.m. to 5:00 p.m., Monday through Friday, or such other days as determined by the Mayor and City Council for a total of 40 hours per workweek, with a one hour lunch period every day.

City employees are expected to report punctually for duty at the beginning of their assigned workday or shifts and to work the full workday or shift.

Other hours of work and official work periods for individuals or groups of employees may be set by the Department Head or the Mayor.

(Legal reference: U.S. F.L.S.A. of 1938, as amended; Garcia v. S.A.M.T.A., U.S. Supreme Court, 1985; U.S. Equal Pay Act of 1963.)

6.2 ON-CALL STATUS

The City of Bay City recognizes that there are times when an employee may be contacted to report back to the job to resolve an issue that has been manifested outside normal work hours. When an employee is expected to remain available, the employee is considered to be on-call². Department directors and/or supervisors may establish official on-call schedules for non-exempt employees.

During the time an employee is designated to be on-call, he or she is free to pursue personal activities, but is prohibited from consuming alcohol, illegal drugs, or any other substance (legal or illegal) that may impair the employee's ability to perform his or her duties in a safe and capable manner. If the employee who is on-call is impaired and cannot perform his or her duties in a safe and capable manner, the employee will be regarded as absent from a work assignment and is subject to disciplinary action, up to and including termination. Employees are expected to be on-call by their supervisor's instructions and may be subject to disciplinary action for failing to respond to the on-call assignment.

An employee will be considered to be officially scheduled and designated as on-call when:

- 1.) An on-call need has been identified by the department director or supervisor, instructions have been communicated by the supervisor to the employee affected.
- 2.) Employees scheduled to be on-call are provided a phone/pager/radio to allow freedom of movement during this period.

² On-call is defined as time that an employee is designated to be available for a defined period of time, to receive emergency service requests during non-scheduled working hours.

- 3.) An employee who has been designated to be on-call and has acknowledged his/her on-call status and availability instructions, is expected to report for work when called back at the time and place specified by his/her supervisor, and at that time be physically and mentally fit to perform the duties of the job.
- 4.) Whether or not the time an employee is on-call is counted as compensable working time depends upon the employee's freedom while on call. If an employee can come and go freely, even though he or she must leave a telephone number where the employee can be reached, the time may be excluded from hours worked. If the employee must remain on the employer's premises or so near that he or she cannot use the time freely, the time is compensable.

Departments can establish their own policies concerning what positions will be mandated for on-call duty as long as the policies do not interfere with the rules established in these *Employee Guidelines for City of Bay City Employees*. On-call time must be specified as such on the employee's bi-weekly timesheet.

6.3 CALL-BACK STATUS

When a call-back³ occurs, the employee will receive two (2) hours for the first call-out. If there is another call-out during the same day the employee will only receive the actual time worked. The time that a non-exempt employee is assigned to be on call-back status will be considered hours worked if during that time the employee is required to:

- 1.) Return to the employee's usual place of work;
- 2.) Remain near a telephone at a fixed location; or
- 3.) Perform the employee's regular duties, whether by telephone or otherwise.

Departments can establish their own policies concerning what positions will be mandated for call-back duty as long as the policies do not interfere with the rules established in these *Employee Guidelines for City of Bay City Employees*. Call-back time must be specified as such on the employee's bi-weekly timesheet.

6.4 SCHEDULE ADJUSTMENTS

Adjustments to the normal hours of operation of city facilities and the work schedules for affected employees may be made by the Department Head or the Mayor in order to serve the public better. Supervisors and Department Heads shall implement work schedules, including work hours and lunch schedules, to meet the general requirements of their departments and divisions. Individual employees may be directed to work special hours or shifts determined by the needs of each department.

³ Call-back is defined as the time the City requires an employee to return to work on an unscheduled or emergency basis to work outside the employee's regularly scheduled work hours.

6.5 EXEMPTIONS FROM FLSA

All employers must pay overtime to all “nonexempt” employees if they work more than 40 hours in a seven-day work period. However, certain employees are not covered by the Fair Labor Standards Act (“Act”), and some are covered but exempted by a specific provision of the Act. Exempt employees are expected to render necessary and reasonable overtime services with no additional compensation. The salary of an exempt position is established with this assumption in mind. Employees that are not covered by the Act include elected officials and their personal staffs, legal advisors, professionals, and bona fide volunteers.

The City of Bay City exempt positions include: Mayor, City Secretary, Emergency Services Director (Police Chief), Director of Administrative Services (Finance Director), Community Services Director, and Director and Assistant Director of Public Works. *Please note this is not intended to be an all-inclusive list; other exempt employees are designated as exempt on their job descriptions.* (Exempt employees will be eligible for overtime compensation when required to work during Emergency circumstances).

Each city job description designates whether persons hired in that classification are exempt from, or covered by (nonexempt), the overtime provisions of the FLSA.

Extra hours worked by executive, administrative, and professional employees may be used as a factor in granting or denying paid leave other than vacation or sick leave.

In addition, some positions are not covered by the FLSA. These positions are those who are hired and may be discharged directly by an elected official and who work very closely with the elected official on a regular basis.

(Legal reference: U.S. F.L.S.A. of 1938, as amended.)

6.6 EXPLANATION OF EXEMPTIONS FROM FLSA (OVERTIME COMPENSATION)

“Non-exempt” or “exempt” designations indicate whether an employee is eligible for, or exempt from, overtime compensation. To determine whether an employee’s job is exempt or non-exempt, each employee’s combination of duties and responsibilities; required knowledge, skills, and abilities; and qualifications requirements are reviewed individually.

Nonexempt. A nonexempt employee is one whose position is covered under the overtime pay provisions of the Fair Labor Standards Act (FLSA) and will be compensated for overtime as required by law.

Exempt. The term exempt employee refers to an employee who is exempt from the overtime pay provisions of the Fair Labor Standards Act (FLSA) and is expected to render necessary and reasonable services beyond 40 hours per week with no additional compensation. Exempt employees’ salaries are set with this consideration in mind. City employees who are in exempt positions most often qualify under the executive, administrative, or professional exemption, or a combination of these exemptions. To qualify for any of the following exemptions, employees must be paid a minimum of \$455 weekly, which annualizes to \$23,660 per year.

Executive. The executive exemption is for persons whose primary duty is “management” of the City or a department or subunit within the City’s organizational structure. An employee who has management of a department or a subunit thereof as his or her primary duty, and regularly supervises two or more employees (or several part-time employees equating to two full-time equivalents), qualifies for the executive exemption.

To qualify for the executive employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary basis (as defined in the regulations) at a rate not less than \$455 per week;
2. The employee’s primary duty must be managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise;
3. The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
4. The employee must have the authority to hire or fire other employees, or the employee’s suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

Examples include management, department or section heads, and team leaders or other supervisors in certain circumstances.

Administrative

To qualify for the administrative employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;

2. The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and
3. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

Examples include workers whose primary duties are accounting, budgeting, purchasing, and human resources, as well as those workers whose primary duties include research, public relations, governmental relations, administration, and legal and regulatory compliance. Special provisions relate to jobs in the information technology area.

Professional

To qualify for the **learned professional** employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week;
2. The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
3. The advanced knowledge must be in a field of science or learning; and
4. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

To qualify for the **creative professional** employee exemption, all of the following tests must be met:

1. The employee must be compensated on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week; and
2. The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

Computer Employee To qualify for the computer employee exemption, the following tests must be met:

1. The employee must be compensated **either** on a salary or fee basis (as defined in the regulations) at a rate not less than \$455 per week **or**, if compensated on an hourly basis, at a rate not less than \$27.63 an hour;
2. The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below;
3. The employee's primary duty must consist of:
 - a. The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications;
 - b. The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
 - c. The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 - d. A combination of the aforementioned duties, the performance of which requires the same level of skills.

Blue Collar Workers

The exemptions provided by FLSA Section 13(a)(1) apply only to “white collar” employees who meet the salary and duties tests set forth in the Part 541 regulations. The exemptions do not apply to manual laborers or other “blue collar” workers who perform work involving repetitive operations with their hands, physical skill and energy.

Combination Exemptions.

Some positions may be exempt because they fall into a combination of two or more of the above categories, with most of the criteria holding true for the job.

(Legal reference: U.S. FLSA of 1938, as amended.)

6.7 HOURS WORKED AND OVERTIME COMPENSATION EARNED

City Department Heads, with approval of the Mayor, determine the number of hours worked by an employee for the compensation to be received subject to laws governing pay and working hours and to the provisions of the City's budget.

The policy of the City is to keep overtime to a minimum. However, employees may be required to provide services in addition to normal hours or on weekends or holidays. The most efficient and effective to deal with extra hours that an employee is required to work is to grant the employee equivalent, hour-for-hour time off within the same seven (7)-day workweek in which the extra hours are worked.

Overtime is defined as hours worked in excess of the allowable number of hours under the Fair Labor Standards Act (FLSA). For the City, this is 40 hours per seven (7)-day workweek for most personnel. Law enforcement employees' shifts may differ from other City employees.

Exempt employees are paid a salary and are not eligible to receive overtime pay, except when required to work during an Emergency. Exempt employees work at the discretion of Department Heads and/or the Mayor. Recognizing that exempt employees may be required often to work on behalf of the City outside of regular City business hours, they may from time to time be granted work leave during the City's normal business hours as determined appropriate or necessary without using accrued leave, so long as their duties are adequately performed.

Work leave is not intended to be hour-for-hour and is authorized at the discretion of the Department Head and/or Mayor. Work leave may be allowed for an unusual number of hours worked, including night or weekend work hours. An exempt employee may not accrue work leave hours and may not receive additional compensation for any work leave hours granted but not taken. No entitlement is intended to be created by this policy.

Overtime is accumulated at a rate equal to one and one-half (1 ½) times the employee's regular hourly rate. Overtime will be paid:

- 1.) When authorized in advance of overtime worked by the employee's supervisor or Department Head; or
- 2.) When the use of compensatory time would result in the accumulation of compensatory time in excess of the maximum limits provided by these provisions.

Regular and temporary part-time employees who are in non-exempt positions are not entitled to time and one-half overtime compensation until they have worked in excess of 40 hours in a work period (one week).

The City reserves the right to require employees to work "emergency" overtime⁴ on a given day or week. Violation of these requirements subjects the employee to disciplinary action, up to and including discharge. An employee who works overtime is required by law to be compensated for the overtime worked. Supervisors or Department Heads are charged with authorizing the use of overtime, and likewise with assuring non-abuse or over accumulation of overtime and the inadvertent use of overtime by non-exempt employees.

- 1.) Hours worked specifically **exclude** time spent on military leave, sick leave, funeral leave, emergency leave, jury duty, or compensatory time.
- 2.) Hours worked specifically **include** time spent actually engaged in work for the City.
- 3.) Overtime shall be calculated in quarter hour increments, i.e., .25, .50, or .75. If an employee works less than one-quarter (.25) of an hour, he or she will be credited with a quarter hour of overtime worked; if less than one-half hour but more than a quarter hour is worked, the employee will be credited with a half hour of overtime worked; etc.
- 4.) For purposes of overtime calculation, "hours worked" will include vacation leave **if** the leave has been pre-approved at least two (2) weeks in advance, and the employee is specifically called into work. "Hours worked" will also include holiday leave and floating holiday leave **if** the employee was specifically called in to work and actually worked on the City observed holiday.

For example: If an employee is on pre-approved vacation leave or is on an approved holiday and is called into work, the time the employee is actually engaged in City business will be counted as overtime.

For example: If during a week an employee uses comp time and accumulates more than 40 hours it will count as Regular Time. No overtime will be given if the employee has not **physically** worked every day.

- 5.) Since Compensatory Time is paid in lieu of overtime, an employee must have physically worked more than 40 hours to receive overtime or earn compensatory time.

For example: Compensatory time cannot be used and earned in the same workweek.

6.8 COMPENSATORY TIME (IF USED BY A CITY DEPARTMENT)

All of City of Bay City employees, other than exempt and seasonal employees, shall, in accordance with FLSA, have an option of receiving compensatory time off in lieu of cash, at the rate of one and one-half (1 ½) times the each hour of approved overtime worked in excess of 40 hours in a week. Compensatory

⁴ "Emergency" Overtime can be defined as non-scheduled work time of an emergency nature that falls outside an employee's routine work schedule. An emergency is defined as an unanticipated combination of circumstances that call for immediate action.

time is rarely used by the City of Bay City except by the Police Department. However, Department Heads may use compensatory time sparingly to better manage their departments. If compensatory leave is granted:

- Non-exempt employees may accrue compensatory time off at one and one-half times the number of overtime hours worked up to a maximum of 40 hours. Compensatory time balances are carried over from year to year. Certified peace officers in the Police Department may accumulate a greater number of hours of compensatory time, up to the 480 hour maximum allowable under FLSA for law enforcement employees.
- As a general rule, any compensatory time earned should be used within six (6) months of the date on which it is earned.
- Any employee whose compensatory time balance reaches the cap will no longer be able to accrue compensatory time until the balance falls below the caps. Any overtime worked after an employee has reached the cap for compensatory time will be compensated with cash.
- Non-exempt employees requesting to use their compensatory time off shall be permitted to use the time within a reasonable period after making the request if the employee's absence does not unduly disrupt the operations of the department affected.
- If an employee has substantial compensatory time on the books and has not requested time off, the Department Head may require the employee to take time off to reduce the balance in the employee's compensatory time account, provided that the City's work can be accomplished without the employee during that time.

There are three situations in which the City of Bay City will pay for compensatory time hours that have accumulated:

- 1.) Upon termination of the employment relationship;
- 2.) When an employee is promoted from a non-exempt position to an exempt position he/she will be paid in full for any comp time accrued before the promotion becomes effective at the rate prior to the promotion (exempt employees are not eligible to accrue comp time); or
- 3.) If the City requires a non-exempt employee to decrease the number of comp time hours to below the maximum allowable (40 hours for non-exempt, non-law enforcement employees).

(Legal reference: U.S. FLSA of 1938, as amended; and Christensen v. Harris County, U.S.S.Ct., May 1, 2000.)

6.9 TIMESHEETS

Timesheets are to be completed and submitted to your supervisor or Department Head for approval. They are to be submitted to the Finance Department no later than the Monday before payroll by 10 a.m., with the exception of the Warehouse (submittal time is 12 p.m.). When a City Holiday falls within a payroll week, departments will be notified by the Finance Department of submission date and time.

All non-exempt employees are required to record their exact hours of work by completing a time sheet or by punching a time clock. After you have completed your time sheet for the work period, check it carefully to assure it is accurate. Then, sign your name to the sheet if the total hours shown is correct and accurate to your understanding. If you feel the hours recorded are incorrect, do not sign your sheet until it has been corrected by your supervisor. **Never complete anyone else's timesheet and never allow anyone else to complete yours. Likewise, never clock in for anyone else and never allow anyone else to clock in for you. Either of these is grounds for disciplinary action up to and including discharge.** All timesheets must be signed by both the employee and his or her supervisor. If an employee is not available to sign his or her timesheet, the employee will not be allowed to receive his or her paycheck until the timesheet is signed.

It is imperative that all employees verify their timesheets to help avoid future corrections. It is the responsibility of the supervisor or Department Head to verify that the timesheet is in compliance with the overtime and compensatory time guidelines. If there are any corrections to be made, they will be taken care of during the following pay period.

Exempt employees are required to complete a timesheet as well. Although exempt employees may work more than their regular forty (40)-hour workweek, the completion of the timesheet aids in the tracking of employee leave and can be the basis for allowing work leave.

6.10 EMERGENCY POLICY

6.10.1 PURPOSE

Protecting the health and safety of everyone in our community as well as the surrounding community is a key priority during an emergency. The citizens of Bay City depend on City employees before, during and after an emergency or disaster to provide or restore essential public services for the health, safety, and quality of life for our community. This policy applies to all non-exempt and exempt employees, and is intended to clarify the procedures for emergency and the compensation policy for employees when a state of emergency is imminent or has been declared by the Mayor. This policy recognizes that some emergencies provide no advance warning.

6.10.2 CITY FACILITIES ASSUMED OPEN

In the case of a weather emergency, (e.g. snow, ice, or other weather event), a disaster, or other emergency on a workday, and unless a closing is announced in advance of reporting time, City personnel are required to report to work as usual unless the emergency conditions make it impossible to report safely to duty.

If City facilities are not closed and if weather or other emergency conditions make it impossible for an employee to report to work, the employee must notify his or her supervisor as soon as possible that the employee finds it impossible to report to duty safely. Time absent may be charged to available vacation, compensatory time, personal time, or leave without pay.

6.10.3 CLOSING OF CITY FACILITIES

In the case of a weather emergency (e.g., snow, ice, or other weather event), disaster, or other emergency on a workday, the Mayor is authorized to designate the closing of City facilities. The Mayor or designee is responsible for initiating the process of contacting employees. If City facilities are closed, City personnel who are not required to work that day will be paid for the actual time or day(s) that the City was officially closed.

- If an official City facility closing for weather or other emergencies occurs during an employee's scheduled vacation or personal day, that day will not count against the employee's vacation or personal leave balance.
- If an employee reports to work and the Mayor or Department Head sends the employee home because of inclement weather or other emergency, the employee will be given credit for a full workday.

6.10.4 REQUIRED WORK DURING AN EMERGENCY

The Mayor may require employees to work during an emergency or disaster regardless of whether City facilities are open or closed and regardless of the extent or duration of the emergency. Employees may be required to provide services to protect the public's health and safety and to assure the continuation of, or recovery of, normal City business processes. An employee who refuses a directive from the Mayor or a Department Head to report to work for all or part of an emergency period is subject to discipline by the City, up to and including termination.

Each employee is responsible for providing the City with updated contact information (address, telephone numbers, e-mail addresses) each time this information changes, but no less often than annually.

6.10.5 COMPENSATION DURING EMERGENCY

In the event of a Disaster Declaration, declaration of a State of Emergency, and/or a long-term emergency, certain non-exempt and exempt employees will be declared "First Responders" and are required to work the duration of the event. Even exempt employees will be eligible for overtime at the rate of 1 ½ times their regular hourly rate of pay for actual hours worked. In order to provide payment of overtime for exempt personnel during a declared emergency, the City will waive the FLSA "exempt" status of those employees. Exempt employees will be eligible for overtime or compensatory time off in the same manner as non-exempt employees.

When City offices are declared closed by the Mayor, employees who are determined not to be "First Responders" will be paid as authorized leave for those day(s); meaning an employee will receive his or her regular pay for the day(s) out on authorized leave.

6.10.6 PROVISIONS

In the event of a wide scale emergency that could impact our community, the following employees will be considered First Responders:

- 1.) Mayor
- 2.) Police Chief and Officers
- 3.) Public Works Director
- 4.) Assistant Director of Public Works
- 5.) Finance Director
- 6.) Public Works Foremen
- 7.) Equipment Operators
- 8.) Truck Drivers
- 9.) Wastewater Treatment Plant Operators
- 10.) Laborers (to be determined by Department Head)
- 11.) Bay City Volunteer Fire Department

Department Heads and/or supervisors will determine the number of employees needed for each category. Once a State of Emergency is declared, employees who are absent, employees who leave early, and employees who do not report to work after the Mayor determines it is safe to return to work may encounter disciplinary action, up to and including termination, in addition to loss of pay. Employees who are absent without the appropriate authorization are subject to the appropriate disciplinary action, up to and including termination.

7. BENEFITS

The City Secretary is responsible for the administration of the City's employee benefits program. Employees should consult with the City Secretary's Office for any additional questions not answered in this manual.

7.1 MEDICAL, DENTAL, LIFE, AND ACCIDENTAL DEATH AND DISMEMBERMENT (AD&D) INSURANCE

Regular full-time employees and regular part-time employees who work at least 30 hours per week are eligible for group hospitalization, medical, life, accidental death and dismemberment (AD&D), and dental insurance coverage after 90 days of employment with the City, as allowed by the City's current insurance plan(s). A portion of the premiums for eligible employees are paid by the City for the employee.

After 90 days' service, regular, full-time employees and regular part-time employees who work at least 30 hours per week, are enrolled in the City's group medical, life, AD&D, and dental plan. The city contributes 60% toward dependent premiums, while the employee contributes 40% toward dependent premium, as approved by the City Council.

Eligible employees may add additional dependent coverage at the employee's expense as allowed by the medical plan. An eligible dependent is an employee's spouse or natural or legally adopted child or stepchild, provided the child or stepchild is 26 years of age and under.

Upon employment, each employee who is expected to become eligible for insurance coverage is given an insurance booklet containing detailed information about the City's insurance programs and amendments as provided by the city's insurance carrier(s). See the section on Continuation of Group Insurance for information on continued coverage after certain status changes.

All insurance forms and informational packets can be obtained from the City Secretary's Office.

7.2 SOCIAL SECURITY

Employees of the City are covered by Social Security. The city also contributes to the Social Security system for each employee.

7.3 RETIREMENT

The City provides a retirement program for its employees through the Texas Municipal Retirement System (TMRS). Membership is mandatory for full-time paid employees. The TMRS defines a full-time

employee as one who works in a job that normally requires at least 1,000 hours per year, as determined by the City.

Membership in the retirement system begins on the date of employment. Information about the retirement program is provided to each City employee at the time of employment and is available at any time from the City Secretary's Office.

Both the employee and the City contribute to the employee's retirement account. Employee contributions are deducted from employees' paychecks at the rate of five (5) percent. The City matches employee contributions and interest on a 2 to 1 basis (two City dollars for every one employee dollar), with money transferred at the time of retirement.

An employee who terminates employment with the City prior to retirement, may exercise one or more of the following options:

- 1.) If an employee is not-vested⁵ and separates from the City, he or she may leave the funds on deposit with the system for a period not to exceed five (5) years, during which the money on deposit will continue to draw interest.
 - a.) If the member, either immediately or during the five (5)-year period described above, is employed by another Texas City that is a member of TMRS, and the employee has not received a refund of deposits, then the accumulated service will be combined with any later service and applied toward ultimate retirement.

For example: If an employee leaves the City of Bay City to work for another TMRS City, the employee may leave his or her retirement contributions deposited at TMRS; and upon retirement, the employee may receive payments from both entities.
 - b.) Upon termination, a TMRS member may file an application for a refund of deposits and accrued interest. Under this option, the member's account is closed, and the member forfeits further benefits under the plan. The City's matching portion is also forfeited.
- 2.) If a vested⁶ employee terminates employment with the City, deposits may be left in the system until the employee reaches retirement eligibility.

Employees are eligible to retire when:

- 1.) The employee has reached at least 60 years of age and has at least five (5) years of credited service; or
- 2.) The employee has at least 25 years of credited service regardless of age.

If an employee dies before retirement, the supplemental death beneficiary receives the retirement benefit equivalent to one year of the employee's salary.

Occupational Disability Retirement Benefits (ODR) are provided if an employee becomes disabled to the extent the employee can no longer perform the duties of the position he or she occupies, and if the

⁵ Not-Vested is defined as an employee that has continuous credited service with the City of less than five (5) years.

⁶ Vested is defined as an employee that has continuous credited service within the City for at least five (5) years.

disability is likely to be permanent. There is no minimum length of service or age required to be eligible for. In this instance, the employee also receives the City matched portion of retirement benefits.

7.4 SECTION 457 DEFERRED COMPENSATION PLAN

The purpose of this policy is to outline procedures for enrollment and eligibility in the City's deferred compensation program. The City provides an option to any regular full-time employee to invest a portion of his or her present earnings in a deferred compensation plan. This is an arrangement where a certain dollar amount can be designated by the employee to be withheld from his or her paycheck and invested for payment at a later date, usually at retirement. Under this arrangement, neither the deferred amount nor earnings on the investments are subject to current federal income taxes until such time as the employee receives payment from the plan.

The City approved program includes various investment options and is currently administered by Nationwide Retirement Solutions. Enrollment occurs after the 90-day waiting period for regular full-time employees. Contributions are made through payroll deductions. Employees may increase, decrease, or stop the withholding amount at any time during the year.

Benefits received through this program are in addition to any Social Security or Texas Municipal Retirement System (TMRS) benefits for which the participating employee would be eligible.

7.5 WORKERS' COMPENSATION

Employees of the City are covered by the workers' compensation insurance program, and the City pays the premium. This coverage provides medical and salary continuation payments to employees who receive bona fide, on-the-job, work-related injuries. Detailed information about workers' compensation benefits is found in Section 9 of this manual under the main heading Health and Safety. (*Legal reference: V.T.C.A., Labor Code, Chapter 504.*)

7.6 UNEMPLOYMENT INSURANCE

Employees of the City are covered under the Texas Unemployment Compensation Insurance program, and the City pays for this benefit. This program provides payments for unemployed workers in certain circumstances. (*Legal reference: V.T.C.A., Labor Code, Chapter 201.*)

7.7 LEAVE TIME

Regular full-time City employees are eligible for holidays, vacation leave, sick leave, and other types of released time under certain circumstances. Detailed information about leave and other types of released time is found in Section 8 of this manual under the main heading Leave Time.

8. LEAVE TIME

8.1 DEFINITIONS

Leave Time. Leave time is time during normal working hours in which an employee does not engage in the performance of job duties. Leave time may be either paid or unpaid. The types of leave authorized for use by City of Bay City employees are as follows:

- Vacation leave;
- Sick leave;
- Family and medical leave;
- Military leave;
- Jury duty;
- Leave of absence without pay;
- Bereavement leave;
- Injury leave (Workers' Compensation);
- Administrative leave; and
- Holidays.

Holidays. Holidays are days designated by the City Council when the City government is closed or on a limited work schedule on what otherwise would be regular business days.

Unauthorized Absence. An unauthorized absence is one in which the employee is absent from regular duty without permission. Employees are not paid for unauthorized absences and such absences may result in disciplinary action.

8.2 APPROVAL OF LEAVE

Notification of Unplanned Absences. If an employee finds that he or she is unable to report to work as scheduled, the employee must notify his or her supervisor or, if the supervisor is not available, the City Secretary's Office before the time he or she is scheduled to begin work. In the case of an injury, hospitalization, or other serious emergency that prevents early notification to the City, the employee, or his or her designee, if the employee is not physically able to make the call, must notify the City as soon as possible.

Leave taken by City employees must be submitted in writing and approved by the employee's Department Head or by the Mayor or his or her designee. Notification does not automatically excuse the absence or guarantee that the time off will be paid.

The City Secretary is responsible for determining what leave has been earned and is available for use in the amounts requested by an employee. The Department Head or his or her designee is responsible for ensuring that all leave usage is recorded on the timesheet for payroll purposes. If an employee's absence

after the cut-off date of the time reports would affect the amount of salary due, the payroll office will make proper adjustments prior to the last day of the pay period or at least in the next pay period.

8.3 VACATION LEAVE

The City of Bay City is happy to provide a program that gives employees the flexibility to earn and use paid time off. Vacation leave is an earned benefit and is made available to eligible employees in order to provide personal leave, personal business leave and family leave away from work without loss of compensation.

Subject to the terms and conditions set forth below, regular full-time employees earn paid vacation leave according to the following schedule:

<u>YEARS OF SERVICE</u>	<u>ALLOTTED HOURS</u>	<u>NO. OF WEEKS</u>
Year: 1	40 Hours	1 Week
Year: 2 - 4	80 Hours	2 Weeks
Year: 5 - 9	120 Hours	3 Weeks
Year: 10 - 14	160 Hours	4 Weeks
Year: 15 - 19	200 Hours	5 Weeks
Year: 20+	240 Hours	6 Weeks

Regular part-time employees earn paid vacation leave in proportion to the number of hours worked. For example, a regular part-time employee regularly scheduled to work 20 hours per week (1/2 of the full-time 40 hours) will earn 20 hours of vacation leave (1/2 of the full-time earning rate of 40 hours) after their first twelve (12) months of employment. Temporary and seasonal employees do not earn vacation leave.

The following provisions relate to vacation time:

- 1) The "anniversary date" of regular, full-time employees is the date falling one year after their initial day of employment. After completion of one year of continuous service, forty (40) hours are credited to the employee's vacation leave account. Vacation leave is not earned until the completion of one year's continuous service. Employees who separate from city employment prior to the completion of one year of continuous service do not receive payment for vacation leave.
- 2) In succeeding years, the appropriate number of hours is credited to the employee's vacation leave account on the employee's anniversary date. Upon termination, any vacation hours accrued and unused will be paid provided the employee had served at least twelve (12) continuous months with the City.
- 3) Employees will be allowed to take only those leave hours that are reflected in the records maintained by the City. Hours are also shown on each paycheck stub.
- 4) If an employee requests leave and does not have adequate accrued leave available, the leave request will be denied. Vacation leave requests will only be approved for time that is accrued and available.

- 5) It is the employee's responsibility to review leave hours as reported on each paycheck stub for errors. Failure to notify the payroll office of any errors in accrued leave within thirty (30) days of issuance of a paycheck stub will result in a waiver of any omitted leave days that were not included on the paycheck stub.
- 6) Request for vacation of more than five (5) days will be subject to the approval of the Department Head or supervisor who will evaluate the request, including an evaluation of current staffing considerations. Naturally, the efficiency of your department and the needs of the public come first, and the City reserves the right to set the times when vacations may be taken.
- 7) If more than one employee in a department requests vacation leave for the same period of time and the department cannot function efficiently with more than one employee absent, the leave requests will be granted in the order in which they were received. If the vacation leave requests are received on the same day, seniority will determine which leave request is granted.
- 8) A maximum of 80 hours may be carried forward past the anniversary date on which it was earned. Vacation leave is taken in minimum increments of four (4) hours.
- 9) Effective May 23, 2013, in the event that an individual who has at least 20 years of continuous service with the City, is out on a bona-fide medical condition for extended leave for a 6-month period, retires without returning to service, is entitled to all vacation hours accrued in the previous year.
- 10) An employee with at least 20 years of service may be paid for one (1) week of accrued vacation leave, which has the potential of being lost. Such payment is conditioned upon the following:
 - a. The employee must have used at least three (3) weeks (120 hours) of vacation leave from the date of the last accrual deposit; and
 - b. The vacation leave paid to the employee will be only that amount in excess of the three weeks used and the 80 hours permissible to be carried forward.
- 11) Official City of Bay City holidays occurring while an employee is on approved leave are considered as paid holidays and are not deducted from the employee's vacation leave balance. Employees who are confined to bed during their vacation time due to illness or injury may request that the number of hours during which they were confined due to illness or injury be charged to sick leave. The request must be approved by the immediate supervisor and must be supported by a doctor's certification that the employee was confined to bed during that period of time.
- 12) Employees must have vacation leave requests pre-approved prior to the beginning of the scheduled leave.
- 12.) In the event an employee depletes their accrued Sick Leave, the department must notify the employee of the depletion, and receive permission to use any accrued Vacation and/or compensatory time.

8.4 HOLIDAYS

It is the policy of the City to designate and observe certain days each year as holidays. Regular part-time employees will be paid for the hours normally worked on such days. For example, if an employee is not normally scheduled to work the day on which a paid holiday falls, the employee does not receive pay for that day. The City Secretary's Office will publish the schedule of holidays the City will observe after it has been approved by the City Council.

The following holidays are declared official holidays for City employees:

New Year's Eve
 New Year's Day
 Martin Luther King, Jr.'s Birthday
 President's Day
 Good Friday
 Memorial Day
 Independence Day
 Labor Day
 Veterans Day
 Thanksgiving Day
 Christmas Day
 Floating Holiday Day

The following rules apply to holiday leave:

- 1) An employee who has to work on a holiday will be paid the hours worked, in addition to their holiday pay.
- 2) If an employee is absent the day before or the day after a holiday without advance approved leave, the employee will **not** be paid for the extra day **unless** he or she submits a doctor's certification that the employee was sick that day **and** the employee has accrued sick leave to cover the extra day.
- 3) When an employee's regular day off falls on a holiday, the employee will be provided an alternate day off for the holiday, which shall be taken within the same month the holiday falls in. Some departments may schedule alternate holidays at the beginning of the year for their round-the-clock shift employees.
- 4) Holidays falling within an employee's approved vacation leave, or within any other approved paid period of absence, will be paid as a holiday and will not be counted against that leave.
- 5) Effective January 1, 2009, City of Bay City employees will be granted one floating holiday per calendar year. The floating holiday will be in addition to the twelve (12) Council approved holidays. If not taken during the year, the floating holiday will not be carried over, nor will it be paid at the time of termination. In order to receive this holiday, an employee must:
 - a.) Be a regular full-time employee;
 - b.) Be employed by the City of Bay City for at least one year; and
 - c.) Complete a Floating Holiday Request form and submit the completed form to his or her supervisor or Department Head prior to the leave request date.

8.5 SICK LEAVE

8.5.1 ELIGIBILITY AND ACCRUAL

Regular full-time employees earn 96 hours of sick leave per calendar year, or a total of 12 days. Each regular part-time employee accrues sick leave proportionately based on the hours worked per pay period. Seasonal and temporary employees do not earn sick leave.

Sick leave is accrued each pay period. For full-time employees, sick leave accrues as shown below:

Calculation: (25 pay periods at 3.69 hours per pay period)
 + (1 pay period at 3.75 hours)
 = 92.25 hours + 3.75 hours = 96 hours per year

8.5.2 USES OF SICK LEAVE

Eligible employees with earned sick leave may use it if the employee is absent from work due to:

- 1) Personal illness or physical or mental incapacity;
- 2) Medical, dental, or optical examinations or treatments;
- 3) Medical quarantine resulting from exposure to a contagious disease; or
- 4) Illness of a member of the employee's immediate family who requires the employee's personal care and attention. For this purpose, immediate family is defined as the employee's spouse, child, or any other relative who resides in the employee's household or who is dependent on the employee for care.

Sick leave may be used during the introductory period; however, sick leave may not be used in advance of being earned.

Sick leave may be taken in as little as quarter (.25) hour increments.

8.5.3 CARRYOVER

Sick leave has no maximum accrual and can be carried over every year, but unused accrued sick leave will not be paid upon termination.

8.5.4 MEDICAL STATEMENT

After an employee has used three or more consecutive days of sick leave, the employee must furnish written verification by a physician of medical disability precluding availability for duty

and releasing the employee to return to work. The City retains the right to request a physician's verification for any absence due to illness.

8.5.5 SICK LEAVE POOL

The City maintains a sick leave pool to provide for the alleviation of hardships incurred by an employee and the employee's immediate family if a life-threatening illness or injury forces the employee to exhaust all available sick leave, vacation leave, and compensatory leave. The sick leave pool is intended to lessen financial hardship caused to sick leave pool members by providing a source of additional paid sick leave. Routine pregnancy/maternity is not considered a catastrophic illness or injury. However, severe pregnancy-related illness or complications afflicting mother or child may be considered.

Definitions for the purpose of the sick leave pool are as follows:

1. Catastrophic illness or injury is defined as a life-threatening illness or injury, incurred by a Sick Leave Pool member or the member's immediate family member, that forces the member to exhaust all accrued paid leave time and for this policy would result in the member being placed into an unpaid leave status.
2. Employee is defined as a regular full-time employee who has been employed by the City for one continuous year.
3. Immediate Family Member is defined as an employee's spouse, child, or any other relative who resides in the employee's household or who is dependent on the employee for care.
4. Life-threatening is defined as a disease or condition from which the likelihood of death is probable unless the course of the disease or condition is interrupted. Life-threatening illnesses and injuries include, but are not limited to: serious or terminal illness such as cancer, and serious or life-threatening accidents or injuries. Chronic illnesses or injuries which result in intermittent absences from work, such as HIV or kidney disease requiring dialysis, may also be considered life-threatening. Life-threatening illness or injury does not include: non-emergency elective surgery; injuries covered by workers' compensation claims; disabilities from drug or alcohol abuse; and self-inflicted injuries.
5. Sick Leave Pool is defined as the accumulated sick leave hours donated by employees for use in accordance with this policy.
6. Sick Leave Pool Administrator is defined as committee made up of the City Secretary or designee, affected employee's Department Director, and the Mayor designated in this policy to administer the Sick Leave Pool Policy.

In order for an employee to be considered eligible for the Sick Leave Pool, an employee is required to complete an enrollment form; one has to be employed by the City of Bay City for one consecutive year; and an employee has to donate at least one hour from their own personal Sick Leave bank. Employees may contribute a maximum of ninety-six (96) hours of their earned sick leave to the pool. Contributions to the pool are strictly voluntary. The contributor may not designate the recipient of his or her donated sick leave.

An employee may donate any unused accrued sick leave to the Sick Leave Pool upon separation, with the completion of the Donation form.

Sick leave pool hours may not be used in conjunction with a workers' compensation claim by an employee.

An employee must be enrolled in the Sick Leave Pool in order to request leave. A request to withdraw form must be submitted, prior to the exhaustion of your personal leave bank. The employee must provide the Sick Leave Pool Administrator with a physician's statement as to the nature of the illness, surgery, or temporary disability, including the expected duration of the employee's absence.

The City Secretary is responsible for developing and implementing the procedures for contributing sick leave hours to, or withdrawing sick leave hours from the pool. However, the City Secretary, the employee's Department Director, and the Mayor determine the approval or denial to withdraw from the pool. The City Secretary is also responsible for communicating and interpreting the procedures of this policy to the employees.

The Sick Leave Pool Administrator shall consider the information contained in the request form, the number of pending request forms, and the number of hours available in the Sick Leave Pool. The Sick Leave Pool Administrator shall not award more than one-third ($\frac{1}{3}$) of the hours in the Sick Leave Pool based upon any single request for withdrawal of hours.

Employees on extended leave must report by telephone to the City Secretary's Office at least once a week, as well as immediately following any doctor's appointment, with an update as to the expected duration of the employee's absence.

Employee utilizing Sick Leave Pool hours do not qualify for the accrual of benefits (sick, vacation, holiday, etc).

8.5.6 ILLNESS WHILE ON VACATION LEAVE

When an illness or physical incapacity occurs during the time an employee is on vacation leave, accrued sick leave may be granted to cover the period of illness or incapacity and the charge against vacation leave reduced accordingly. Application for such substitution must be supported by a medical certificate or other acceptable evidence, and application must be made immediately upon the employee's return to duty.

8.5.7 CANCELLATION UPON TERMINATION

Unused sick leave is canceled upon termination of employment, without compensation to the employee. The employee can voluntarily donate this unused sick leave to the sick leave pool.

8.5.8 OUTSIDE EMPLOYMENT

Employees who are on approved sick leave may not work a second job while on sick leave, even if they have written authorization from the Mayor to work a second job. Any exception to this policy must be obtained in writing from the Mayor.

8.6 FAMILY AND MEDICAL LEAVE (FMLA)

All governmental employers are covered under the Family and Medical Leave Act (FMLA). City of Bay City employees are eligible for FMLA leave. Under the FMLA, eligible employees may take up to twelve (12) weeks of unpaid leave for specified family and medical reasons within a 12-month period or 26 weeks for military FMLA leave.

8.6.1 DEFINITIONS

A **“12-Month Period”** means a rolling 12-month period measured backward from the date leave is taken. The twelve (12)-month period during which an employee may use a maximum of twelve (12) workweeks of this type of leave (or a maximum of twenty-six (26) workweeks for military FMLA leave) is measured forward from the date on which the employee’s first Family and Medical Leave Act (FMLA) leave begins. A **“serious health condition”** means an illness, injury, impairment, or physical or mental condition that involves any period of incapacity or treatment connected with in-patient (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such in-patient care or continuing treatment by a health care provider, which includes any period of incapacity (i.e., inability to work, attend school, or perform other regular daily activities).

“Child” A biological, adopted, or foster child; a stepchild; a legal ward; or a child of a person standing in loco parentis, who is standing in the place of a parent, who is either under age 18, or age 18 or older and requires active assistance or supervision to provide daily self-care. A biological or legal relationship is not necessary.

“Parent” A biological parent or an individual who stands or stood in the place of a parent to an employee when the employee was a child. This term does not include parents-in-law.

“Spouse” A husband or wife as defined or recognized under State law for purposes of marriage, including common law marriage.

“Family Member” is defined only to include parent, spouse, son and daughter.

A **“Health care provider”** who may provide certification of a serious health condition includes:

1. Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state in which the doctor practices; Podiatrist, dentists, clinical psychologists, optometrists, and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice and perform within the scope of their practices under state law;
2. Nurse practitioners, nurse mid-wives, and clinical social workers authorized to practice and perform within the scope of their practice, as defined under state law;
3. Any health care provider recognized by the employer or the employer’s group health plan benefits director;
4. A health care provider listed above who practices in a country other than the United States and who is authorized to practice under the laws of that country.

“Covered Active Duty” means (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment with the Armed Forces to a foreign country; and (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment with the Armed Forces, duty during the deployment with the Armed Forces to a foreign country where they may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

“Covered Service Member” means (A) a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (B) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

“Outpatient Status”, with respect to a covered service member, means the status of a member of the Armed Forces assigned to--

- a. a military medical treatment facility as an outpatient; or
- b. a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Next of Kin” means the nearest blood relative of a Covered Service member.

A **“12-Month Service member Period”** means a single 12-month period measured forward from the first day Service member Family Leave is taken.

“Serious injury or illness”--

- a. in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and
- b. in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Veteran means a person who served in the active military, naval, or air service, and who was discharged or released under conditions that were not dishonorable.

“Qualifying Exigency” includes: 1) notification of a call to covered active duty seven or fewer days from date of deployment; 2) military events and related activities, including post-deployment activities (e.g. official ceremonies, support programs, counseling, etc. related to covered active duty or a call to such); 3) attending to childcare and school activities; 4) attending to financial and legal matters; 5) to spend up to five days with a military member who is on short-term, temporary rest and recuperation leave during the period of deployment; and, 6) any

additional activities related to the call to covered active duty otherwise agreed to by the employer and employee.

8.6.2 COVERAGE AND ELIGIBILITY

To be eligible for family/medical leave an employee must have worked for the City for at least 12 months total and have worked at least 1250 hours over the previous 12-month period.

1. An eligible employee is entitled to twelve (12) unpaid workweeks of leave during any twelve (12) month period for the following purposes or up to twenty-six unpaid workweeks of leave during any twelve (12)-month period for military caregiver circumstances. To care for a child following birth or placement for adoption or foster care of the child (only within twelve (12) months of the birth or placement); or
2. To care for a spouse, child (including step-child), or parent with a serious health condition; or
3. The employee's own serious health condition that makes the employee unable to perform the essential functions of his or her job; or
4. Qualification as the spouse, son, daughter, parent, or nearest blood relative of a wounded military service member who suffered an injury or illness while on active duty that rendered the service member unable to perform the duties of his or her military grade (this leave may be for up to twenty-six (26) weeks during one twelve (12)-month period and a husband and wife can use no more than twenty-six (26) weeks combined); or
5. Qualification as the spouse, son, daughter, or parent of a person eligible for qualifying exigency military leave. A "qualifying exigency" under military family leave is a non-medical activity that is directly related to the covered military member's active duty or call to active duty status. Exigency leave applies only under a federal call or order to active duty (not a state call to active duty unless by order of the President of the United States). Such active duty or call/order to active duty is only made to members of the National Guard or Reserve components or a retired member of the Regular Armed Forces or Reserve. An employee may not take exigency leave if the service member is a member of the Regular Armed Forces. For an activity to qualify as an exigency, it must fall within one (1) of seven (7) categories of activities or be mutually agreed to by the employer and employee. The seven (7) categories of qualifying exigencies are as follows:
 - a. Short-notice deployment (leave permitted up to seven (7) days if the military member receives seven (7) or fewer days' notice of a call to active duty);
 - b. Attending certain military events and related activities;
 - c. Arranging for alternative childcare;
 - d. Addressing certain financial and legal arrangements;
 - e. Attending counseling by a non-medical counselor (such as a member of the clergy);
 - f. Rest and recuperation (leave permitted up to five (5) days when the military member is on temporary rest and recuperation leave); and
 - g. Attending post-deployment military activities.

8.6.3 INTERMITTENT OR REDUCED LEAVE

“Intermittent/Reduced Schedule Leave” means taking leave in blocks of time or by reducing the employee’s weekly or daily work schedule. An employee may take intermittent leave in increments as low as 30 minutes. If the leave is unpaid the City will reduce the employee’s salary based on the amount of time actually worked.

- a. If FMLA leave is for birth and care or placement for adoption or foster care, use of intermittent/reduced schedule leave is subject to the employer’s approval.
- b. FMLA leave may be taken intermittently/reduced schedule whenever medically necessary to care for a seriously ill family member or because the employee is seriously ill and unable to work.
- c. Employees needing intermittent/reduced schedule leave for foreseeable medical treatment must work with their employers to schedule the leave so as not to unduly disrupt the employer’s operations, subject to the approval of the employee’s health care provider.
- d. An employee taking intermittent leave or leave on a reduced schedule may be temporarily assigned to an alternative position with equivalent pay and benefits if it better accommodates the needs of the department.

8.6.4 SERIOUS HEALTH CONDITION

A serious health condition is one that (a) requires visits for treatment by a health care provider at least twice a year; (b) continues over an extended period of time (including recurring episodes of a condition); and (c) may cause episodic incapacity rather than a continuing period of incapacity.

8.6.5 CALCULATION OF 12-MONTH PERIOD

The City of Bay City calculates FMLA leave on a rolling basis. The twelve (12)-month period during which an employee may use a maximum of twelve (12) workweeks of this type of leave (or a maximum of twenty-six (26) workweeks for military FMLA leave) is measured forward from the date on which the employee’s first Family and Medical Leave Act (FMLA) leave begins.

8.6.6 DEFINITION OF FAMILY MEMBERS

"Son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in the place of a parent. The child must be under eighteen (18) years of age or an individual eighteen (18) years of age or older who is incapable of self-care because of a mental or physical disability. "Spouse" means a husband or wife as defined or recognized under state law for purposes of marriage, including common law marriage. Military family leave also includes the parent of a covered service member, son or daughter of a covered service member, next of kin of a covered service member, and son or daughter on active duty or called to active duty status.

8.6.7 LIMITATIONS/RESTRICTIONS

Leave may be taken on an intermittent or reduced basis for the birth or adoption of a child only if the arrangement is agreed to by the Department Head. An employee may take intermittent leave in increments as low as 30 minutes. However, leave for serious health conditions – either of an eligible family member of the employee or the employee himself or herself – may be taken intermittently or on a reduced schedule if medically necessary, provided that the other conditions of these policies are met.

8.6.8 TEMPORARY TRANSFER

If the employee's request for intermittent leave is foreseeable, based on planned medical treatment, the city may require the employee to transfer temporarily to an alternative position, with equivalent pay and benefits, that better accommodates recurring periods of leave.

8.6.9 MAXIMUM DURATION

The total cumulative maximum period of time which an employee may be absent from work on family leave during any twelve (12)-month period is twelve (12) weeks, regardless of whether all or a portion of the leave period is paid or unpaid. (There is an exception for up to twenty-six (26) weeks of military caregiver leave in a twelve (12)-month period on a per-covered-service-member, per-injury basis.) If an employee has accrued sick, vacation, compensatory, or any other type of qualifying leave on the books at the time that the family leave commences, the employee must exhaust those leave balances, if applicable to the circumstance, before being eligible for unpaid family leave. Once the employee's applicable leave balances have been exhausted, the city will then provide enough unpaid family leave to total twelve (12) weeks (or twenty-six (26) weeks for military caregivers) of combined paid and unpaid leave. During the unpaid portion of an employee's family leave period, the employee accrues no additional vacation leave, sick leave, or any other type of leave. Other employee benefits remain in place.

8.6.10 PART-TIME/VARIABLE HOUR EMPLOYEES

If an employee works a part-time schedule, the amount of leave to which the employee is entitled is determined on a pro rata or proportional basis, provided that the other requirements for eligibility are met.

8.6.11 NOTICE

When an eligible FMLA circumstance occurs for an employee, the employee must contact the City Secretary and complete a request for family leave, with the leave request specifying the first date of absence or expected absence. In the case of leave for the birth or placement of a child, an employee must provide at least thirty (30) days' advance notice before the date on which the leave is expected to begin. If the employee is unable to provide thirty (30) days' notice, he or she must provide as much notice as is practicable, usually within one or two business days of the date on

which the employee is aware of the need to request leave. In the case of leave for a serious medical condition, if the leave is foreseeable, based on planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to disrupt the city's operations unduly. The same advance notice requirements apply. In the case of exigency leave, whether foreseeable or unforeseeable, the employee must notify the City Secretary and provide appropriate paperwork as soon as practicable and definitely within fifteen (15) days unless unusual circumstances exist.

8.6.12 CITY DESIGNATION OF FMLA LEAVE

The city will provide an employee with a designation notice stating whether the employee's leave has been designated as FMLA leave or not. This notice will be provided whether or not the employee has requested FMLA leave. If the employee does not request family leave, yet requests the use of accrued leave, and a condition of FMLA eligibility exists, then the city may designate the leave as family leave. A city employee must respond to the city's questions in order to determine if the absence is FMLA-qualifying. Failure to respond to the city's inquiries may result in denial of FMLA protection if the city is unable to determine whether the leave is FMLA qualifying. Employees must also follow the city's usual notice and procedural requirements for requesting leave and calling in absences.

If the city designates an employee's leave as FMLA leave, without a request by the employee, then the city will notify the employee of the FMLA designation, normally within five (5) business days of the city's determination regarding the leave. The city's notification to the employee of FMLA designation may be communicated orally, but must be confirmed in writing no later than the next regular payday (unless less than a week remains until the next payday).

The designation notice will specify the amount of leave that will be counted as FMLA leave if known, and if not known at that time, the designation notice will be provided upon the employee's request, but no more often than every thirty (30) days (if leave was taken during the prior thirty (30) days). This notice will also state whether a fitness-for-duty certification will be required for the employee to return to work.

8.6.13 CERTIFICATION REQUIREMENTS

An employee must submit a complete and sufficient medical certification within fifteen (15) days (or longer if the employee has made diligent, good faith efforts to obtain it without success). Family and medical leave may be denied by the city if complete and sufficient medical certification is not submitted within the fifteen (15) days. If the employee submits certification in a timely manner, but the documentation is not complete or sufficient, the city will provide the employee with a list of what information is still needed and will allow the employee seven (7) calendar days to cure the deficiencies. If the employee does not correct the deficiencies within the seven (7) calendar days, the leave may be denied.

The city may also contact the employee's health care provider directly for verification or clarification if the employee does not cure the deficiencies within the required seven (7) calendar days. If such contact with the health care provider would involve individually-identifiable health information, the city will obtain the employee's permission before requesting the information. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and the ADA Amendments Act of*

2008; Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended; and Ragsdale v. Wolverine Worldwide Inc.)

Certification requirements differ for the various types of family and medical leave:

1. **Extended Illness or Temporary Disability.** An employee requesting a paid or unpaid family leave of absence for extended illness or temporary disability must submit to the City Secretary (1) a health care provider's statement as to the date upon which the employee is no longer able to perform his or her duties, or (2) a statement that the employee is needed to care for a spouse, parent, or child, with the expected length of the recuperation period, or an estimate of the time required to care for the family member, and appropriate medical facts regarding the condition. In addition, the employee must also provide the City Secretary with a written statement from the employee concerning his or her intentions about returning to work.

An employee on family leave must contact his or her supervisor at least once each workweek unless another schedule satisfactory to the city has been established in writing and signed by the Department Head and the employee. The city may also require subsequent re-certifications as reasonably needed. Failure to provide required medical status reports or to contact the office on the schedule required by the Department Head will result in disciplinary action.

2. **Military Caregiver Leave – Automatic Emergency Certification.** If a Department of Defense health care provider has determined that the injury or illness of a service member is serious enough to warrant the immediate presence of a family member at a service member's bedside, an invitational travel order (ITO) or invitational travel authorization (ITA) is issued, which constitutes automatic certification of the serious injury or illness for the period specified on the ITO or ITA. If the employee does not submit an ITO or ITA, the employee must submit a medical certification as specified above.
3. **Military Caregiver Leave – General.** An employee requesting a paid or unpaid family leave of absence for military caregiver leave must submit to the Department Head (1) a health care provider's statement as to the date upon which the service member needs the employee's care and expected duration of the care, and (2) a statement from the employee or the service member that the employee is needed to care for a spouse, son or daughter, parent, or next of kin.
4. **Military Exigency Leave.** An employee requesting a paid or unpaid family leave of absence for military exigency leave must provide two types of certification to the City Secretary: (1) a certification that the covered military member is a member of the National Guard or Reserves who is on active federal duty or called to active federal duty (typically a copy of the military member's active duty orders); and (2) a statement from the employee (including available written support documentation) about the nature and details of the specific exigency, the amount of leave needed, and the employee's relationship to the military member.

8.6.14 SECOND, THIRD OPINIONS

The city may require a second opinion, and, if conflicting, a third opinion from a health care provider as to the need for and scheduling of family leave. The second and third opinions, if sought and obtained by the city, will be paid for by the city and will be obtained from independent health care providers who are not employed by the city. If a third opinion is necessary, the third opinion obtained is final.

8.6.15 HOLIDAYS FALLING DURING FMLA LEAVE PERIOD

If an employee is on paid or unpaid family and medical leave, and the employee is absent for an entire week that includes a holiday, the holiday time will count as FMLA leave toward the maximum allowable FMLA leave period.

8.6.16 RECERTIFICATION

The city requires an employee using FMLA leave to provide recertification as to the need for such leave every six (6) months in connection with an absence. In addition, the city requires recertification at any time during FMLA leave if the employee seeks an extension of the FMLA leave. The recertification requirements are the same as the initial certification requirements. Except for the military leave provisions of FMLA, the city may provide the employee's health care provider with the employee's attendance records and ask whether the leave taken has been consistent with the employee's serious health condition.

8.6.17 RETURN TO WORK/ASSURANCES

After completion of an approved family and medical leave period, an employee will be returned either to the same position he or she held before the leave began or to a position equivalent to the previously held position in pay, benefits, and other terms and conditions of employment. This policy may be modified for "key employees," defined as those salaried employees in the top 10 percent of the city's workforce. Key employees will be notified in advance of their status.

If the reason for family leave was an employee's own personal health condition, the employee must provide the following before being allowed to return to work: a written statement from the appropriate physician and/or other licensed health care provider certifying that the employee has been released to return to work and that the employee can perform the essential functions of the job, as well as listing any limitation(s) on the employee's ability to perform the essential functions of the job.

An employee must return to work as soon as the reason for the family and medical leave has ended. Failure to return to work when the reason for the leave has ended may result in disciplinary action, up to and including termination of employment. If an employee on family and medical leave returns to work in the department to which he or she is assigned, the supervisor must notify the City Secretary immediately before allowing the employee to resume work, to ensure that the appropriate documentation has been filed.

8.6.18 FITNESS FOR DUTY CERTIFICATION

If the city requires a fitness for duty certification prior to the employee's return to work, that requirement will be stated in the city's designation of the FMLA leave. The employee must participate and cooperate in the fitness for duty process, including providing complete and sufficient certification and/or providing sufficient authorization to the employee's health care

provider to provide information directly to the city. If the employee does not participate and cooperate fully in this process, he or she will lose his or her rights to reinstatement under the law unless the employee has requested and is eligible for additional FMLA leave. If the employee has used intermittent FMLA leave during the previous thirty (30)-day period, and reasonable safety concerns exist regarding the employee's ability to perform his or her duties, the city may require fitness for duty testing every thirty (30) days.

8.6.19 HEALTH INSURANCE COVERAGE WHILE ON FMLA LEAVE

Regardless of whether the family leave period is paid, unpaid, or a combination of paid and unpaid, the employee's health insurance coverage will be continued in the same manner and at the same level as it would have been had the employee continued in employment for the duration of the family leave period.

If the employee wishes to continue dependent insurance, the employee must pay the premium for that coverage to the city no later than the last working day of each month the employee is on leave without pay (deductions will be made as usual while the employee is in pay status, using approved leave time). However, should the employee decide, at any time after family and medical leave begins, that he or she will not return to work at the city, the employee must reimburse the city for health coverage premiums paid by the city that normally would have been paid by the employee during the family leave period, unless the reason for not returning to work is the continuation, recurrence, or onset of a serious health condition, or other circumstances beyond the employee's control. This is subject to certification at the request of the city to be provided by the employee's physician and/or other licensed health care provider.

8.6.20 RETENTION OF BENEFITS

An employee on family leave does not lose any previously accrued seniority or employment benefits, but does not earn any leave credits or other benefits during the unpaid portion of the leave.

8.6.21 POSTING OF SUMMARY OF ACT

The city has posted a summary of the Family and Medical Leave Act on a central bulletin board for employees' information, within each City department building.

(Legal references: Family and Medical Leave Act of 1993 (Pub. L. 103-3), as amended; and National Defense Authorization Act of 2008 (Pub. L. 110-181); and related U. S. Department of Labor regulations).

8.6.22 REQUEST FOR LEAVE IMMEDIATELY FOLLOWING FAMILY AND MEDICAL LEAVE

If an employee requests additional leave beyond the twelve (12)-week maximum allowable under the family and medical leave provisions of these policies, any extension granted will be under the terms set out in Section 8.7, **Other Leaves of Absence**. Employees should read the referenced section carefully and understand the differences between these two types of leaves before requesting an extension.

8.6.23 DOCUMENTATION

All documentation regarding family leave will be filed in the employee's medical file, which is maintained separate from the personnel files, and is accessible to a limited number of persons, and only on a "need-to-know" basis. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and ADA Amendments Act of 2008; Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended; and Ragsdale v. Wolverine Worldwide Inc.)*

8.7 OTHER LEAVES OF ABSENCE

The approval of a leave of absence from duty maybe in the form of a pay or non-pay status. Granting a leave of absence is at the discretion of the Department Head, in consultation with the City Secretary. This type of leave is not authorized unless there is a reasonable expectation that the employee will return to employment with the city at the end of the approved period.

Employees on leave of absence in a pay status, may receive compensation, but will not accrue benefits. Employees on leave of absence in a non-pay status, receive no compensation and accrue no benefits. However, previously accrued leave balances, benefits, and seniority are retained during leaves of absence unless otherwise prohibited by the terms or provisions of the benefit programs or by these policies. Medical insurance can be continued if the employee pays the employee and/or the dependent premiums in full and in a timely manner.

8.7.1 REVOCATION OF LEAVE OF ABSENCE

A leave of absence may be revoked upon receipt of evidence submitted that the cause for granting such leave was misrepresented or has ceased to exist.

8.7.2 AUTHORIZED REASONS FOR A LEAVE OF ABSENCE

A leave of absence may be appropriate for the following reasons:

1. Recovery from extended illness or temporary disability, including using leave without pay to add to the allowable 12-week period of family leave; pregnancy is treated in the same manner as any other extended illness or temporary disability (see also the Section 8.6, **Family and Medical Leave**);
2. Educational purposes when successful completion will benefit the city;

3. Public service assignments;
4. Seeking public office;
5. Personnel exchange programs which emphasize intergovernmental relations; or
6. Any other reason which, in the judgment of the Department Head and City Secretary, merits a leave of absence.

8.7.3 APPROVAL OF LEAVE OF ABSENCE

An approval of a request for a leave of absence is at the discretion of the Department Head, in consultation with the City Secretary, and is based upon the employee's length of service with the city and past attendance record; the department's needs; and prospect for temporary replacement of the employee or reassignment of the employee's duties. A leave of absence will be limited to one hundred eighty days (180) days. The above timeframe shall include time spent on FMLA.

8.7.4 RETURN TO WORK AFTER A LEAVE OF ABSENCE

At the expiration of an authorized leave of absence, every effort will be made to reinstate the employee in the same, or a comparable, position. However, if no vacancy exists and a reasonable effort to place the employee in another position has been unsuccessful, the employee will be separated and paid any applicable accrued benefits. See also Section 8.6, **Family and Medical Leave** and Section 8.9, **Military Leave** for specific provisions relating to leaves of absence for those purposes.

8.7.5 SEPARATION OF EMPLOYMENT

If an employee has met the maximum of 180 days, and is not medically able to return to perform the duties in which he or she was hired to perform, with reasonable accommodations, the employee will be separated from employment, and paid any applicable accrued benefits.

8.8 BEREAVEMENT LEAVE

Regular full-time and part-time employees may receive paid bereavement leave for the purpose of attending funerals, making funeral arrangements or attending to the affairs of a deceased relative. For the purposes of this section a relative will be described and allotted bereavement leave as follows: relatives within the first (1st) degree of consanguinity and affinity kinship will receive five (5) days; and relatives within the second (2nd) degree of consanguinity and affinity kinship will receive three (3) days of bereavement leave. Bereavement leave may be offered in increments as low as two (2) hours, up to the maximum, depending on the type of kinship.

Leave taken to attend funerals for any other family member or friend must be taken as vacation, compensatory leave, floating holiday or a leave of absence. The supervisor and/or Department Head may require the employee to provide proof of death such as an obituary notice.

8.9 MILITARY LEAVE AND YOUR RIGHTS UNDER USERRA

Regular employees who are members of the State Military Forces or members of any of the Reserve Components of the Armed Forces of the United States are entitled to a temporary leave of absence from their duties, without loss of time or efficiency rating, vacation time, or salary on all days during which they are engaged in authorized training or duty ordered by proper authority, normally not to exceed fifteen (15) days in any one (1) federal fiscal year. Employees will continue to receive pay from the city during this authorized training.

Requests for approval of military leave must have copies of the relevant military orders attached. Confirmation that military duty was performed must be provided by the employee. Unused military leave does not carry over to the next year.

Regular employees who are ordered to extended active duty with the state or federal military forces are entitled to all of the reemployment rights and benefits provided by law upon their release from active duty. Before returning to duty, the employee must provide the city with the appropriate notice and documents specified in the state and federal statutes in effect at the time. *(Also, see the section of these policies headed “Family and Medical Leave.”)*

The city will abide by the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA) and will grant military leave to all eligible full-time and part-time employees. Military leave will be granted to full-time and part-time employees for a period of four years plus a one-year voluntary extension of active duty (five years total) if this is at the request and for the convenience of the United States government.

As with any leave of absence, employees must provide advance notice to the Department Head and City Secretary of the employee’s intent to take a military leave and must provide appropriate documentation unless giving such notice is impossible, unreasonable, or precluded by military necessity.

An employee’s salary will not continue during an extended military leave unless required by law. However, an employee may request to use any accrued vacation, compensatory time, or personal leave time during military leave. Benefit coverage will continue for 31 days as long as the employee pays the normal portion of the cost of benefits. For leaves lasting longer than 31 days, an employee will be eligible to continue health benefits under COBRA and will be required to pay 102 percent of the total cost of health benefits if he or she wishes to continue benefits.

Upon return from military leave, an employee will be reinstated with the same seniority, pay, status, and benefit rights that he or she would have had if the employee had worked continuously. Employees must apply for employment within 90 days of discharge from the military (shorter periods are required for shorter periods of duty). Employees who fail to report for work within the prescribed time after completion of military service will be considered to have voluntarily terminated their employment.

If the employee’s military service was for less than 90 days, the city will restore the employee to the same job the employee held at the time the leave commenced. If military service was longer than 90 days, the employee will be restored to the same job or a similar job. There are special extensions of time for returning

employees who are hospitalized for or convalescing from injuries that incurred during or were aggravated by military service.

If the employee participated in the city's TMRS retirement plan at the time the military leave commenced, the employee will be permitted to make additional contributions to the plan. Employees may initiate these additional payments as of their reemployment date and continue them for the period of time permitted by law.

If a city employee requests extended military leave, the City Secretary will seek the advice of the city's legal counsel to ensure the city's compliance with both the state and federal laws regarding employees called to military service. Likewise, when an employee returns from military service, the City Secretary will consult the city's legal counsel to ensure that all rights and privileges of re-employment are provided to the employee.

Upon return from a military leave, the city may require a period of retraining and may require the returning employee to complete physical and psychological examinations with medical professionals of the city's choice and paid for by the city.

(Legal reference: V.T.C.A., Government Code, Section 431.005 and Section 613.001-613.005; Fed. 38, U.S. Code Ann., Chapter 43; Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, as amended; FMLA, as amended.)

8.10 JURY/CITIZENSHIP LEAVE

Employees are granted citizenship leave with pay for jury duty, for serving as a subpoenaed witness in an official proceeding, and for the purpose of voting. In the case of jury duty and witness duty, the employee must present evidence of the requirement to attend and must notify his or her supervisor at the earliest opportunity of the upcoming absence and expected date and time of return, so that replacement personnel can be arranged if required.

When an employee has completed citizenship leave, he or she must report to the city for duty for the remainder of the workday. If the employee will be absent from work for more than one workday on citizenship leave, he or she must notify his or her department daily at the beginning of each workday.

The employee shall be granted jury leave and will receive his or her regular salary from the City during such service. In order to receive pay, however, an employee must present to the supervisor a statement from the court clerk attesting to the days of jury or subpoena service. Acceptable documentation includes a subpoena, jury notice, and/or a letter of request from an attorney of record or prosecuting attorney on request of a hearing officer. The employee retains any fees paid by the courts.

Court appearances for testimony, investigation, and court preparation as a result of official duties as a City of Bay employee are compensated as actual hours worked and are not classified as paid leave, except in cases in which the employee is a plaintiff against the City. In cases where an employee is a plaintiff against the City of Bay City, the employee may utilize accrued paid leave. Otherwise all time off required will be considered leave without pay.

8.11 LEAVE OF ABSENCE WITHOUT PAY

No employee, with accrued vacation or accrued sick leave may request leave without pay. Unpaid leave of absence will be granted only after all other paid leaves (vacation, compensatory, time, sick leave, and floating holiday) and/or leave authorized under the Family Medical Leave Act (FMLA) are exhausted. A leave of absence without pay for a reason acceptable to the City may be granted to regular full-time and regular part-time employees, provided the request by the employee is in writing and is made at least ten (10) days prior to the beginning date of the leave of absence except in an emergency situation. The granting of leave without pay must be pre-approved by the Department Head or Supervisor.

8.12 INJURY LEAVE

For information on occupational disability or injury leave for bona fide, on-the-job, work-related injuries, please see the sections in this manual under the main heading Section 9, Health and Safety.

8.13 USING LEAVE IN COMBINATION

When an employee who is on sick leave has exhausted his or her earned sick leave, the employee will automatically be placed on vacation leave if (1) the employee has accrued vacation leave available, and (2) the employee has not requested a temporary leave of absence without pay.

Sick leave cannot be used for vacation purposes when vacation leave is exhausted.

With the approval of the employee's Department Head, other types of leave may be used in combination or coupled with holidays if the combination is determined to be in the best interests of the city and the employee.

8.14 DURATION OF LEAVE

With the exception of leaves of absence for military duty, no leave of absence, by itself or in combination with other periods of leave, may last longer than six months (180 days). Any employee who for any reason or combination of reasons misses a total of six months of work in a twelve-month period, or a total of nine months of work in an eighteen-month period, will be separated from employment due to unavailability for work, subject to any reasonable accommodation duties the City may have under the ADA or similar law. Any employee so separated will be eligible for rehire and will be able to apply for any vacancies that may exist at any given time, depending upon qualifications and availability of job openings.

9. HEALTH AND SAFETY/WORKERS' COMPENSATION

9.1 SAFETY POLICY

It is the policy of the city to make every effort to provide healthful and safe working conditions for all of its employees.

9.2 EMPLOYEE RESPONSIBILITIES AND REPORTS

Employees are responsible for conducting their work activities in a manner that is protective of their own health and safety, as well as the health and safety of other employees and the customers served by the city.

An employee must report every on-the-job accident, no matter how minor, to his or her supervisor immediately following such an occurrence. The supervisor is responsible for notifying the City Secretary and for filing a written accident report with the City Secretary's office within twenty-four (24) hours of being made aware of an accident.

Failure to report an on-the-job injury, no matter how minor, is grounds for disciplinary action.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.3 EMPLOYEE SAFETY SUGGESTIONS

Employees are to report immediately to their Department Head any conditions that in their judgment threaten the health and safety of employees and visitors.

Employees are encouraged to make suggestions to their Department Head or to the City Secretary for improvements that would make the city workplace safer or more healthful.

9.4 FITNESS REQUIREMENTS

It is the responsibility of each employee to maintain the standards of fitness required for performing their job. The immediate supervisor may require an employee to submit to an examination by a City-approved physician when it appears that the physical or mental condition of an employee either (1) may prohibit him or her from adequately performing the duties of the job or (2) constitutes a hazard to persons or property.

The employee will be required, as a condition of continued employment, to authorize the physician to disclose the results of the examination to the City Secretary. The employee will be granted administrative leave for the time required for such an examination, which shall be conducted without expense to the employee and shall be for the sole purpose of determining the employee's condition relative to the requirements of the job. The examining physician shall make a recommendation as to whether the employee can perform the essential functions of the job.

9.5 ON-THE-JOB INJURIES AND WORKERS' COMPENSATION

9.5.1 INSURANCE

The city provides workers' compensation insurance for its employees. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of a bona fide, on-the-job, work-related injury for more than one week. All workers' compensation insurance claim forms must be submitted to the City Secretary immediately for appropriate action to be taken.

The Texas Municipal League contracts the City's Worker's compensation physician services through the Political Subdivision Workers' Compensation Alliance (Alliance). Injured employees must choose a treating doctor from the Alliance's list of doctors designated as treating doctors. You must go to a treating doctor for all health care for an on-the-job injury. If you need a specialist, your treating doctor must refer you. If you need emergency care, you may seek emergency treatment. Please be aware that you may have to pay the bill if you receive health care from a doctor other than an Alliance doctor without approval from the Texas Municipal League. Alliance contracting services areas are subject to change and you should confirm that your treating doctor is within the Alliance before receiving services. To locate an approved Alliance treating doctor in your area, visit www.pswca.org or contact the Alliance at 1-866-997-7922.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.5.2 MEDICAL ATTENTION

If an on-the-job injury occurs, which requires medical treatment, the employee should go to a physician that has been previously approved by the Alliance, for initial evaluation. If the injury is life threatening the employee should be taken to the nearest hospital emergency room immediately. If an employee is injured outside the regular business hours and immediate medical attention is needed, the employee should be taken to the nearest hospital emergency room or urgent care center for treatment. Advise the hospital personnel that the injury occurred on the job and should be charged as workers' compensation.

The treating physician should indicate length of time that an employee needs to be off work for an on-the-job injury or a personal injury. This information should be given to the employee's Supervisor and City Secretary's Office immediately. Medical documentation from a treating physician is required for time missed in excess of 3 consecutive days due to illness, job related injuries or personal injuries. Any restrictions indicated by the physician must be outlined in the work release form after review of the employee's job description. An injured employee DOES NOT PAY for treatment received under workers' compensation. Employees should never use his/her personal insurance card for a work related injury.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

9.5.3 INITIATION OF INJURY LEAVE

The employee is responsible for notification to his or her supervisor the first day of absence due to illness or injury. An employee with a personal injury, illness, or a workers' compensation injury must report their status at least once a week and after all scheduled appointments. Employees must provide the City Secretary's Office with their work status reports after the doctor's appointments. The City must be aware of the employee's status in order to plan and assign work duties and responsibilities in an efficient manner. The employee must advise the supervisor of any changes that may occur. These could be appointment changes, treatment changes, etc. An employee who fails to contact his/her supervisor in accordance with these requirements will be subject to disciplinary action in accordance with the City's disciplinary policy.

9.5.4 COMPENSATION

If a full-time employee sustains a bona fide, on-the-job, work-related injury which renders him or her unfit for performing the duties of the job, and if accrued sick leave is available, the employee is placed on sick leave status and receives full pay minus normal deductions for up to one week.

After the one-week waiting period, the employee is taken off of the city's payroll and receives only the workers' compensation payment. The employee may not use accrued sick leave to supplement workers' compensation payments.

An employee receiving workers' compensation payments does not accrue vacation or sick leave and is not entitled to receive holiday pay.

9.5.6 TERMINATION OF INJURY LEAVE

Injury leave may be terminated at any time without prior notice. The City Secretary will terminate the injury leave upon receipt of evidence that the employee, while able to return to work, has not done so.

9.5.7 CONTINUATION OF SUPPLEMENTAL AND/OR DEPENDENT'S INSURANCE

To continue dependent's insurance when the employee is on injury leave and no longer receiving a regular city paycheck, the city will continue to pay both the employee's and dependent's insurance. However, the employee must reimburse the city on a monthly basis for any supplemental insurance and/or dependent coverage throughout the leave period.

9.5.8 EXCLUSIONS

An injury is not covered for workers' compensation benefits if the injury:

1. Occurred while the employee was in a state of intoxication;
2. Was caused by the employee's willful attempt to injure himself or herself or to unlawfully injure another person;
3. Arose out of an act of a third person intended to injure the employee because of a personal reason and not directed at the employee as an employee or because of the employment;
4. Arose out of voluntary participation in an off-duty recreational, social, or athletic activity that did not constitute part of the employee's work-related duties, unless the activity is a reasonable expectancy of or is expressly or impliedly required by the employment; or
5. Arose out of an act of God, unless the employment exposes the employee to a greater risk of injury from an act of God than ordinarily applies to the general public;
6. If the employee's horseplay was a producing cause of the injury; or
7. Arose while an employee performed a secondary job.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. Seq)

9.5.9 REPORTING REQUIREMENTS

Employees who are injured in the course and scope of employment with the City must immediately notify their supervisor. All injuries need to be reported immediately to the City Secretary's office. If the employee is unable to complete the report due to the injury or fails to complete the report, the supervisor must complete it on the employee's behalf.

An injured employee must report all injuries that occur in the course and scope of employment, even minor ones. All injuries must be reported at the time they occur. While an injury may seem minor and can be treated with first aid on the job, complications may arise at a later time. Minor injuries are to be recorded in an incident log maintained by the department or division. If an injury is reported promptly, usually the facts are clearer. Prompt reporting will avoid the problem of employees and supervisors trying to recall what happened at a later date. An employee cannot be terminated, disciplined or otherwise retaliated against for filing a workers' compensation claim in good faith.

When an employee suffers injury on the job, and is unable to return to full duty work after six (6) months the City Secretary may conclude that the employee be terminated.

9.5.10 RETURN TO SERVICE

An employee on injury leave who wishes to return to work must provide the City Secretary with a written statement from the attending physician, certifying that the employee has been released to return to work and specifying the type(s) of work he or she is capable of performing, as well as any limitation(s), before the employee may return to work. An employee on injury leave must report to work after approval of either the employee's attending physician or an independent physician paid by the city. Failure to return to work when directed will result in appropriate disciplinary action.

9.5.11 LIGHT DUTY STATUS

Light duty is considered to be a rehabilitative tool in assisting an employee to regain or maintain his or her work tolerance. Working can give the injured worker a feeling of worth as well as help to prevent post-injury illness or emotional problems. Light duty assignments must be for a defined period of time or special project. The City does not create light duty work, it must be meaningful work needed to be completed for the City's business. Light duty assignments are not intended to be permanent.

The concept of light duty applies to employees who sustain an injury on the job or job related illness at work, which temporarily prevents them from performing their normal duties, but nonetheless leaves them with some restrictions from performing their regular work temporarily. Light duty may also be available when an employee is released from personal injury with restrictions. The Mayor may require an employee to accept a light duty assignment within the employee's own department or in another department if such work is available. Work related injuries take precedence over personal injuries for available light duty assignments.

Guidelines for light duty are as follows:

1. If an employee is released for light duty by the treating physician, the City Secretary's Office will verify whether there are duties available within the employee's department that meet the restrictions imposed by the treating physician. If there is not a light duty position in an employee's current department, light duty may be available in another department. In that event, the employee's department will continue to carry the employee on their payroll and the employee will report to the other department for light duty.

2. Employees entering this program must have the expectation from their doctor that they will be able to return to full duty status within a period of ninety (90) calendar days (three months).
3. The length of the employee's light duty status will be determined by the appropriate documentation of the employee's condition by his or her doctor. On request by the Department Head, the City Secretary may recommend an extension beyond the ninety (90) days if modified duty work is available. The City will not create light duty work. The extension will only be considered on the prognosis from the doctor that the employee will be able to return to full duty within thirty (30) additional days.
4. The employee must report to the supervisor in the department or division in which he or she is assigned to work, follow all of the department's policies and procedures, any policies and procedures applicable to the light duty assignment area, and all City policies and procedures. If behavior in the department or division is unacceptable to the supervisor, the light duty employee will be removed and may be subject to disciplinary action.
5. Employees participating in the light duty program may not normally work any overtime or compensatory time, except in emergency situations as approved by the Department Head. Employees must have any previously approved second jobs re-approved to ensure it is within the doctor's restrictions. Employees are prohibited from any work, conduct, or behavior that would inhibit the healing process of the work related injury and/or the employee's healthy return to work. This will be in effect until his or her doctor releases the employee for full duty.
6. Light duty workers will be assigned where the work to be completed matches the restrictions placed on the employee by the treating physician. Supervisors are responsible for supervising the work of the injured employee so that the performance standards of the assigned position are met and notifying the City Secretary if they are not met.

Light duty assignments are temporary and will be discontinued if or when any of the following occur:

1. The treating physician returns the injured employee to full duty with no restrictions;
2. The treating physician temporarily prohibits the injured employee from continuing with a light duty assignment;
3. If there is no longer any task available within the City which can be performed by the injured employee, given their current restrictions;
4. The injured employee fails to meet the performance measures of the assigned position;
5. The treating physician indicates that the injured employee has reached maximum improvement or will not ever be able to return to the prior position;
6. An injured employee has been on a light duty assignment for the maximum period provided by this policy; or
7. The injured employee fails to comply with all rules, regulations, or stipulations of the light duty program and/or policies of the City of Bay City.

9.5.12 FINAL RELEASE OR SETTLEMENT

At the time of final release or settlement of a workers' compensation claim, the employee must furnish the city with a certificate from the employee's physician stating that the employee is able to return to work. The certificate must also specify any limitation(s) on the employee's physical condition and the estimated duration of the limitation(s). The city will then evaluate the employee's physical condition and determine whether he or she can perform the duties of the job previously held. If:

1. The employee cannot perform his or her previous duties, or
2. No vacancy exists, or
3. No other suitable position is available, and
4. A reasonable effort has been made to place the employee in a suitable position, then
5. He or she will be separated and paid accrued and earned benefits.

If the employee is separated from city employment at this point, the City Secretary or his or her designee will:

1. Send the employee a certified, return receipt requested, letter;
2. Explain the circumstances, outlining the reasonable effort made to place the employee in a suitable position;
3. Inform the employee that he or she has been separated from city employment and that he or she will be mailed a final paycheck, if applicable, for any accrued and payable leave benefits; and
4. Inform the employee that he or she may apply for any future vacancy for which the employee considers himself or herself to be qualified. A copy of this correspondence will be placed in the employee's personnel file.

9.5.13 CLAIMS REVIEW

As an additional means of evaluating injuries and attempting to correct the causes of those injuries, the City Secretary will review serious injuries to determine their causes, and to recommend corrective actions to be taken in the future.

9.5.14 PRIVACY PROTECTION

The privacy of individuals' medical records and personal health information will be protected in all transmittals to and from insurance carriers and health care providers. In addition, city personnel who receive personal health information about employees will protect the privacy of individuals' personal health information: any conversations regarding an employee's personal health condition or status will be held only with city personnel with a need to know the information, and only in locations where the conversation may not be overheard. The only exception is when the employee has released the information to others himself or herself. (*Legal reference: Health Insurance Portability and Accountability Act of 1996, as amended.*)

9.5.15 FRAUD

Workers' compensation benefits are intended for employees with legitimate on-the-job injuries or illnesses and are intended for employees with serious injuries who are unable to work in any capacity at the City of Bay City or elsewhere due their injury or illness. A workers' compensation claim that is not due to a legitimate injury sustained in the course and scope of employment at the City of Bay City is considered fraud. A current or former employee who has filed a workers' compensation claim that is determined to be fraudulent is responsible for reimbursing the workers' compensation carrier for all medical and income benefits received. In addition, the employee is subject to disciplinary action up to and including termination of employment and punishment under Texas state law. Administrative fines may be incurred by an employee who misrepresents facts relating to a worker's compensation claim.

An employee or former employee who has filed a workers' compensation claim reporting lost time due to the injury/illness is responsible for reporting any employment or income earned during lost time from the City of Bay City. Also, an employee who is a candidate or participant in a light duty or alternative duty temporary job assignment under the city's return to work program is responsible for reporting any employment or income earned while performing modified or alternative duty to the city's workers' compensation carrier. Failure to do so may be considered fraud and is punishable in accordance with Texas state law as described in this policy.

Under the Texas Labor Code, an individual commits criminal fraud, punishable as a Class A misdemeanor or state jail felony, depending upon the amount of money involved, and can be criminally prosecuted if he or she has the intent to obtain or deny payment of benefits for himself or herself or another and knowingly or intentionally does one or more of the following:

- Makes a false or misleading statement;
- Misrepresents or conceals a material fact; or
- Fabricates, alters, conceals, or destroys a document other than a governmental record.

Under the Texas Labor Code, an individual commits administrative fraud, which can result in an administrative penalty of up to \$5,000, and can be prosecuted if he or she has the intent to obtain or deny payment of benefits for himself or herself or another and knowingly or intentionally does one or more of the following:

- Makes a false or misleading statement;
- Misrepresents or conceals a material fact;
- Fabricates, alters, conceals, or destroys a document other than a governmental record; or
- Conspires to commit an act described by one of the three listed above.

Employees are encouraged to report suspected workers' compensation fraud by another employee or former employee to the City Secretary, the City Council, and/or to the Texas Workers' Compensation Commission as soon as possible. A report may be made anonymously over the telephone phone or in writing, provided the employee provides adequate details of the circumstances surrounding the alleged fraud.

(Legal reference: Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 401, et. seq.)

10. SUBSTANCE ABUSE AND ALCOHOL MISUSE

10.1 SCOPE AND INTENT

The following policy has been adopted to implement the City of Bay City's desire to establish itself as a drug-free workplace. In all instances where reference is made to alcohol, drugs, or other controlled substances, the references include inhalants.

All employees and candidates for employment are subject to the provisions of this policy.

The primary objective of the City of Bay City in adopting this policy is to contribute to the maintenance of the safe and productive work environment for its employees. Management believes that it is in the best interest of the City and its employees to maintain a work environment in which the health and safety of employees and guests are protected and City business is conducted efficiently. This requires the maintenance of a work environment free from drugs, alcohol, and inhalants.

The intent of the policy is as follows:

1. To provide clear guidelines and consistent procedures for handling incidents of employees' use of alcohol, drugs, or controlled substances that affect job performance, and to make every effort to institute and maintain a drug-free workplace;
2. To ensure that employees conform to all state and federal laws and regulations regarding alcohol, drugs, or controlled substances; and
3. To provide substance abuse prevention education for all employees.

10.2 DRUG-FREE WORKPLACE

It is the policy of the City of Bay City to maintain a drug-free workplace.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, alcohol, or inhalants is prohibited in the workplace of the city. In addition, the city prohibits employees from being under the influence of alcohol, drugs, or inhalants in the workplace or while on duty for the city. Employees who violate this policy will be subject to disciplinary action up to and including termination as provided for under Section 12, **Discipline** section of these policies.

An employee who violates this policy is subject to discipline up to and including termination. The city has a drug-free awareness program providing information about the dangers of drug abuse in the workplace, the city's policy of maintaining a drug-free workplace, available drug counseling and rehabilitation, and the penalties that may be imposed on employees for drug abuse violations occurring in the workplace. Employees of the city are furnished a copy of this policy.

An employee of the city is to abide by the terms of the city's drug-free workplace policy and must notify the City Secretary if he or she is convicted of a criminal drug statute for a violation occurring in the workplace no later than five (5) days after such conviction. The city will notify any funding agency providing federal funds to the city of a conviction by a covered employee for violation of this policy within ten (10) days after receiving notice under the above paragraph from an employee, or otherwise receiving actual notice of such conviction. An employee convicted of violation of a criminal drug statute for a violation occurring in the work place is subject to discipline including termination. The city will make a good faith effort to continue to maintain a drug-free and alcohol-free workplace through the implementation of this policy.

(Legal reference: U.S. Drug-Free Workplace Act of 1988, as amended, and Texas Workers' Compensation Act, V.T.C.A., Labor Code, Chapter 41i.)

10.3 GENERAL POLICY

The following information is general in nature and is not intended to represent the City's drug and alcohol policy in its entirety.

City employees shall not take any narcotic or dangerous substance unless prescribed by a person licensed to practice medicine. Employees who are required to take prescription medicine must notify the City Secretary of the medication prescribed and the nature of the illness or injury if the medication could affect the employee's safety or the safety of others in his or her job. The City Secretary will notify the supervisor and Department Head that the employee cannot perform the part of the job would be impacted negatively by the medication, while keeping confidential the employee's personal health information. If this makes it impossible for the employee to perform his or her job temporarily, and no other job is available which would not pose a risk, then the employee will be sent home and the situation will be evaluated as to the likelihood of the employee being able to return to the job in a reasonable period of time. *(Legal reference: Health Insurance Portability and Accountability Act (HIPAA), as amended.)*

Any statutory-defined illegal use of drugs by an employee, whether during or outside city employment hours, will not be tolerated.

City employees who have a reasonable basis to believe that another employee is illegally using drugs or narcotics or is abusing alcohol must report the facts and circumstances immediately to their supervisor.

Failure to comply with the intent or provisions of this policy may be used as grounds for disciplinary action. Refusal by an employee to take the required drug test or follow this general policy will result in immediate relief from City duties pending disposition of any administrative personnel action.

If a covered employee fails a drug or alcohol test, the City may terminate the employee immediately, in which case the City will inform the employee where he or she can get help.

10.4 SUPERVISORY RESPONSIBILITIES

Supervisory responsibilities include participating in communicating this policy to the employees, identifying any employee behavior which may indicate a violation of this policy, and reporting to management when the supervisor has reason to believe this policy may have been violated.

Every supervisor covered by this policy will receive training that will assist in identifying performance indicators of probable drug use or alcohol misuse.

10.5 REHABILITATION

The City of Bay City recognizes drug dependence as an illness and a major health problem. The City also recognizes drug abuse as a potential health, safety, and security problem. We encourage employees that need help in dealing with such problems to use our health insurance plan as appropriate. Conscientious efforts to seek such help will not be used as a basis for disciplinary action. Once an employee is found to have violated this policy, however, his or her offer to seek rehabilitation on a voluntary basis will not necessarily limit disciplinary action, and may have no bearing whatsoever.

An employee with an alcohol or substance abuse problem may be referred to a rehabilitation facility. Some types of rehabilitation may be covered by the City medical plan. In such instances, the employee is responsible for any required deductibles and co-payments. Otherwise, the employee is responsible for all charges associated with rehabilitation. Upon acceptance of the offer for rehabilitation, the employee must adhere to the requirements of the rehabilitation program. Any failure to adhere will result in discipline up to and including dismissal.

10.6 RETURN TO WORK

An employee with an alcohol or substance abuse problem may be returned to his or her position after having successfully completed a City-approved rehabilitation program. Any violation of this policy subsequent to completion of rehabilitation will result in immediate dismissal.

10.7 DRUG AND ALCOHOL TESTS

Employees who operate vehicles or equipment that require possession of a commercial driver's license (CDL) are subject to five (5) types of testing for both drugs and alcohol: pre-employment, post-accident, random, reasonable suspicion, and return to duty. Drug testing is for five (5) types of narcotics: marijuana, opiates, amphetamines, PCP, and cocaine.

An employee who tests positive for drugs or for whom a breathalyzer/intoxilyzer test shows an alcohol content of over .04 percent must and will be taken off the road immediately and referred to a Substance Abuse Professional (SAP). An employee who is shown to have an alcohol content between .02 and .039 percent must and will be taken off the road immediately for a period of twenty-four (24) hours.

10.7.1 PRE-EMPLOYMENT TESTING

In addition to performing pre-employment tests after extending an offer of employment to each potential employee, the City must and will request the results of U.S. Department of Transportation drug tests from previous employers for all new employees in safety-sensitive positions. Failure to submit to the required testing, or a positive test result, will result in disqualification from employment.

10.7.2 POST-ACCIDENT TESTING

Drug and alcohol testing must and will be performed on any City employee involved in an accident, if the accident results in either: 1) damages to City property that are considered reportable; 2) third-party property damage; 3) damages to third-party property, that are caused by City employees; 4) the employee or another person having to seek medical attention; 5) the loss of human life; or 6) the City driver being given a citation for a moving violation as a result of an accident. If the above criteria are not met, drug testing is not required. Drug testing must and will be performed within thirty-two (32) hours of an accident; alcohol testing should be performed within two (2) hours of an accident, or as soon as reasonably possible thereafter. Failure to submit to the required testing will result in disciplinary action up to and including discharge.

10.7.3 REASONABLE SUSPICION TESTING

All supervisors of covered employees must have undergone a minimum of two (2) hours of U.S. Department of Transportation-approved training in how to identify the symptoms of drug and alcohol abuse before the supervisor may decide to test an employee based on reasonable suspicion. Reasonable suspicion is a decision that a supervisor needs to make based on objective factors such as appearance or actions of the employee. If a supervisor believes a reasonable suspicion exists that an employee under his or her supervision is abusing alcohol or drugs, the supervisor must obtain the concurrence of the Department Head and the City Secretary before sending the employee for drug and alcohol screening. If either the Department Head or the City Secretary is not available, the supervisor must obtain the concurrence of another Department Head and/or the Mayor before proceeding.

If an employee fails to submit to the required testing, the employee will be subject to disciplinary action up to and including discharge.

10.7.4 RANDOM TESTING

For vehicle operator positions which require a commercial driver's license (CDL), the City is required to perform unscheduled, random tests of covered employees at a rate of 50 percent of the total number of covered positions per year. The City may also randomly test other positions designated by the City as safety sensitive positions. Employees in safety sensitive positions will be notified by the City that they are subject to the random drug and alcohol testing procedures of the City well in advance of being sent for drug and alcohol screening.

If an employee fails to submit to the required testing, the employee will be subject to disciplinary action up to and including discharge.

10.7.5 RETURN-TO-DUTY TESTING

Test results of return-to-duty testing for alcohol abuse must show a content of less than .02 percent. Test results for drug use must be negative. Failing a second drug or alcohol test will result automatically in immediate discharge.

If a covered employee fails a drug or alcohol test, the City is required to and will ensure that the employee is evaluated by a substance abuse professional (SAP) unless the employee is immediately terminated, in which case the City will inform the employee where he or she can get help.

After returning to work following treatment, an employee will be required to submit to periodic testing as specified in the U.S. Department of Transportation rules. Failure of another drug or alcohol test will result in immediate discharge.

10.7.6 FAILING A DRUG OR ALCOHOL TEST

An employee who is shown to have an alcohol content between .02 and .039 percent must and will be taken off the road immediately for the remainder of the employee's shift or a period of twenty-four (24) hours, whichever is appropriate. An employee who tests positive for drugs or for whom a breathalyzer/intoxilyzer test shows an alcohol content of over .04 percent or higher must and will be taken off the road immediately and, if not terminated, must be referred to a Substance Abuse Professional (SAP) for evaluation. If the employee refuses to be evaluated by a SAP, the employee will be terminated immediately. If the employee is terminated, the City will inform the employee where he or she can get help. An employee who is not terminated will be in an unpaid status for the specific time for which he or she is suspended. The employee must successfully pass a drug and alcohol test before being returned to work.

(Legal reference: Omnibus Transportation Employee Testing Act of 1991, U.S. Department of Transportation S9 FR 7302-7625; effective date: January 1, 1996).

11. USE OF AND ACCOUNTABILITY FOR CITY EQUIPMENT AND PROPERTY

11.1 USE OF CITY PROPERTY – GENERAL

Within the limits of budgets and available technology, the City's policy is to provide each employee with the equipment and tools to conduct his or her City business in a safe and effective manner. For some employees, this includes use of vehicles and motorized equipment.

11.2 USE OF TOOLS, EQUIPMENT, PROPERTY, AND VEHICLES

Each employee is responsible for the proper use and maintenance of equipment, tools, vehicles, or motorized equipment, and other City property assigned to the employee for use in City operations.

Use of City equipment, tools, vehicles, motorized equipment, or supplies for private or political purposes is strictly prohibited.

City computers, electronic equipment, and software are to be used for City business. No software other than software approved by the City or an employee's Department Head may be installed, kept, or used on a City computer or other electronic hardware. This limitation on software is to avoid software that may interfere with the operation of the City's computer systems and other electronic hardware or may contain computer viruses that could cause operational problems or the loss of City data. Access to the internet, e-mail and messaging, and voice mail through City computers and other electronic hardware is for City business only. See also the sections of these policies relating to Section 2.10, **Communications** and Section 2 **Employee Responsibilities**.

City property, including but not limited to facilities, desks, files, vehicles, motorized equipment, telephones, and computers, is subject to City inspection and removal of illegal or unauthorized items. There is no expectation of privacy. See also the Section 1.16 of these policies relating to "**Searches**."

11.3 VALID DRIVER'S LICENSE

Operators of vehicles and motorized equipment used in City business are required to have the valid State of Texas driver's license necessary for legal operation of that vehicle or equipment and to notify their Department Head of any changes of status or suspensions in licenses. A Department Head or the City Secretary will conduct annual periodic checks of the driving records of employees who operate City vehicles or are required to use their personal vehicle to conduct City business. Failure to maintain a safe driving record may be grounds for disciplinary action including dismissal.

Suspension, revocation, or lapse in the validity of the required driver's license of an employee who operates vehicles or motorized equipment in the conduct of City business may result in termination or re-assignment of the employee.

11.4 ACCIDENT REPORTING

Any accident on City property, at a City worksite, or involving a City vehicle or motorized equipment must be reported immediately to the Police Department and Department Head. The employee will notify their immediate supervisor after contacting the Police Department.

An employee observing or involved in a motor vehicle accident must immediately notify the Police Department dispatch office.

An employee witnessing or involved in an accident must stay on the accident scene until released by his or her Department Head or the Chief of Police or a designee of one of these persons.

11.5 CITY-OWNED VEHICLE AND EQUIPMENT USE

11.5.1 PURPOSE

The purpose of this policy is to define and describe the usage parameters related to the operation of City of Bay City vehicles and motor-driven equipment by City employees:

- a.) Ensure the safety and well-being of City employees;
- b.) Facilitate the efficient and effective usage of City vehicle and motor-driven equipment use;
- c.) Minimize liability to the City and set standardized disciplinary procedures;
- d.) Establish standard requirements and procedures for all City of Bay City employees who drive a City-owned motor vehicle or motor-driven equipment in the course of City business.

City-owned vehicles and equipment must meet certain standards and following the requirements outlined in this policy. Some departments have additional vehicle use policies, and in the case of conflict, the most restrictive provision shall apply unless specifically stated herein.

Supervisors and Department Heads are responsible for implementing and enforcing this policy. All employees who operate City vehicles and equipment shall be briefed by their immediate supervisor on this policy, and shall be informed that violation of this policy can result in suspension, demotion, or termination.

11.6 DEFINITIONS

The items defined within this section of this policy shall apply only to this section of the policy.

“City-owned Vehicle or Piece of Equipment” A vehicle or piece of equipment owned or leased by the City of Bay City.

“City Motor-Driven Equipment” does not include (a) equipment used in connection with the operation of floodgates or water release equipment by river authorities (b) medical equipment, such as iron lungs located in hospitals.

“Driving record check” A driver’s license status check and driving record history check requested through the City’s designated company.

“De Minimis” Latin for “of minimum importance.” Essentially refers to something that is so little, small, miniscule or tiny that the law does not refer to it and will not consider it.

“Driver” Operator of a motor vehicle, motor driven equipment or equipment attached to vehicle or motor driven equipment.

“Preventable” The employee failed to exercise every reasonable precaution to prevent the accident.

“Chargeable” The employee violated a State traffic law; violated an established department safety policy or practice, or both. The employee was at fault or contributed to the cause of the accident.

“Employee” means a person, including an officer or agent, who is paid by the City of Bay City, but does not include an independent contractor, an agent or employee of an independent contractor, or a person who performs tasks the details of which the City of Bay City does not have the legal right to control.

“Take home vehicle” A City-owned vehicle which may be stored at an assigned employee’s residence, if the employee resides within the City of Bay City city limits, or has received approval from their Department Head if the employee resides outside the city limits.

“Scope of Employment” means the performance for City of Bay City of the duties of an employee’s office or employment and includes being in or about performance of a task lawfully assigned to an employee by competent authority.

“Vehicle accident” Includes all accidents or incidents involving personal injury or property damage to, or caused by, a City vehicle, motor driven equipment, or equipment attached to a vehicle or motor driven equipment.

11.7 UTILIZATION OF VEHICLES AND EQUIPMENT

City-owned vehicles and motor-driven equipment shall not be used for ~~purely~~ personal reasons or personal business. This prohibits the hauling of personal property from one place to another, personal shopping trips, and non-business related transportation of family members.

Only City employees and City Council member are authorized to travel in a City vehicle and equipment unless authorized by supervisors or Department Heads.

11.7.1 TAKE HOME VEHICLES

In accordance with IRS requirements, personal use of vehicles is not allowed other than commuting to and from work and de minimis personal use. The IRS regulations consider use of City vehicles for commuting as income. This will be accounted for on an employee’s timesheet, and to the IRS as required on the employee’s W-2 form. Employees driving a City owned vehicle home (excluding Police Department vehicles) must document daily usage of the vehicle on their timesheet. Each employee should log the usage in the "City Vehicle Driven Home" column. The number one (1) should be entered each day the vehicle is driven home, including weekends. The column will automatically provide a grand total.

For example: If an employee drives a City owned vehicle home Monday through Friday for both weeks during a pay period, the employee would enter the number one (1) for each day and the column grand total would be 10.

Calculation: Usage will be recorded in the payroll system by multiplying the daily dollar amount times the days driven home. **Example:** \$3.00/day x 10 days = \$30.00 entered in the employee record.

Department Heads and/or supervisors are responsible for ensuring that employees properly log the correct days when vehicles were taken home on the timesheets.

Vehicles assignments shall be evaluated based on department provided services, special/critical needs, special skills, emergency status, and frequency of recall after hours. The Department Head will consider the following criteria in approving an employee to be permitted to take a City vehicle home after normal work hours:

- The employee is the primary operator of the vehicle;
- The employee meets the City of Bay City's driving requirements;
- The employee has not had his or her driving privileges revoked or suspended within the last five (5) years;
- The vehicle is to be used to respond to emergencies or as a part of on-call responsibilities;
- The vehicle is used to contribute to the efficiency and/or effectiveness of City operations; and
- The employee does not receive a car allowance.

Take home authorization may be revoked:

- The employee uses the vehicle for personal reasons;
- The employee violates any federal or state law;
- The employee allows any non-employee or City official to travel in the vehicle or motor-driven equipment without authority;
- The employee fails to comply with the provisions of this policy;
- The employee has a change in job assignment, duties or responsibilities such as that a take home vehicle is no longer justified; or
- When it is in the best interest of the City of Bay City.

NOTE: Employees operating take-home City-owned vehicles who submit leave notices for three (3) or more consecutive workdays must make arrangements with their supervisors to leave the vehicle and keys for use by other City personnel during such period.

11.7.2 ELIGIBILITY FOR OPERATING CITY-OWNED VEHICLES AND EQUIPMENT

No employee shall operate a City vehicle or a piece of equipment without first being trained, instructed, licensed, or certified, as may be applicable in its proper operation and use. An employee that knowingly operates a City vehicle or a piece of equipment without the proper license, or does not notify their supervisor of their suspended or expired license, will be subject to disciplinary action, up to and including termination.

To be eligible to operate a City-owned vehicle or piece of equipment, employees shall:

- Be a minimum of 18 years of age;
- Maintain a valid Texas driver's license of the type that is required for the vehicle/equipment being operated;
- Have an acceptable driving record. An acceptable driving record shall mean that the employee or applicant has:

- No more than three (3) moving violations within the preceding two years;
- No more than two (2) moving violations within the preceding twelve (12) month period resulting in conviction. (Evidence of traffic violations includes, but is not limited to: convictions, “no contest” pleas, dismissal for defensive driving purposes, receiving deferred adjudication and current charges;
- Not have been convicted of driving while intoxicated within the preceding three (3) years.

By applying for, or continuing employment, in a position that may involve driving a City vehicle or operating City-owned equipment, an employee thereby consents to checks of his or her driving record.

Employees who drive City-owned vehicles on City business must notify their supervisor immediately of any change in driver’s license status, including any State suspension, revocation, or restriction. These violations may result in the immediate suspension of the employee’s privilege to operate a City-owned vehicle or equipment. Additionally, the employee may be subject to disciplinary action, up to and including termination.

If an employee is charged with DWI/DUI, City driving privileges shall be immediately suspended pending the final disposition of the charge. If convicted, the employee may be subject to termination. Additionally, an employee who usually drives a City vehicle for business purposes, who has his driving privileges suspended, may not drive his or her personal vehicle to conduct City business, unless such personal use is approved by the employee’s Department Head, and he or she obtains a State Occupational license as necessary. Occupational licenses are not granted to operate commercial vehicles including the City of Bay City’s vehicles. The employee is required to provide a copy of his or her occupational license to his or her Department Head, and the City Secretary’s Office. The employee must comply with all of the restrictions of the occupational license. If an employee’s occupational license restrictions are determined to prevent the employee from accomplishing his or her work, then the employee may be terminated.

11.7.3 GENERAL MAINTENANCE AND CONDITION OF VEHICLES

Supervisors and Department Heads are responsible for the overall condition of the vehicles assigned to their departments. Supervisors and Department Heads shall ensure that all vehicles are maintained in optimum running condition for maximum fuel economy and life span. Vehicles will be kept clean at all times, inside and out.

Employees shall not:

- Smoke or utilize any tobacco products inside City owned vehicles or motor-driven equipment;
- Employees shall not possess, purchase or be under the influence of drugs or alcoholic beverages while operating City vehicles or motor-driven equipment;
- Alter the body, design, appearance, or markings of the vehicle;
- Use fuel, oil, or other substances not approved by the Equipment Division; or
- Perform mechanical repairs, unless authorized by the Equipment Division.

Each day, employees who operate City owned-vehicles or motor-driven equipment shall ensure the vehicle or equipment is in a safe, clean, and operable condition by checking the fuel, fluid levels, tires, and overall condition of the vehicle. Employees shall immediately report deficiencies to a supervisor who will take appropriate action to allow a vehicle or piece of equipment to remain in service or remove it for repair. Under no circumstances shall a vehicle or piece of equipment be allowed to remain in service that has a serious safety defect, such as slick tires, leaking fuel lines, exhaust entering passenger compartment, or defective brakes.

Vehicles shall be kept sufficiently fueled for emergency responses. City personnel shall only keep authorized City equipment and authorized personal equipment in the assigned vehicle.

11.7.4 VEHICLE AND EQUIPMENT ACCIDENTS

If an employee is involved in an accident while driving a City vehicle, that individual will be required to follow the specific accident-reporting procedure outlined by the department. The following steps should be followed by all employees:

- Stop his or her vehicle at the scene of the crash, without obstructing traffic more than necessary, and stay at the scene of the accident;
- Activate warning/safety lights;
- Contact the Police Department or Sheriff's Department as applicable;
- Contact his or her supervisor; and
- Give a statement of facts of the sequence of events to the investigating officer.

The employee's supervisor will investigate all accidents involving a City vehicle that is a part of their departmental fleet. The supervisor and employee will complete and submit an Accident Investigation Report within 48 hours of the accident to the City Secretary's Office.

An employee that fails to report an accident or injury within (8) eight hours of the accident, or who falsifies any information pertaining to an accident, will be subject to disciplinary action, up to and including termination.

In the event that an accident occurs outside of Matagorda County while conducting City business, in a City vehicle, the City of Bay City will adhere to the decision of the investigative agency/officer regarding the need for drug testing. Otherwise, if the vehicle is operable from a safety standpoint, and the driver is not injured or impaired, the employee may either continue with his or her City business, or return back to his or her base of operation.

11.7.5 RESPONSIBILITIES OF VEHICLE AND EQUIPMENT OPERATORS

1. Employees shall operate City vehicles and equipment in a safe and courteous manner at all times. Unsafe, negligent, or reckless driving is prohibited. Drivers must obey all laws.
2. When unattended, City vehicles shall be legally parked and properly locked.

3. Employees who operate City owned vehicles or motor-driven equipment shall keep vehicle doors and trunk locked at all times with the ignition turned off and keys in their possession upon every exit of vehicle or motor-driven equipment. At no time should a vehicle be left unattended with engine operating and/or keys in or on the vehicle.
4. Employees utilizing City owned vehicles or motor-driven equipment are strongly encouraged to find a safe and secure location and stop their vehicles to use cellular phones, lap top computers or pagers. Before returning a “pool” vehicle, employees shall ensure that the vehicle has been fueled and that standard maintenance checks have been performed.
5. Employees must immediately report damage or vandalism to their supervisor.
6. When stopped on any roadway or on the shoulder of a roadway, the driver of a City vehicle shall activate warning/safety lights except when lawfully parked at the curb or street side.
7. Employees who use City-owned vehicles and motor-driven equipment should be aware that the operation and appearance of such vehicles reflects on the professionalism of the driver, their respective department, and the City. Accordingly, personnel must be constantly aware of their actions and ensure that their behavior, appearance and operation exhibit the highest level of professionalism and courtesy.

11.7.6 DISCIPLINARY ACTION

Supervisors will use the following guidelines to make a decision regarding disciplinary action after a thorough review of all circumstances.

The following shall be grounds for disciplinary action. Such disciplinary action may include suspension or revocation of the use of an assigned vehicle, suspension, or termination.

- **Negligence, abuse, or misuse.** Negligence, abuse, or misuse on the part of an employee in the care or operation of City-owned vehicles or equipment.
- **Failure to follow procedures and regulations.** Failure of an employee to follow the procedures and regulations governing the use of the individually assigned vehicle established herein.
- **Traffic law violations.** Violations of any traffic law pertaining to the use and operation of a motor vehicle while operating a City vehicle.
- **Criminal law violations.** Violations of any criminal law in the use of operation of the assigned vehicle pursuant to any law of the State of Texas, City Ordinance, or Federal Law.
- **Operating vehicle while possessing/under the influence of drugs or alcohol.** Operating a City vehicle while possessing or being under the influence of alcohol or drugs, or consuming alcoholic beverages or using drugs in a City vehicle (immediate termination).
- **Excessive accidents.** Employees having a combination of two or more Preventable or Chargeable accidents within 36 months.

The first preventable vehicle or equipment incident will result in written a reprimand. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The supervisor will inform the employee of possible consequences, if the problem is not corrected.

The second preventable vehicle or equipment incident within three (3) years of the first preventable incident will result in suspension and three (3) month probation. The supervisor will create a corrective action notice, which will outline a corrective action plan to rectify the problem. The supervisor will inform the employee of the possible consequences, if the problem is not corrected.

The third preventable vehicle or equipment incident within three (3) years of the first preventable incident will result in immediate termination.

As an additional countermeasure leading to reduced driver-error and ticketed incidents, employees may be required to take a Defensive Driving or a Municipal Vehicle Operations course offered through Texas Municipal League. Employees may also be required to complete additional operator training if it is identified as a contributing factor in the incident.

Employees who fail to report incidents in accordance with department policy may be disciplined, up to and including termination.

12. DISCIPLINE

12.1 PROGRESSIVE DISCIPLINE

The Department Head may approve or take disciplinary action against an employee at any time. The severity of the discipline depends upon the nature of the infraction. The City may, but not necessarily will, use a progressive discipline system.

While the disciplinary steps may not occur in the following order, the progressive discipline system may include, but is not limited to, any or all of the following steps when appropriate to the circumstances. The level of discipline will vary according to the nature of the infraction.

For those infractions that will be subjected to the progressive disciplinary system, the system will progress as follows:

- **Oral Warnings** with written records of each warning maintained by the Department Head or City Secretary's Office;
- **Written Reprimands** which the supervisor and Department Head must in all cases cause to be placed in the employee's personnel file;
- **Suspension from duty, with pay or without pay.** Suspension without pay is only permissible for serious workplace misconduct infractions, for up to thirty (30) days and renewable after informal review of the circumstances. *(Legal reference U.S. Fair Labor Standards Act of 1938, as amended.)*
- **Demotion;** and/or
- **Separation** by involuntary dismissal.

The progression of disciplinary measures listed above is a general guideline only. The City may deviate from this progressive system, skip or eliminate any step(s), or apply any other form or process of discipline, at its sole and absolute discretion, at any time.

Disciplinary action does not automatically or permanently disqualify an employee from consideration for future promotion, pay increases, commendations, or other beneficial official personnel actions.

For additional information regarding procedures to be followed if the discipline results in separation by involuntary dismissal see the following sections of these policies relating to Separations.

12.2 DISCIPLINE – GENERAL

At-Will Employment. Employees of the City serve "at will" and, within the provisions of state and federal law regarding public employment, can be disciplined or may be dismissed at any time, with or without notice, for any reason or no reason. Some of the employee actions that may result in discipline or termination include, but are not limited to, the following:

- **Insubordination;**
- **Absence Without Leave,** including absence without permission, failure to notify the City of sick leave, and repeated tardiness or early departure;
- **Endangering the Safety of the Employee and/or Other Persons,** through negligent or willful acts;
- **Use of Alcohol or Illegal Drugs** while on duty or in a vehicle being used for City business;
- **Alcohol or Drug Abuse** while on or off duty which may affect the performance or safety of the employee or of other persons;
- **Unauthorized Use or Theft of Public Funds or Property;**
- **Unsatisfactory Performance or Conduct;**
- **Violation of any of the Requirements of These Personnel Policies;**
- **Conviction** of a felony;
- **Conviction of Official Misconduct,** oppression, or perjury;
- **Possession of Unauthorized Firearms or Weapons** in the workplace;
- **Falsification of Documents or Records;**
- **Unauthorized Use of Official Information** or unauthorized disclosure of confidential information;
- **Unauthorized or Abusive Use of Official Authority;**
- **Sexual Harassment** by a City employee;
- **Failure to Observe the City's Policies Regarding Communications** with the public (see "Communications" section in **Employee Responsibility** chapter);
- **Incompetence or Neglect of Duty;**
- **Failure to be Considerate of Co-workers;**

- **Violation of tobacco and smoking policies of the City;**
- **Disruptive Behavior**, including profanity or abusive language, which impairs the performance of others; or
- **Driving with a suspended or expired license.**

12.3 CRIMINAL HISTORY

An employee must immediately report to the City Secretary any misdemeanor or felony arrest, charge, indictment, conviction, deferred adjudication or a plea of nolo contendere, whether related to on-duty or off-duty conduct, within 72 hours of the incident. However, employees who do not drive as part of their job duties with the City are not required to report misdemeanor traffic violations. While charges are pending, the City Secretary, in consultation with the City's legal counsel, will determine whether the employee will remain in his or her current position, be placed on administrative leave, transferred, demoted, or released from City service. An employee who fails to timely report any events described herein may be disciplined up to and including termination.

12.4 FELONIES AND MISDEMEANORS

An employee charged or indicted for a felony or misdemeanor, or accused by information of official misconduct or other serious criminal violation, may be placed on administrative leave (with or without pay) until the charge, indictment or information is dismissed or fully adjudicated without trial, and if tried, until the trial and appeal (if any) are completed and all related administrative matters are concluded. In most instances, however, the City will conduct its own investigation and take appropriate action before the matter is fully adjudicated. The City Secretary, in consultation with the City Attorney, will make such a determination. An employee on administrative leave may be reinstated to the position held before being placed on administrative leave (if available) without loss of benefits if the indictment or information is dismissed, the City finds the charges to be without merit, the employee is acquitted, or the conviction is reversed on appeal.

12.5 DISCIPLINARY CONFERENCE

A disciplinary conference will normally be scheduled prior to the imposition of a disciplinary suspension, demotion or termination. The direct supervisor, the affected employee, the City Secretary (or designee) and anyone else deemed necessary by the Department Head or City Secretary typically attend the disciplinary conference. During the conference, the affected employee will be given an opportunity to present an explanation of the conduct leading up to the proposed disciplinary action. Employees will usually be given two (2) days' advance notice prior to the conference. Employees may, in the City's sole discretion, be placed on administrative leave prior to, during, or after a disciplinary conference. The employee will be notified of the City's determination following a disciplinary conference.

12.6 ADMINISTRATIVE LEAVE

During an investigation into alleged offenses or violations of City policies, the City may, in its sole discretion, place the charged employee on administrative leave. The leave may be with or without pay.

12.7 IMPROPER DEDUCTIONS

Improper deductions will not be made from any employee's pay for disciplinary reasons stemming from performance or attendance issues. If an improper deduction is made, the employee will be reimbursed promptly upon the City's learning of the improper deduction. Deductions for full or partial days are permissible in cases of serious workplace misconduct. See the chapter on Employee Compensation and Advancement for additional details.

13. RESOLUTION OF DISPUTES/GRIEVANCES

13.1 GRIEVANCE POLICY

It is the policy of the City, insofar as possible, to prevent the occurrence of grievances and to deal promptly with those which occur. The purpose of the grievance system is to resolve any dispute between the City and an employee as quickly as possible, and at as low an administrative level as possible, to ensure efficient work operations and maintain employee morale. No adverse action will be taken against an employee for reason of his or her exercise of the grievance right.

A grievance may be filed by a regular employee on one (1) or more of the following grounds, within 48 hours of the issue:

- Improper application of rules, regulations, and procedures (but not the rules, regulations, and procedures themselves);
- Unfair treatment;
- Illegal discrimination based on race, religion, color, sex (including sexual harassment), age, disability, or national origin;
- Disciplinary action (excluding suspension, demotion, and/or termination);
- Improper application of pay and fringe benefit rules; or
- Improper working conditions.

The City follows a progressive grievance procedure which ensures regular employees due process in the City's consideration of their work-related grievances: the right to mount a defense and the right to present written response(s) regarding resolution of the grievance.

13.2 PROCEDURE

The following procedures are applicable to regular full-time employees.

13.2.1 INFORMAL GRIEVANCES

The first step in the grievance procedure is for the employee to attempt to resolve the grievance by informal conference with his or her supervisor. If this informal conference does not result in a resolution of the problem(s) that is satisfactory to the employee, he or she must file a formal, written grievance.

13.2.2 FORMAL GRIEVANCES

Formal grievances must be in writing, signed by the employee, and presented to the employee's Department Head within ten (10) working days after the incident occurred that is the basis of the grievance. A statement of the specific remedial action requested by the employee must be included in the written grievance.

After being presented with a written and signed grievance, the Department Head will:

- Meet with the employee and such other persons as may be necessary to gather the facts within ten (10) working days after the grievance is filed;
- Attempt to resolve the grievance with the employee, and, if requested by the employee, with the employee's representative; and
- Communicate the decision to the employee in writing within ten (10) working days after the meeting with the employee

If the employee either receives no written resolution from the Department Head within ten (10) working days from the date the appeal was filed, or the employee is not satisfied with the proposed resolution, he or she may file a written appeal with the Mayor within ten (10) working days. The Mayor will review the facts and the file, may meet with the parties involved, and will respond in writing to the employee within fifteen (15) working days of the date on which the appeal was received. The decision of the Mayor is final.

13.2.3 MAXIMUM TIME PERIODS

At each stage of the grievance process, the time periods specified are maximums. Grievances should be dealt with promptly and written responses provided as quickly as possible, preferably within five (5) working days in simple grievance matters.

13.2.4 GRIEVANCES RELATING TO SEXUAL HARASSMENT OR DISCRIMINATION

If the employee's grievance is related to alleged sexual harassment or discrimination by the Department Head or the Mayor on the basis of race, color, religion, sex, national origin, age, or disability, then the initial written grievance may, at the employee's option, be submitted directly to the City Attorney. In such an instance, to allow adequate time for investigation of the grievance, the total cumulative time period which would have been allowed at the other steps in the grievance process will be the maximum time period before written resolution of the grievance is required to be received by the employee.

13.2.5 GRIEVANCES RELATING TO SUSPENSION, DEMOTION AND/OR TERMINATION

Demotions. An employee, other than a department head (hereinafter “Director”), may appeal a demotion to the grievance committee. The grievance must be filed in writing in the office of the City Secretary within 24 hours of the demotion.

The grievance committee will be made up of City Secretary or designee, the Director over the employee’s department; and a Director selected by the employee. If the City Secretary is the person issuing the disciplinary action, then a third party would select a Director to sit in the City Secretary’s place

The grievance committee will hear from the employee and review any and all submitted documentation relating to the grievance. The committee will review and discuss the grievance and render a decision no later than 72 hours from the time the committee met.

The decision rendered by the committee will be final.

Suspensions and terminations. The suspension or termination of employment or office of department heads (directors), non-elected officers or employees shall be in accordance with Section 7.05 of the City Charter.

In accordance with Section 7.05 (f) of the City Charter employees, other than a department head (director), shall be removed by their respective department head (director) with the consent of the Mayor. These policies provide for a grievance process that shall allow an affected employee to submit a grievance to the grievance committee, prior to the Mayor’s decision on the Department Head’s action to terminate the employee. The recommendation of the grievance committee shall be advisory only, and the Mayor may, but is not required to, follow the recommendation of the grievance committee when making such determination. To invoke the grievance committee’s authority under this section, the employee must file a written grievance, with the City Secretary, within the time period prescribed for appeals of demotions. The grievance committee shall make a recommendation to the Mayor within the time period prescribed for it to make a decision on a grievance of a demotion.

If no appeal is made during the prescribed time period the Mayor may immediately make a decision regarding the termination or suspension. If an appeal is made the Mayor shall wait until a recommendation is made by the grievance committee, or five days after the action of the Director to termination or suspend the employee, whichever occurs first, to render a decision regarding the termination or suspension.

If the grievance committee timely submits a recommendation to the Mayor, and the Mayor fails to make a decision on the director’s action, within three days of receiving the grievance committee’s recommendation, it shall be presumed that the grievance committee’s recommendation has been adopted by the Mayor and shall be deemed the Mayor’s determination on the subject.

The decision of the Mayor is final subject to the employee’s right to appeal in accordance with Section 7.05 (g) of the City’s Charter. Any appeal to City Council must be made in writing and submitted to the City Secretary within five days of the date that the Mayor confirms the Director’s decision to terminate or suspend the employee.

Note: Nothing in these policies may be interpreted to diminish City Council's inherent right, as stated under Section 7.05 (f) of the Charter to suspend, with or without pay, or remove, all non-elected City officers and any employees upon four affirmative votes of the Council for suspension or removal, with or without the recommendation of the Mayor; provide that such action is posted as an agenda item at a regular or special Council meeting

13.2.6 DOCUMENTATION

Copies of all documentation relating to the grievance will be filed by the City Secretary in the employee's personnel file immediately upon conclusion of each step in the grievance process.

14. JOB (CLASS) DESCRIPTIONS AND PERFORMANCE EVALUATION

14.1 JOB DESCRIPTIONS

The City Secretary establishes and periodically reviews an official job (class) description for each position in the City.

14.2 DISTRIBUTION

The job description for each employee's position will be (1) given to the employee, (2) reviewed by the employee, and (3) placed in the employee's personnel file along with a certification that the employee has reviewed it. In addition, each employee is given a copy of the job description to keep.

14.3 REQUESTS FOR CLARIFICATION

In the absence of any request for clarification, each employee is considered (1) to understand the responsibilities assigned to the position that he or she occupies, and (2) to agree to perform the responsibilities shown on the job description.

14.4 EMPLOYEE PERFORMANCE EVALUATIONS

The City Secretary will provide for Department Heads and supervisors to conduct a written performance evaluation of, and an evaluation interview with, each City employee at least annually. Final, signed copies of performance evaluation records are maintained in each employee's personnel file.

15. PROFESSIONAL DEVELOPMENT AND EDUCATIONAL REIMBURSEMENT

15.1 PROFESSIONAL DEVELOPMENT – GENERAL

The City encourages its employees to take advantage of high quality educational or training opportunities and professional memberships which are related to, and will enhance, the performance of their work for the City.

An employee's Department Head must approve educational and training courses that require payment by the City, release from City duty, or which might interfere with the employee's duties for the City.

15.2 REQUIRED ATTENDANCE AT SEMINARS

When the City requires an employee to attend any educational or training course, conference, or seminar, the City will provide the necessary time off with pay and will reimburse the employee for associated costs, including tuition or registration fees and authorized and documented travel, meals, and lodging. When appropriate, the City may prepay registration fees, hotel costs, and/or airline or other public transportation costs directly to the entity involved. See additional information in section 17 of these policies under the main heading "Travel and Business Expenses."

15.3 TUITION REIMBURSEMENT

At the discretion of the Mayor and within approved budget limits, the City may reimburse an employee for tuition payments and fees necessary to attend a course that will prepare the employee to better serve the City.

15.4 OPTIONAL CONFERENCES AND TRAINING

At the discretion of the Mayor and within approved budget limits, the City may reimburse an employee for cost of fees, travel, and related expenses to attend professional and technical education and training conferences.

16. SEPARATIONS

16.1 TYPES OF SEPARATIONS

The City of Bay City understands that varying circumstances do cause employees to voluntarily resign employment. Should this time come you are asked to follow the guidelines below.

Separations from employment with the City are designated as one of the following types:

- Resignation;
- Retirement;
- Reduction in Force;
- Dismissal;
- Disability; or
- Death.

An employee previously employed by the City of Bay City will be deemed eligible or ineligible for future employment with the City. A committee of the City Secretary or designee, past employee's Department Director, and the Mayor will determine rehire eligibility.

16.2 RESIGNATIONS

16.2.1 RESIGNATION PROCESSING

An employee who intends to resign is requested to notify the City Secretary in writing at least ten (10) working days prior to the employee's planned last day of work.

The written resignation shall include the requested effective date of the resignation and signature of the employee. The reason(s) for resigning may be included in the written statement, but it is not required. An employee's resignation is effective in accordance with its terms when a supervisor or Department Head, who has authority to hire the employee's replacement, accepts the resignation. The notice of resignation is placed in the employee's personnel file, in the City Secretary's Office.

Oral resignations will not be accepted.

An absence in excess of one hundred eighty (180) days – An employee who is absent from work for more than 180 calendar days, for any reason except active military service, will be terminated. Brief appearances at work during an overall absence of 180 days will not prevent the City from terminating an employee if determined to be in the City's best interest. Likewise, any employee who reports to work (e.g., in a light duty capacity) but is unable to perform the duties of his or her actual position for a period of 180 days may be terminated.

Nothing in this policy guarantees an employee ongoing employment for 180 days (or for any other period of time) if it is determined that the employee will be unable to return to full-time active duty within a 180-day period. In other words, the City may elect to end the employee's employment before the expiration of 180 days if it is unlikely that the employee will be able to return to full-time active duty at the end of 180 days. An employee who has a paid leave balance remaining at the end of 180 days will be terminated and paid for the leave balance. This policy will be administered consistently with the City's obligations under the Americans with Disabilities Act, as amended, including considering extending leave as a reasonable accommodation.

16.2.2 REQUEST TO WITHDRAW RESIGNATION

An employee wishing to request the withdrawal of an accepted resignation shall submit a written statement to the supervisor or the Department Head outlining the basis for the request prior to the effective date of the resignation. Once a resignation is tendered by the employee and accepted as provided in this section, it may not be withdrawn unless the supervisor or Department Head agrees.

16.3 RETIREMENT

An employee eligible for retirement must notify the City Secretary before his or her planned date of retirement. Notice requirements of the Texas Municipal Retirement System must be met if the retiring employee wishes to begin retirement benefits immediately upon separation from the City.

An employee that is eligible for retirement may retain his or her health insurance benefits through the City. The retiree will become responsible for the full premium of the benefits they select. A retired employee who elects to continue health benefit coverage under this section, and who subsequently elects to discontinue their elected coverage, would no longer be eligible for coverage with the City.

See the Texas Municipal Retirement System's information guide for additional information on retirement.

As approved by City Council during a regular Council Meeting dated May 3, 1990, employees that are eligible for retirement have the opportunity to receive a party or separation pay. An employee with ten to fifteen (10-15) years of service credit may receive a maximum of two hundred dollars (\$200) towards a party and two hundred (\$200) towards a gift. An employee with sixteen to twenty-five (16 - 25) years of service credit may receive a maximum of three hundred dollars (\$300) towards a party and (\$300) three hundred dollars towards a gift. An employee with twenty-six years (26+) or more years of service credit may receive a maximum of three hundred dollars (\$300) towards a party and (\$500) five hundred dollars towards a gift. Under no circumstance will an employee be paid cash.

16.4 REDUCTION-IN-FORCE (LAYOFFS)

A reduction-in-force is a non-disciplinary decrease in the number of authorized positions. Whenever possible, the employee reduction from one department or division may be absorbed by transfers to suitable positions elsewhere. Such situations will not necessarily be at the same pay rate or grade.

The City of Bay City reserves the right to determine the number of and type of personnel required to maintain the functions of the organization. The following are illustrative, but not all inclusive, of the possible basis for a reduction in force:

1. A discontinuation of or reduction in demand for service.
2. A change in level or source of funding.
3. Technological developments that reduce staffing requirements.
4. To accomplish economic or staffing efficiency.
5. Privatization of service/contracting out.
6. Requirements of state and/or federal laws.

The Mayor and the City Secretary shall notify Department Heads of any required employee reductions. The Department Heads shall recommend to the City Secretary which service and/or positions should be deleted. The Mayor shall create a plan that provides a written explanation of whether the layoff plan will impact current service or production. Whenever it is possible, employees that may be affected by a reduction-in-force will be given at least a forty-five (45)-day notice of the imminent loss of employment.

When reductions in force are necessary, decisions on individual separations will be made after considering:

1. The relative necessity of each position to the organization,
2. The performance record of each employee,
3. Qualifications of the employee for remaining positions with the City, and
4. The employee's length of service with the City.

Employees who have been laid off may reapply to the City for other positions. Qualified former employees will be given priority consideration in the event of a vacancy.

When a regular employee who has completed the introductory period is dismissed as a result of a reduction-in-force, he or she will be given written notice and will be paid in full to the time of separation, including payable accrued benefits. In addition, the Department Head will attempt to guide the employee to any available, suitable job openings in the area for which the employee qualifies.

16.5 DISMISSAL

The City of Bay City operates under the legal doctrine of "employment-at-will" and, within requirements of state and federal law regarding employment, can dismiss an employee at any time, with or without notice, for any reason or no reason. Every effort will be made to ensure that employee dismissals are not made in an arbitrary and capricious manner; however, these personnel policies do not constitute an employment agreement between the City and any of its employees and in no way limit or restrict the at-will nature of employment. The City has the right to change these policies at any time, without prior notice to employees.

16.6 DISABILITY

In cases of long-term disability during which an employee is unable to return to work for a period of time that would cause an undue hardship for the city to hold the position open, and if no position is available which the employee could perform with a reasonable accommodation by the City, the employee will be separated from employment with the City. *(Legal reference: U.S. Americans with Disabilities Act of 1990 and the ADA Amendments Act of 2008.)*

See Section 9 of these policies on “**Health and Safety**” for details on occupational disability resulting from bona fide, on-the-job, work-related injuries and Section 8.6 on “**Family Medical Leave.**”

16.7 DEATH

If a City employee dies, his or her estate receives all pay due and any earned and payable benefits as of the date of death, unless a specific beneficiary for unpaid compensation has been named by employee in a signed designation filed with the City.

16.8 CALCULATION OF SEPARATION PAY

Upon separation from City employment, a regular employee who has completed his or her one full continuous year will be paid for earned, but unused vacation leave up to the maximum allowable accumulation limit. The separation date for all employees is the last day of actual work or approved leave. Final pay received by the employee will not be construed to extend employment with the City of Bay City beyond the separation date.

Payment for leave balances, excluding sick leave, will be included in the employee's final paycheck and will be calculated in the following manner:

- The total work time and allowable vacation (see Section 8.3 on "Vacation Leave" to determine allowable vacation) and compensatory leave time for nonexempt employees will be calculated as a total number of hours for which compensation is due. The regular hourly rate will be determined by dividing the employee's regular annual salary by 2080 working hours per year. Any amount paid for unused vacation will be based on the hourly rate in effect for the employee at the time of termination.
- For employees who are subject to the Fair Labor Standards Act, any overtime hours worked during the employee's final pay period, which have not been compensated through any of the time-off methods described under Section 6.7 "Overtime Compensation" section in these policies, will be paid in the final paycheck at a rate of one and one-half times the employee's regular hourly rate for each overtime hour worked.
- Unused sick leave may be donated to the City's Sick Leave Pool, or it will be canceled upon termination of employment. The employee will not be compensated for it.

The employee will receive his or her final paycheck, in paper check form, on the City's first regular payday following the employee's separation. Direct deposit is not available, if receiving a final paycheck.

16.9 EXIT INTERVIEWS AND RECORDS

Each employee who leaves City employment is requested to participate in an exit interview, at which time the City Secretary, or his or her designee, restates the type of separation (resignation, retirement, reduction-in-force, disability, or dismissal) and, in the case of voluntary separations, documents the reason(s) the employee is leaving and seeks suggestions about employment-related matters. These comments are documented on an exit interview form.

16.10 CONTINUATION OF GROUP HEALTH INSURANCE (COBRA)

The federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended, allows certain individuals the option of continuing their group health insurance, at the individuals' full expense, under specific conditions. An employee must notify the City Secretary of any qualifying event, and the City Secretary will notify the city's health insurance plan administrator. The following paragraphs summarize the benefits provided under COBRA.

16.10.1 ELIGIBLE EMPLOYEE

To be eligible for continuation coverage, an individual must be an employee of the City covered by the City's group health plan or an individual who is otherwise covered under the plan.

16.10.2 ELIGIBLE CIRCUMSTANCE

An eligible employee has the right to choose continuation coverage if he or she loses group health coverage because of a reduction in his or her hours of employment or the termination of his or her employment (for reasons other than gross misconduct on the employee's part).

The spouse of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons:

- 1.) The death of the employee;
- 2.) Termination of the employee (for reasons other than gross misconduct);
- 3.) Divorce or legal separation from the employee; or
- 4.) The employee applies for and becomes entitled to Medicare.

The dependent child of an employee or other worker covered by the City's group health plan has a right to choose continuation coverage if he or she loses coverage under the City's group health plan for any of the following reasons

- 1.) The death of a parent;
- 2.) The termination of a parent's employment (for reasons other than gross misconduct), or reduction in a parent's hours of employment with the City;
- 3.) Parents' divorce or legal separation;
- 4.) A parent applies for and becomes entitled to Medicare; or
- 5.) The dependent ceases to be a "dependent child" under the city's group health plan.

16.10.3 NOTICE

Under COBRA, the covered worker or family member has the responsibility to notify the City Secretary of a divorce, legal separation, or a child losing dependent status under the City's group health plan within sixty (60) days of the event or within sixty (60) days of the date on which coverage would be lost because of the event. The City Secretary has the responsibility to notify the plan administrator of the covered worker's death, termination of employment, reduction in hours, or entitlement to Medicare.

When the plan administrator is notified that one of the above events has occurred, the plan administrator will notify the covered worker or family member that he or she has the right to choose continuation coverage. The covered worker or family member then has at least sixty (60) days from the date on which he or she would otherwise lose coverage to inform the plan administrator that he or she wants continuation coverage. If the covered worker or family member does not choose continuation of coverage, group health insurance coverage will end. If the covered worker or family member chooses continuation of coverage, the City's plan administrator will provide coverage that, as of the time that coverage is being provided, is identical to the coverage provided under the insurance plan to similarly situated employees or family members.

If the person's payment is not received by the last day of the month, the City will notify the insurance carrier that the payment was not received. If this occurs, the City will drop the person from coverage.

16.10.4 LIMITATIONS AND EXTENSIONS

Continuation coverage is limited to thirty-six (36) months, unless the covered worker or family member lost group health coverage because of a termination of employment or reduction in hours. In that case, the continuation coverage period is eighteen (18) months. The eighteen (18)-month period may be extended to thirty-six (36) months if other events (e.g., divorce, legal separation, death, or Medicare entitlement) occur during that eighteen (18)-month period. Moreover, the eighteen (18)-month period may be extended for an additional eleven (11) months (for a total of twenty-nine (29) months) if an individual is determined to be disabled (under the rules for Social Security disability benefits) and the plan administrator is notified of that determination within sixty (60) days. An individual who receives the extended coverage due to a

disability must notify the plan administrator when it is determined (for the purposes of Social Security disability benefits) that the individual is no longer disabled.

Continuation coverage may be cut short of the full coverage for any of the following reasons:

- 1.) The City no longer provides group health coverage to any of its employees;
- 2.) The premium for continuation coverage is not paid by the employee in a timely manner;
- 3.) The covered worker or family member becomes eligible for Medicare;
- 4.) There has been a final determination that the covered employee or family member is no longer disabled (in the case of beneficiaries who qualified for the extra eleven (11) months of continuation coverage based on their disability at termination); or
- 5.) The covered worker or family member becomes covered under another group health plan that does not contain any provision restricting or limiting coverage of a "preexisting medical condition."

(Legal reference: U.S. COBRA of 1985, as amended; Health Insurance Portability Act of 1996, as amended; and ERISA Technical Release No. 96-1.)

16.11 ABANDONMENT OF POSITION

An absence of two (2) consecutive workdays shall be considered to have abandoned the job without notice, effective at the end of their normal shift on the second day.

17. TRAVEL AND BUSINESS EXPENSES

17.1 PURPOSE

Department Head It is the policy of the City of Bay City that employees be fully reimbursed for necessary and reasonable job-related expenses incurred in the authorized conduct of City business. Any travel for which any reimbursement will be requested must have prior approval from the employee's immediate supervisor. All requests for reimbursement of expenses are subject to requirements of documentation and reasonableness, and will be honored in conference with these adopted policies and procedures. Expenses which are not permitted under the terms of grants, contracts or agreements with other agencies shall not be charged as costs to those grants, contracts or agreements.

Employees receiving a travel advance **must** submit a completed travel expense report to the Finance Department no later than **three** (3) business days after returning from the trip.

17.2 IN-CITY TRAVEL

All necessary travel by City employee for authorized conduct of City business within the City is authorized. Reimbursements by employees for the use of private vehicles is made monthly upon submission of required report and request forms. Mileage is reimbursed at the rate established by the Internal Revenue Service (IRS). Employees are expected to use the shortest distance between destinations for all travel. Travel between the employee's residence and a City office is not allowed for reimbursement.

17.3 OUT-OF-CITY TRAVEL

Out-of-City travel by City employees is permitted, provided that it is authorized in advance by the employee's Department Head. In the case of Department Heads, the travel requires prior approval of the Mayor. All out-of-state requires prior authorization of the Mayor. Travel reimbursement requests must not exceed departmental budgetary limitations. Reimbursements for out-of-city travel will be made on the most economical conveyance that is reasonably available. When private vehicles are used, reimbursement is allowed on the basis of the mileage reimbursement rate or the least expensive airfare, whichever is less. If no airfare is service is available to the authorized destination, actual mileage is allowed. The difference in cost between first class air accommodations and the least expensive air accommodations are available and with the Mayor's approval.

Some employees may be required to use their personal vehicles for City business in their daily work. In these cases, the employee may receive a regular monthly allowance from the City. In such cases, the employee will receive additional reimbursement for out-of-region travel at the regular mileage reimbursement rate unless the allowance agreement specifically states that out-of-region travel is included in the monthly allowance. The region is defined as within 200 miles.

17.4 SUBSISTENCE EXPENSES

Employees engaged in necessary and authorized travel are reimbursed for actual subsistence expenses, subject to documentation and reasonableness, as long as they meet the IRS guidelines for “away from home, which includes an overnight stay. A per diem allowance will be permitted, according to the following schedule:

The per diem allowance shall not exceed the maximum daily allowance as prescribed by the IRS based on locality for the meals and incidental expenses. The employee will receive a percentage of the per diem for the day of departure and the day of return based on the following:

- Departure time before 8:00 a.m. – 100%
- Departure time between 8:01 a.m. and 12:00 p.m. (noon) – 75%
- Departure time between 12:01 p.m. (noon) and 5:00 p.m. – 50%
- Departure time between 5:01 p.m. – 25%
- Return time before 8:00 a.m. – 25%
- Return time between 8:01 a.m. and 12:00 (noon) – 50%
- Return time between 12:01 p.m. (noon) and 5:00 p.m. – 75%
- Return time after 5:01 p.m. – 100%

Subsistence expenses will generally be for lodging, business-related telephone calls, registration, local transportation, and parking. The per diem will cover meals and incidentals (i.e. tolls and gratuities). Employees may receive \$15.00 towards lunch for a one-day travel. Employees must present to their supervisor a detailed receipt outlining the cost to receive the reimbursement.

Costs of personal entertainment, amusements, personal items, gifts, social activities, personal telephone calls, expenditure of city representative’s spouses, or alcoholic beverages are not allowable for reimbursement.

The City is not exempt from state or local Hotel Occupancy Taxes. Only state, federal, religious, and public education entities are exempt from Hotel Occupancy Taxes.

All expense, other than per diem expenses, must be accompanied by written receipt in order to receive reimbursement. If the employee chooses to be reimbursed for meals and incidentals instead of receiving the prescribed per diem, written detailed receipts for all expenses must accompany the request for reimbursement. The reimbursement cannot exceed the IRS prescribed per diem allowance and they cannot obtain per diem for one day and reimbursement of receipts for another day on the same travel reimbursement request.

17.5 CREDIT CARD POLICY

17.5.1 PURPOSE

The purpose of the City of Bay City credit card policy is to establish the use of City credit cards in the course of performing City business. The City of Bay City recognizes that officials and department directors are required to make expenditures of funds in the course of performing their functions in municipal government. The use of credit cards is beneficial to the taxpayer, and enables the City to be more effective and efficient, and more accountable to the public than some of the older, more traditional financial methods. City credit cards provide detailed purchase histories and other important recordkeeping and time saving information. Federal and state governments are wisely using credit cards to reduce paperwork, personnel, and other costs related to financial management. Local governments and virtually all private enterprises are implementing similar uses, and the City of Bay City should reap the benefits of this technology.

17.5.2 ISSUANCE

Bank business credit cards will be issued to all departments. The department directors to whom the cards is issued are responsible for the cards and their proper use. The Mayor and members of the City Council have final approval authority on credit card issuance. The Finance Department is responsible for verifying and reconciling all credit card usage and charges pursuant to this policy and the City's Travel Expense Report. City credit cards may not be used in lieu of the normal purchasing procedures of the City. Credit cards may be used to make lodging reservations and conference reservations or to pay for lodging, meals, and incidental travel expenses. Credit cards may also be used for secured site online purchasing when conventional methods are not available or time is a factor.

An employee should make every effort to inform companies of the City's tax exempt status to help avoid paying sales tax.

17.5.3 USAGE

The maximum single transaction amount is limited to \$2,500.00 without prior written authorization. The card is for procurement purposes only and the balance must be paid monthly to avoid interest charges. All technology related purchases must be made through the IT Department.

Personal use of credit cards is strictly prohibited and is subject to disciplinary action. Other prohibited uses include cash advances and alcoholic beverage purchases. A cardholder who makes an unauthorized purchase or carelessly uses the City credit card is personally liable for the total amount of the unauthorized purchase. In addition, the employee is subject to disciplinary action.

In the event a card is lost or stolen, the responsible employee must immediately notify the City Treasurer.

17.5.4 RECONCILIATION

Credit Card activity must be reconciled as established below:

- 1.) The cardholder will submit receipts and/or documentation describing and appropriately coding each transaction.

- 2.) Detailed receipts/documentation should be completed on the expense report and the card returned to the responsible department director no later than three (3) days after use. In the event of a lost or missing receipt, the responsible party must complete a statement explaining the absence of the documentation and confirming that the expenses were legitimately incurred in the conduct of municipal business. Undocumented expenses will be subject to employee reimbursement to the City directly or through payroll adjustments.

17.5.5 CANCELLATION

The Mayor, with the advice of the City Treasurer, may cancel or order the surrender of any City credit card which appears to be misused or abused, and will take the appropriate disciplinary action as provided by these policies.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, AMENDING ORDINANCE NO. 1485, EFFECTIVE JANUARY 2, 2014, BY AMENDING THE EMPLOYEE GUIDELINES FOR CITY EMPLOYEES; PROVIDING FOR PUBLICATION OF CHANGE IN THE EMPLOYEE GUIDELINES; PROVIDING FOR A CUMULATIVE AND CONFLICT CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the current edition of the City of Bay City Employee Guidelines for City Employees (hereinafter “*Employee Guidelines*”) was adopted on December 2, 2013, by passage of Ordinance No. 1390; and

WHEREAS, the Employee Guidelines were amended by Council on February 13, 2014, to provide conformance with the City’s Charter; and

WHEREAS, the Council deems it appropriate to address all form of harassment in the Employee Guidelines:

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

I. EMPLOYEE GUIDELINES AMENDED

The Employee Guidelines adopted on December 2, 2013, by passage of Ordinance No. 1485, and amended on February 13, 2014 by passage of Ordinance No. 1492 is hereby amended by adding a new section 1.11.9 (entitled “*Anti-Harassment Policy*”) which shall read as follows:

“1.11.9 Anti-Harassment Policy. *Many forms or harassment, including harassment, due to one’s race, ethnicity, gender, religion, sexual orientation or sexual harassment, is prohibited by federal and state laws. It is the City’s policy to prohibit harassment of any kind, and the City of Bay City will take appropriate action swiftly to address any violations of this policy. The definition of harassment is verbal or physical conduct designed to threaten, intimidate or coerce. Also, verbal taunting (including racial and ethnic slurs) that, in the employee’s opinion, impairs his or her ability to perform his or her job. Examples of harassment are:*

- 1. Verbal: Comments that are not flattering or are unwelcome regarding a person’s nationality, origin, race, color, religion, gender, sexual orientation, age, body disability or appearances, epithets, slurs, and/or negative stereotyping.*
- 2. Nonverbal: Distribution, display, or discussion or any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility or*

aversion toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, pregnancy, appearance disability, gender identity, martial or other protected status.

Any allegation of harassment, other than sexual harassment, shall be addressed in accordance with the Disciplinary Procedures in Section 12 of these Guidelines. Allegations of Sexual harassment shall be addressed in accordance with this Section 1.11 and Section 12 of these Guidelines.”

II. PUBLICATION

The City Secretary is hereby authorized and directed to revise and recodify the publication of the “*City of Bay City Employee Guidelines for City Employees*” to reflect the revisions adopted herein.

III. CUMULATIVE & CONFLICTS

This Ordinance shall be cumulative of all provisions of Ordinances of the City of Bay City, Texas, except where the provisions of the Ordinances are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed. Any and all previous versions of this Ordinance to the extent that they are in conflict herewith are repealed.

IV. 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.

V. EFFECTIVE DATE

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

PASSED AND APPROVED on this the 27th day of February, 2014.

Mark Bricker, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

Rhonda Clegg, City Secretary
City of Bay City

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

Attachment: ORDINANCE NO. - Personnel Policy Amendment 2 (1336 : Personnel Policy Amendment)

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Julie L. Estlinbaum	_____	_____	_____
Bill Cornman	_____	_____	_____
Chrystal Folse	_____	_____	_____
Steven Johnson	_____	_____	_____
Carolyn Thames, Mayor Pro Tem	_____	_____	_____

Mark A. Bricker, Mayor,
City of Bay City

ATTEST:

Rhonda Clegg, City Secretary

APPROVED AS TO FORM:

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

Attachment: ORDINANCE NO. - Personnel Policy Amendment 2 (1336 : Personnel Policy Amendment)

**EXHIBIT “A”
EMPLOYEE GUIDELINES AS ADOPTED**

Attachment: ORDINANCE NO. - Personnel Policy Amendment 2 (1336 : Personnel Policy Amendment)



City Council
1901 5Th Street
Bay City, TX 77414

WITHDRAWN

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1337

AGENDA ITEM (ID # 1337)

**IN ACCORDANCE WITH TEXAS GOVERNMENT CODE
SECTIONS 551.071 AND 551.087 COUNCIL SHALL CONVENE
IN EXECUTIVE SESSION TO DELIBERATE ON POSSIBLE
FINANCIAL OF OTHER INCENTIVES FOR TENARIS
SEAMLESS PIPE MILL IN MATAGORDA COUNTY AND
RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY
REGARDING POSSIBLE INCENTIVES.**

RESULT:	WITHDRAWN
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City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 02/27/14 07:00 PM
Department: City Secretary
Category: Report
Prepared By: Rhonda Clegg
Initiator: Rhonda Clegg
Sponsors:
DOC ID: 1352

DISCUSSION ITEM (ID # 1352)

**CITY COUNCIL MAY RECONVENE IN OPEN SESSION AND
CONSIDER AND/OR TAKE ACTION ON ANY ITEM LISTED
ABOVE FOR CONSIDERATION/DISCUSSION IN EXECUTIVE
SESSION (IF NECESSARY).**