



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, January 25, 2022 at 6:00 PM
COUNCIL CHAMBERS | 1901 5th Street

COUNCIL MEMBERS

Mayor: Robert K Nelson

Mayor Pro Tem: Jason W. Childers

Council Members: Becca Sitz, Bradley Westmoreland, Floyce Brown, Jim Folse

Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.

AGENDA

THE FOLLOWING ITEM WILL BE ADDRESSED AT THIS OR ANY OTHER MEETING OF THE CITY COUNCIL UPON THE REQUEST OF THE MAYOR, ANY MEMBER(S) OF COUNCIL AND/OR THE CITY ATTORNEY:

ANNOUNCEMENT BY THE MAYOR THAT COUNCIL WILL RETIRE INTO CLOSED SESSION FOR CONSULTATION WITH CITY ATTORNEY ON MATTERS IN WHICH THE DUTY OF THE ATTORNEY TO THE CITY COUNCIL UNDER THE TEXAS DISCIPLINARY RULES OF PROFESSIONAL CONDUCT OF THE STATE BAR OF TEXAS CLEARLY CONFLICTS WITH THE OPEN MEETINGS ACT (TITLE 5, CHAPTER 551, SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE).

CALL TO ORDER

INVOCATION & PLEDGE

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

Councilman Bradley Westmoreland

CERTIFICATION OF QUORUM

MISSION STATEMENT

The City of Bay City is a community that fosters future economic growth, strives to deliver superior municipal services, invests in quality of life initiatives and is the gateway to the great outdoors. We encourage access to our unique historical and eco-cultural resources while maintaining our small-town Texas charm.

Councilman Bradley Westmoreland

APPROVAL OF AGENDA

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.

APPROVAL OF MINUTES

- 1. City Council Regular Meeting minutes of January 11, 2022**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- 2. Discussion ~ Discuss concerns regarding street conditions of Chapparral Drive.**
E M "Eddie" Douglas, Resident
- 3. Appointment ~ Discuss, consider, and approve the appointment of Erandi Allison to the Bay City Community Development Board.** Robert. K. Nelson, Mayor
- 4. Resolution ~ Discuss, consider, and/or approve a resolution of the City of Bay City, Matagorda County, Texas, authorizing Professional Service(s) provider(s) selection for American Rescue Plan Act (ARP Act) program(s).** Alyssa Dibbern, Engineering Tech
- 5. Policy ~ Discussion regarding vehicle procurement and policies.** Scotty Jones, Finance Director
- 6. Discuss, consider, and/or approve expanding the TIRZ #1 territory.** DC Dunham, Sal Holdings
- 7. Agreement ~ Consider and take any action necessary to approve amendment to Tenaris Economic Development and Non-Annexation Agreement in the form of a letter agreement and authorize Mayor to sign same on behalf of the City.** Scotty Jones, Finance Director
- 8. Agreement ~ Discuss, consider, and/or approve a Professional Service Agreement between David Pettit Development, LLC and the City of Bay City providing services relating to the creation of a Tax Increment Reinvestment Zone Number Four (TIRZ #4) .** Shawna Burkhardt, City Manager
- 9. Agreement ~ Discuss, consider, and/or approve the Amalfi Ranch Public Improvement District (PID) Development agreement between Crescent Capital Investments, LLC and the City of Bay City, Texas.** Scotty Jones, Finance Director
- 10. Resolution ~ Discuss, consider, and/or approve a resolution of the City of Bay City, Texas approving an addendum to Engagement Agreement with Bracewell LLP relating to Public Improvement Districts (Agenda Exhibit).** Scotty Jones, Finance Director
- 11. Report ~ Discuss, consider, and/or approve the City's Quarterly Investment Report for the quarter ending December 31, 2021.** Scotty Jones, Finance Director

CLOSED / EXECUTIVE SESSION

- 12. Pursuant to Texas Government Code 551.071(1) to consult with its attorney on attorney client matters.**
- 13. Executive Session pursuant to Texas Government Code Section 551.072 (Deliberation regarding Real Property).**

OPEN SESSION

Discuss, consider and/or take action on item(s) listed in Executive/Closed Session, (if any).

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS**ADJOURNMENT****AGENDA EXHIBIT ITEM #10**

A RESOLUTION OF THE CITY OF BAY CITY, TEXAS APPROVING AN ADDENDUM TO ENGAGEMENT AGREEMENT WITH BRACEWELL LLP RELATING TO PUBLIC IMPROVEMENT DISTRICTS

1. The City of Bay City, Texas (the “City”) desires to establish public improvement districts (“PIDs”) and issue bonds and other obligations from time to time as authorized by Texas Statutes, in order to finance or refinance finance public improvements within PIDs;
2. Bracewell LLP’s (“Bracewell” or the “Firm”) is a full service firm that includes a national public finance practice and has the necessary competence, qualification and experience to serve as bond counsel for the City in connection with the issuance of such obligations;
3. Bracewell currently serves as bond counsel for the City, and the proposed addendum would add the issuance of bonds and other obligations associated with PIDs to Bracewell’s scope of services;
4. The City’s attorneys and supporting personnel do not have the required experience, qualifications or resources to adequately perform bond counsel services for the issuance of bonds or other obligations;
5. Given the nature of bond counsel services and the source of payment therefor (being from the proceeds of bonds or other obligations issued by the City) such legal services cannot reasonably be obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and
6. Entering into a contingent fee contract with Bracewell for these additional bond counsel services is in the best interest of the residents of the City as the City will have competent, qualified and experienced counsel to advise on the issuance of the bonds and other obligations, and the provision of such legal services will not financially impact the City as the compensation for such services will be paid from the proceeds of such bonds or other obligations.

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 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.

CERTIFICATION OF POSTING

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Friday, January 21, 2022 before 6:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

CITY OF BAY CITY

MINUTES • JANUARY 11, 2022

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Regular Meeting

6:00 PM

**1901 5TH STREET
BAY CITY TX, 77414**



Mayor

Robert K. Nelson

Councilman

Jim Folse

Mayor Pro Tem

Jason W. Childers

Councilman

Bradley Westmoreland

Councilwoman

Becca Sitz

Councilwoman

Floyce Brown

Bay City is committed to developing and enhancing the long-term prosperity, sustainability, and health of the community.

CALL TO ORDER

The Regular Council meeting was called to order by Mayor Pro Tem Jason Childers at 6:00 pm.

INVOCATION & PLEDGE

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

Councilman Jim Folse

CERTIFICATION OF QUORUM

Quorum certified.

PRESENT

Mayor Robert K. Nelson
Mayor Pro Tem Jason W. Childers
Councilwoman Floyce Brown
Councilman Jim Folse
Councilwoman Becca Sitz
Councilman Brad Westmoreland

MISSION STATEMENT

The City of Bay City is a community that fosters future economic growth, strives to deliver superior municipal services, invests in quality of life initiatives and is the gateway to the great outdoors. We encourage access to our unique historical and eco-cultural resources while maintaining our small-town Texas charm.

Councilman Jim Folse

APPROVAL OF AGENDA

Motion made by Mayor Pro Tem Childers to approve the agenda, Seconded by Councilwoman Sitz. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

PUBLIC COMMENTS

There were not public comments.

APPROVAL OF MINUTES

1. **City Council Regular Meeting minutes of December 21, 2021**
2. **City Council Special Called Meeting minutes of January 6, 2022**

Motion made by Mayor Pro Tem Childers to approve the minutes of December 21st and January 6th, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem

Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

3. **Accounts Payable, Direct Payable and Utility Refunds for October, November, and December 2021**
4. **Consider and/or approve invoices recommended by the TIRZ #1 Board to pay out of TIRZ #1 Funds.**

Motion made by Mayor Pro Tem Childers to approve the consent items, Seconded by Councilwoman Brown. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

PUBLIC HEARING

5. **Public Hearing ~ Review performance and obtain public comments regarding City's 2019 Texas CDBG Program Community Development Contract No. 7219029.**

Public Hearing was opened to discussion at 6:07 pm.

Alyssa Dibbern, City Engineer Tech summarized the purpose of having the public hearing and the water infrastructure project was completed on October 25, 2021. . There were no public comments. and the Public Hearing closed at 6:09 pm and reconvened into the regular session.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

6. **Annexation ~ Discuss and take any action deemed necessary to receive and accept annexation petitions from Arthur Millberger, et al and set date and time for public hearing regarding the same as required by Texas Local Government code 43.0673.**

Anne Marie Odefey, City Attorney presented the annexation petition, adding that on December 21st Council approved an amendment to the Development and Finance Plan to TIRZ #2. Ms. Odefey stated that the petitions have exhibits that we have not yet come to agreement on. The Public Hearing on the annexation will be on February 8th and a newspaper publication is required.

Motion made by Mayor Pro Tem Childers to accept annexation petitions and set the date of February 8, 2022 to hold a public hearing, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

7. **Agreement ~ Discuss, consider, and/or approve a Professional Service Agreement between David Pettit Development, LLC and the City of Bay City**

providing services relating to an amendment to the existing Tax Increment Reinvestment Zone Number One (TIRZ #1) upon the approval of TIRZ #1 Board.

Shawna Burkhart, City Manager, summarized the professional service agreement with David Pettit to provide services regarding the proposed expansion on TIRZ #1 adding Valor Park developed by Sal Holdings.

Motion made by Councilwoman Brown to approve the Professional Service Agreement, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

8. Agreement ~ Discuss, consider, and/or approve an amendment under the terms of the approved development agreement for Phase II between Reinvestment Zone Number One (TIRZ #1), City of Bay City, and Sal Holdings, LLC.

Scotty Jones, Finance Director, stated that at the amendment to phase II was presented at the previous TIRZ #1 Board meeting to change to exhibit C and it was approved by the Board. Mayor Nelson asked who will cover cost of maintenance after development and Ms. Odefey, City Attorney, recommended to get in writing on who does what and approve with stipulation of it in writing regarding maintenance.

Motion made by Mayor Pro Tem Childers approved the amendment with the stipulation of a maintenance agreement, Seconded by Councilwoman Brown. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland

9. Agreement ~ Discuss, consider, and/or approve an Interlocal Agreement between the City of Bay City and Matagorda County regarding the Bay City Public Library. Samantha Denbow, Library Director

Motion made by Mayor Pro Tem Childers to approve the Interlocal Agreement between the City and Matagorda County regarding the Bay City Public Library, Seconded by Councilwoman Brown.

Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

10. Discussion ~ Discuss and give staff direction regarding water well at the Bay City Regional Airport.

Shawna Burkhart, City Manager, reviewed the technical memorandum from Civil PE and the requirements from TCEQ. Ms. Burkhart stated that the question was if a new water well was needed at this time, adding that it is required no matter what and she does not believe we have more than 5 years. Funding does fall under ARP criteria. James Mason, Airport Manager, added that they have known for years and have approached council each year, but due to the cost, funding was not available. Anne

Marie Odefey, City Attorney, asked about a storage tank for potable water. Councilman Westmoreland asked about a pipeline from Tenaris to the airport. Councilman Westmoreland stated that he prefers to allocate funds to storm water issues and hydrants. Ms. Burkhart added that at a minimum we need to keep the well in the 5-year capital plan. Mr. Mason stated that we are at risk of losing clients because we do not have potable water, employees will not be able to get shower in event of spill. Ms. Burkhart stated that we will come back after testing the water and cost of using portable tank temporarily. Mayor Pro Tem agreed because this is 1/3 of the ARP funds. Item will come back to council with answers.

- 11. Resolution ~ Discuss, consider, and/or approve a Resolution in support of the submission of an application to the 2022 competitive Housing Tax Credit (HTC) program through the Texas Department of Housing and Community Affairs (TDHCA) by Tejas Cove Senior Housing Limited Partnership, for the rehabilitation of Tejas Cove Apartments.**

Tracy Fine, National Church Residence, presented the resolution regarding their application thru TDHACA to renovate units at Tejas Cove. They are requesting a \$250 in kind donation that is usually given as fee waiver.

Motion made by Councilwoman Brown to approve the resolution, Seconded by Mayor Pro Tem Childers. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

- 12. Agreement ~ Discuss, consider and/or approve an Interlocal Agreement between the City of Bay City and Matagorda County for the operation of the Bay City Service Center.** Scotty Jones, Finance Director

Motion made by Mayor Pro Tem Childers to approve the Service Center Agreement with the County, Seconded by Councilwoman Brown. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried.

CLOSED / EXECUTIVE SESSION

OPEN SESSION

There was no executive session.

ITEMS / COMMENTS FROM MAYOR AND COUNCIL MEMBERS

Shawna Burkhart announced that there will be a Special Called meeting on January 27th to discuss the TIRZ #2 development and design standards at 5:00 pm. Mayor Nelson thanked Council, he knows that we have had a lot going on and a lot coming up. Council gave their list of tasks and questions for response from the City Manager. Mayor Pro Tem Childers thanked Shawna Burkhart and the staff for their work on the TIRZ.

ADJOURNMENT

Motion made by Councilwoman Brown to adjourn, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried and Council adjourned the meeting at 7:15 pm.

PASSED AND APPROVED, this 25th day of January 2022.

ROBERT K. NELSON, MAYOR

CITY OF BAY CITY, TEXAS

JEANNA THOMPSON

CITY SECRETARY



CITY OF BAY CITY VOLUNTEER INTEREST FORM

Dear Resident:

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

PLEASE TYPE OR PRINT:

Date: 01/15/2022

Name: Erandi M Allison Home Address: 3404 Meadow Ln

City: Bay City State TX Zip 77414

Home Phone: 979-241-2376 Business Phone: _____

Employer: Magpul Industries Occupation: Accountant

E-mail: erandi.allison@yahoo.com

Resident of the Bay City Corporate City Limits: (circle one) ☒ Yes ☐ No

Resident of City for 0.5 years

I am interested in serving on the following boards:

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

1.) Bay City Community
Development Corp

3.) Bay City Community
Development Corp

2.) Bay City Community
Development Corp

4.) Bay City Community
Development Corp

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

N/A

eSigned via SeamlessDocs.com
Erandi Allison
Key: b70da7f3e8b9bca99b123267b71b79dec

Signature

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

**CITY OF BAY CITY**

1901 FIFTH STREET

(979) 245-2137

FAX: (979) 323-1626

AGENDA ITEM SUBMISSION FORM

Any item(s) to be consider for action by the City Council, must be included on this form, and be submitted along with any supporting documentation. Completed Agenda Item Submission forms must be submitted to the City Secretary's Office no later than 4:00 p.m. on the Monday of the week prior to the Regular Council meeting.

☐ Citizen☒ City Staff☐ Council MemberRequestor Name: Alyssa DibbernDate Submitted: 1/18/2022Position Title (If City Staff): Engineering TechCouncil Meeting Date: 1/25/2022

Type of Agenda Item:

☐ Consent Agenda ☐ Presentation☐ Public Hearing ☐ Executive Session☒ Regular Item for Discussion

Agenda Wording:

Discuss, consider, and/or approve one or more engineering services to assist the City of Bay City in its project related services and project implementation for the American Rescue Plan Act Program.

Executive Summary of Item:

Engineering service(s) are being sought to assist the City of Bay City in its projects and project implementation through the American Rescue Plan Act Program. More than one engineering firm can be selected. This is so that during project implementation we choose the most qualified firm for the certain selected project.

RESOLUTION _____

A RESOLUTION OF THE CITY OF BAY CITY, MATAGORDA COUNTY, TEXAS, AUTHORIZING PROFESSIONAL SERVICE PROVIDER(S) SELECTION FOR AMERICAN RESCUE PLAN ACT (ARP ACT) PROGRAM(S).

WHEREAS, the ARP Act program(s) requires implementation by professionals experienced in the administration of federally-funded projects;

WHEREAS, in order to identify qualified and responsive providers for these services a Request for Qualifications (RFQ) process for engineering services has been completed in accordance with federal requirements;

WHEREAS, the Statement of Qualifications received by the due date have been reviewed to determine the most qualified and responsive providers for each professional service giving consideration to ability to perform successfully under the terms and conditions of the proposed procurement, integrity, compliance with public policy, record of past performance, and financial and technical resources.

NOW, THEREFORE, BE IT RESOLVED:

Section 1.	That _____ be selected to provide application and project-related professional engineering services for the ARP ACT program(s).
Section 2.	That any and all project-related services contracts or commitments made with the above-named service provider are dependent on the award of ARP ACT funds and successful negotiation of a contract with the service provider.

PASSED AND APPROVED on this 25th day of January 2022 by the City Council of the City of Bay City, Texas.

The Honorable Robert K. Nelson, Mayor
City of Bay City, Texas

ATTEST:

APPROVED AT TO FORM:

Jeanna Thompson, City Secretary

Anne Marie Odefey, City Attorney

EQUIP NO.	DEPARTMENT CURRENTLY ASSIGNED	YEAR	MAKE	MODEL	DESCRIPTION	MILEAGE	EQUIPMENT TYPE	MASTER CLASS
638	Street & Bridge	2001	Chevrolet		Truck 1-Ton Flat Bed w/Dump Capacity	122,539	Truck	Construction / Service Vehicles
645	Facilities Maintenance	2002	Ford	F-350	Truck 3/4 Ton	82,988	Vehicle	Construction / Service Vehicles
656	Street & Bridge	2003	Ford	F-150	Truck 1/2 Ton	107,850	Vehicle	Vehicles (Pickups, Passenger, etc.)
713	Utilities Maintenance	2007	Ford	F-150	Truck 1/2 Ton	97,644	Vehicle	Vehicles (Pickups, Passenger, etc.)
714	Street & Bridge	2007	Ford	F-150	Truck 1/2 Ton	156,435	Vehicle	Vehicles (Pickups, Passenger, etc.)
715	Customer Service	2007	Ford	F-150	Truck 1/2 Ton	141,093	Vehicle	Vehicles (Pickups, Passenger, etc.)
732	WWTP	2009	Ford	F-150	Truck 1/2 Ton	101,891	Vehicle	Vehicles (Pickups, Passenger, etc.)
733	Facilities Maintenance	2009	Ford	F-150	Truck 1/2 Ton	61,284	Vehicle	Vehicles (Pickups, Passenger, etc.)
760	Utilities Maintenance	2010	Ford	F-150	Truck 4x2	49,794	Vehicle	Vehicles (Pickups, Passenger, etc.)
761	Street & Bridge	2011	Ford	F-550	Truck w/ Dump Capacity	80,098	Vehicle	Haul Units
782	Equipment Maintenance	2012	Ford	F-250	Truck	23,735	Vehicle	Construction / Service Vehicles
798	WWTP	2013	Ford	F-150 Crew Cab	Truck 1/2 Ton	58,018	Vehicle	Vehicles (Pickups, Passenger, etc.)
799	Street & Bridge	2013	Ford	F250 4x2 Supercab SRW	Truck 3/4 Ton	54,990	Vehicle	Vehicles (Pickups, Passenger, etc.)
803	WWTP	2013	Ford	F-150	Truck 1/2 Ton	53,862	Vehicle	Vehicles (Pickups, Passenger, etc.)
806	Street & Bridge	2013	Ford	F-250 Super Cab Utility Bed	Truck 3/4 Ton Utility	56,371	Vehicle	Vehicles (Pickups, Passenger, etc.)
826	Utilities Maintenance	2015	Ford	F-250	SuperCab Truck 3/4 Ton	56,371	Vehicle	Vehicles (Pickups, Passenger, etc.)
827	Utilities Maintenance	2015	Ford	F-250	SuperCab Truck 3/4 Ton Utility	48,424	Vehicle	Vehicles (Pickups, Passenger, etc.)
828	Facilities Maintenance	2015	Ford	F-250	SuperCab Truck 3/4 Ton Utility	67,539	Vehicle	Vehicles (Pickups, Passenger, etc.)
829	Equipment Maintenance	2015	Ford	F-250	RegularCab Truck 3/4 Ton Utility	39,306	Vehicle	Vehicles (Pickups, Passenger, etc.)
834	Recycling Center	2015	Ford	F-250	SuperCab Truck 3/4 Ton	48,132	Vehicle	Vehicles (Pickups, Passenger, etc.)
836	Utilities Maintenance	2015	Ford	F-350	SuperCab Truck 3/4 Ton Diesel	21,917	Vehicle	Vehicles (Pickups, Passenger, etc.)
852	Street & Bridge	2015	Ford	F-150 4x2 Supercab	F-150 4X2 Ext Cab Truck	48,132	Vehicle	Vehicles (Pickups, Passenger, etc.)
853	Utility & MSB Operations	2015	Ford	F-150 4x2 CrewCab	F-150 4X2 Crew Cab Truck	28,066	Vehicle	Vehicles (Pickups, Passenger, etc.)
854	Street & Bridge	2015	Ford	F-150 4x2 CrewCab	F-150 4X2 Crew Cab Truck	46,250	Vehicle	Vehicles (Pickups, Passenger, etc.)
873	Customer Service	2016	Chevrolet	Colorado WT	Chevy Colorado WT 4X2 CrewCab	37,812	Vehicle	Vehicles (Pickups, Passenger, etc.)
878	Customer Service	2016	Chevrolet	Colorado WT	Chevy Colorado WT 4X2 CrewCab	59,505	Vehicle	Vehicles (Pickups, Passenger, etc.)
879	Street & Bridge	2016	Chevrolet	Colorado WT	Chevy Colorado WT 4X2 ExtCab	32,088	Vehicle	Vehicles (Pickups, Passenger, etc.)
880	Street & Bridge	2016	Chevrolet	Colorado LT	Chevy Colorado LT 4X2 CrewCab	38,233	Vehicle	Vehicles (Pickups, Passenger, etc.)
896	Customer Service	2017	Ford	F-150 4x4 CrewCab	F-150 4X4 Crew Cab Truck	31,378	Vehicle	Vehicles (Pickups, Passenger, etc.)
897	WWTP	2017	Ford	F-150 4x2 Supercab	F-150 4x2 Ext Cab Truck	36,471	Vehicle	Vehicles (Pickups, Passenger, etc.)
923	Utilities Maintenance	2019	Ford	F-250 Super Cab Utility Bed	Truck 3/4 Ton Utility Service Bed	27,337	Vehicle	Vehicles (Pickups, Passenger, etc.)
924	WWTP	2019	Ford	F-150 4x2 Supercab	F-150 4x2 Ext Cab Truck	46,328	Vehicle	Vehicles (Pickups, Passenger, etc.)
925	Utility & MSB Operations	2019	Ford	F-150 4x4 CrewCab	F-150 4X4 Crew Cab Truck	21,917	Vehicle	Vehicles (Pickups, Passenger, etc.)
950	Utilities Maintenance	2020	Ford	F-150 4x4 CrewCab	F-150 4X4 Crew Cab Truck	13,024	Vehicle	Vehicles (Pickups, Passenger, etc.)
955	Utility & MSB Operations	2020	Ford	Expedition Limited	Expedition Limited 4X2 SUV	21,873	Vehicle	Vehicles (Pickups, Passenger, etc.)
958	Customer Service	2020	Ram	3500 HD 4X4	3500 HD 4X4 Crew Cab Truck	3,094	Vehicle	Vehicles (Pickups, Passenger, etc.)
970	Utility & MSB Operations	2021	Ram	1500 Laramie 4X4	1500 Laramie 4X4 Crew Cab Truck	11,814	Vehicle	Vehicles (Pickups, Passenger, etc.)
971	WWTP	2021	Ram	1500 Tradesman 4X4	1500 Tradesman 4X4 Quad Cab Truck	6,097	Vehicle	Vehicles (Pickups, Passenger, etc.)
972	WWTP	2021	Ram	1500 Tradesman 4X4	1500 Tradesman 4X4 Crew Cab Truck	2,628	Vehicle	Vehicles (Pickups, Passenger, etc.)
973	Street & Bridge	2021	Ram	1500 Tradesman 4X4	1500 Tradesman 4X4 Crew Cab Truck	4,793	Vehicle	Vehicles (Pickups, Passenger, etc.)
974	Customer Service	2021	Ram	3500 HD 4X4	3500 HD 4X4 Crew Cab Truck	1,665	Vehicle	Vehicles (Pickups, Passenger, etc.)
975	Street & Bridge	2021	Ram	3500 HD 4X4	3500 HD 4X4 Crew Cab Truck	5,554	Vehicle	Vehicles (Pickups, Passenger, etc.)

BAY CITY POLICE DEPARTMENT VEHICLE INVENTORY
MONTH: November 2021

ITEM #5.

Equip	Year	Make	Model	Mileage	Division	Employee
819	2014	Ford	F150	64784	ACO	Ramos
750	2009	Chevy	1500	146980	ACO	Hill
654	2003	Ford	F150	150000	Impound	Blalock
946	2020	Dodge	Ram	9902	Admin	Sullivan
707	2008	Ford	Explorer	89920	Admin	-
794	2013	Chev	1500	83407	Admin	Kjergaard
795	2013	Chev	1500	61828	Admin	Ryman
944	2007	Ford	F150	184150	Detective	Shook
966	2021	Chevy	1500	9899	Detective	Hadash
947	2019	Chev	Impala	47967	Detective	Navarro
876	2016	Ford	F150	31314	Detective	Pierce
702	2005	Ford	CVI	93143	Detective	-
816	2014	Ford	F150	52960	Detective	Sherrill
849	2016	Ford	F150	55632	Detective	Lunsford
945	2020	Dodge	Ram	5729	Detective	Kunz
908	2018	Chev	Tahoe	22827	ID	Pursley/Pruitt
721	2009	Dodge	Charger	78877	Warrants	Tabares
980	2021	Chev	Tahoe	1346	Traffic	Hatton
888	2016	Ford	E450	2812	SRT	-
898	2017	Ford	Explorer	95194	Patrol	Washington/Moreno
899	2017	Ford	Explorer	103462	Patrol	Estrada/Ramirez
968	2020	Ford	Explorer	23680	Patrol	Chavez/ Soto
883	2016	Ford	Explorer	82669	Patrol	Harbaugh
884	2016	Ford	Explorer	97872	Patrol	Cunningham
969	2020	Ford	Explorer	13853	Patrol	/Gutierrez
960	2020	Chevy	Tahoe	12464	Patrol	Philp/Perez
961	2020	Chevy	Tahoe	13364	Patrol	Pena/Cantu
962	2020	Chevy	Tahoe	15555	Patrol	Siegel/Hallman
931	2019	Ford	Explorer	45631	Patrol	Alvarez/Viveros
932	2019	Ford	Explorer	54748	Patrol	Mcneal/Hlavinka
708	2008	Ford	Explorer	91274	Mental Health	-
959	2014	Buick	Regal	22565	Narcotics	Guzman

ITEM #5.

Date: **3/31/2020**

1. New revenues (originally unbudgeted) are available.
2. Actual revenues (originally unbudgeted) have exceeded the original adopted budget.
3. A new project, program or special expenditure has been authorized.
4. Transfer reclassification of original adopted budget to realign budget to actual transaction activity as presently needed.

Brief Description of Request: FY2020: Utility Various Departments

The amendments above relate to the following:
 Developed Design Standards for the Public Works Department, budget goal for FY2020.
 Utility Assessment is a requirement to meet new State and Federal standards.
 Utility Dept. budgeted two vehicles but changed the type of vehicle to meet the Utilities needs which had an increased cost.

Date _____

Date _____

Scotty Jones

From: Scotty Jones
Sent: Tuesday, February 18, 2020 4:39 PM
To: Barry Calhoun
Subject: RE: Clarification on NEW Vehicles

I prob won't do anymore leases until another budget year but hopefully can pay cash.
It is a lot of paperwork – we should have done it with the 4 police cars. I took that to Council already.
Scotty

From: Barry Calhoun <bcalhoun@cityofbaycity.org>
Sent: Tuesday, February 18, 2020 3:30 PM
To: Scotty Jones <sjones@cityofbaycity.org>
Subject: RE: Clarification on NEW Vehicles

Scotty,

hey, just thought about this! Is leasing vehicles still an option? I remember you were working on that at one point...

Barry Calhoun
Director of Public Works
City of Bay City
(979) 245-7236

From: Scotty Jones <sjones@cityofbaycity.org>
Sent: Tuesday, February 18, 2020 12:53 PM
To: Barry Calhoun <bcalhoun@cityofbaycity.org>
Subject: Clarification on NEW Vehicles

When talking the other day—I thought you stated you wanted an additional vehicle for 20K. But it appears you just want to purchase a more expensive vehicle than planned not an “additional” vehicle. I looked at budget and we had 2 trucks at 39,000 each.

If you want to purchase this more expensive one then please get City Manager approval- then I will put on as an amendment for City Council. Once City Council approves—I will issue PO. If you want to order the one truck for 38,787 now rather than waiting on CC approval--then please do another PO for just that one.

Thanks!!

Scotty Crow Jones C.P.M.
Finance Director
City of Bay City
(979) 323-1634 - sjones@cityofbaycity.org





CITY OF BAY CITY
1901 5th Street
Bay City, Texas 77414

PURCHASE ORDER ITEM #5.

PO Number: 20-0342 **Date:** 02/24/2020

Request #: 20-0342 **Vendor #:** 99-14256

ISSUED TO: CHASTANG ENTERPRISES dba
CHASTANG ENTERPRISES, INC.
6200 NORTH LOOP EAST
HOUSTON, TX 77026

SHIP TO: CITY OF BAY CITY- WHSE
1217 AVENUE .J
BAY CITY, TX 77414

UNITS	DESCRIPTION	G/L ACCOUNT	PRICE	AMOUNT
0.00	F-150 CREW TRUCK	61 -405-4605	0.00	38,787.00
0.00	FORD EXPEDITION	61 -405-4605	0.00	64,786.00
0.00	TRADE IN 2010 FORD	61 -3695	0.00	6,000.00-
0.00	H-GAC APPLICATION FE	61 -405-4605	0.00	400.00
	1 CREW CAB TRUCK			
	1 FORD EXPEDITION			
	CONTRACT NAME: H-GAC CONTRACT NO. VE11-18			

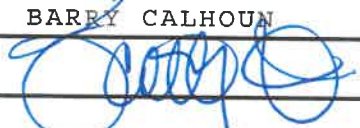
6/17

32787.00

Approvals:

Ordered by: LOUIS RODRIGUEZ **Date:** 02/24/2020

Approved by: BARRY CALHOUN **Date:** 02/24/2020

Finance Dir:  **Date:** 2-24-20

TOTAL

97,973.00

1. Original invoice plus one copy must be sent to:
City of Bay City, Accounts Payable Dept, 1901 5th Street, Bay City, TX 77414.
2. Purchase Order numbers must appear on all packages, packing slips and invoices.
3. The City is exempt from all federal excise and state tax - ID# 74-6000238
4. Terms: The City has 30 days to pay any invoice.



CITY OF BAY CITY, TEXAS
FINANCE DEPARTMENT
PURCHASE ORDER REQUEST FORM

Asset

ITEM #5.

DATE: 2/13/2020

Purchase Order No.: 20-0342

VENDOR NAME: Chastang Ford

VENDOR ADDRESS: 6200 N. Loop East
Houston, TX 77026-1936
Phone: (713) 678-5000, ATTN: Ed Miller
Fax: (713) 678-5001
emiller@chastangford.com

Budget Account Number	Project Number	Description of Items	Quantity	UOM	Unit Price	Amount or Estimate
61-405-4605		2020 Ford F-150 Crew Cab 4x4 Truck	1	EA	\$ 38,787.00	\$ 38,787.00
61-405-4605		2020 Ford Expedition	1	EA	\$ 64,786.00	\$ 64,786.00
61-405-4605	3495	Trade-In: 2010 Ford F-150, Unit #763; VIN# 1FTEW1CW5AKE27030	1	EA	\$ (6,000.00)	\$ (6,000.00)
61-405-4605		Chastang Ford H-GAC Application Fee	1	EA	\$ 400.00	\$ 400.00
		Contract Name: H-GAC Contract No. VE11-18				
TOTAL						\$ 97,973.00

Ship to Address:

City of Bay City

Scotty,
Richard was ok with
this PO Request.

Thanks,
Barry

APPROVAL

REQUESTED BY	DATE
Barry Calhoun	2/13/2020
DEPARTMENT SUPERVISOR	DATE
Barry Calhoun	2/13/2020
DEPARTMENT HEAD	DATE
Barry Calhoun	2/13/2020
FINANCE DIRECTOR	DATE
Scotty Jones	
CITY MANAGER	DATE
Richard Morton	2-19-20



Prepared by: Ed Miller
02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 F-150 4x4 SuperCrew Cab Styleside 6.5' box 157" WB XLT (W1E)

Price Level: 35 | Quote ID: bay20w1e

Pricing Summary - Single Vehicle

MSRP

Vehicle Pricing

Base Vehicle Price	\$45,520.00
Options & Colors	\$5,525.00
Upfitting	\$350.00
Destination Charge	\$1,595.00

Subtotal	\$52,990.00
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Pre-Tax Adjustments

Code	Description	
PriceADJ	Dealer Discount and Concession	-\$14,203.00

Total	\$38,787.00
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Customer Signature

Acceptance Date

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 F-150 4x4 SuperCrew Cab Styleside 6.5' box 157" WB XLT (W1E)

Price Level: 35 | Quote ID: bay20w1e

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
W1E	Base Vehicle Price (W1E)	\$45,520.00
Packages		
301A	Equipment Group 301A Mid	\$2,150.00
	- Option Discount	-\$1,000.00
	<i>Includes:</i> - Engine: 5.0L V8 Includes auto start-stop technology and flex-fuel capability, - Transmission: Electronic 10-Speed Automatic Includes selectable drive modes: normal/tow-haul/snow-wet/EcoSelect/sport. - GVWR: 7,050 lbs Payload Package - Tires: P265/70R17 OWL A/T - Wheels: 17" Silver Painted Aluminum - Radio: AM/FM Stereo w/6 Speakers - SYNC 3 Includes enhanced voice recognition communications and entertainment system, 8" LCD capacitive touchscreen in center stack with swipe capability, pinch-to-zoom capability included when equipped with available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart charging USB ports. Note: SYNC AppLink lets you control some of your favorite compatible mobile apps with your voice. It is compatible with select smartphone platforms. Commands may vary by phone and AppLink software. - 8-Way Power Driver Seat - 4.2" Productivity Screen in Instrument Cluster - Fixed Backlight w/Privacy Glass - Rear Window Defroster - Auto-Dimming Rearview Mirror - Power-Adjustable Pedals - Rear Under-Seat Storage - SiriusXM Radio Includes 7 speakers and 6-month prepaid subscription. Service is not available in Alaska and Hawaii. Subscriptions to all SiriusXM services are sold by SiriusXM after trial period. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM Customer Agreement for complete terms at www.siriusxm.com . All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc.	
Powertrain		
995	Engine: 5.0L V8	Included
	<i>Includes auto start-stop technology and flex-fuel capability,</i>	
44G	Transmission: Electronic 10-Speed Automatic	Included
	<i>Includes selectable drive modes: normal/tow-haul/snow-wet/EcoSelect/sport.</i>	
XL6	Electronic Locking w/3.73 Axle Ratio	\$150.00
STDGV	GVWR: 7,050 lbs Payload Package	Included

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 F-150 4x4 SuperCrew Cab Styleside 6.5' box 157" WB XLT (W1E)

Price Level: 35 | Quote ID: bay20w1e

As Configured Vehicle (cont'd)

Code	Description	MSRP
Wheels & Tires		
STDTR	Tires: P265/70R17 OWL A/T	Included
64F	Wheels: 17" Silver Painted Aluminum	Included
Seats & Seat Trim		
U	Cloth 40/Console/40 Front Seats <i>Includes 4-way adjustable driver/passenger headrests, power driver/manual passenger lumbar, flow-through console with column shift and 2nd outlet in console when ordered with 110V/400W outlet (91V).</i>	\$295.00
Other Options		
157WB	157" Wheelbase	STD
STDRD	Radio: AM/FM Stereo w/6 Speakers <i>Includes: - SYNC 3 Includes enhanced voice recognition communications and entertainment system, 8" LCD capacitive touchscreen in center stack with swipe capability, pinch-to-zoom capability included when equipped with available voice-activated touchscreen navigation system, AppLink, 911 Assist, Apple CarPlay and Android Auto and 2 smart charging USB ports. Note: SYNC AppLink lets you control some of your favorite compatible mobile apps with your voice. It is compatible with select smartphone platforms. Commands may vary by phone and AppLink software.</i>	Included
55A_	FX4 Off-Road Package <i>Includes: - 4x4 FX4 Off-Road Bodyside Decal - Tray Style Floor Liner - Hill Descent Control - Off-Road Tuned Front Shock Absorbers - Skid Plates Includes fuel tank, transfer case and front differential.</i>	\$905.00
53B	Class IV Trailer Hitch Receiver Ordering the Trailer Tow Package does not include Integrated Brake Controller (67T). Integrated Brake Controller (67T) is a standalone option and must be ordered separately. <i>Includes towing capability up to TBD on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD on 3.5L EcoBoost engine (994), 3.5L EcoBoost High Output engine (99G) and 5.0L V8 engine (995), smart trailer tow connector and 4-pin/7-pin wiring harness.</i>	Included
53A	Trailer Tow Package Ordering the Trailer Tow Package does not include Trailer Tow Mirrors. Trailer Tow Mirrors are a standalone option and must be ordered separately. (Option Code: 54Y/59S). Ordering the Trailer Tow Package does not include Integrated Brake Controller (67T). Integrated Brake Controller (67T) is a standalone option and must be ordered separately.	\$995.00

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 F-150 4x4 SuperCrew Cab Styleside 6.5' box 157" WB XLT (W1E)

Price Level: 35 | Quote ID: bay20w1e

As Configured Vehicle (cont'd)

Code	Description	MSRP
	<i>Towing capability up to TBD. Includes tailgate LED.</i> <i>Includes:</i> - Class IV Trailer Hitch Receiver <i>Includes towing capability up to TBD on 3.3L V6 PFDI engine (99B) and 2.7L EcoBoost engine (99P) or up to TBD on 3.5L EcoBoost engine (994), 3.5L EcoBoost High Output engine (99G) and 5.0L V8 engine (995), smart trailer tow connector and 4-pin/7-pin wiring harness.</i> - Auxiliary Transmission Oil Cooler - Pro Trailer Backup Assist - Upgraded Front Stabilizer Bar	
413	Skid Plates	Included
	<i>Includes fuel tank, transfer case and front differential.</i>	
63T_	Tailgate Step w/Tailgate Lift Assist	\$375.00
655_	Extended Range 36 Gallon Fuel Tank	\$445.00
85P	LED Box Lighting	\$125.00
67T	Integrated Trailer Brake Controller	\$275.00
54R	Power Glass Heated Sideview Mirrors	\$190.00
	<i>Includes manual folding, turn signal and black skull caps.</i> <i>Includes:</i> - Auto-Dimming Rearview Mirror	
59S_	LED Sideview Mirror Spotlights	\$175.00
	<i>Includes high-intensity LED security approach lamps.</i>	
59R_	Remote Start System	\$195.00
PAINT	Monotone Paint Application	STD
91V	110V/400W Outlet	\$250.00
	<i>Includes 2nd outlet in the console.</i>	
57Q	Rear Window Defroster	Included
47R	Tray Style Floor Liner	Included

Interior Colors

UG_01	Medium Earth Gray	N/C
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Primary Colors

YZ_01	Oxford White	N/C
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Upfit Options

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 F-150 4x4 SuperCrew Cab Styleside 6.5' box 157" WB XLT (W1E)

Price Level: 35 | Quote ID: bay20w1e

As Configured Vehicle (cont'd)

Code	Description	MSRP
0001SPRAY	SPRAY IN BED LINER LWB	\$350.00
SUBTOTAL		\$51,395.00
Destination Charge		\$1,595.00
TOTAL		\$52,990.00

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 Expedition Max 4dr 4x2 Limited (K1K)

Price Level: 35 | Quote ID: bay20k1k

Pricing Summary - Single Vehicle

MSRP

Vehicle Pricing

Base Vehicle Price	\$66,375.00
Options & Colors	\$8,290.00
Upfitting	\$0.00
Destination Charge	\$1,395.00
Subtotal	\$76,060.00

Pre-Tax Adjustments

Code	Description	
PriceADJ	Dealer Discount and Concession	-\$11,274.00
Total		\$64,786.00

Customer Signature

Acceptance Date

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 Expedition Max 4dr 4x2 Limited (K1K)

Price Level: 35 | Quote ID: bay20k1k

As Configured Vehicle

Code	Description	MSRP
Base Vehicle		
K1K	Base Vehicle Price (K1K)	\$66,375.00
Packages		
302A	Equipment Group 302A <i>Includes:</i> - Engine: 3.5L EcoBoost V6 <i>Includes auto start-stop technology.</i> - Transmission: 10-Speed Automatic w/SelectShift - GVWR: 7,300 lbs - Tires: P285/45R22 AS BSW - Wheels: 22" 6-Spoke Painted Machined-Face Aluminum <i>Includes dark tarnish-painted pockets and Continuous Controlled Damping (CCD).</i> - Heated & Cooled Leather Front Captain's Chairs 8-passenger seating. Includes 10-way power driver and passenger seats with power recline and power lumbar. - Radio: B&O Sound System by Bang & Olufsen <i>Includes speed-compensated volume, HD Radio, AM/FM stereo, MP3 capability and 12 speakers.</i> - SiriusXM Satellite Radio <i>SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Radio Inc. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM customer agreement for complete terms at www.siriusxm.com. All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc. Not available in Alaska or Hawaii. Includes 6-month prepaid subscription.</i> - SYNC 3 Communications & Entertainment System <i>Includes enhanced voice recognition, 8" center LCD capacitive touch-screen with swiping and pinch-to-zoom capabilities (when ordered with navigation system), AppLink, 911 Assist, Apple CarPlay and Android Auto compatibility and (2) smart charging USB ports in media hub.</i> - Ford Co-Pilot360 Assist - Adaptive Cruise Control <i>Includes stop-and-go.</i> - Voice-Activated Touch-Screen Navigation System <i>Includes pinch-to-zoom capability, SiriusXM Traffic and Travel Link. SiriusXM Traffic and Travel Link includes a 5-year prepaid subscription.</i> - Panoramic Vista Roof <i>Includes power open/close with power shade.</i> - 360-Degree Camera w/Split View <i>Includes front/rear washer.</i> - LED Headlamps & Fog Lamps - Enhanced Active Park Assist System <i>Includes parallel park, park out assist, reverse perpendicular parking, forward and reverse and side sensing systems.</i>	\$5,965.00
Powertrain		
99T	Engine: 3.5L EcoBoost V6 <i>Includes auto start-stop technology.</i>	Included
44U	Transmission: 10-Speed Automatic w/SelectShift	Included

Prices and content availability as shown are subject to change and should be treated as estimates only. Actual base vehicle, package and option pricing may vary from this estimate because of special local pricing, availability or pricing adjustments not reflected in the dealer's computer system. See salesperson for the most current information.

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 Expedition Max 4dr 4x2 Limited (K1K)

Price Level: 35 | Quote ID: bay20k1k

As Configured Vehicle (cont'd)

Code	Description	MSRP
X3L	Electronic Limited Slip w/3.73 Axle Ratio	Included
STDGV	GVWR: 7,300 lbs	Included
Wheels & Tires		
NONTR	Tires: P285/45R22 AS BSW	Included
NONWL	Wheels: 22" 6-Spoke Painted Machined-Face Aluminum <i>Includes dark tamish-painted pockets and Continuous Controlled Damping (CCD).</i>	Included
Seats & Seat Trim		
E	Heated & Cooled Leather Front Captain's Chairs <i>8-passenger seating. Includes 10-way power driver and passenger seats with power recline and power lumbar.</i>	Included
Other Options		
PAINT	Monotone Paint Application	STD
131WB	131" Wheelbase	STD
STDRD	Radio: B&O Sound System by Bang & Olufsen <i>Includes speed-compensated volume, HD Radio, AM/FM stereo, MP3 capability and 12 speakers. Includes:</i> - SiriusXM Satellite Radio SiriusXM audio and data services each require a subscription sold separately, or as a package, by Sirius XM Radio Inc. If you decide to continue service after your trial, the subscription plan you choose will automatically renew thereafter and you will be charged according to your chosen payment method at then-current rates. Fees and taxes apply. To cancel you must call SiriusXM at 1-866-635-2349. See SiriusXM customer agreement for complete terms at www.siriusxm.com . All fees and programming subject to change. Sirius, XM and all related marks and logos are trademarks of Sirius XM Radio Inc. Not available in Alaska or Hawaii. Includes 6-month prepaid subscription. - SYNC 3 Communications & Entertainment System Includes enhanced voice recognition, 8" center LCD capacitive touch-screen with swiping and pinch-to-zoom capabilities (when ordered with navigation system), AppLink, 911 Assist, Apple CarPlay and Android Auto compatibility and (2) smart charging USB ports in media hub.	Included
536	Heavy-Duty Trailer Tow Package <i>Includes:</i> - Heavy-Duty Engine Radiator - Pro Trailer Backup Assist - Electronic Limited Slip w/3.73 Axle Ratio - Integrated Trailer Brake Controller	\$1,570.00

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Prepared by: Ed Miller

02/06/2020

Chastang Ford | 6200 N. Loop East Houston Texas | 770261936

2020 Expedition Max 4dr 4x2 Limited (K1K)

Price Level: 35 | Quote ID: bay20k1k

As Configured Vehicle (cont'd)

Code	Description	MSRP
90H	LED Headlamps & Fog Lamps	Included
43V	Panoramic Vista Roof <i>Includes power open/close with power shade.</i>	Included
59N	Voice-Activated Touch-Screen Navigation System SiriusXM Traffic and Travel Link are not available in Alaska or Hawaii. <i>Includes pinch-to-zoom capability, SiriusXM Traffic and Travel Link. SiriusXM Traffic and Travel Link includes a 5-year prepaid subscription.</i>	Included
47B	1st & 2nd Row Floor Liners	\$160.00

Emissions

425	50 States Emissions System	STD
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Interior Colors

EH_01	Ebony	N/C
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Primary Colors

AZ_02	Star White Metallic Tri-Coat	\$595.00
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SUBTOTAL	\$74,665.00
Destination Charge	\$1,395.00
TOTAL	\$76,060.00

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City of Bay City

Vehicle Trade Condition Form

Dealership or Trade Entity: Chastang Ford Date of Inspection: 2/6/2020

Vehicle Year: 2010 Make: Ford Model: Crew Cab Series: F-150

Color: Oxford White Mileage: 93,135.4 Cylinders: 8 Motor: 4.6

Expected Mileage at Trade Date: 95,000 General Condition: X Good Fair Poor Salvage

VIN: 1FTEW1CW5AKE27030

Comments

Windshield: Cracked X Not Cracked

Windshield Chips: X None 1 2 3 4

Condition of Tires: Poor Good X New

Mechanical Condition: Poor Good X Very Good

Interior: Poor Good X Very Good Driver side, lower seat small tear

erior: Poor Good X Very Good

Check all that Apply: X Pwr. Door Locks X Pwr. Windows Pwr. Seats Cruise X AM/FM AM/FM Cass

 AM/FM CD X A/C (Blows Cold) Smoker Non-Smoker Spare Jack Owner's Manual

 Alloy Wheels X Window Tint X 2 sets of keys Lettering/Decals: Removed Traded with Decals

Holes exterior on roof/trunk: Plug Holes Holes exposed Holes interior holes no holes

Equipment Staying:

Equipment Removed:

Person Completing Form: Horacio Garza Trade Title: Lead Mechanic

Additional Comments: Trade value \$6,000, quoted by Ed Miller, Govt Sales, Chastang Ford

Barry Calhoun

From: emiller@chastangford.com
Sent: Thursday, February 6, 2020 11:06 AM
To: Barry Calhoun
Subject: RE: City of Bay City Buyboard Vehicle Quote Request FY2020

\$400 per PO no matter how many on the PO

From: Barry Calhoun <bcalhoun@cityofbaycity.org>
Sent: Thursday, February 6, 2020 10:57 AM
To: emiller@chastangford.com
Subject: RE: City of Bay City Buyboard Vehicle Quote Request FY2020

Ed,

Thanks so much! Do you know what the fee amount will be if we purchase all 3 vehicles?

Barry Calhoun
 Director of Public Works
 City of Bay City
 (979) 245-7236

From: emiller@chastangford.com <emiller@chastangford.com>
Sent: Thursday, February 6, 2020 9:03 AM
To: Barry Calhoun <bcalhoun@cityofbaycity.org>
Subject: RE: City of Bay City Buyboard Vehicle Quote Request FY2020

Good morning

Here are the Buyboard quotes under contract 610-19

I did not add the fee as it is a Per PO fee not per vehicle

Price is FOB Houston; terms net 30

Trade value estimate id \$6000 pending final inspection and condition at time of delivery

Let me now if you have any questions

Thanks for the opportunity

Ed

From: Barry Calhoun <bcalhoun@cityofbaycity.org>
Sent: Wednesday, February 5, 2020 2:21 PM
To: Ed Miller <emiller@chastangford.com>
Subject: City of Bay City Buyboard Vehicle Quote Request FY2020
Importance: High

From: [Shawna Burkhart](#)
To: [Jeanna Thompson](#)
Subject: FW: Car Allowance
Date: Thursday, December 16, 2021 1:18:01 PM

From: Shawna Burkhart
Sent: Thursday, December 09, 2021 2:47 PM
To: Brad Westmoreland <bwestmoreland@cityofbaycity.org>
Subject: FW: Car Allowance

From: Rhonda Clegg <rclegg@cityofbaycity.org>
Sent: Thursday, December 09, 2021 2:34 PM
To: Susana Brito <sbrito@cityofbaycity.org>; Shawna Burkhart <sburkhart@cityofbaycity.org>
Subject: RE: Car Allowance

Good Afternoon,

To expand on the email below, currently the City does not have a formal written policy on car allowances. The proposed Car Allowance policy has been provided to Council for their consideration.

The rationale for the selected employees receiving an allowance is as follows:

<u>Position Title</u>	<u>Employee Name</u>	<u>Car Allowance Amount</u>	<u>Reasoning</u>
Mayor	Robert K. Nelson	\$600/mth	Approved by Council
City Manager	Shawna Burkhart	\$600/mth	Approved by Council
Chief of Police	Robert Lister	\$550/mth	Placed assigned unit back in fleet rotation. Provided an allowance.
Captain	Christella Rodriguez	\$550/mth	Placed assigned unit back in fleet rotation. Provided an allowance.
Library Director	Samantha Denbow	\$400/mth	Drives multiple times a week to assist the Sargent Library Branch.
Office Manager	Jessica Davis	\$114.58/mth	Drives multiple times a week to assist the Sargent Library Branch.
Library Specialist II	Ashley Hernandez	\$150/mth	Takes daily MSB deposit and mail. Runs errands for MSB.

Rhonda L. Clegg
 Director of Human Resources
 City of Bay City



LYNNDEVELOPMENT

1221 Avenue F, Bay City TX 77414

979-245-8900 – www.Lynn-Development.com

January 5, 2022

Shawna Burkhardt, City Manager
City of Bay City
City Manager's Office
1901 5th Street
Bay City, Texas 77465

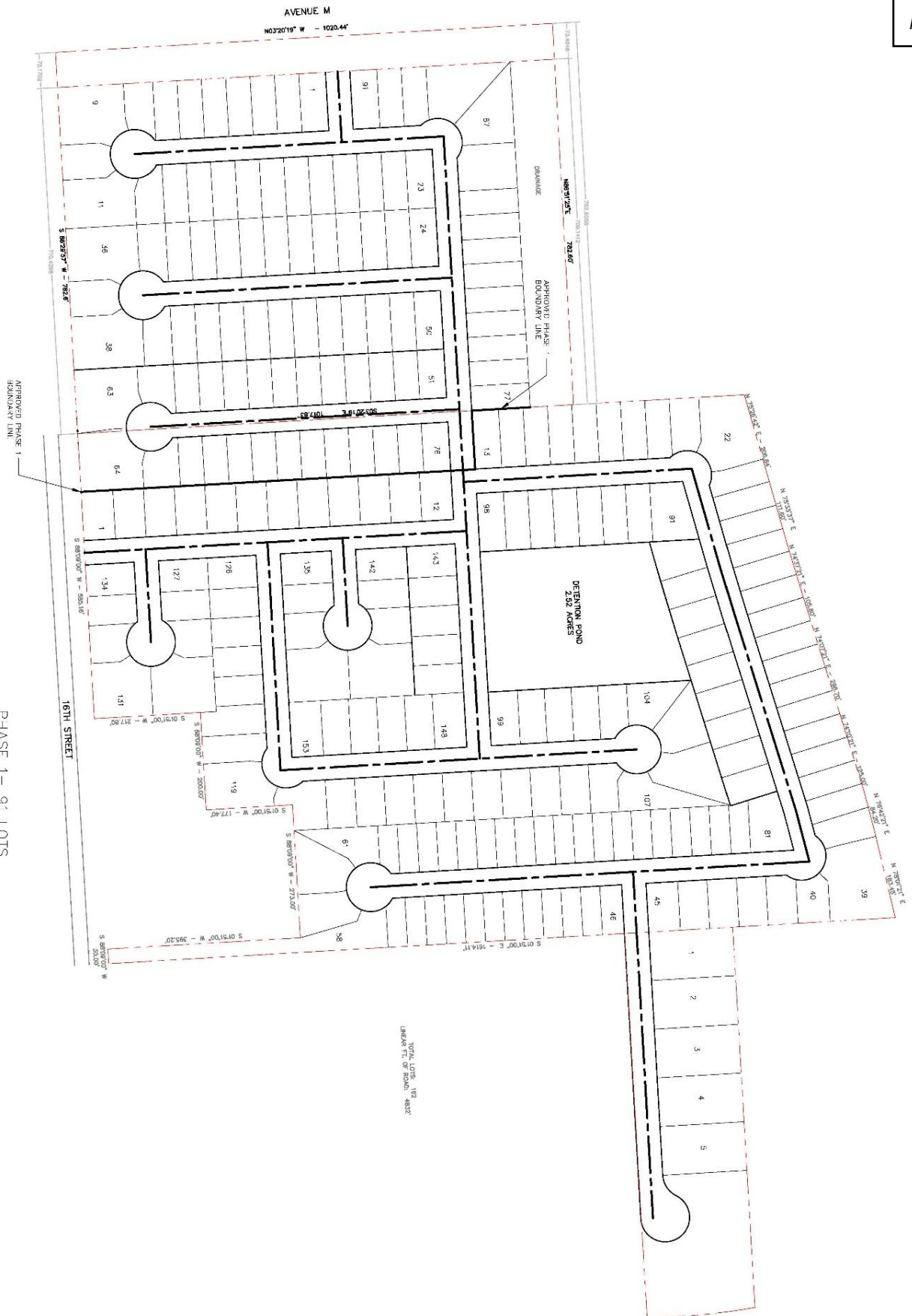
Dear Ms. Burkhardt,

SAL Holdings, LLC is requesting the expansion of the TIRZ #1 boundary to include approximately 58 acres in Exhibit A. We would like to be put on the agenda for the next TIRZ #1 Meeting on January 13, 2022.

Please let me know if you need anything else.

Thank you,

D. C. Dunham
Lynn Group
O 361-972-0123
O 979.245.8900
C 979.479.0165
dc.dunham@lynnngroup.com

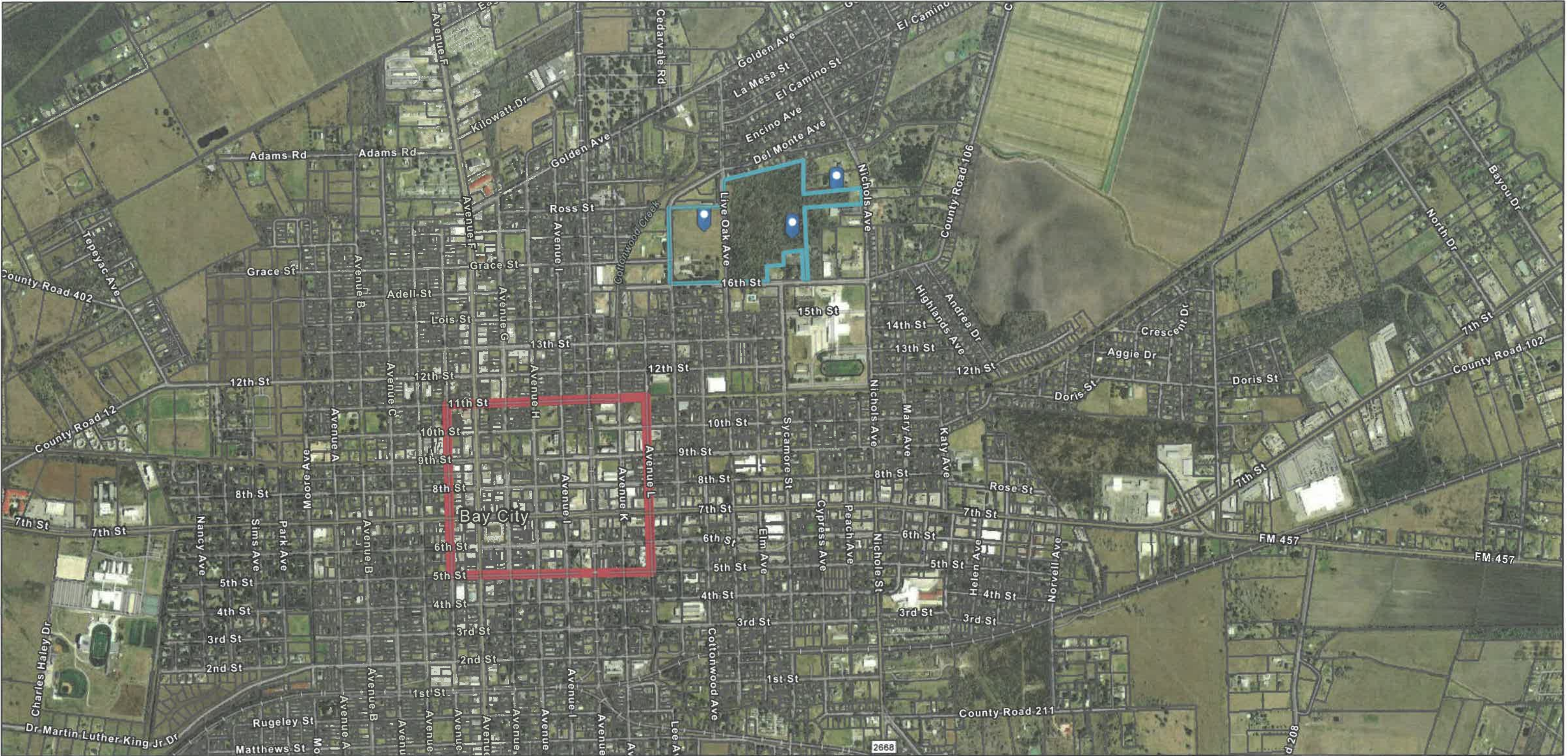


249 TOTAL RESIDENTIAL LOTS

PHASE 1- 91 LOTS
PHASE 2- 153 LOTS
PHASE 3- 5 LOTS

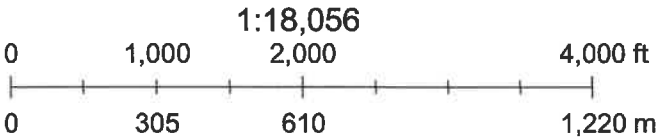
Matagorda CAD Web Map

ITEM #6.



1/9/2022, 2:45:36 PM

☐ Parcels



Esri Community Maps Contributors, Texas Parks & Wildlife, CONANP, Esri, HERE, Garmin, SafeGraph, INCREMENT P, METI/ NASA, USGS, EPA, NPS, US Census Bureau, USDA, Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus

RESOLUTION~ CONSIDER AND TAKE ANY ACTION NECESSARY TO APPROVE AMENDMENT TO TENARIS ECONOMIC DEVELOPMENT AGREEMENT AND NON-ANNEXATION AGREEMENT IN THE FORM OF A LETTER AGREEMENT AND AUTHORIZE MAYOR TO SIGN SAME ON BEHALF OF THE CITY



EXECUTIVE SUMMARY

LETTER AGREEMENT – TENARIS

BACKGROUND:

June 5, 2014- City Council approved an Economic Development and Non-Annexation Agreement with Tenaris.

The letter agreement attached revises the dates of the annual rebate of water and sewer payments back to Tenaris contingent upon receipt and compliance with all required reporting as outlined in Article IV. This grant payment (rebate) is the difference between inside city limit rates and outside city limit rates.

The letter agreement also acknowledges Tenaris's use of "force majeure" due to the COVID-19 pandemic causing a decline in employment.

RECOMMENDATION: Staff recommends City Council approve the letter of agreement.

ATTACHMENTS: Letter of Agreement between City of Bay City and Tenaris Bay City; Economic Development and Non-Annexation Agreement

January 11, 2022

Mayor Robert Nelson
City of Bay City
1901 Fifth Street
Bay City, TX 77414

Re: City of Bay City/Tenaris 380 Agreement

Mayor Nelson:

This letter agreement (this “Letter Agreement”) confirms the understanding of the undersigned parties regarding certain matters relating to the Economic Development and Non-Annexation Agreement, dated June 5, 2014, by and between the parties (the “380 Agreement”).

The parties agree as follows:

In 2020 the COVID-19 pandemic created a global, broad-based extraordinary economic event, beyond any control of Tenaris. This economic event was especially severe in the energy sector, and it forced Tenaris to temporarily lower its employment levels in Texas.

This economic event constituted a clear “force majeure” event under the 380 Agreement. Therefore, pursuant to Section 10.1.3 of the 380 Agreement (i) the temporarily lowered number of employment positions reported by Tenaris for 2020 does not constitute an “Act of Default” and (ii) Tenaris is in compliance with its employment requirements for 2020 and no payments to the City of Bay City are triggered under Section 4.6 of the 380 Agreement.

The parties agree further as follows:

There are pending unpaid payments from the City to Tenaris pursuant to Section 5.3 of the 380 Agreement. The parties agree to a revised payment schedule for these payments. The parties agree that further payments required under Section 5.3 attributable to certain calendar years will be made by the City according to the following revised schedule provided that all reporting is provided as required under Section 4.8:

2019 payment: September 30, 2022
2020 payment: September 30, 2023
2021 payment: September 30, 2024
2022 payment: September 30, 2025
2023 payment: September 30, 2026
2024 payment: September 30, 2027
2025 payment: September 30, 2028



If the foregoing is acceptable to you, please sign and date this Letter Agreement in the space provided below and return to us.

Sincerely,

MAVERICK TUBE CORPORATION

A handwritten signature in black ink, appearing to be "R. Arrillaga", written over a horizontal line.

Raul Arrillaga, Chief Financial Officer

TENARIS BAY CITY

A handwritten signature in black ink, appearing to be "R. Arrillaga", written over a horizontal line.

Raul Arrillaga, Chief Financial Officer

Agreed to and accepted this ____ day of _____, 2022:

CITY OF BAY CITY

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson, City Secretary

ECONOMIC DEVELOPMENT AND NON-ANNEXATION AGREEMENT CITY OF BAY CITY, TEXAS

This **ECONOMIC DEVELOPMENT AND NON-ANNEXATION AGREEMENT** (“**Agreement**”) is entered into in accordance with Article III, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code (“**Chapter 380**”), and Section 212.172 of the Texas Local Government Code (“**Section 212.172**”), to be effective as of the 5th day of June, 2014 (“**Effective Date**”), by and between the City of Bay City (“**City**”), a Texas home rule municipality, and both Maverick Tube Corporation and its affiliate Tenaris Bay City, Inc., each, a Delaware corporation (together, the “**Tenaris Affiliates**”).

WHEREAS, Article III, Section 52-a of the Texas Constitution and Chapter 380 authorize a local government to establish and provide for the administration of one or more programs, for making loans and grants and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality and its extraterritorial jurisdiction;

WHEREAS, pursuant to Chapter 380, City has adopted an economic development program to promote local economic development and stimulate business and commercial activity within the City and its extraterritorial jurisdiction;

WHEREAS, Tenaris Affiliates desire to build a seamless pipe mill (the “**Facility**”), as depicted in **Exhibit A**, on the approximately 1,534 acre tract of real property in Matagorda County, Texas more fully described in **Exhibit B** (the “**Property**”);

WHEREAS, it is expected that direct and indirect jobs will be created during the construction of the Facility, and that at least 600 full-time equivalent jobs at an average annual salary of at least \$66,000 will be created by the time the Facility is developed;

WHEREAS, Tenaris Affiliates intend to invest \$1.314 billion in the construction of the Facility;

WHEREAS, City hereby finds that the development of the Facility, as proposed, will contribute to the economic development of City, expand its extraterritorial jurisdiction and contribute to the surrounding area by creating new jobs and increased employment, generating increased development, and having both a direct and indirect positive stimulus in the local and state economy, and as such meets the requirements under Chapter 380 and City’s economic development program;

WHEREAS, City desires to offer incentives, including the grants set forth in this Agreement, to Tenaris Affiliates to enable Tenaris Affiliates to develop the Facility in substantial conformity with this Agreement and in a manner consistent with the economic development plan of City and its extraterritorial jurisdiction;

WHEREAS, Tenaris Affiliates have filed a petition (a copy of which is attached as **Exhibit C**) requesting that certain portions of the Property (as described in **Exhibit C**) be dis-annexed from City pursuant to Texas Local Government Code Section 43.142 and City’s charter, and that following such dis-annexation, the extraterritorial jurisdiction of City be expanded

pursuant to Texas Local Government Code Section 42.022(b) to include the entirety of the Property;

WHEREAS, on May 8, 2014, prior to the execution of this Agreement, City adopted ordinances (i) dis-annexing portions of the Property formerly included in City limits and (ii) expanding the extraterritorial jurisdiction of City to include the entirety of the Property, copies of which ordinances are attached as **Exhibit D**;

WHEREAS, Section 212.172 authorizes City to make a written contract with an owner of land that is located in City's extraterritorial jurisdiction to: guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by City for a period of up to 45 years; extend City's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by City under which certain general uses and development of the land are authorized; authorize enforcement by City of certain municipal land use and development regulations in the same manner the regulations are enforced within City's boundaries; authorize enforcement by City of land use and development regulations other than those that apply within City's boundaries, as may be agreed to by the landowner and City; provide for infrastructure for the land; authorize enforcement of environmental regulations; provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or include other lawful terms and considerations the parties consider appropriate;

WHEREAS, Tenaris Affiliates have sought certainty from City as to future annexation of the Property and enforcement of certain municipal regulations on the Property, and in consideration of the positive economic impact that the Facility will bring to City and its extraterritorial jurisdiction, City intends that the Property not be annexed during the term of this Agreement;

WHEREAS, City and Tenaris Affiliates (the "**Parties**") wish to enter into this Agreement to set forth certain terms and obligations of the Parties with respect to the foregoing incentives, and to ensure that the incentives are administered in a manner consistent with Article III, Section 52-a of the Texas Constitution, Chapter 380, Section 212.172, and other law;

WHEREAS, the Parties have entered into agreements for the reimbursement of City by Tenaris Affiliates for (i) engineering fees and expenses incurred by City for the design of water and sewer facilities to service the Facility (copies of which agreement (and amendment thereto) are attached as **Exhibit E**), and (ii) costs incurred in the construction of water and sewer facilities to service the Facility (copies of which agreement are attached as **Exhibit F**), and the Parties intend that the receipt of benefits under this Agreement be contingent on compliance with such reimbursement agreements;

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof;

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act, and all public notices and hearings, if any, have been conducted in accordance with Texas law;

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties; and

WHEREAS, the City Council of Bay City hereby adopts these recitals by Resolution and authorizes the Mayor to execute this Agreement to provide the foregoing economic development grants and incentives to Tenaris Affiliates in recognition of the positive economic benefits which will accrue to City through Tenaris Affiliates' efforts to develop the Facility and the Property;

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I

AUTHORITY & BINDING REPRESENTATIONS

1.1. City's execution of this Agreement is authorized by Chapter 380 (and by the Resolution authorizing same) and Section 212.172, and shall constitute a valid and binding obligation of City.

1.2. Tenaris Affiliates' execution and performance of this Agreement constitutes a valid and binding obligation of Tenaris Affiliates obligating Tenaris Affiliates to proceed with the development of the Facility as provided by this Agreement.

1.3. The above recitals (the "**Recitals**") are incorporated by reference herein.

1.4. City acknowledges that Tenaris Affiliates are acting in reliance upon City's performance of its obligations under this Agreement (including those presented in the Recitals) in making its decision to commit substantial resources to develop the Facility, and Tenaris Affiliates acknowledge that City is acting in reliance upon Tenaris Affiliates' representations (including those presented in the Recitals) and its full and complete performance of its obligations under this Agreement in making its decision to commit substantial resources to this Facility.

ARTICLE II

DEFINITIONS

Certain terms not defined elsewhere herein shall have the following meanings:

"Act of Default" means failure to timely, fully, and completely comply with one or more requirements, obligations, duties, terms, conditions or warranties, as stated in this Agreement.

“Force Majeure” means an event beyond the reasonable control of a party obligated to perform an act or take some action under this Agreement including, but not limited to, acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, act of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms or utility disruption, strikes, and lockouts.

“Full-time Employee” mean an employee with a regular work schedule of at least 1600 hours per year.

“In City Industrial Sewer Rate” means the rates charged for industrial users of sewer utility within the corporate limits of City.

“In City Industrial Water Rate” means the rates charged for industrial users of water utility within the corporate limits of City.

“Jobs Creation Report” means a report showing the number of Full-time Equivalent Employees working within the Facility during the year for which the report was created.

“Outside City Industrial Sewer Rate” means the rates charged for industrial users of sewer utility outside the corporate limits of City.

“Outside City Industrial Water Rate” means the rates charged for industrial users of water outside the corporate limits of City.

ARTICLE III **PROJECT SCOPE**

The Facility, as described in Exhibit A, may be revised by addendum; provided, however, that any revision shall not decrease the overall investment in the Facility.

ARTICLE IV **TENARIS AFFILIATES’ OBLIGATIONS**

4.1. Local Preference. Tenaris Affiliates agree to make good faith efforts to give preference and priority to suppliers of goods and services within City of Bay City, except where not reasonably possible without added expense, substantial inconvenience, or sacrifice in operating efficiency in the normal course of business. Tenaris Affiliates shall provide City with an annual report documenting this activity.

4.2. Compliance with Reimbursement Agreements. Tenaris Affiliates shall substantially comply with the terms of the water and sewer service engineering design reimbursement agreement (as amended) attached as Exhibit E, and the water and sewer service infrastructure reimbursement agreement attached as Exhibit F (as amended).

4.3. Reimbursement of Other Costs Incurred by City. Tenaris Affiliates shall consider amendments to the agreements described in Section 4.2 to address the reimbursement of additional expenses incurred by City to service the Facility arising from previously unforeseen conditions.

4.4. Construction. Tenaris Affiliates shall complete construction of the Facility no later than December 31, 2017, by which date Company shall have made a minimum investment of One Billion Three Hundred Fourteen Million Dollars (\$1,314,000,000) in the construction of the Facility.

4.5. Sewer Discharge. All sewer discharge from the Facility shall comply with all applicable federal, state, and municipal requirements (all as amended) to protect water quality and the operation of City's sewer treatment plant.

4.6. Employment. On December 31, 2017, Tenaris Affiliates shall employ a minimum of 600 Full-time Employees at the Facility. Should Tenaris Affiliates employ fewer than 600 employees on December 31 of 2017 and/or on December 31 of any subsequent year during the Term of this Agreement, Tenaris Affiliates shall pay City Five Thousand Dollars (\$5,000) adjusted for inflation multiplied by the difference between 600 and the number of Full-time employees it employed on December 31 of the year in question. Inflation shall be measured using the annual average unadjusted Consumer Price Index for All Urban Consumers for all items with respect to the year to which the payment relates, as published by the United States Department of Labor, with 2017 as the base year. Tenaris Affiliates will make necessary payments within two months of the date the United States Department of Labor publishes the annual average Consumer Price Index for All Urban Consumers with respect to each year, during the Term of this Agreement, in which Tenaris Affiliates maintained fewer than 600 jobs as of December 31. The average annual salary of the Full-time Employees shall be at least Sixty Six Thousand Dollars (\$66,000).

4.7. Dedication. The Tenaris Affiliates shall dedicate two acres of land to the City for water facilities, the location of which land is more particularly described in **Exhibit G**. Tenaris Affiliates shall make such dedication by special warranty deed, clear of any exceptions to warranty that would interfere with the City's intended use of the land. Such dedication shall occur within thirty (30) days of the City's request for same.

4.8. Required Reporting. Tenaris Affiliates shall deliver to City the following reports by March 31, 2015, and on March 31 of each subsequent year of the Agreement:

4.8.1. Documentation of use of City suppliers of goods and services.

4.8.2. Statement of value created through development and construction of real property improvements to the Facility during the prior year.

4.8.3. Certification of full compliance with all requirements of this Agreement, including certification that all reports required by this Agreement have been submitted for the year certified.

4.8.4. A Jobs Creation Report, including information reasonably necessary for City to verify Tenaris Affiliates' compliance with the employment requirements of Section 4.6.

4.9. Additional Information and Privacy

4.9.1. Upon written request by City, Tenaris Affiliates shall promptly provide additional information reasonably necessary to determine if Tenaris Affiliates are in compliance with this Agreement. All information required by this Agreement shall be submitted to the Mayor at the address specified for giving notice in this Agreement.

4.9.2 All information provided by Tenaris Affiliates to City under the required reporting section shall be deemed confidential and shall not be provided to any person outside City government, and shall not be subject to public inspection in accordance with the Texas Public Information Act, pursuant to section 552.110 of the Texas Government Code. In the event a request is made for such information, City will request an Attorney General Decision to allow Tenaris Affiliates to file its own briefing to substantiate any claim of confidentiality related to the information. City agrees not disclose the information unless required to do so by a Letter Ruling issued by the Texas Attorney General's Office in accordance with the Texas Public Information Act, as amended.

4.10. Indebtedness and Obligations. The payment of all indebtedness and obligations incurred by Tenaris Affiliates in connection with the development and construction of the Facility and the operation of the Facility shall be solely the obligations of Tenaris Affiliates. City shall not be obligated to pay any indebtedness or obligations of Tenaris Affiliates.

4.11. Tax Obligations. Tenaris Affiliates shall make timely payment of all real property, personal property, and sales taxes during the Term of this Agreement. To the extent permitted by law, and except where not reasonably possible without added expense, substantial inconvenience, or sacrifice in operating efficiency in the normal course of business, Tenaris Affiliates shall make commercially reasonable efforts to make purchases and sales of items subject to sales tax within the city limits of City.

4.12. Drainage. The Facility and the Property shall comply with all applicable drainage requirements of the Matagorda County Drainage District No. 1 and City's development regulations.

4.13. Development Approval. Tenaris Affiliates commit to apply for and timely obtain all required approvals for development of the Facility and the Property, including the approval of plats by City or Matagorda County, the procurement of building permits from Matagorda County, and the approval of water and sewer utilities by City. City commits to assist to expedite the approval process where possible.

4.14. Immunity Preservation. Tenaris Affiliates covenant and agree not to use the Property for any use other than the use of a seamless pipe mill ("Facility") or the existing use at the time of this Agreement, without the prior written consent of City. Said existing uses specifically being uses that allow Tenaris Affiliates to retain its current property appraisal for ad valorem tax purposes as land for agricultural or wildlife management use under Subchapter C or D, Chapter 23, Texas Tax Code, or as timber land under Subchapter E of that chapter as

applicable to the Property on the Effective Date of this Agreement. Pursuant to Texas Local Government Code Section 43.035 this Agreement is not a permit for purposes of Chapter 245 of the Texas Government Code. Tenaris Affiliates, their heirs, successors and assigns hereby waive any and all vested rights including rights and claims that they may have under common law, federal case law or Section 43.002 of the Texas Local Government Code related to uses, anticipated uses or potential uses of the Property, other than the uses allowed by this Agreement.

ARTICLE V

CITY'S OBLIGATIONS

5.1. Compliance with Reimbursement Agreements. Parties shall substantially comply with the terms of the water and sewer service engineering design reimbursement agreement (as amended) attached as Exhibit E, and the water and sewer service infrastructure reimbursement agreement attached as Exhibit F.

5.2. Water and Sewer. City shall provide water and sewer service to the Facility. City shall have the same duties and obligations to deliver water and sewer services to Tenaris Affiliates as City shall have to any other similarly situated water and sewer utility customer.

5.3. Grant Payments. For the period beginning January 1, 2016, and ending December 31, 2025, City agrees to rebate to Tenaris Affiliates (each such rebate, a "**Grant Payment**") the difference between the effective Outside of City and In City Industrial Water and Sewer Rates, as established annually by City, so that Tenaris Affiliates shall pay only the effective In City Water and Sewer Rates. City's current In City Industrial Water and Sewer Rates and the Outside of City Industrial Water and Sewer Rates are attached hereto as **Exhibit H**. The timing of City's payment of such rebates to Tenaris Affiliates shall be at City's discretion; provided, however, that all Grant Payments owed to Tenaris Affiliates with respect to a calendar year must be paid no later than February 28 of the year following such calendar year.

5.4. Immunity from Annexation. Pursuant to its authority under Section 212.172, City guarantees that, subject to Company's compliance with the applicable terms of this Agreement, the Property and the Facility shall remain in City's extraterritorial jurisdiction and shall be immune from annexation during the entire Term of this Agreement. During the Term of this Agreement, City shall not enter into any agreement permitting the Property or the Facility to be annexed to the extraterritorial jurisdiction of another municipality.

5.5 Authorized Enforcement of Land Use and Development Regulations. The Parties agree that City's regulations regarding oil and gas drilling, as set forth in Chapter 62 of City's Code of Municipal Ordinances, as amended, shall fully apply to the Property.

ARTICLE VI

TERM OF AGREEMENT

The "**Term**" of this Agreement (hereinafter so called) shall extend for a period of forty-five (45) years from the **Effective Date**. Upon the expiration of this Agreement, Tenaris Affiliates and their successors, heirs or assigns agree to the voluntary annexation of the Property described within this Agreement serving as a petition for voluntary annexation. For the purposes

of Texas Local Government Code Section 43.028 (d), this petition shall be deemed filed on the termination date of this Agreement. This provision shall survive termination of this Agreement.

ARTICLE VII **COVENANTS**

7.1. Covenants of Tenaris Affiliates. During the Term of this Agreement, Tenaris Affiliates shall comply with the following covenants.

7.1.1. Operation of Facility. The Facility shall be operated, maintained and managed directly by Tenaris Affiliates or any successor in a manner consistent with operation and management of other similar facilities. The Facility shall be in compliance with all applicable laws.

7.1.2. Employment of Undocumented Workers. In accordance with Texas Government Code section 2264.051, Tenaris Affiliates certify that they do not and will not knowingly employ an undocumented worker, as that term is defined in the section.

7.2. Covenant of City. During the Term of this Agreement, City shall manage its municipal water and sewer utilities in a reasonable and prudent manner in order to fulfill its obligations under this Agreement, and shall be in compliance with all applicable laws, including by obtaining and keeping in effect all time all permits, licenses and contractual arrangements as may be necessary for the operation of municipal water and sewer utilities.

7.3. Further Actions. City and Tenaris Affiliates will do all things reasonably necessary or appropriate to carry out the objectives, terms and provisions of this Agreement and to aid and assist each other in carrying out such objectives, terms and provisions.

ARTICLE VIII **REPRESENTATIONS AND WARRANTIES**

8.1. Representations and Warranties of Tenaris Affiliates. Tenaris Affiliates represent and warrant to City, as of the Effective Date, as follows:

8.1.1. Organization. Tenaris Affiliates are each corporations, duly organized, validly existing and in good standing under the laws of the State of Delaware, and authorized to do business in the State of Texas. The business that Tenaris Affiliates proposes to carry on at the Facility may lawfully be conducted by Tenaris Affiliates.

8.1.2. Authority. The execution, delivery and performance by Tenaris Affiliates of this Agreement are within Tenaris Affiliates' powers and have been duly authorized by all necessary actions of Tenaris Affiliates.

8.1.3. No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated, nor compliance with the terms and provisions hereof will contravene the

organizational documents of Tenaris Affiliates or any provision of law, statute, rule or regulation to which Tenaris Affiliates are subject or any judgment, decree, license, order or permit applicable to Tenaris Affiliates, or will conflict or be inconsistent with, or will result in a breach of any of the terms of the covenants, conditions or provisions of, or constitute a delay under, or result in the creation or imposition of a lien upon any of the property or assets of Tenaris Affiliates pursuant to the terms of any indenture, mortgage, deed of trust, agreement or other instrument to which Tenaris Affiliates are a party or, by which Tenaris Affiliates are bound, or to which Tenaris Affiliates are subject.

8.1.4. No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the due execution, delivery and performance by the delivery of this Agreement or the consummation of the transactions contemplated hereby or thereby, other than City whose authority and consent is herein granted.

8.1.5. Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Tenaris Affiliates, enforceable against Tenaris Affiliates in accordance with its terms except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

8.1.6. No Pending Litigation. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the current actual knowledge of Tenaris Affiliates, threatened against or affecting Tenaris Affiliates or any subsidiaries of Tenaris Affiliates, questioning the validity or any action taken or to be taken by Tenaris Affiliates in connection with the execution, delivery and performance by Tenaris Affiliates of this Agreement or seeking to prohibit, restrain or enjoin the execution, delivery or performance by Tenaris Affiliates hereof, wherein an unfavorable decision, ruling or finding, (i) would adversely affect the validity or enforceability of, or the authority or ability of Tenaris Affiliates to perform, their obligations under this Agreement, or (ii) would have an adverse effect on the consolidated financial condition or results of operations of Tenaris Affiliates or on the ability of Tenaris Affiliates to conduct their business as presently conducted or as proposed or contemplated to be conducted (including the operation of the Facility).

8.1.7. No Defaults. Tenaris Affiliates are not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which a Tenaris Affiliate is a party or by which Tenaris Affiliates or any of their property is bound that would have any material adverse effect on Tenaris Affiliates' ability to perform under this Agreement.

8.2. Representation and Warranties of City. City represents and warrants to Tenaris Affiliates, as of the Effective Date, as follows:

8.2.1. Authority. City is a duly created and existing municipal corporation and home rule municipality of the State of Texas under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement. The execution, delivery and performance by City of this Agreement are within its respective powers and have been duly authorized by all necessary action.

8.2.2. No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein contemplated nor compliance with the terms and provisions hereof will contravene the governing documents of City or any provision of law, statute, rule or regulation to which City is subject or any judgment, decree, license, order or permit applicable to City, or will conflict or be inconsistent with, or will result in a breach of any of the terms of the covenants, conditions or provisions of, or constitute a delay under, or result in the creation or imposition of a lien upon any of the property or assets of City pursuant to the terms of any indenture, mortgage, deed of trust, agreement or other instrument to which City is a party or by which City is bound, or to which City is subject.

8.2.3. Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of City, enforceable against City in accordance with its terms except as limited by applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time.

8.2.4. No Pending Litigation. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the current actual knowledge of City, threatened against or affecting City, questioning the validity of any proceedings taken or to be taken by City in connection with the execution, delivery and performance by City of this Agreement or seeking to prohibit, restrain or enjoin the execution, delivery or performance by City hereof, wherein an unfavorable decision, ruling or finding would adversely affect the validity or enforceability of, or the authority or ability of City to perform its obligations under this Agreement.

8.2.5. No Default. City is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any material agreement or instrument to which City is a party or by which City is bound that would have any material adverse effect on City's ability to perform under this Agreement.

ARTICLE IX

PERSONAL LIABILITY OF PUBLIC OFFICIALS

No employee of City, or any councilmember or agent of City, shall be personally responsible for any liability arising under or growing out of this Agreement. The Grant Payments made hereunder shall, as applicable, be paid solely from lawfully available funds that have been appropriated by City. Under no circumstances shall City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision.

ARTICLE X

DEFAULT

10.1 Default by Tenaris Affiliates.

10.1.1. Act of Default; Termination of Grant Payment. Should Tenaris Affiliates fail to timely, fully and completely comply with any one or more of the requirements, obligations, duties, terms, conditions or warranties of this Agreement, such failure shall be an Act of Default by Tenaris Affiliates and, if such Act of Default is not cured pursuant to Section 10.1.4, this Agreement shall terminate and City may cease making any further Grant Payments.

10.1.2. Annexation. Upon termination of this Agreement pursuant to Section 10.1.1 due to an uncured Act of Default by Tenaris Affiliates, City may immediately initiate annexation proceedings pursuant to Texas Local Government Code Chapter 43 and City charter.

10.1.3. Force Majeure. The failure to comply with a requirement, obligation, duty, term, condition, or warranty hereunder shall not constitute an Act of Default pursuant to Section 10.1.1 if such failure was caused by an unforeseeable third party delay or Force Majeure, upon a reasonable showing by Tenaris Affiliates that they have immediately and in good faith commenced and are diligently and continuously pursuing the correction, removal or abatement of such failure.

10.1.4. Cure. City shall provide written notice to Tenaris Affiliates of any alleged Act of Default. Tenaris Affiliates shall have ninety (90) days from the receipt of such written notice to cure such Act of Default. The period for curing an Act of Default shall toll, and shall not be considered for any purpose as having run, beginning upon the day Tenaris Affiliates file a petition in district court in Matagorda County, Texas to determine whether an Act of Default has in fact occurred under this Agreement and/or to determine whether any attempt to cure has been sufficient. Tolling described in the preceding sentence will end, and the time period during which a cure of any default must be made will again begin to run, upon the issuance of a final court decision, and when all appeals therefrom are exhausted.

10.1.5. Notice. Any delay for any amount of time by City in providing notice of an Act of Default to Tenaris Affiliates shall in no event be deemed or

constitute a waiver of such Act of Default by City of any of its rights and remedies available in law or in equity.

10.1.6. Waiver. Any waiver granted by City to Tenaris Affiliates of an Act of Default shall not be deemed or constitute a waiver of any other existing or future Act of Default by Tenaris Affiliates or of a subsequent Act of Default of the same act or event by Tenaris Affiliates.

10.2. City's Liability Limitations. Should City fail to timely, fully and completely comply with any one or more of the requirements, obligations, duties, terms, conditions or warranties of this Agreement, such failures shall be an Act of Default by City and City shall have ninety (90) days to cure and remove the Act of Default upon receipt of written notice to do so from Tenaris Affiliates. The period for curing an Act of Default shall toll, and shall not be considered for any purpose as having run, beginning upon the day City files a petition in district court in Matagorda County, Texas to determine whether an Act of Default has in fact occurred under this Agreement and/or to determine whether any attempt to cure has been sufficient. Tolling described in the preceding sentence will end, and the time period during which a cure of any default must be made will again begin to run, upon the issuance of a final court decision, and when all appeals therefrom are exhausted. Tenaris Affiliates specifically agree that City shall only be liable to Tenaris Affiliates for the amount of Grant Payments determined under Section 5.3, and City shall not be liable to Tenaris Affiliates for any other actual or consequential damages, direct or indirect, or interest for any Act of Default by City under the terms of this Agreement.

ARTICLE XI

MISCELLANEOUS

11.1. Entire Agreement. This Agreement, including exhibits hereto, contains the entire agreement between the Parties with respect to the transactions contemplated herein.

11.2. Amendment. This Agreement may only be amended, altered, or revoked by written instrument signed by all Parties. A section of this Agreement may be revised by addendum that includes only that section, signed by all Parties.

11.3. Successors and Assigns. In this Agreement, unless a clear contrary intention appears, reference to any party includes such party's successors and assigns, and reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof. This Agreement shall be binding on and inure to the benefit of the Parties and their respective successors and assigns. This Agreement is not assignable without the prior written permission of the other parties thereto; provided, however, that Tenaris Affiliates may assign in whole or in part their rights and obligations under this Agreement to any affiliate, subsidiary, related company, partnership, or joint venture, so long as the assignee controls, is controlled by, or is under common control with Tenaris Affiliates; or to a third party lender advancing funds for the acquisition of all or any part of the Facility or the Property or for the construction or operation of the Facility. City expressly consents to any assignment described in the preceding sentence, and agrees that no further consent of City to such an assignment will be required. Tenaris Affiliates agree to provide City with written notice of any such assignment. Tenaris Affiliates agree that

they will not dissolve or terminate their existence during the Term of this Agreement unless such obligations are assumed as provided herein.

11.4. Waiver. No term or condition of this Agreement shall be deemed to have been waived, nor, shall there be any estoppel to enforce any provision of this Agreement, except by written instrument of the Party charged with such waiver or estoppel.

11.5. Remedies. Upon breach of any of the promises, covenants, representations or warranties contained in this Agreement, in addition to any other remedies expressly set forth in this Agreement with respect to such breach, the aggrieved Party shall have such remedies as are available in law or equity for breach of contract; provided, however, that no Party shall be liable to any other Party for incidental or consequential damages.

11.6. Notices. Any notice, statement and/or communication required and/or permitted to be delivered hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, by messenger, by facsimile, or by reputable overnight carrier, and shall be deemed delivered when received at the addresses of the Parties set forth below, or at such other address furnished in writing to the other Parties thereto:

TENARIS AFFILIATES: Mr. Hernan Hanisch
Tenaris Bay City, Inc.
4000 Avenue F, Suite A
Bay City, TX 77414

CITY: City of Bay City
c/o Mayor Mark Bricker
1901 Fifth Street
Bay City, Texas 77414

With a copy to: George Hyde
Denton, Navarro, Rocha, Bernal, Hyde & Zech, P.C.
2500 W William Cannon Drive, Suite 609
Austin, Texas 78745-5257

11.7. Applicable Law. This Agreement is made, and shall be construed and interpreted under the laws of the State of Texas, and venue shall lie in State courts located in Matagorda County, Texas.

11.8. Severability. In the event any provision of this Agreement is illegal, invalid, or unenforceable under the present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceable and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

11.9. No Joint Venture. Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Except, as otherwise specifically provided herein, neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

11.10. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be considered an original, but all of which constitute one instrument.

EXECUTED to be effective as of the Effective Date:

CITY OF BAY CITY

By: _____

Mark A. Bricker, Mayor

ATTEST:

Rhonda Clegg
Rhonda Clegg, City Secretary

MAVERICK TUBE CORPORATION

By: _____

Name: Roberto Delgado Chris D. North

Title: Attorneys in Fact

TENARIS BAY CITY, INC.

By: _____

Name: Roberto Delgado Chris D. North

Title: Attorneys in Fact



January 11, 2022

Shawna Burkhart
City Manager
City of Bay City
1901 Fifth Street
Bay City, TX 77414

RE: Professional Services Proposal – TIRZ #4 Creation

Dear Ms. Burkhart,

David Pettit Economic Development, LLC ("DPED") is pleased to provide this proposal for economic development professional services relating to potential creation of Tax Increment Reinvestment Zone Number Four (TIRZ #4) in the City of Bay City, Texas ("City").

The Project

It is our understanding that the City of Bay City, Texas is interested in potentially creating TIRZ #4 for the purpose of facilitating development.

The Assignment

Our work under this proposal would be to provide professional economic development services. DPED's primary role will be to provide professional economic development services relating to amending the TIRZ.

The Team

We propose working in a team organized as follows:

- You will be our point of contact and will provide overall direction to our team. You may also include other members of City staff with which we will meet regularly to review our progress and to get input and direction on our work.
- At this time we do not anticipate the need for any additional consultants to accomplish the work described in this proposal.

Statutory Requirements

Chapter 311 of the Texas Tax Code outlines the various procedures for creating a TIRZ and the authorized use of funds from the TIRZ. A TIRZ ordinance is approved by the governing body of the municipality and establishes four key elements, including:

- boundary;
- term;
- TIRZ Board; and
- amended preliminary project and financing plan.

A final project plan and financing plan is later approved by the TIRZ Board and then by the governing body of the municipality by separate ordinance.

Per Section 311.003 of the Tax Code the governing body of a municipality by ordinance may designate a contiguous or noncontiguous geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future.

Scope of Services

This proposed scope of services is focused on accomplishing three main goals:

- TIRZ #1 Creation Ordinance
- TIRZ #1 Project and Financing Plan Ordinance
- TIRZ #1 Participation Agreements

Based on our conversations and our experience on previous projects, we propose the following scope of services for the TIRZ. Our proposed scope of services is divided into separate tasks, each providing a description of the work to be performed and the key products resulting from the task.

Task 1

Taxable Value Analysis

DPED develop a Taxable Value Analysis to reflect development plans, taking into account current market conditions and demand trends. DPED will develop projections for future land uses, values, and timing of the proposed future developments. A multi-year historic taxable value review of similar developments will be conducted to establish baseline conservative assumptions for the development in the proposed zone. This task will be the basis for developing a spreadsheet model of TIRZ increments, given a reasonable range of development assumptions and taxable values. Key products of this task would include a spreadsheet model on a parcel-by-parcel basis with projections based upon the historical taxable value review of the development potential of the proposed TIRZ.

Task 2

Develop TIRZ Cash Flow Model

Based on the anticipated land uses and projections, DPED would develop a cash flow model. This model will allow the City, consultants and others to underwrite the developments and test various scenarios for the financing plan. Key products of this task would include excel spreadsheets of TIRZ Cash Flow Model with macros established for growth and development assumptions.

Task 3

Prepare TIRZ Project and Financing Plan

DPED would then develop the Finance Plan, Project Plan, and Detailed Description of TIRZ, and other exhibits required for local government review and approval per the state legislative requirements. This work includes the written, graphic, and PowerPoint materials and exhibits, as well as support of the process. Backup materials such as spreadsheets and databases will also be products that support the plans. Key products would include an TIRZ Project and Financing Plan including legal description of the zone, proposed TIRZ projects, term of the zone, and increment analysis.

Task 4

TIRZ Documentation Support

DPED will provide assistance with drafting necessary documents for creating TIRZ #4, including: 1) public hearing notices; 2) resolutions; 3) ordinances; and 4) participation agreements, if necessary. This can be a time-consuming process for City staff, however DPED's extensive experience in drafting these documents should help streamline the preparation of materials necessary for City Council consideration.

Task 5

Facilitate Review and Consideration of the Proposed Amendment

DPED would facilitate meetings and presentations to the local governmental bodies and their respective boards and commissions. This will include supporting meetings, work sessions, briefings, commission meetings, and hearings. Key products of this task would include attendance and support of City staff at all required meetings in the review and approval process.

Task 6**TIRZ Documentation Support**

DPED will provide assistance with drafting necessary documents for amending the TIRZ including: 1) public hearing notices; 2) resolutions; and 3) ordinances. This can be a time consuming process for City staff, however DPED's extensive experience in drafting these documents should help streamline the preparation of materials necessary for City Council consideration. This task would also include assistance in creating and appointing the appropriate TIRZ board per the TIRZ creation ordinance.

Fee for Services

Our fee for services relating to the scope of services would be a lump sum fee of \$23,500.

Fees would be charged monthly, subject to on-going progress on the work effort. Reimbursable expenses would be charged to include out-of-pocket expenses incurred in the interest of the project at actual costs.

Changes of Scope and Additional Services

Minor additions to our scope will be treated as Additional Services. Work on Additional Services will not begin until authorized in writing by the Client.

Additional Services and Rates for Hourly Services

Additional Services shall be billed on an hourly not to exceed basis unless a fixed fee or other method of compensation is mutually agreed upon. Our current hourly rates are:

<u>Classification</u>	<u>Hourly Billing Rate</u>
David Pettit	\$325.00
Project Manager	\$250.00
Project Specialist	\$120.00
Planning Intern	\$100.00
Administrative	\$80.00

These rates apply for the current calendar year and are subject to revision on January 1, when they may be revised to reflect changes in staff salaries over the preceding year.

Term of Agreement

It is anticipated that the services covered in the proposal will be completed within twelve (12) months of the date services begin. This Agreement will terminate upon the earlier of completion of services or twelve (12) months from the date of this Agreement. Additionally, Client may terminate this Agreement for any reason upon thirty (30) days written notice to DPED and DPED will cease any and all work upon receipt of such notice, unless otherwise directed in the notice. In the event of a termination as described above, Client shall be responsible for the payment of the fees and expenses incurred by DPED pursuant to this agreement through the date of such termination.

Reimbursables

We propose to be reimbursed for out-of-pocket expenses incurred in the interest of the project at DPED actual cost. Reimbursable expenses include: our direct consultants and their expenses (to be reimbursed, all consultants and their bids must be approved in writing, in advance by the client); reproduction; long distance communication; document printing and delivery; document graphics and binding; delivery, postage and handling; travel time; special materials; photography; etc. (Reasonable backup will be available upon request.)

Invoices and Payments

Payment for services rendered is due within thirty (30) days of Client's next monthly billing cycle following receipt of invoice. In the event any invoices remain unpaid 45 days after the invoice date, we suspend work until we have been paid in full all amounts due for services and expenses. Amounts unpaid for more than 30 days after the due date may accrue interest at 10% per annum. In the event we are forced to commence a collection

proceeding, you agree to pay reasonable attorney's fees and court costs, in addition to our fees billed under this proposal.

Suspension and Termination

If the project is suspended or abandoned, DPED will be compensated for all services billed prior to receipt of written notice by the Client. Services that are not billed or completed between billing periods and receipt of written notice will be reimbursed at DPED's standard hourly rates.

If the scope or schedule of the project should change beyond that to be reasonably expected due to the program changes, schedule or other reason, at their option, DPED may re-negotiate the aforementioned fees and scope of work. Any renegotiation of scope or fee will be in writing and subject to the signing of both parties.

Certifications

Guarantees and Warranties: We will not be required to execute any document that would result in our certifying, guaranteeing or warranting the existence of conditions whose existence we cannot ascertain.

Authorization to Proceed

Thank you again for this opportunity to work with you. Your signature below and the return of one copy to us for our file will confirm your approval and authorize us to proceed.

Insurance

DPED will provide proof of professional liability insurance (including errors and omissions) with minimum limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate and excess/umbrella liability of \$1,000,000 per occurrence and \$2,000,000 in the aggregate to client. Additionally, DPED shall carry the following insurance coverages:

- (a) Worker's compensation insurance at the statutory limits and employer's liability insurance, with minimum limits of \$1,000,000.00/\$1,000,000.00/\$1,000,000.00; and
- (b) Comprehensive general liability insurance, with minimum limits of \$2,000,000.00 each occurrence and \$4,000,000.00 in aggregate; and
- (c) Comprehensive automobile liability insurance, with minimum limits of \$1,000,000.00 combined single limit each occurrence; and

DPED has previously provided, or concurrently with the execution of this agreement is providing, to Client a certificate of insurance issued to Client evidencing the foregoing insurance coverages and evidencing that Client and Client's lender, if any, are additional insured parties with respect to the insurance policies referred to in the foregoing subparagraphs (b) and (c).

Notices

Any notice required or permitted to be given to either party shall be deemed to be received by such party (a) three (3) days after deposit in the United States Registered or Certified Mail, Return Receipt Requested, or (b) one (1) business day after deposit with a nationally recognized overnight delivery service for next day delivery, or (c) upon personal delivery to the party to whom addressed provided that a receipt of such delivery is obtained, or (d) on the next business day after transmission by telecopy provided that a confirmation copy is concurrently deposited in United States Certified or Registered Mail, Return Receipt Requested, in any case addressed to the parties at the following addresses:

If to Client:

City of Bay City
1901 Fifth Street
Bay City, TX 77414
Attention: Scotty Crow Jones C.P.M., Finance Director

Email: sjones@cityofbaycity.org

If to DPED:

David Pettit Economic Development, LLC.
306 West Seventh Street, Suite 602
Ft. Worth, TX 76102
Attention: David Pettit
Email: dpettit@dpedllc.com

or to the parties at such other addresses or telecopy numbers as they may designate by notice to the other party as herein provided.

SUMMARY

I hope this accurately outlines the professional services you anticipated. If you have any questions or concerns please do not hesitate to contact me at 817.439.9421.

Thank you for considering David Pettit Economic Development, LLC.

Sincerely,



David Pettit
Managing Member

If this agreement meets with your approval, please sign and return one executed copy to our office as notice to proceed.

AGREED TO AND ACCEPTED BY:

City of Bay City, Texas

By: _____
Robert K. Nelson, Mayor

Date: _____

**RESOLUTION~ DISCUSS, CONSIDER, AND/OR APPROVE
THE AMALFI RANCH PID DEVELOPMENT AGREEMENT
BETWEEN CRESCENT CAPITAL INVESTMENTS, LLC AND
THE CITY OF BAY CITY, TEXAS**



EXECUTIVE SUMMARY

DEVELOPMENT AGREEMENT – MADDOX DEVELOPMENT

BACKGROUND:

September 23, 2021- A petition for a public improvement district (PID) was signed by owners of said property.

September 28, 2021- The City Council called for a public hearing for the creation of a public improvement district (PID) under Chapter 372 of the Texas Local Government Code.

October 26, 2021- Public Hearing was held.

December 21, 2021 - A resolution was approved for the creation of the PID which allowed the developer to begin construction 20 days from the creation.

RECOMMENDATION: Staff recommends City Council approve the development agreement

ATTACHMENTS: Amalfi Ranch PID Development Agreement

AMALFI RANCH PUBLIC IMPROVEMENT DISTRICT

DEVELOPMENT AGREEMENT

BETWEEN

CRESCENT CAPITAL INVESTMENTS LLC

AND

THE CITY OF BAY CITY, TEXAS

Dated: January __, 2022

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AMALFI RANCH PID DEVELOPMENT AGREEMENT

This Amalfi Ranch PID Development Agreement (this “**Agreement**”), dated as of January ___, 2022 (the “**Effective Date**”), (subject to termination as provided in Article 11) is entered into between Crescent Capital Investments LLC, limited liability company (the “**Developer**”), and the City of Bay City, Texas (the “**City**”), a home-rule city and municipal corporation, acting by and through its duly authorized representative.

Recitals:

WHEREAS, unless otherwise defined: (1) all references to “sections” shall mean to sections of this Agreement; (2) all references to “exhibits” shall mean exhibits to this Agreement which are incorporated as part of this Agreement for all purposes; and (3) all references to “ordinances” or “resolutions” shall mean ordinances or resolutions adopted by the City Council of the City of Bay City, Texas (the “City Council”); and

WHEREAS the Developer is in the process of acquiring for development, approximately 49.71 acres of real property depicted on Exhibit A attached hereto (the “Property”) within the corporate limits of the City primarily as a single-family residential development, in accordance with the applicable City Regulations (the “Project”); and

WHEREAS, in order to incentivize the development of the Property and encourage and support economic development within the City and to promote employment, the City desires to facilitate the development of the Property through the financing of certain public infrastructure (the “Public Improvements” as defined herein) and constructing additional public improvements within the Property; and

WHEREAS, in order to finance the Public Improvements, the City Council intends to create a public improvement district that is coterminous with the boundaries of the Property (the “PID”) in accordance with Chapter 372 Texas Local Government Code, as amended (the “PID Act”); and

WHEREAS, the City recognizes that financing of the Public Improvements confers a special benefit to the Property within the PID; and

WHEREAS, the City intends to (upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement), adopt the Assessment Ordinance (as defined herein) and adopt a Service and Assessment Plan (“SAP”) (as defined herein) which provide for the construction, and financing of the Public Improvements pursuant to a Service and Assessment Plan, payable in whole or in part by and from Assessments levied against property within the PID (whether through a cash reimbursement or through an issuance of PID Bonds); and

WHEREAS, upon satisfaction of the conditions and in accordance with the terms set forth in this Agreement, the City intends to levy Assessments on all benefitted property located within the PID and issue PID Bonds (as defined herein) up to a maximum aggregate principal amount of \$10,000,000 for payment or reimbursement of the Public Improvements included in the SAP; and

WHEREAS the payment and reimbursement for the Public Improvements shall be solely from the installment payments of Assessments and/or proceeds of the PID Bonds and the City shall never be responsible for the payment of the Public Improvements or the PID Bonds from its general fund or its ad valorem tax collections, past or future or any other source of City revenue or any assets of the City of whatsoever nature; and

WHEREAS, the City recognizes the positive impact that the construction and installation of the Public Improvements for the PID will bring to the City and will promote state and local economic development; to stimulate business and commercial activity in the City; for the development and diversification of the economy of the State; development and expansion of commerce in the State, and elimination of employment or underemployment in the State;

NOW, THEREFORE, for and in consideration of the mutual agreements, covenants, and conditions contained herein, and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Article have the meanings assigned to them in the Recitals or this Article, and all such terms include the plural as well as the singular.

“Actual Costs” is defined in the Service and Assessment Plan.

“Affiliates” of Crescent Capital Investments LLC, means any other person directly controlling, or directly controlled by or under direct common control with the Developer. As used in this definition, the term “control,” “controlling” or “controlled by” shall mean the possession, directly, of the power either to (a) vote fifty percent (50%) or more of the securities or interests having ordinary voting power for the election of directors (or other comparable controlling body) of the Developer, or (b) direct or cause the direction of management or policies of the Developer, whether through the ownership of voting securities or interests, by contract or otherwise, excluding in each case, any lender of the Developer or any affiliate of such lender.

“Agreement” has the meaning stated in the first paragraph of this Agreement.

“Amenities” means the amenities to be constructed by the Developer and owned by the HOA, as set forth in Exhibit K.

“Annual Installments” means with respect to each parcel subject to Assessments, each annual payment of the Assessments, including any applicable interest, as set forth and calculated in the SAP.

“Applicable Law” means any statute, law, treaty, rule, code, ordinance, regulation, permit, interpretation, certificate or order of any Governmental Authority, or any judgment, decision, decree, injunction, writ, order or like action of any court, arbitrator or other Governmental Authority. Applicable Laws shall include, but not be limited to, City Regulations.

“Appraisal” means an appraisal of the property to be assessed in each PID by a licensed MAI Appraiser, such Appraisal to include as-complete improvements, including the Public Improvements to be financed in part with PID Bonds (i.e., “as-complete”) and the construction and installation of the Private Improvements, necessary to get a Final Lot Value.

“Assessment Ordinance” means one or more of the City’s ordinances approving a SAP and levying Assessments on the benefitted Property within the PID.

“Assessments” means those certain assessments levied by the City pursuant to the PID Act and on benefitted parcels within the PID for the purpose of paying the costs of the Public Improvements, which Assessments shall be structured to be amortized over 30 years, including interest, all as set forth in or modified by the Service and Assessment Plan.

“City Regulations” mean provisions of the City’s Code of Ordinances, ordinances not codified, design standards, uniform and international building and construction codes, and other policies duly adopted by the City, which shall be applied to the Development, including zoning if any.

“City Representative” means the City Manager or designee which may include a third party inspector or representative.

“City Tax Increment” means, for any given year beginning with the 2021 tax year, fifty percent (50%) of the ad valorem property taxes levied and collected by the City for that year on the captured appraised value of real property taxable by the City and located within the TIRZ for the term of the TIRZ, as set forth in 4.01 herein.

“City” means the City of Bay City, Texas.

“Closing Disbursement Request” means the Closing Disbursement Request described in Section 4.06, the form of which is attached as Exhibit G.

“Commencement of Construction” shall mean that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the applicable improvement, or portion thereof, as the case may be, on the Property; (ii) all necessary permits for the initiation of construction of the improvement, or portion thereof, as the case may be, on the Property pursuant to the respective plans therefore having been issued by all applicable governmental authorities; and (iii) grading of the Property for the construction of the applicable improvement, or portion thereof, as the case may be, has commenced.

“Completion of Construction” shall mean that the City has with respect to applicable Public Improvements accepted the respective Public Improvements and confirmed that Final Completion has been reached with respect to such Public Improvements.

“Completed Lots” means Fully Developed and Improved Lots for which (i) water, sanitary sewer, drainage and roads have been extended, and (ii) the City has authorized that a building permit may be obtained for construction on each lot.

“Concept Plan” means the concept plan attached hereto as Exhibit J.

“Construction Agreements” mean the contracts for the construction of the Public Improvements.

“Cost Overruns” means those Public Improvement Project Costs that exceed the budget cost set forth in the SAP(s) plus the Developer Cash Contribution.

“Cost Underruns” means Public Improvement Project Costs that are less than the budgeted cost set forth in the SAP(s).

“County” means Matagorda County, Texas.

“County Tax Participation Agreement” means the agreement between the City and the County whereby the County agreed to participate in the TIRZ.

“County Tax Increment” means, for any given year beginning with the 2022 tax year, means the percentage, identified in the County Tax Participation Agreement, of the ad valorem property taxes levied and collected by the County for that year on the captured appraised value of real property taxable by the County and located within the TIRZ.

“Delinquent Collection Costs” shall be defined in the SAP(s).

“Developer” means Crescent Capital Investments, LLC its successors and permitted assigns.

“Development Standards” means those development requirements set forth in Article VI herein.

“Development” means the Amalfi Ranch Development, a residential development to be developed and constructed on the Property pursuant to the City Regulations.

“Effective Date” means the date set forth in the first paragraph of this Agreement.

“End Buyer” means any developer, homebuilder, tenant, user, or owner of a Fully Developed and Improved Lot.

“Estimated Build Out Value” means the estimated value of an assessed property with fully constructed buildings, as provided by the Developer and confirmed by the City by considering such factors as density, lot size, proximity to amenities, view premiums, location, market conditions, historical sales, builder contracts, discussions with homebuilders, reports from third party consultants, or any other factors that, in the judgment of the City, may impact value.

“Final Completion” means as the point in the construction of the project when the City determines that the project is 100% completed, including punch list work.

“Final Lot Value” means the developed lot values established by an Appraisal.

“Force Majeure” means any act that (i) materially and adversely affects the affected Party’s ability to perform the relevant obligations under this Agreement or delays such affected Party’s

ability to do so, (ii) is beyond the reasonable control of the affected Party, (iii) is not due to the affected Party's fault or negligence and (iv) could not be avoided, by the Party who suffers it, by the exercise of commercially reasonable efforts. "Force Majeure" shall include: (a) natural phenomena, such as storms, floods, lightning and earthquakes; (b) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (c) transportation disasters, whether by ocean, rail, land or air; (d) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; (e) fires; (f) epidemics or pandemics where shut-down of residential construction or the manufacturing of supplies relating thereto has been ordered by a Governmental Authority; and (g) actions or omissions of a Governmental Authority (including the actions of the City in its capacity as a Governmental Authority) that were not voluntarily induced or promoted by the affected Party, or brought about by the breach of its obligations under this Agreement or any Applicable Law or failure to comply with City Regulations; provided, however, that under no circumstances shall Force Majeure include any of the following events: (g) economic hardship; (h) changes in market condition; (i) any strike or labor dispute involving the employees of the Developer or any Affiliate of the Developer, other than industry or nationwide strikes or labor disputes; (j) weather conditions which could reasonably be anticipated by experienced contractors operating the relevant location; (k) the occurrence of any manpower, material or equipment shortages except as set forth in (f) above; or (l) any delay, default or failure (financial or otherwise) of the general contractor or any subcontractor, vendor or supplier of the Developer, or any construction contracts for the Project Improvement and Public Improvements.

"Fully Developed and Improved Lot" means any lot in the Property, regardless of proposed use, intended to be served by the Public Improvements and for which a final plat has been approved by the City and recorded in the Real Property Records of Matagora County, Texas.

"Governmental Authority" means any Federal, state or local governmental entity (including any taxing authority) or agency, court, tribunal, regulatory commission or other body, whether legislative, judicial or executive (or a combination or permutation thereof) and any arbitrator to whom a dispute has been presented under Applicable Law, pursuant to the terms of this Agreement or by agreement of the Parties.

"HOA" is defined in Section 10.01.

"HOA Maintenance Agreement" is defined in Section 10.01

"HOA Maintained Improvements" is defined in Section 10.01.

"Home or Property Buyer Disclosure Program" means the disclosure program, as set forth in a document in the form of Exhibit H that establishes a mechanism to disclose to each End Buyer the terms and conditions under which their lot is burdened by the PID.

"Phase 1" means the first area of development in the PID, consisting of 189 lots, as depicted on Exhibit I.

"Phase 1 Public Improvement Financing Date" means the date the City levies Assessments on Phase 1 of the Property, such date to be no later than January 31, 2023 for Phase 1, which date may be extended by written agreement of the Parties.

“Phase 1 Completion Date” means the date upon which the Public Improvements for Phase 1 reaches Completion of Construction, such date to be no longer than eighteen (18) months after Commencement of Construction for the Public Improvements in Phase 1 subject to Force Majeure events.

“Impact Fees” means all utility impact fees relating to the Public Improvements in each case assessed, imposed and collected by the City on the Property in accordance with the City Regulations adopted by the City, as may be revised or amended from time to time.

“Impositions” shall mean all taxes, assessments, use and occupancy taxes, sales taxes, charges, excises, license and permit fees, and other charges by public or governmental authority, which are or may be assessed, charged, levied, or imposed by any public or governmental authority on Developer, or any property or any business owned by Developer within City.

“Indenture(s)” means the applicable trust indenture pursuant to which PID Bonds are issued.

“Landowner Consent” means a consent by the applicable owner(s) of the Property consenting to the formation of the PID and the levy of Assessments in the form attached hereto as Exhibit E.

“Net Bond Proceeds” means the proceeds of the PID Bonds issued pursuant to Sections 3.02, net of costs of issuance, capitalized interest, reserve funds and other financing costs, that are deposited to the project fund for such bonds.

“Parties” or “Party” means the City and the Developer as parties to this Agreement.

“Payment Certificate” means a Payment Certificate as set forth in Section 9.03, the form of which is attached as Exhibit F.

“PID Act” means Chapter 372, Texas Local Government Code, as amended.

“PID Bond Proceeds” means the proceeds of the PID Bonds, net of costs of issuance, capitalized interest, reserve funds and other financing costs, that are deposited to the Project Fund.

“PID Bonds” means one or more series special assessment revenue bonds issued by the City pursuant to the PID Act for the reimbursement of the Public Improvement Project Costs.

“PID” means the Bay City Public Improvement District No. 1.

“Port Authority” means the Port of Bay City Authority.

“Port Authority Participation Agreement” means the agreement between the City and the Port Authority whereby the Port Authority agreed to participate in the TIRZ.

“Port Authority Tax Increment” means, for any given year beginning with the 2022 tax year, means the percentage, identified in the Port Authority Tax Participation Agreement, of the

ad valorem property taxes levied and collected by the Port Authority for that year on the captured appraised value of real property taxable by the Port Authority and located within the TIRZ.

“Plans and Specifications” means the plans and specifications for Public Improvements approved by the City.

“Private Improvements” means these horizontal improvements described in the Plans and Specifications submitted to the City as part of the zoning process, other than the Public Improvements, being constructed in each Phase to get to a Final Lot Value.

“Project and Finance Plan” means those certain project plan and finance plan for the TIRZ required by Chapter 311, Texas Tax Code, as amended that sets for the projects to be undertaken in the TIRZ.

“Project Fund” means the fund by that name created under each Indenture into which PID Bond Proceeds shall be deposited.

“Property” means approximately 49.71 acres of real property located within the City described in Exhibit A.

“Public Improvement Project Costs” means the estimated cost of the Public Improvements to be constructed to benefit the land within the PID as set forth in Exhibit C, as may be amended pursuant to this Agreement, such costs to be eligible “project costs,” as defined in the PID Act.

“Public Improvements” means public improvements to be developed and constructed or caused to be developed or constructed inside and outside the PID by the Developer to benefit the PID and the Property, which will include improvements described in Exhibit C.

“Reimbursement Agreement(s)” means the agreement(s) between the City and the Developer in which Developer agrees to fund the certain costs of Public Improvements and the City agrees to reimburse the Developer for a portion of such costs of the Public Improvements from the proceeds of Assessments pursuant to the SAP(s) or from future PID Bond proceeds, if any.

“Reimbursement Cap” means the total amount of reimbursement and/or payment to the Developer for the Public Improvement Project Costs from any source, including the proceeds of PID Bonds, or Assessment Revenues; such amount shall be no more than \$10,000,000. The Reimbursement Cap shall not include any costs paid by the City for oversizing of infrastructure, not paid from PID Bonds Proceeds or Assessments.

“Service and Assessment Plan” or “SAP” means the service and assessment plans drafted pursuant to the PID Act for the PID and any amendments or updates thereto, adopted and approved by the City that identifies and allocates the Assessments on benefitted parcels within the PID and sets forth the method of assessment, the parcels assessed, the amount of the Assessments, the Public Improvements and the method of collection of the Assessment.

“TIRZ Act” means Chapter 311, Texas Tax Code, as amended.

“TIRZ(s)” means the tax increment reinvestment zone created by the City pursuant to Section 4.01 herein.

“TIRZ Fund” means the fund set up by the City in order to receive the TIRZ Revenues in accordance with this Agreement, the TIRZ Act and the TIRZ Project and Finance Plan.

“TIRZ Revenues” means the revenues received from the City Tax Increment, the Port Authority Tax Increment and the County Tax Increment collected and deposited to separate accounts of the TIRZ Fund as set forth in Article IV herein.

“Trustee” means the trustee under the Indenture.

“Waiver of Liens” means a complete, final and unconditional waiver of all liens with respect to the Public Improvements.

ARTICLE II

THE DEVELOPMENT

Section 2.01. Scope of Agreement. This Agreement establishes provisions for the apportionment, levying, and collection of Assessments on the Property within the PID, the construction of the Public Improvements, reimbursement, acquisition, ownership and maintenance of the Public Improvements, and the issuance of PID Bonds for the financing of the Public Improvements benefitting the property within the PID.

Section 2.02. Project Overview – The Development.

(a) The Developer will undertake or cause the undertaking of the design, development, construction, maintenance, management, use and operation of the Development, and will undertake the design, development and construction of the Public Improvements. The Development will consist of the following elements:

- (i) Up to 189 single family homes to be constructed in one Phase:
- (ii) Amenities set forth in Exhibit K.

(b) Subject to the terms and conditions set forth in this Agreement, the Developer shall plan, design, construct, and complete or cause the planning, designing, construction and completion of the Public Improvements to the City’s standards and specifications and subject to the City’s approval as provided herein and in accordance with City Regulations, the Development Regulations, the Concept Plan and Applicable Law.

(c) Upon completion and acceptance by the City, the City shall own and maintain all of the Public Improvements.

(d) The Developer shall construct or cause to be constructed, the Amenities as set forth in Exhibit K and such Amenities shall be owned by the Developer or the HOA and shall not be paid for or reimbursed by the City.

ARTICLE III

PUBLIC IMPROVEMENT DISTRICT

Section 3.01. Creation.

The Developer intends to request the creation of the PID that in total, encompasses the Property, by submitting a petition to the City that contain a list of the Public Improvements to be funded or acquired with the PID Bond Proceeds and the estimated or actual costs of such Public Improvements. Such petition shall also allow for the City's levy of Assessments for maintenance purposes and for administration of the PID. Upon receipt and acceptance of such petition, the City shall hold a public hearing to consider the creation of the PID in accordance with the PID Act. Developer has previously entered into professional services agreement that obligates Developer to fund the costs of the City's professionals relating to the preparation for and issuance of PID Bonds, which amount shall be considered a cost payable from PID Bond Proceeds.

Section 3.02. Issuance of PID Bonds.

(a) Subject to the terms and conditions set forth in this Article III, the City intends to authorize the issuance of PID Bonds in one or more series (each to coincide with the Developer's phased development of the Property) up to an aggregate principal amount of \$10,000,000 to reimburse the Public Improvement Project Costs. The Public Improvements to be constructed and reimbursed in connection with the PID Bonds are detailed in Exhibit C, which may be amended from time to time, and in the Service and Assessment Plan for the PID or any updates thereto. The net proceeds from the sale of each series of PID Bonds (i.e., net of costs and expenses of issuance of each series of PID Bonds and amounts for debt service reserves and capitalized interest) will be used to reimburse the Public Improvement Project Costs. Notwithstanding anything in this Agreement, the issuance of PID Bonds and the levy of Assessments is a discretionary governmental action by the City Council and subject to the City's approval and the issuance of PID Bonds is also subject to market conditions at the time of issuance. The issuance of PID Bonds and the levy of Assessments are governmental actions to be taken by a future City Council and such future City Council shall not be bound by the terms of this Agreement with respect to the issuance of PID Bonds and the levy of Assessments.

(b) The Developer shall complete all Public Improvements within each PID Phase in the PID and such Public Improvements shall be completed by the Public Improvement Completion Date.

(c) The issuance of PID Bonds is subject to the discretion of the City Council and each series of PID Bonds shall be issued with the terms deemed appropriate by the City Council at the time of issuance, if at all.

(d) The following conditions must be satisfied prior to the City's consideration of the sale of PID Bonds:

(i) The maximum aggregate par amount of the PID Bonds to be issued by the City shall not exceed \$10,000,000.

(ii) The maximum “tax rate” for each Phase Area, including the projected annual assessment, shall be no greater than [\$1.25] per \$100 of assessed value at the time of the levy of the Assessment on Phase 1 based on the Estimated Build Out Value of each parcel; such rate limit for Phase 1 as determined at the time of the levy of the Assessments applies on an individual assessed parcel basis by Lot Type based on Estimated Build Out Value, as will be set forth in more detail in the Service and Assessment Plan, as such ratios may be subject to waiver in favor of lower ratios by the City.

(iii) the total assessment value to lien ratio is at least 3:1 at the time of the levy of assessments and the total assessment value to lien ratio of each series of PID Bonds for Phase 1 is at least 3:1 at the time of the issuance of PID Bonds for Phase 1; such values shall be confirmed by appraisal from licensed MAI appraiser.

(iv) The Developer or its Affiliates shall own all property within Phase 1 prior to the levy of Assessments in Phase 1, or have otherwise complied with Section 3.04 herein.

(v) The Public Improvements and Private Improvements for the PID must have reached Completion of Construction in compliance with City Regulations, the Development Standards and the Concept Plan.

(vi) No Event of Default by the Developer has occurred or no event has occurred which but for notice, the lapse of time or both, would constitute an Event of Default by the Developer pursuant to this Agreement;

(e) In no event shall the Developer be paid and/or reimbursed from PID Bond Proceeds or Assessment revenues for all Public Improvement Project Costs in an amount in excess of the Reimbursement Cap.

Section 3.03. Apportionment and Levy of Assessments.

(a) The City intends to levy Assessments on property located within the PID in accordance herewith and with the Service and Assessment Plans (as such plan is amended supplemented or updated from time to time) and the Assessment Ordinance on or before the Phase 1 Public Improvement Financing Date. The Assessments, if levied, shall be levied, and a reimbursement agreement entered into, prior to the City’s acceptance of the Public Improvements, subject to the City Council’s discretion. No later than the time of such levy, the City intends to enter into a Reimbursement Agreement with the Developer for reimbursement of Public Improvement Project Costs for Phase 1. The City’s apportionment and levy of Assessments shall be made in accordance with the PID Act. The City shall remit the draft Service and Assessment Plan or any amendment thereto to the Developer for review at least two (2) weeks prior to its consideration by City Council.

(b) Concurrently with the levy of the Assessments on Phase 1, the Developer and its Affiliates shall execute and deliver a Landowner Consent in the form attached as Exhibit E for all land owned or controlled by Developer or its Affiliates, or otherwise evidence consent to the creation of the and the levy of Assessments therein and shall record evidence and notice of the Assessments in the real property records of Matagora County. The City shall not levy Assessments

on property within the PID without an executed Landowner Consent from each landowner within the PID whose property is being assessed.

Section 3.04. Transfer of Property. No sale of property within the PID shall occur prior to the City's levy of Assessments in such of the PID unless the Developer provides the City with an executed consent to the creation of the PID and the levy of Assessments, in a form acceptable to the City with respect to the purchased property. In addition, evidence of any transfer of Property in the PID prior to the levy of Assessments on such property shall be provided to the City prior to the levy of Assessments on such property. The City shall require consent of each of the owners of Assessed Property in the PID to the levy of Assessments on each property and to the creation of the PID prior to Assessments being levied on such owner's property. The Developer understands and acknowledges that evidence of land transfer, the execution of the Landowner Consent, appraisal district certificate and property record recording will be required from each Assessed Property Owner in order to levy the Assessments. The Developer shall provide all necessary documentation to the City with respect to any land transfers.

ARTICLE IV TIRZ AND DEVELOPMENT STANDARDS

Section 4.01. Tax Increment Reinvestment Zone.

(a) The City intends to create a tax increment reinvestment zone pursuant to and in accordance with the TIRZ Act for a term of thirty (30) years. The Property shall be within the boundaries of the proposed TIRZ.

(b) The City, in exercising its powers under the TIRZ Act, intends to dedicate the City Tax Increment collected within the Property and deposited to the a dedicated account for the uses described below. Such deposits of the City Tax Increment shall continue for a period equal to the lesser of (i) the time required for the total aggregate amount reimbursed to the Developer is equal to the total amount of the Public Improvement Project Costs as set forth in the Service and Assessment Plan, whether paid from PID Bond Proceeds or Assessment Revenues, up to the Reimbursement Cap, or (ii) the expiration of the term of the TIRZ. In no event, shall the Developer be reimbursed for all Public Improvement Costs in an amount that is in excess of the Reimbursement Cap.

(c) The City Tax Increment shall be deposited to a dedicated account of the TIRZ Fund and used for the following purposes:

(i) First, to pay the City administrative costs relating to the TIRZ, including any reasonable third-party administrative costs; and

(ii) Next, to subsidize the Assessments in order to lower the Annual Installments of the Assessments to a level that produces an overall tax equivalent tax rate of \$.9325 per \$100 of assessed value for each parcel within the Property, as set forth in the Service and Assessment Plan; and

(d) The County Tax Increment shall be deposited to a dedicated account within the TIRZ Fund and shall be used for the purpose set forth in 4.01(c)(ii) above, as set forth in the

Service and Assessment Plan, the Project and Financing Plan and/or in the County Participation Agreement.

(e) The Port Authority Tax Increment shall be deposited to a dedicated account within the TIRZ Fund and shall be used for the purpose set forth in 4.01(c)(ii) above, as set forth in the Service and Assessment Plan, the Project and Financing Plan and/or in the Port Authority Participation Agreement.

(f) Upon the refunding of any series of PID Bonds, any reduction in the assessments for such PID Bonds shall mean a dollar for dollar reduction in any TIRZ credit allocated to such PID Bonds, with such excess TIRZ funds resulting from such reduction to be used by the City for any lawful purpose pursuant to the Project and Financing Plan..

Section 4.02. TIRZ Fund.

(a) In accordance with the TIRZ Project and Finance Plan, the City Tax Increment, the Port Authority Tax Increment and County Tax Increment shall be deposited to the applicable account of the TIRZ Fund, upon adoption of the ordinance creating the TIRZ and the execution of the County Participation Agreement and the Port Authority Participation Agreement.

Section 4.03. Full Compliance with City Standards.

Development and use of the Property by Developer and its Affiliates, including, without limitation, the construction, installation, maintenance, repair, and replacement of all buildings and all other improvements and facilities of any kind whatsoever on and within the Property, shall be in compliance with the then current applicable City Regulations, the Development Standards and with the Concept Plan.

Section 4.04. Development Standards and Planned Development. As consideration for the City's obligations under this Agreement and in consideration for the reimbursement of the Public Improvement Project Costs, the Developer agrees that its development and use of the Property, including, without limitation, the construction, installation, maintenance, repair and replacement of all buildings and all other improvements and facilities of any kind whatsoever on and within the Property, shall be in compliance with the City Regulations, the Development Standards, the Concept Plan and the PD attached as Exhibit B. Any changes to the PD, the Concept Plan or the Development Standards attached hereto must be approved by the City. Upon approval by the City of an updated PD, Concept Plan or Development Standards, this Agreement shall be deemed amended to include such approved updated PD.

Section 4.05. Property Acquisition. With the exception of the acquisition of easement rights as set forth in Article VI hereof, the Parties acknowledge that the Developer is responsible for the acquisition of certain off-site property rights and interests to allow the Public Improvements to be constructed to serve the Property. Developer shall use commercially reasonable efforts to obtain all third-party rights-of-way, consents, or easements, if any, needed to construct the off-site Public Improvements. The Developer shall provide evidence of costs, maps, locations and size of infrastructure to the City and obtain the City's approval prior to such acquisition of third-party

rights-of-way, consents, or easements needed to construct the off-site Public Improvements, such approval not to be unreasonably withheld, conditioned or delayed.

Section 4.06. Subdivision Ordinance. The Developer agrees to construct the Public Improvements in accordance with the City's subdivision ordinance.

Section 4.07. Conflicts. In the event of any conflict between this Agreement and any City Regulation, the City Regulations shall control.

Section 4.08. Replat. The Developer may submit a replat for all or any portion of the Property. Any replat shall be in conformance with City Regulations, the Concept Plan, the Development Standards and the PID and may require a prepayment of Assessments as set forth in the applicable SAP.

ARTICLE V

DEVELOPMENT CHARGES

Section 5.01. Plat Review Fees. Development of the Property shall be subject to payment to the City of the reasonable fees and charges applicable to the City's preliminary and final plat review and approval process according to the fee schedule adopted by the City Council and in effect at the time of platting.

Section 5.02. Plan Review and Permit Fees. Development of the Property shall be subject to payment to the City of the reasonable fees and charges applicable to the City's review of plans and specifications and issuance of permits (including building permits) for construction of the Public Improvements according to the fee schedule adopted by the City Council at the time of plan review and permit issuance.

Section 5.03. Inspection Fees. Development of the Property shall be subject to the payment to the City of inspection fees according to the fee schedule adopted by the City Council at the time of inspection.

Section 5.04. Impact Fees. The City does not currently impose or assess any impact fees on properties within its municipal boundaries or extraterritorial jurisdiction. For the term of this Agreement, the Property shall not be required to pay any water, wastewater or roadway impact fees that may hereinafter be adopted by the City.

Section 5.05. PID Fees. The City does not currently impose any fees on developers for the creation of public improvement districts or issuance of assessment revenue bonds. For the term of this Agreement, the Developer shall not be required to pay any such fees that may hereinafter be adopted by the City. This Section 5.06 does not apply to payments made pursuant to the professional services agreement referenced in Section 3.01 herein or any bond costs of issuance that may be included with the issuance of PID Bonds.

ARTICLE VI

DEVELOPMENT SPECIFIC REQUIREMENTS

Section 6.01. Development Standards. The Developer shall ensure that the following development standards are met during development of the lots and shall ensure the standards are met by any home builders within the development:

- (a) Retention ponds, if any, must maintain a minimum of 10 inches of water.
- (b) Detention ponds must be landscaped and sloped with grass.
- (c) Two-car driveways and two-car garages; no carports.
- (d) Five foot concrete sidewalks, Americans with Disability Act compliant.
- (e) Front facing yard with 50% masonry on three sides and cement board on the remaining side.
- (f) No chain-link or barbwire fencing.
- (g) All privacy fencing consistent among lots.
- (h) Roads are 36 ft. at entrance and 32 ft within the subdivision.
- (i) Hardscaping on each lot less than 20%. Front yard to be grass/landscaping.
- (j) All homes to use gas for heating and stove/oven.
- (k) All electric utilities to be underground.
- (l) Single-family homes only within the Development.
- (m) Street lighting to be decorative LED lights.
- (n) Front door must be on the frontage of homes.
- (o) Flat curbs and gutters.
- (p) Sufficient inlets to storm drains (as determined by the City).
- (q) 6 architecturally unique home plans that do not repeat any more often than every 6th house.
- (r) Fencing around all ponds.
- (s) Slab elevation of homes must be 2 ft. above the flood plain.
- (t) Internet access and fiber installed in development.

- (u) Each home must be a minimum of 1400 sq. ft.
- (v) The Developer must construct and dedicate a park within the Development with a playground, including playground equipment valued at a minimum of \$40,000.

ARTICLE VII

CONSTRUCTION OF THE PUBLIC IMPROVEMENTS

Section 7.01. Designation of Construction Manager, Construction Engineers.

(a) Prior to construction of any Public Improvement, Developer shall make, or cause to be made, application for any necessary permits and approvals required by City and any applicable Governmental Authority to be issued for the construction of the Public Improvements and shall obligate each general contractor, architect, and consultants who work on the Public Improvements to obtain all applicable permits, licenses or approvals as required by Applicable Law. The Developer shall require or cause the design, inspection and supervision of the construction of the Public Improvements to be undertaken in accordance with City Regulations, the Development Standards, the Concept Plan and Applicable Law.

(b) The Developer shall design and construct or cause the design and construction of the Public Improvements, together with and including the acquisition, at its sole costs, of any and all easements or fee simple title to such land necessary to provide for and accommodate the Public Improvements.

(c) Developer shall comply, or shall require its contractors to comply, with all local and state laws and regulations regarding the design and construction of the Public Improvements applicable to similar facilities constructed by City, including, but not limited to, the requirement for payment, performance and two- year maintenance bonds for the Public Improvements at 100%.

(d) Upon Completion of Construction of the Public Improvements, Developer shall provide City with a final cost summary of all Public Improvement Project Costs incurred and paid associated with the construction of that portion of the Public Improvements and provide proof that all amounts owing to contractors and subcontractors have been paid in full evidenced by the “all bills paid” affidavits and lien releases executed by Developer and/or its contractors with regard to that portion of the Public Improvements. Evidence of payment to the applicable contractors and subcontractors shall be provided prior to the reimbursement of the costs of any portion of the Public Improvements.

(e) Developer agrees to require the contractors and subcontractors which construct the Public Improvements to provide payment, performance and three-year maintenance bonds in forms reasonably satisfactory to the City Attorney. Any surety company through which a bond is written shall be a surety company duly authorized to do business in the State of Texas, provided that the City Attorney has the right to reasonably reject any surety company regardless of such company’s authorization to do business in Texas. Evidence of payment and performance bonds

shall be delivered to the City prior to Commencement of Construction of any such Public Improvements.

(f) Unless otherwise approved in writing by the City, all Public Improvements shall be constructed and dedicated to the City in accordance with City Regulations, the Development Standards and Applicable Law.

(g) The Developer shall dedicate or convey by final plat or separate instrument, without cost to the City and in accordance with the Applicable Law, all property rights necessary for the construction, operation, and maintenance of the road, water, drainage, and sewer Public Improvements, at the completion of the Public Improvements and acceptance by the City.

Section 7.02. Construction Agreements. The Construction Agreements shall be let in the name of the Developer. The Developer's engineers shall prepare and provide, or cause the preparation and provision of all contract specifications and necessary related documents. The Developer shall provide all construction documents for the Public Improvements and shall acknowledge that the City has no obligations and liabilities thereunder. The Developer shall include a provision in the construction documents for the Public Improvements that the contractor will indemnify the City and its officers and employees against any costs or liabilities thereunder. The Developer or its designee (Engineer) shall administer the contracts. The Public Improvement Project Costs, which are estimated on Exhibit C, shall be paid by the Developer or caused to be paid by the Developer, and reimbursed by the Assessments levied pursuant to the terms of a Reimbursement Agreement or from the proceeds of PID Bonds issued to reimburse the Developer pursuant to a Reimbursement Agreement.

(a) The following requirements apply to Construction Agreements for Public Improvements:

(i) Plans and specifications shall comply with all Applicable Law, the Development Standards and City Regulations and all Plans and Specification shall be reviewed and approved by the City prior to the issuance of permits. The City shall have thirty (30) business days from its receipt of the first submittal of the Plans and Specifications to approve or deny the Plans and Specifications or to provide comments to the submitter. If any approved Plans and Specifications are amended or supplemented, the City shall have thirty (30) business days from its receipt of such amended or supplemented Plans and Specifications to approve or deny the Plans and Specification or provide comments back to the submitter. Any written City approval or denial must be based on compliance with applicable City Regulations or other regulatory agencies that have jurisdiction over the Development.

(ii) Each Construction Agreement shall provide that the Contractor is an independent contractor, independent of and not the agent of the City and that the Contractor is responsible for retaining, and shall retain, the services of necessary and appropriate architects and engineers; and

(iii) Each Construction Agreement for improvements not yet under construction shall provide that the Contractor shall indemnify the City, its officers and employees for any costs or liabilities thereunder and for the negligent acts or omissions of the Contractor.

(b) City's Role.

The City shall have no responsibility for the cost of planning, design, engineering construction, furnishing/equipping the Public Improvements (before, during or after construction) except to the extent of the reimbursement the Public Improvements Project Costs as set forth in this Agreement. The Developer will not hold the City responsible for any costs of the Public Improvements other than the reimbursements described in this Agreement. The City shall have no liability for any claims that may arise out of design or construction of the Public Improvements, and the Developer shall cause all of its contractors, architects, engineers, and consultants to agree in writing that they will look solely to the Developer, not to the City, for payment of all costs and valid claims associated with construction of the Public Improvements.

Section 7.03. Project Scope Verification.

(a) The Developer will from time to time, as reasonably requested by the City Representative, verify to the City Representative that the Public Improvements are being constructed substantially in accordance with the Plans and Specifications approved by the City. To the extent the City has concerns about such verification that cannot be answered by the Developer, to the City's reasonable satisfaction, the Developer will cause the appropriate architect, engineer or general contractor to consult with the Developer and the City regarding such concerns.

Section 7.04. Joint Cooperation; Access for Planning and Development.

During the planning, design, development and construction of the Public Improvements, the parties agree to cooperate and coordinate with each other, and to assign appropriate, qualified personnel to this project. The City staff will make reasonable efforts to accommodate urgent or emergency requests during construction. In order to facilitate a timely review process, the Developer shall cause the architect, engineer and other design professionals to attend City meetings if requested by the City.

Section 7.05. City Not Responsible.

By performing the functions described in this Article, the City shall not, and shall not be deemed to, assume the obligations or responsibilities of the Developer, whose obligations under this Agreement and under Applicable Law shall not be affected by the City's exercise of the functions described in this Article. The City's review of any Plans and Specifications is solely for the City's own purposes, and the City does not make any representation or warranty concerning the appropriateness of any such Plans and Specifications for any purpose. The City's approval of (or failure to disapprove) any such Plans and Specifications, including the Site Plan, submitted with such Plans and Specifications and any revisions thereto, shall not render the City liable for same, and the Developer assumes and shall be responsible for any and all claims arising out of or from the use of such Plans and Specifications.

Section 7.06. Construction Standards and Inspection.

The Public Improvements will be installed within the public right-of-way or in easements granted to the City. Such easements may be granted at the time of final platting in the final plat or by separate instrument. The Public Improvements shall be constructed and inspected in accordance with applicable state law, and City Regulations, and all other applicable development requirements, including those imposed by any other governing body or entity with jurisdiction over the Public Improvements, and this Agreement, provided, however, that if there is any conflict, the regulations of the governing body or entity with jurisdiction over the Public Improvement being constructed shall control.

Section 7.07. Public Improvements to be Owned by the City – Title Evidence.

The Developer shall furnish to the City a preliminary title report for land with respect to the Public Improvements, including any related rights-of-way, easements, and open spaces if any, to be acquired and accepted by the City from the Developer and not previously dedicated or otherwise conveyed to the City, for review and approval at least 30 calendar days prior to the transfer of title of a Public Improvement to the City. The City Representative shall approve the preliminary title report unless it reveals a matter which, in the reasonable judgment of the City, could materially affect the City's use and enjoyment of any part of the property or easement covered by the preliminary title report. In the event the City Representative does not approve the preliminary title report, the City shall not be obligated to accept title to the Public Improvement until the Developer has cured such objections to title to the satisfaction of the City Representative.

Section 7.08. Public Improvement Constructed on City Land or the Property.

If the Public Improvement is on land owned by the City, the City hereby grants to the Developer a temporary easement to enter upon such land for purposes related to construction (and maintenance pending acquisition and acceptance) of the Public Improvement. If the Public Improvement is on land owned by the Developer, the Developer shall dedicate easements by plat or shall execute and deliver to the City such access and maintenance easements as the City may reasonably require in recordable form, and the Developer hereby grants to the City a permanent access and maintenance easement to enter upon such land for purposes related to inspection and maintenance of the Public Improvement. The grant of the permanent easement shall not relieve the Developer of any obligation to grant the City title to property and/or easements related to the Public Improvement as required by this Agreement or as should in the City's reasonable judgment be granted to provide for convenient access to and routine and emergency maintenance of such Public Improvement. The provisions for inspection and acceptance of such Public Improvement otherwise provided herein shall apply.

Section 7.09. Additional Requirements.

In connection with the design and construction of the Public Improvements, the Developer shall take or cause the following entities or persons to take the following actions and to undertake the following responsibilities:

(a) The Developer shall provide to the City electronic copies of the Plans and Specifications for the Public Improvements (including revisions) as such Plans and Specifications

are currently in existence and as completed after the date hereof and shall provide the City one complete set of record drawings (in electronic format) for the Public Improvements, in accordance with Applicable Law;

(b) In accordance with the requirements between the Developer and the City with regard to the development and construction of the Public Improvements, the Developer or such person selected by and contracting with the Developer shall provide the City with a copy of the detailed construction schedule outlining the major items of work of each major construction contractor, and any revisions to such schedule;

(c) The Developer shall provide construction documents, including the Plans and Specifications to the City, signed and sealed by one or more registered professional architects or engineers licensed in the State of Texas at the time the construction documents are submitted to the City for approval;

(d) The Developer shall provide the City with reasonable advance notice of any regularly-scheduled construction meetings regarding the Public Improvements, and shall permit the City to attend and observe such meetings as the City so chooses in order to monitor the project, and shall provide the City with copies of any construction schedules as are discussed and reviewed at any such regularly-scheduled construction meeting;

(e) The Developer or any general contractor shall comply with, and shall require that its agents and subcontractors comply with, all Applicable Laws regarding the use, removal, storage, transportation, disposal and remediation of hazardous materials;

(f) The Developer or any general contractor shall notify and obtain the City's approval for all field changes that directly result in material changes to the portion of the Plans and Specifications for the Public Improvements that describe the connection of such improvements with City streets, storm sewers and utilities;

(g) Upon notice from the City, the Developer shall or shall cause any general contractor to promptly repair, restore or correct, on a commercially reasonable basis, all damage caused by the general contractor or its subcontractors to property or facilities of the City during construction of the Public Improvements and to reimburse the City for out-of-pocket costs actually incurred by the City that are directly related to the City's necessary emergency repairs of such damage;

(h) Upon notice from the City, the Developer shall promptly cause the correction of defective work and shall cause such work to be corrected in accordance with the construction contracts for the Public Improvements and with City Regulations;

(i) If the Developer performs any soils, construction and materials testing during construction of the Public Improvements, the Developer shall make available to the City copies of the results of all such tests; and

(j) If any of the foregoing entities or persons shall fail in a material respect to perform any of its obligations described above (or elsewhere under this Agreement), the Developer shall use its good faith efforts to enforce such obligations against such entities or persons, or the Developer may cure any material failure of performance as provided herein; and

(k) The Developer shall provide any other information or documentation or services required by City Regulations; and

(l) The Developer shall allow the City Representative to conduct a reasonable pre-final and final inspection of the Public Improvements. Upon acceptance by the City of the Public Improvements, the City shall become responsible for the maintenance of the Public Improvements and making any bond or warranty claim, if applicable.

Section 7.10. Revisions to Scope and Cost of Public Improvements.

(a) The Public Improvement Project Costs, as set forth in Exhibit C, may be modified or amended from time to time upon the approval of the City Representative, provided that the total cost of the Public Improvements shall not exceed such amounts as set forth in the applicable SAP. Should the Public Improvements be amended by the City Council in a SAP pursuant to the PID Act, the City Representative shall be authorized to make corresponding changes to the applicable Exhibits attached hereto and shall keep official record of such amendments.

(b) Should the Public Improvement Project Costs exceed the amounts set forth in the SAPs, the Developer shall be responsible for such excess costs and such excess costs shall not be reimbursed by the City. The City shall only reimburse the Public Improvement Project Costs in the amounts set forth in the applicable SAP.

Section 7.11. City Police Powers.

The Developer recognizes the authority of the City pursuant to the Texas Constitution together with the City's charter and ordinances to exercise its police powers in accordance with applicable laws to protect the public health, safety, and welfare. The City retains its police powers over the Developer's or its general contractor's construction activities on or at the Property, and the Developer recognizes the City's authority to take appropriate enforcement action in accordance with Applicable Law to provide such protection. No lawful action taken by the City pursuant to these police powers shall subject the City to any liability under this Agreement, including without limitation liability for costs incurred by any general contractor or the Developer, and as between the Developer and the City, any such costs shall be the sole responsibility of the Developer and any of its general contractors and shall not be reimbursable from PID Bond Proceeds.

Section 7.12. Title and Mechanic's Liens.

(a) Title. The Developer agrees that the Public Improvements shall not have a lien or cloud on title upon their dedication to and acceptance by the City.

(i) Mechanic's Liens. Developer shall not create nor allow or permit any liens, encumbrances, or charges of any kind whatsoever against the Public Improvements arising from any work performed by any contractor by or on behalf of the Developer. The Developer shall not permit any claim of lien made by any mechanic, materialman, laborer, or other similar liens to stand against the Public Improvements for work or materials furnished to the Developer in connection with any construction, improvements, renovation, maintenance or repair thereof made by the Developer or any contractor, agent or representative of the Developer. The Developer shall cause any such claim of lien to be

fully discharged no later than thirty (30) days after the Developer's receipt of written notice of the filing thereof.

Section 7.13. City Consents.

Any consent or approval by or on behalf of the City required in connection with the design, construction, improvement or replacement of the Public Improvements or otherwise under this Agreement shall not be unreasonably withheld, delayed, or conditioned. Any review associated with any determination to give or withhold any such consent or approval shall be conducted in a timely and expeditious manner with due regard to the cost to the Developer associated with delay.

Section 7.14. Right of the City to Make Inspection.

(a) At any time during the construction of the Public Improvements, the City shall have the right to enter the Property for the purpose of inspection of the progress of construction on the Public Improvements; provided, however, the City Representative shall comply with reasonable restrictions generally applicable to all visitors to the Development that are imposed by the Developer or its General Contractor or subcontractors. The Developer shall pay the City's costs for the retention of a third-party inspector.

(b) Inspection of the construction of all Public Improvements shall be by the City Representative or his/her designee. In accordance with Sections 5.03, the Developer shall pay the inspection fee which may be included as a Public Improvement Project Cost.

(c) City may enter the Property in accordance with customary City procedures and Applicable Law to make any repairs or perform any maintenance of Public Improvements which the City has accepted for maintenance. If, during construction of the Public Improvements, the Developer is in default under this Agreement beyond any applicable cure period or in the event of an emergency which is not being timely addressed, the City may enter the Property to make any repairs to the Public Improvements that have not been accepted for maintenance by the City, of every kind or nature, which the Developer is obligated under this Agreement to repair or maintain but which the Developer has failed to perform after reasonable notice (other than in the case of an emergency in which notice is impossible or impractical). The Developer shall be obligated to reimburse the City the reasonable costs incurred by the City for any such repairs. Nothing contained in this paragraph shall be deemed to impose on the City any obligation to actually make repairs or alterations on behalf of the Developer.

Section 7.15. Competitive Bidding. The construction of the Public Improvements (which are funded from Assessments) is anticipated to be exempt from competitive bidding pursuant to Texas Local Government Code Section 252.022(a)(9). In the event that the actual costs of the Public Improvement do not meet the parameters for exemption from the competitive bid

requirement, then either competitive bidding or alternative delivery method may be utilized by the City as allowed by Applicable Law.

ARTICLE VIII

PAYMENT OF PUBLIC IMPROVEMENTS

Section 8.01. Overall Requirements.

(a) The City shall not be obligated to provide funds for any Public Improvement except from the proceeds of the PID Bonds or from Assessments pursuant to a Reimbursement Agreement. The City makes no warranty, either express or implied, that the proceeds of the PID Bonds available for reimbursement of the Public Improvement Project Costs will be sufficient for the construction or acquisition of all of the Public Improvements. Any costs of the Public Improvements in excess of the available PID Bond Proceeds or Assessments pursuant to a Reimbursement Agreement, shall not be paid or reimbursed by the City. The Developer acknowledges and agrees that any lack of availability of monies in the Project Funds established under the Indentures to reimburse the costs of the Public Improvements shall in no way diminish any obligation of the Developer with respect to the construction of or contributions for the Public Improvements required by this Agreement, or any other agreement to which the Developer is a party, or any governmental approval to which the Developer or Property is subject.

(b) Upon written acceptance of a Public Improvement, and subject to any applicable maintenance-bond period, the City shall be responsible for all operation and maintenance of such Public Improvement, including all costs thereof and relating thereto.

(c) The City's obligation with respect to the reimbursement of the Public Improvement Project Costs as finally set forth in the Service and Assessment Plan, shall be limited to the lower of Actual Costs or the available Net PID Bond Proceeds or Assessment revenues, and shall be reimbursed solely from amounts on deposit in the Project Funds from the sale of the PID Bonds as provided herein and in the Indentures, or Assessments collected for the reimbursement or payment of such costs pursuant to Reimbursement Agreement. The Developer agrees and acknowledges that it is responsible for all costs and all expenses related to the Public Improvements in excess of the amounts assessed pursuant to a Service and Assessment Plan.

(d) The City shall have no responsibility whatsoever to the Developer with respect to the investment of any funds held in the Project Fund by the Trustee under the provisions of the Indenture, including any loss of all or a portion of the principal invested or any penalty for liquidation of an investment. Any such loss may diminish the amounts available in the Project Fund to reimburse the Public Improvement Project Costs in the PID. The obligation of Developer to pay the Assessments is not in any way dependent on the availability of amounts in the Project Fund to pay for all or any portion of the Public Improvements Project Costs hereunder.

Section 8.02. Remaining Funds after Completion of a Public Improvement.

If, upon the Completion of Construction of a Public Improvement (or segment or stage thereof) and payment or reimbursement for such Public Improvement, there are Cost Underruns, any remaining budgeted cost(s) may be available to reimburse Cost Overruns on any other Public

Improvement with the approval of the City Representative, such approval not to be unreasonably withheld, at completion of the Public Improvements for the PID and provided that all Public Improvements for the PID, as set forth in the Service and Assessment Plan are undertaken at least in part. The elimination of a category of Public Improvements as set forth in the Service and Assessment Plan will require an amendment to the Service and Assessment Plan. Upon receipt of all acceptance letters from the City for the Public Improvements within an improvement category as set forth in the Service and Assessment Plan, any Underruns from that category may be released to reimburse for Overruns in another improvement category, as approved by the City.

Section 8.03. Payment Process for Public Improvements.

(a) The City shall authorize reimbursement of the Public Improvement Project Costs from PID Bond Proceeds or from Assessments collected in the PID as set forth in 8.04 below. The Developer shall submit a Payment Certificate to the City for Public Improvements that have reached Completion of Construction. The form of the Payment Certificate is set forth in Exhibit F, as may be modified by the applicable Indenture or Reimbursement Agreement. The City shall review the sufficiency of each Payment Certificate with respect to compliance with this Agreement, compliance with the Development Standards, the Concept Plan and Applicable Law, and compliance with the applicable SAP and Plans and Specifications. The City shall review each Payment Certificate within thirty (30) Business Days of receipt thereof and upon approval, certify the Payment Certificate pursuant to the provisions of the applicable Indenture or Reimbursement Agreement, and reimbursement shall be made to the Developer or its designee pursuant to the terms of the applicable Indenture or Reimbursement Agreement, provided that funds are available under the applicable Indenture or Reimbursement Agreement. Notwithstanding the foregoing, the City shall review the first Payment Certificate within forty-five (45) business days of receipt thereof. If a Payment Certificate is approved only in part, the City shall specify the extent to which the Payment Certificate is approved and payment for such partially approved Payment Certificate shall be made to the Developer pursuant to the terms of the applicable Indenture or Reimbursement Agreement, provided that funds are available under the applicable Indenture or Reimbursement Agreement.

(b) If the City requires additional documentation, timely disapproves or questions the correctness or authenticity of the Payment Certificate, the City shall deliver a detailed notice to the Developer within fifteen (15) Business Days of receipt thereof, then payment with respect to disputed portion(s) of the Payment Certificate shall not be made until the Developer and the City have jointly settled such dispute or additional information has been provided to the City's reasonable satisfaction.

(c) The City shall reimburse the Public Improvement Project Costs as set forth in Exhibit C and the SAP, from funds available pursuant to the applicable Indenture or Reimbursement Agreement.

(d) Reimbursement to the Developer and the City for administrative costs relating to the creation of the PID, the levy of assessments and issuance of the PID Bonds may be distributed at closing of the applicable series of PID Bonds pursuant to a Closing Disbursement Request, in the form attached as Exhibit G.

Section 8.04. Public Improvements Reimbursement from Assessment Fund In the Event of a Non-Issuance of PID Bonds.

(a) The reimbursement for costs of the Public Improvements set forth in Exhibit C and in the Service and Assessments Plan shall be made on an annual basis from Assessments levied by the City for the Public Improvements pursuant to Chapter 372, Texas Local Government Code, as amended. Such reimbursement shall be made pursuant to the terms and provisions of one or more Reimbursement Agreements. Such Reimbursement Agreements shall set forth the terms of the annual reimbursement for the costs of the Public Improvements. These Reimbursement Agreement obligations may, in the City's discretion, be reimbursed through the issuance of PID Bonds by the City once the parameters set forth in Section 3.02(d) can be met. The issuance of any PID Bonds to fund obligations under a Reimbursement Agreement is subject to the City's discretion and shall be determined by the City. In any event, the issuance of PID Bonds to Fund any obligations under a Reimbursement Agreement, if the City determines to issue such PID Bonds, shall occur no later than three (3) years after the Phase 1 Public Improvement Financing Date or the City shall not issue such PID Bonds.

(b) Reimbursement or payment of the costs of the Public Improvements shall only be made from the levy of Assessments within the PID as set forth herein.

(c) The term, manner and place of payment or reimbursement to the Developer under this Section shall be set forth in the Reimbursement Agreement.

(d) Reimbursement or payment shall be made only for the costs of the Public Improvements as set forth in this Agreement, the Service and Assessment Plan or in the Reimbursement Agreement, as approved by the City. Any additional public improvements other than the Public Improvements constructed by the Developer and dedicated to the City, shall not be subject to payment or reimbursement under the terms of this Agreement.

Section 8.05. Rights to Audit.

(a) The City shall have the right to audit, upon reasonable notice and at the City's own expense, records of the Developer with respect to the expenditure of funds to pay Public Improvement Project Costs. Upon written request by the City, the Developer shall give the City or its agent, access to those certain records controlled by, or in the direct or indirect possession of, the Developer (other than records subject to legitimate claims of attorney-client privilege) with respect to the expenditure of Public Improvement Project Costs, and permit the City to review such records in connection with conducting a reasonable audit of such fund and account. The Developer shall make these records available to the City electronically or at a location that is reasonably convenient for City staff.

(b) The City and the Developer shall reasonably cooperate with the assigned independent auditors (internal or external) in this regard, and shall retain and maintain all such records for at least 2 years from the date of Completion of Construction of the Public Improvements. All audits must be diligently conducted and once begun, no records pertaining to such audit shall be destroyed until such audit is completed.

ARTICLE IX

REPRESENTATIONS AND WARRANTIES

Section 9.01. Representations and Warranties of City.

The City makes the following representation and warranty for the benefit of the Developer:

(a) Due Authority; No Conflict. The City represents and warrants that this Agreement has been approved by official action by the City Council of the City in accordance with all applicable public notice requirements (including, but not limited to, notices required by the Texas Open Meetings Act). The City has all requisite power and authority to execute this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by the City and constitute legal, valid and binding obligations enforceable against the City in accordance with the terms subject to principles of governmental immunity and the enforcement of equitable rights. The consummation by the City of the transactions contemplated hereby is not in violation of or in conflict with, nor does it constitute a default under, any of the terms of any agreement or instrument to which the City is a Party, or by which the City is bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

(b) Due Authority; No Litigation. No litigation is pending or, to the knowledge of the City, threatened in any court to restrain or enjoin the construction of or the Public Improvements or the City's payment and reimbursement obligations under this Agreement, or otherwise contesting the powers of the City or the authorization of this Agreement or any agreements contemplated herein.

Section 9.02. Representations and Warranties of Developer.

The Developer makes the following representations, warranties and covenants for the benefit of the City:

(a) Due Organization and Ownership. The Developer is an Texas limited liability company validly existing under the laws of the State of Texas and is duly qualified to do business in the State of Texas; and that the person executing this Agreement on behalf of it is authorized to enter into this Agreement.

(b) Due Authority; No Conflict. The Developer has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by the Developer and constitute the Developer's legal, valid and binding obligations enforceable against the Developer in accordance with their terms. The consummation by the Developer of the transactions contemplated hereby is not in violation of or in conflict with, nor does it constitute a default under, any term or provision of the organizational documents of the Developer, or any of the terms of any agreement or instrument to which the Developer is a Party, or by which the Developer is bound, or of any provision of any applicable

law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

(c) Consents. No consent, approval, order or authorization of, or declaration or filing with any governmental authority is required on the part of the Developer in connection with the execution and delivery of this Agreement or for the performance of the transactions herein contemplated by the respective Parties hereto.

(d) Litigation/Proceedings. To the best knowledge of the Developer, after reasonable inquiry, there are no pending or, to the best knowledge of the Developer, threatened, judicial, municipal or administrative proceedings, consent decree or, judgments which might affect the Developer's ability to consummate the transaction contemplated hereby, nor is there a preliminary or permanent injunction or other order, decree, or ruling issued by a governmental entity, and there is no statute, rule, regulation, or executive order promulgated or enacted by a governmental entity, that is in effect which restrains, enjoins, prohibits, or otherwise makes illegal the consummation of the transactions contemplated by this Agreement.

(e) Legal Proceedings. There is no action, proceeding, inquiry or investigation, at law or in equity, before any court, arbitrator, governmental or other board or official, pending or, to the knowledge of the Developer, threatened against or affecting the Developer, any of the principals of the Developer and any key person or their respective Affiliates and representatives which the outcome of which would (a) materially and adversely affect the validity or enforceability of, or the authority or ability of the Developer under, this Agreement to perform its obligations under this Agreement, or (b) have a material and adverse effect on the consolidated financial condition or results of operations of the Developer or on the ability of the Developer to conduct its business as presently conducted or as proposed or contemplated to be conducted.

ARTICLE X

MAINTENANCE OF LANDSCAPE IMPROVEMENTS

Section 10.01. Mandatory Home Owners' Association.

(a) The Developer will create a mandatory homeowners' association ("HOA") over the portion of the Property then being developed as single family homes ("the "Single Family Property"), which HOA, through its conditions and restrictions filed of record in the property records of Matagora County, shall be required to assess and collect from owners annual fees in an amount calculated to maintain the open spaces, common areas, right-of-way irrigation systems, raised medians and other right-of-way landscaping, retention and detention areas, drainage areas, screening walls, trails, lawns, landscaped entrances to the Single Family Property and any other common improvements or appurtenances (the "HOA Maintained Improvements"). Maintenance of any HOA Maintained Improvements on land owned by the City shall be pursuant to one more maintenance agreements between the HOA and the City (the "HOA Maintenance Agreements"). Specifically, the detention ponds included as a Public Improvement Project Cost shall be maintained by the HOA pursuant to an HOA maintenance Agreement.

(b) While the Parties anticipate that the HOA established to maintain and operate the HOA Maintained Improvements, will adequately perform such duties, in the event that the City determines that the HOA is not adequately performing the duties for which it was created, which non-performance shall be evidenced by violations of the HOA Maintenance Agreement, applicable deed restrictions and/or applicable City ordinances, the City reserves the right to levy an assessment each year equal to the actual costs of operating and maintaining the HOA Maintained Improvements that are owned by the City. The City agrees that it will not levy such assessments without first giving the HOA written notice of the deficiencies and providing the HOA with sixty (60) days in which to cure the deficiencies.

(c) Covenants, conditions and restrictions for the HOA must be filed in the PID and the HOA Maintenance Agreement, if any, must be approved and executed before any Assessments are levied by the City.

(d) The covenants, conditions and restrictions for the HOA must include the following:

- (i) No commercial businesses can operate within the residential neighborhood.
- (ii) HOA shall pay for maintenance and operation of street lights.
- (iii) Any trees planed near the curb must not be between sidewalks and roadways.
- (iv) 30 year roof shingles or a metal roof.
- (v) No raising of livestock.
- (vi) No RVs, mobile homes or bubble homes.
- (vii) Boats must be kept enclosed.
- (viii) Sheds must be the same material as homes; no metal sheds.
- (ix) An approved color palette for homes with standard, neutral colors.
- (x) No aluminum siding.
- (xi) No chain-link or barbed wire fencing.

(e) Standard fencing requirements such that all privacy fencing is consistent among lots.

ARTICLE XI

TERMINATION EVENTS

Section 11.01. Developer Termination Events.

(a) The Developer may terminate this Agreement upon an uncured Event of Default by the City.

Section 11.02. City Termination Events.

(a) The City may terminate this Agreement upon full build out of the Development and reimbursement to the Developer of amounts due hereunder.

(b) The City may terminate this Agreement and any Reimbursement Agreement upon an uncured Event of Default by the Developer pursuant to Article XIII herein, subject to Section 13.02.

(c) The City may terminate this Agreement and any Reimbursement Agreement, if Commencement of Construction of the private horizontal improvements within the Development has not occurred within three (3) years of the Effective Date.

(d) The City may terminate this Agreement and any Reimbursement Agreement if the Public Improvements do not reach the applicable Phase 1 Completion Date, as may have been extended pursuant to the terms of this Agreement.

Section 11.03. Termination Procedure.

If either Party determines that it wishes to terminate this Agreement pursuant to this Article, such Party must deliver a written notice to the other Party specifying in reasonable detail the basis for such termination and electing to terminate this Agreement. Upon such a termination, the Parties hereto shall have no duty or obligation one to the other under this Agreement, including the reimbursement of any of Developer's costs that were previously advanced or incurred. Provided, however, that as of the date of termination, (i) any Public Improvements completed and accepted by the City or (ii) Public Improvement Project Costs submitted pursuant to a Payment Certificate and approved by the City, shall still be subject to reimbursement.

Section 11.04. City Actions Upon Termination.

Upon termination the Developer shall have no claim or right to any further payments for Public Improvements Project Costs pursuant to this except that, (i) any Public Improvements completed and accepted by the City or (ii) Public Improvement Project Costs submitted pursuant to a Payment Certificate and approved by the City shall still be subject to reimbursement.

ARTICLE XII

TERM

This Agreement shall terminate upon the earlier of: (i) the full build-out of the Development and payment to the Developer as set forth herein (ii) an event of default under Article XIII, or (iii) the occurrence of a termination event under Article XI.

ARTICLE XIII

DEFAULT AND REMEDIES

Section 13.01. Developer Default.

Each of the following events shall be an “Event of Default” by the Developer under this Agreement:

(a) The Developer shall fail to pay to the City any monetary sum hereby required of it as and when the same shall become due and payable and shall not cure such default within thirty (30) calendar days after the later of the date on which written notice thereof is given by the City to the Developer, as provided in this Agreement. The Developer shall fail in any material respect to maintain any of the insurance or bonds required by this Agreement; provided, however, that if a contractor fails to maintain any of the insurance or bonds required by this Agreement, the Developer shall have thirty (30) calendar days to cure.

(b) The Developer shall fail to comply in any material respect with any term, provision or covenant of this Agreement (other than the payment of money to the City), and shall not cure such failure within ninety (90) calendar days after written notice thereof is given by the City to the Developer;

(c) The filing by Developer of a voluntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtors, rights;

(d) The consent by Developer to an involuntary proceeding under present or future bankruptcy, insolvency, or other laws respecting debtor’s rights;

(e) The entering of an order for relief against Developer or the appointment of a receiver, trustee, or custodian for all or a substantial part of the property or assets of Developer in any involuntary proceeding, and the continuation of such order, judgment or degree unstayed for any period of ninety (90) consecutive days;

(f) The failure by Developer or any Affiliate to pay Impositions, and Assessments on property owned by the Developer and/or any Affiliates within the PID if such failure is not cured within thirty (30) calendar days after written notice by the City; OR

(g) Any representation or warranty confirmed or made in this Agreement by the Developer was untrue in any material respect as of the Effective Date.

Section 13.02. Notice and Cure Period.

(a) Before any Event of Default under this Agreement shall be deemed to be a breach of this Agreement, the Party claiming such Event of Default shall notify, in writing, the Party alleged to have failed to perform the alleged Event of Default and shall demand performance (with the exception of 13.01(f) above). Except with respect to cure periods set forth in 13.01 above, which shall be controlling, no breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining Party within thirty (30) calendar days of the receipt of such notice (or thirty (30) calendar days in the case of a monetary default), with completion of performance within ninety (90) calendar days subject.

(b) Notwithstanding any provision in this Agreement to the contrary, if the performance of any covenant or obligation to be performed hereunder by any Party is delayed by Force Majeure, the time for such performance shall be extended by the amount of time of the delay directly caused by and relating to such uncontrolled circumstances. The Party claiming delay of performance as a result of any of the foregoing Force Majeure events shall deliver written notice of the commencement of any such delay resulting from such Force Majeure event and the length of the Force Majeure event is reasonably expected to last not later than seven (7) days after the claiming Party becomes aware of the same, and if the claiming Party fails to so notify the other Party of the occurrence of a Force Majeure event causing such delay, the claiming Party shall not be entitled to avail itself of the provisions for the extension of performance contained in this Article. The number of days a Force Majeure event is in effect shall be determined by the City based upon commercially reasonable standards.

Section 13.03. City's Remedies.

With respect to the occurrence of an Event of Default the City may pursue the following remedies:

(a) The City may pursue any legal or equitable remedy or remedies, including, without limitation, specific performance, damages, and termination of this Agreement. The City shall not terminate this Agreement unless it delivers to the Developer a second notice expressly providing that the City will terminate within thirty (30) additional days. Termination or non-termination of this Agreement upon a Developer Event of Default shall not prevent the City from suing the Developer for specific performance, damages, actual damages, excluding punitive, special and consequential damages, injunctive relief or other available remedies with respect to obligations that expressly survive termination. In the event the Developer fails to pay any of the expenses or amounts or perform any obligation specified in this Agreement, then to the extent such failure constitutes an Event of Default hereunder, the City may, but shall not be obligated to do so, pay any such amount or perform any such obligations and the amount so paid and the reasonable out of pocket costs incurred by the City in said performance shall be due and payable by the Developer to the City within thirty (30) days after the Developer's receipt of an itemized list of such costs.

(b) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in equity.

(c) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

Section 13.04. City Default.

Each of the following events shall be an Event of Default by the City under this Agreement:

(a) So long as the Developer has complied with the terms and provisions of this Agreement, the City shall fail to pay to the Developer any monetary sum hereby required of it and shall not cure such default within thirty (30) calendar days after the later of the date on which written notice thereof is given to the City by the Developer.

(b) The City shall fail to comply in any material respect with any term, provision or covenant of this Agreement, other than the payment of money, and shall not cure such failure within ninety (90) calendar days after written notice thereof is given by the Developer to the City.

Section 13.05. Developer's Remedies.

(a) Upon the occurrence of any Event of Default by the City, the Developer may pursue any legal remedy or remedies specifically including damages as set forth below (specifically excluding specific performance and other equitable remedies), and termination of this Agreement; provided, however, that the Developer shall have no right to terminate this Agreement unless the Developer delivers to the City a second notice which expressly provides that the Developer will terminate within thirty (30) days if the default is not addressed as herein provided.

(b) No remedy herein conferred or reserved is intended to be inclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing.

(c) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

Section 13.06. No Waiver of Immunity.

(a) Nothing contained in this Agreement shall be deemed to waive the City's governmental immunity nor the official immunity of any City officer, official, employee or agent.

(b) Should a court of competent jurisdiction determine the City's immunity from suit is waived in any manner other than as provided in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE, as amended, the Parties hereby acknowledge and agree that in such suit against the City for breach of this Agreement:

(i) The total amount of money awarded is limited to actual damages in an amount not to exceed the balance due and owed by City under this Agreement or any Reimbursement Agreement and is payable solely from Assessment revenues;

(ii) The recovery of damages against City or the Developer may not include consequential damages or exemplary damages;

(iii) The Parties may not recover attorney's fees; and

(iv) The Parties are not entitled to specific performance or injunctive relief against the City.

Section 13.07. Limitation on Damages.

In no event shall any Party have any liability under this Agreement for any exemplary or consequential damages.

Section 13.08. Waiver.

Forbearance by the non-defaulting Party to enforce one or more of the remedies herein provided upon the occurrence of an Event of Default by the other Party shall not be deemed or construed to constitute a waiver of such default. One or more waivers of a breach of any covenant, term or condition of this Agreement by either Party hereto shall not be construed by the other Party as a waiver of a different or subsequent breach of the same covenant, term or condition. The consent or approval of either Party to or of any act by the other Party of a nature requiring consent or approval shall not be deemed to waive or render unnecessary the consent to or approval of any other subsequent similar act.

ARTICLE XIV

INSURANCE, INDEMNIFICATION AND RELEASE

Section 14.01. Insurance.

With no intent to limit any contractor's liability or obligation for indemnification, the Developer shall maintain or cause to be maintained, by the persons constructing the Public Improvements, certain insurance, as provided below in full force and effect at all times during construction of the Public Improvements and shall require that the City is named as an additional insured under such contractor's insurance policies.

(a) With regard to the obligations of this Agreement, the Developer shall obtain and maintain in full force and effect at its expense, or shall cause each contractor to obtain and maintain at their expense, the following policies of insurance and coverage:

(i) Commercial general liability insurance insuring the City, contractor and the Developer against liability for injury to or death of a person or persons and for damage to property occasioned by or arising out of the activities of Developer, the contractor, the City and their respective officers, directors, agents, contractors, or employees, in the amount of \$500,000 Per Occurrence or a limit equal to the amount of the contract amount, \$2,000,000 General Aggregate Bodily Injury and Property Damage. The contractor may procure and maintain a Master or Controlled Insurance policy to satisfy the requirements of this section, which may cover other property or locations of the contractor and its affiliates, so long as the coverage required in this section is separate;

(ii) Worker's Compensation insurance as required by law;

(iii) Business automobile insurance covering all operations of the contractor pursuant to the Construction Agreement involving the use of motor vehicles, including all owned, non-owned and hired vehicles with minimum limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability.

(iv) To the extent available, each policy shall be endorsed to provide that the insurer waives all rights of subrogation against the City;

(v) Each policy of insurance with the exception of Worker's Compensation and professional liability shall be endorsed to include the City (including its former, current, and future officers, directors, agents, and employees) as additional insureds;

(vi) Each policy, with the exception of Worker's Compensation and professional liability, shall be endorsed to provide the City sixty (60) days' written notice prior to any cancellation, termination or material change of coverage; and

(vii) The Developer shall cause each contractor to deliver to the City the policies, copies of policy endorsements, and/or certificates of insurance evidencing the required insurance coverage before the Commencement of Construction of the Public Improvements and within 10 days before expiration of coverage, or as soon as practicable, deliver renewal policies or certificates of insurance evidencing renewal and payment of premium. On every date of renewal of the required insurance policies, the contractor shall cause a Certificate of Insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition the contractor shall within ten (10) business days after written request provide the City with the Certificates of Insurance and policy endorsements for the insurance required herein (which request may include copies of such policies).

Section 14.02. Waiver of Subrogation Rights.

The Commercial General Liability, Worker's Compensation, Business Auto and Excess Liability Insurance required pursuant to this Agreement shall provide for waivers of all rights of subrogation against the City.

Section 14.03. Additional Insured Status.

With the exception of Worker's Compensation Insurance and any Professional Liability Insurance, all insurance required pursuant to this Agreement shall include and name the City as additional insureds using Additional Insured Endorsements that provide the most comprehensive coverage to the City under Texas law including products/completed operations.

Section 14.04. Certificates of Insurance.

Certificates of Insurance and policy endorsements in a form satisfactory to City shall be delivered to City prior to the commencement of any work or services on the Public Improvements. All required policies shall be endorsed to provide the City with sixty (60) days advance notice of cancellation or non-renewal of coverage. The Developer shall provide sixty (60) days written

notice of any cancellation, non-renewal or material change in coverage for any of the required insurance in this Article.

On every date of renewal of the required insurance policies, the Developer shall cause (and cause its contractors) to provide a certificate of insurance and policy endorsements to be issued evidencing the required insurance herein and delivered to the City. In addition, the Developer shall, within ten (10) business days after written request, provide the City with certificates of insurance and policy endorsements for the insurance required herein (which request may include copies of such policies). The delivery of the certificates of insurance and the policy endorsements (including copies of such insurance policies) to the City is a condition precedent to the payment of any amounts to the Developer by the City.

Section 14.05. Carriers.

All policies of insurance required to be obtained by the Developer and its contractors pursuant to this Agreement shall be maintained with insurance carriers that are satisfactory to and as reasonably approved by City, and lawfully authorized to issue insurance in the state of Texas for the types and amounts of insurance required herein. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service. All policies must be written on a primary basis, non-contributory with any other insurance coverage and/or self-insurance maintained by the City. All insurance coverage required herein shall be evidenced by a certificate of insurance and policy endorsements submitted by the Developer's and its contractors' insurer or broker. Certificates of insurance and policy endorsements received from any other source will be rejected.

Section 14.06. INDEMNIFICATION.

DEVELOPER AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY AND ITS RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, FINES, PENALTIES, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM OR VIOLATIONS FOR WHICH RECOVERY OF DAMAGES, FINES, OR PENALTIES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S ACT OR OMISSION, INCLUDING BUT NOT LIMITED TO BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS CONTRACT, VIOLATIONS OF LAW, ANY ACT OR OMISSION, INCLUDING BUT NOT LIMITED TO ANY NEGLIGENT, GROSSLY NEGLIGENT, INTENTIONAL, OR STRICTLY LIABLE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, INVITEES, SUBCONTRACTORS, OR SUB-SUBCONTRACTORS AND THEIR RESPECTIVE OFFICERS, AGENTS, OR REPRESENTATIVES, OR ANY OTHER PERSONS OR ENTITIES FOR WHICH THE CONTRACTOR IS LEGALLY RESPONSIBLE IN THE PERFORMANCE OF THIS CONTRACT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF THE CITY, AND ITS OFFICERS, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS. THE CITY DOES NOT WAIVE ANY GOVERNMENTAL IMMUNITY OR OTHER DEFENSES AVAILABLE TO IT UNDER TEXAS OR FEDERAL LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF

THE PARTIES HERETO AND ARE NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

DEVELOPER AT ITS OWN EXPENSE IS EXPRESSLY REQUIRED TO DEFEND CITY AGAINST ALL SUCH CLAIMS. CITY RESERVES THE RIGHT TO PROVIDE A PORTION OR ALL OF ITS OWN DEFENSE; HOWEVER, CITY IS UNDER NO OBLIGATION TO DO SO. ANY SUCH ACTION BY CITY IS NOT TO BE CONSTRUED AS A WAIVER OF DEVELOPER'S OBLIGATION TO DEFEND CITY OR AS A WAIVER OF DEVELOPER'S OBLIGATION TO INDEMNIFY CITY PURSUANT TO THIS AGREEMENT. DEVELOPER SHALL RETAIN DEFENSE COUNSEL WITHIN SEVEN (7) BUSINESS DAYS OF CITY'S WRITTEN NOTICE THAT CITY IS INVOKING ITS RIGHT TO INDEMNIFICATION UNDER THIS AGREEMENT. IF DEVELOPER FAILS TO RETAIN COUNSEL WITHIN THE REQUIRED TIME PERIOD, CITY SHALL HAVE THE RIGHT TO RETAIN DEFENSE COUNSEL ON ITS OWN BEHALF AND DEVELOPER SHALL BE LIABLE FOR ALL COSTS INCURRED BY THE CITY.

ARTICLE XV

GENERAL PROVISIONS

Section 15.01. Notices.

Any notice, communication or disbursement required to be given or made hereunder shall be in writing and shall be given or made by facsimile or other electronic transmittal, hand delivery, overnight courier, or by United States mail, certified or registered mail, return receipt requested, postage prepaid, at the addresses set forth below or at such other addresses as may be specified in writing by any Party hereto to the other parties hereto. Each notice which shall be mailed or delivered in the manner described above shall be deemed sufficiently given, served, sent and received for all purpose at such time as it is received by the addressee (with return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such receipt) at the following addresses:

To the City:	City Manager 702 N. Highway 175 Bay City, Texas 75159 972-287-2050
With a copy to:	Attn: City Attorney, Bay City Robert, Odefey, Witte & Wall, LLP 2206 State Highway 35 N Port Lavaca, TX 77979 361-552-2971
To the Developer:	Attn: Zulfiqar Momin Crescent Capital Investment LLC 7051 Southwest Freeway Houston, Texas 77074

With a copy to: PRASLA LAW FIRM, PLLC
 c/o Zulfiqar N. Prasla
 800 Bonaventure Way, Suite 154
 Sugar Land, Texas 77479
 713-400-2444

Section 15.02. Make-Whole Provision.

(a) If in any calendar year the City issues debt obligations that would be qualified tax-exempt obligations but for the issuance or proposed issuance of PID Bonds, the Developer shall pay to the City a fee (the “PID Bond Fee”) to compensate the City for the interest savings the City would have achieved had the debt issued by the City been qualified tax-exempt obligations. Prior to issuance of any PID Bonds, the City’s financial advisor shall calculate the PID Bond Fee based on the issued and planned debt issuances for the City and shall notify the Developer of the total amount of the PID Bond Fee prior to the issuance of the PID Bonds. The Developer agrees to pay the PID Bond Fee to the City within ten (10) business days after receiving notice from the City of the amount of PID Bond Fee due to the City. If the City has not forgone the ability to issue a series of obligations as qualified tax exempt obligations, the PID Bond Fee shall be held in a segregated account of the City and if the total amount of debt obligations sold or entered into by the City in the calendar year in which the PID Bonds are issued are less than the bank qualification limits (currently \$10 million per calendar year), then the PID Bond Fee shall be returned to the Developer. The City shall not be required to sell any series of PID Bonds until the Developer has paid the estimated PID Bond Fee.

(b) If the City is planning to issue debt obligations as qualified tax exempt obligations prior to the issuance of PID Bonds in any calendar year, the City may (but is not obligated to) notify the Developer that it is planning to issue qualified tax-exempt obligations that may limit the amount of debt that the City can issue in a calendar year. In connection with the delivery of such notice, the City’s financial advisor shall provide a calculation of the interest savings that the City would achieve by issuing the obligations the City plans to issue in the year as qualified tax-exempt obligations as opposed to non-qualified tax exempt obligations. If following the receipt of such notice the Developer asks the City to forego designating the obligations as qualified tax exempt obligations in order to preserve capacity for PID Bonds, the Developer shall pay to the City a fee to compensate the City for the interest savings the City would have achieved had the debt issued by the City been qualified tax-exempt obligations. The Developer agrees to pay the PID Bond Fee to the City within ten (10) business days after receiving notice from the City of the amount of PID Bond Fee due to the City. Upon receipt of the PID Bond Fee, the City agrees not to designate the obligations planned for issuance as qualified tax exempt obligations. Such payment is compensation to the City for choosing to forego the designation of obligations as qualified tax exempt obligations, and the PID Bond Fee may be used for any lawful purpose of the City.

Section 15.03. Assignment.

(a) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the Parties. The obligations, requirements or covenants to develop the Property, including construction of the Public Improvements may be assigned to an Affiliate without the

prior written consent of the City. The obligations, requirements or covenants to the development of the Property, including construction of the Public Improvements shall not be assigned to any non-Affiliate without the prior written consent of the City Council, which consent shall not be unreasonably withheld if the assignee demonstrates the financial ability to perform in the reasonable judgment of the City Council. Each assignment shall be in writing executed by Developer and the assignee and shall obligate the assignee to be bound by this Agreement to the extent this Agreement applies or relates to the obligations, rights, title or interests being assigned. No assignment by Developer shall release Developer from any liability that resulted from an act or omission by Developer that occurred prior to the effective date of the assignment unless the City approves the release in writing. Developer shall maintain written records of all assignments made by Developer to Assignee, including a copy of each executed assignment and the Assignee's notice information as required by this Agreement, and, upon written request from the City, any Party or Assignee, shall provide a copy of such records to the requesting person or entity, and this obligation shall survive the assigning Party's sale, assignment, transfer or other conveyance of any interest in this Agreement or the Property. The City shall not be required to make any representations or, except with respect to assignment to a non-Affiliate as described above, execute any consent with respect to any assignment.

(b) Developer may assign any receivables or revenues due pursuant to this Agreement or any Reimbursement Agreement to a third party without the consent of, but upon written notice to the City. Provided, however, that notwithstanding the above, the City shall not be required to make partial payments to more than two parties as a result of an assignment and shall not execute any consent or make any representations with respect thereto.

(c) The Developer and assignees have the right, from time to time, to collaterally assign, pledge, grant a lien or security interest in, or otherwise encumber any of their respective rights, title, or interest under this Agreement for the benefit of (a) their respective lenders without the consent of, but with prompt written notice to, the City. The collateral assignment, pledge, grant of lien or security interest, or other encumbrance shall not, however, obligate any lender to perform any obligations or incur any liability under this Agreement unless the lender agrees in writing to perform such obligations or incur such liability. Provided the City has been given a copy of the documents creating the lender's interest, including Notice information for the lender, then that lender shall have the right, but not the obligation, to cure any default under this Agreement within thirty (30) days written Notice to the lender, not to be unreasonably withheld. A lender is not a party to this Agreement unless this Agreement is amended, with the consent of the lender, to add the lender as a Party. Notwithstanding the foregoing, however, this Agreement shall continue to bind the Property and shall survive any transfer, conveyance, or assignment occasioned by the exercise of foreclosure or other rights by a lender, whether judicial or non-judicial. Any purchaser from or successor owner through a lender of any portion of the Property shall be bound by this Agreement and shall not be entitled to the rights and benefits of this Agreement with respect to the acquired portion of the Property until all defaults under this Agreement with respect to the acquired portion of the Property have been cured. The City shall not be required to make partial payments to more than two parties as a result of an assignment and shall not execute any consent or make any representations with respect thereto.

(d) The City shall not be required to acknowledge the receipt of any Assignment by the Developer; however, to the extent the City does acknowledge receipt of any assignment pursuant

to this Section, such acknowledgment does not evidence the City's agreement, acceptance or acknowledgment of the content of the assignment documents or any rights accruing thereunder; it is solely an acknowledgment of receipt of the notice via mail, express mail or email.

(e) The City does not and shall not consent to nor participate in any third-party financing based upon the Developer's assignment of its right to receive funds pursuant to this Agreement or any Reimbursement Agreement.

Section 15.04. Table of Contents; Titles and Headings.

The titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 15.05. Entire Agreement; Amendment.

This Agreement is the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that in any manner relates to the subject matter of this Agreement. This Agreement may only be amended by a written agreement executed by all Parties.

Section 15.06. Time.

In computing the number of days for purposes of this Agreement, all days will be counted, including Saturdays, Sundays, and legal holidays; however, if the final day of any time period falls on a Saturday, Sunday, or legal holiday, then the final day will be deemed to be the next day that is not a Saturday, Sunday, or legal holiday.

Section 15.07. Counterparts.

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument.

Section 15.08. Severability; Waiver.

If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid, or enforceable provision as is possible.

Any failure by a Party to insist upon strict performance by the other party of any material provision of this Agreement will not be deemed a waiver or of any other provision, and such Party may at any time thereafter insist upon strict performance of any and all of the provisions of this Agreement.

Section 15.09. No Third-Party Beneficiaries.

The City and the Developer intend that this Agreement shall not benefit or create any right or cause of action in or on behalf of any third party beneficiary, or any individual or entity other than the City, the Developer or assignees of such Parties.

Section 15.10. Notice of Assignment. Developer shall not transfer any portion of the Property prior to the levy of Assessments, except as provided in Section 3.05. Subject to Section 15.03 herein, the requirements set forth below shall apply in the event that the Developer sells, assigns, transfers or otherwise conveys the Property or any part thereof and/or any of its rights, benefits or obligations under this Agreement. Developer must provide the following:

- (a) within 30 days after the effective date of any such sale, assignment, transfer, or other conveyance, the Developer must provide written notice of same to the City;
- (b) the Notice must describe the extent to which any rights or benefits under this Agreement have been sold, assigned, transferred, or otherwise conveyed;
- (c) the Notice must state the name, mailing address, and telephone contact information of the person(s) acquiring any rights or benefits as a result of any such sale, assignment, transfer, or other conveyance;
- (d) the Notice must be signed by a duly authorized person representing the Developer and a duly authorized representative of the person that will acquire any rights or benefits as a result of the sale, assignment transfer or other conveyance.

Section 15.11. No Joint Venture.

Nothing contained in this Agreement or any other agreement between the Developer and the City is intended by the Parties to create a partnership or joint venture between the Developer, on the one hand, and the City on the other hand and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other. Each Party shall be responsible for any and all suits, demands, costs or actions proximately resulting from its own individual acts or omissions.

Section 15.12. Estoppel Certificates. From time to time within fifteen (15) business days of a written request of the Developer or any future Developer, and upon the payment of a \$100.00 fee to the City, the City Manager, or his/her designee is authorized, in his official capacity and to his reasonable knowledge and belief, to execute a written estoppel certificate in form approved by

the City Attorney, identifying any obligations of a Developer under this Agreement that are in default. No other representations in the Estoppel shall be made by the City.

Section 15.13. Independence of Action.

It is understood and agreed by and among the Parties that in the design, construction and development of the Public Improvements and any of the related improvements described herein, and in the Parties' satisfaction of the terms and conditions of this Agreement, that each Party is acting independently, and the City assumes no responsibility or liability to any third parties in connection to the Developer's obligations hereunder.

Section 15.14. Limited Recourse.

No officer, director, employee, agent, attorney or representative of the Developer shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder. No elected official of the City and no agent, attorney or representative of the City shall be deemed to be a Party to this Agreement or shall be liable for any of the contractual obligations created hereunder.

Section 15.15. Exhibits.

All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

Section 15.16. No Consent to Third Party Financing.

The City does not and shall not consent to nor participate in any way in any third-party financing based upon the Developer's assignment of its right to receive funds pursuant to this Agreement or any Reimbursement Agreement.

Section 15.17. Survival of Covenants.

Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 15.18. No Acceleration.

All amounts due pursuant to this Agreement and any remedies under this Agreement are not subject to acceleration.

Section 15.19. Conditions Precedent.

This Agreement is expressly subject to, and the obligations of the Parties are conditioned upon the City levy of the Assessments and the issuance of the PID Bonds or approval of a Reimbursement Agreement.

Section 15.20. No Reduction of Assessments.

Following the issuance of each series of PID Bonds, the Developer agrees not to take any action or actions to reduce the total amount of the Assessments levied in payment of such PID Bonds. The Developer agrees not to take any action or actions to reduce the total amount of such Assessments to be levied as of the effective date of this Agreement.

Section 15.21. Anti-Boycott Verification.

The Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Agreement is a contract for goods or services, will not boycott Israel during the term of this Agreement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, ‘boycott Israel’ means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. The Developer understands ‘affiliate’ to mean an entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 15.22. Iran, Sudan and Foreign Terrorist Organizations

The Developer represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer’s internet website: <https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>, <https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or <https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>. The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Developer and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. The Developer understands “affiliate” to mean any entity that controls, is controlled by, or is under common control with the Developer and exists to make a profit.

Section 15.23. Governing Law.

The Agreement shall be governed by the laws of the State of Texas without regard to any choice of law rules; and venue for any action concerning this Agreement and the Reimbursement Agreement shall be in the State District Court of Matagora County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court.

Section 15.24. Conflict.

In the event of any conflict between this Agreement and any Indenture authorizing the PID Bond, the Indenture controls. In the event of any conflict between this Agreement and the

Reimbursement Agreement, the Reimbursement Agreement shall control, except that in all cases, Applicable Law shall control.

Section 15.25. Petroleum.

To the extent this Agreement constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 13 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott energy companies and will not boycott energy companies during the term of this Agreement. The foregoing verification is made solely to enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, “boycott energy companies” shall mean, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by (A) above. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit.

Section 15.26. Firearms.

To the extent this Purchase Contract constitutes a contract for goods or services for which a written verification is required under Section 2274.002 (as added by Senate Bill 19 in the 87th Texas Legislature, Regular Session), Texas Government Code, as amended, the Developer hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to enable the Issuer to comply with such Section and to the extent such Section does not contravene applicable Texas or federal law. As used in the foregoing verification, ‘discriminate against a firearm entity or firearm trade association’ (A) means, with respect to the firearm entity or firearm trade association, to (i) refuse to engage in the trade of any goods or services with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, (ii) refrain from continuing an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association, or (iii) terminate an existing business relationship with the firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association and (B) does not include (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories and (ii) a company’s refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity’s or association’s status as a firearm entity or firearm trade

association. As used in the foregoing verification, (b) ‘firearm entity’ means a manufacturer, distributor, wholesaler, supplier, or retailer of firearms (i.e., weapons that expel projectiles by the action of explosive or expanding gases), firearm accessories (i.e., devices specifically designed or adapted to enable an individual to wear, carry, store, or mount a firearm on the individual or on a conveyance and items used in conjunction with or mounted on a firearm that are not essential to the basic function of the firearm, including detachable firearm magazines), or ammunition (i.e., a loaded cartridge case, primer, bullet, or propellant powder with or without a projectile) or a sport shooting range (as defined by Section 250.001, Texas Local Government Code), and (c) ‘firearm trade association’ means a person, corporation, unincorporated association, federation, business league, or business organization that (i) is not organized or operated for profit (and none of the net earnings of which inures to the benefit of any private shareholder or individual), (ii) has two or more firearm entities as members, and (iii) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c) of that code. The Developer understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Developer within the meaning of SEC Rule 133(f), 17 C.F.R. §230.133(f), and exists to make a profit.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

CITY OF BAY CITY

By: _____
Name: Robert K. Nelson
Title: Mayor, City of Bay City

ATTEST:

City Secretary

[SIGNATURES CONTINUE ON NEXT PAGE]

[DEVELOPER SIGNATURE BLOCK]

STATE OF TEXAS
MATAGORA COUNTY

This instrument was acknowledged before me on the ____ day of _____, 2021 by _____, Managing Member of Crescent Capital Investments LLC, a Texas limited liability company on behalf of such limited liability company.

Notary Public, State of Texas

EXHIBIT A
PROPERTY DESCRIPTION

EXHIBIT B

RESERVED

EXHIBIT C**PUBLIC IMPROVEMENTS AND PROJECT COSTS**

Costs are estimates and final costs of the Public Improvements shall be as set forth in the applicable Service and Assessment Plan. The Service and Assessment Plan will also include costs of issuance for the PID Bonds.

Work Classification	Itemized Total Amount	Division Total Amount	Public Costs	Private Costs
PRELIMINARY SITE COSTS				
Boundary Survey	\$8,000.00		8,000.00	0.00
Topo Survey	6,000.00		6,000.00	0.00
Platting Documents and Full Site Survey	50,000.00		50,000.00	0.00
Phase I	12,000.00		12,000.00	0.00
Traffic Study (required by TX-DOT for new curb cut approval)	15,000.00		0.00	15,000.00
TX-DOT Variance Request (work done by G&M Engineering)	2,500.00		0.00	2,500.00
TX-DOT Permit Submittal Package Fee for New Curb Cut on I35	5,000.00		0.00	5,000.00
TX DOT Permit (per TX-DOT no fee)	0.00		0.00	0.00
Preliminary Pond Evaluation & Storm Design Recommendation for District 1 Engineer	12,500.00		12,500.00	0.00
District One Review Fees (estimated 15 hours @ 240.00)	3,600.00		3,600.00	0.00
Updated/New Geotechnical Investigation	15,000.00		15,000.00	0.00
Re-Zoning Fees (no re-zoning required per Maddox Properties)	0.00		0.00	0.00
META - Preliminary Site Plan	5,000.00		0.00	5,000.00
SWPPP Report and Permit for The City of Bay City	10,000.00		10,000.00	0.00
Easement Abandonment Fees (if required))	10,000.00		0.00	10,000.00
Create New Utility Easements	10,000.00		10,000.00	0.00
Total Preliminary Site Costs:		\$164,600.00	\$127,100.00	\$37,500.00
SITE CLEARING				
Removal of Trees and Clearing	\$300,000.00		84,350.00	215,650.00
Erosion Control, Construction Ingress and Egress	25,000.00		25,000.00	0.00
SWPPP Plan, Installation and Maintenance	10,000.00		10,000.00	0.00
Total Site Clearing:		\$335,000.00	\$119,350.00	\$215,650.00
MISC DEVELOPMENT SITE COSTS AND FEES				
Temporary Fencing	\$5,000.00		5,000.00	0.00
Traffic Control	15,000.00		15,000.00	0.00
Site Planning Review Fees	15,000.00		15,000.00	0.00
City of Bay City Permitting Fees and Platting Fees	2,720.00		2,720.00	0.00
Water Meter and Tap Fees (2 ea. 6" taps)	0.00		0.00	0.00
Sanitary Tap Fees	0.00		0.00	0.00
Impact Fees (no fees per the City of Bay City)	0.00		0.00	0.00
Re-Staking of Lots for Revised Survey Once Plat is Approved (if required)	20,000.00		0.00	20,000.00
As-Built Surveying for all Public and Private Utilities and Ponds	60,000.00		50,000.00	10,000.00
Materials Testing	95,000.00		95,000.00	0.00
Off-Site and Pond Inspection Fees by Bay City	2,500.00		2,500.00	0.00
Gas	45,000.00		0.00	45,000.00
Lift Station Maintenance Agreement	0.00		0.00	0.00
Total Misc. Development Site Costs and Fees:		\$260,220.00	\$185,220.00	\$75,000.00
EARTHWORK, SITE UTILITIES, PAVING, SIDEWALKS				
Sitework - Excavation and Fill	\$150,000.00		25,000.00	125,000.00
Construction Surveying	40,000.00		30,000.00	10,000.00
Trench/Haul Off Back fill for AEP	20,000.00		0.00	20,000.00
Water Lines	132,000.00		132,000.00	0.00
Fire Hydrants	55,000.00		55,000.00	0.00
Gate Valves, Boxes, Blow-Offs	20,000.00		20,000.00	0.00
Sanitary Lines, Manholes, Splits	552,000.00		552,000.00	0.00
Abandonment and Relocation of Existing Sanitary Lines for Shopping Center	75,000.00		75,000.00	0.00
Lift Station/Force Main	550,000.00		550,000.00	0.00
Storm Drainage	750,000.00		750,000.00	0.00
Storm Drainage (Road)	92,000.00		92,000.00	0.00
Bore Under New McCoy Drive for Tie-In to Public Storm	10,000.00		10,000.00	0.00
Trench Safety	20,000.00		20,000.00	0.00
Striping	15,000.00		0.00	15,000.00
Concrete Paving and Curbing (205,535 SF)	1,200,000.00		1,200,000.00	0.00
Sidewalks and Ramps Only at Public Areas	80,000.00		80,000.00	0.00
Access Drives (3 each)	75,000.00		75,000.00	0.00
Bay City Seafood Drive Closure and Re-Striping (30,000 SF)	10,000.00		0.00	10,000.00
Fencing for Site (8,333 LF, 8' high wood fencing)	250,000.00		0.00	250,000.00
Total Earthwork, Site Utilities, Paving, Sidewalk Costs:		\$4,096,000.00	\$3,666,000.00	\$430,000.00

LANDSCAPE AND IRRIGATION				
Landscaping and Irrigation	\$25,000.00		0.00	25,000.00
Landscaping and Irrigation in ROW	15,000.00		0.00	15,000.00
Monument Sign	20,000.00		0.00	20,000.00
Total Landscaping and Irrigation:		\$60,000.00	\$0.00	\$60,000.00
DETENTION/RETENTION PONDS				
Excavation of Ponds	\$312,000.00		312,000.00	0.00
Haul-Off (no haul off in budget assuming balanced site)	150,000.00		150,000.00	0.00
Retaining Walls/Footings	0.00		0.00	0.00
Hydromulching of Ponds	30,000.00		30,000.00	0.00
Fountains (estimated for ponds 2 and 3 only)	25,000.00		0.00	25,000.00
Fencing Around Ponds (no fencing around ponds per Maddox Properties)	0.00		0.00	0.00
Concrete Wing Walls (included above)	0.00		0.00	0.00
Total Detention/Retention Ponds:		\$517,000.00	\$492,000.00	\$25,000.00
ELECTRICAL				
AEP	\$500,000.00		0.00	500,000.00
Pad Mounted Transformer/ Panel for power to Pond Fountains	25,000.00		0.00	25,000.00
Temporary Service Panel	15,000.00		15,000.00	0.00
Site Lighting (included in AEP number per the Rep)	0.00		0.00	0.00
Phone Lines	125,000.00		0.00	125,000.00
Cable	75,000.00		0.00	75,000.00
Total Electrical:		\$740,000.00	\$15,000.00	\$725,000.00
OVERHEAD AND PROFIT, INSURANCE				
General Conditions, Insurance, OH&P	\$695,700.00		\$556,560.00	\$139,140.00
Total General Conditions, Insurance, Overhead and Profit Fees:		\$695,700.00	\$556,560.00	\$139,140.00
Total Estimated Construction Costs and Development Fees:		\$6,868,520.00	\$5,161,230.00	\$1,707,290.00
Cost Escalation Contingency:		\$330,893.00	\$252,096.00	\$78,797.00
Bond 1% (if required by The City of Bay City):		55,330.00	\$55,330.00	\$0.00
DESIGN FEES				
Mechanical and Electrical Fee for Construction Documents	\$15,000.00		0.00	15,000.00
Civil Engineer Fee for Construction Documents	150,000.00		120,000.00	30,000.00
Civil Engineer for Detention/Retention Ponds District One Design	25,000.00		25,000.00	0.00
Construction Administration/Inspections by Civil Engineer	50,000.00		40,000.00	10,000.00
Landscaping	5,000.00		0.00	5,000.00
Reproductions and Misc. Costs	5,000.00		2,500.00	2,500.00
Estimated Design Fees:		\$250,000.00	\$187,500.00	\$62,500.00
CONSTRUCTION CONSULTANT FEES				
Fees for Preparing New Easements or Modifications of Existing Easements	\$15,000.00		15,000.00	0.00
Construction Management Fee	75,000.00		52,500.00	22,500.00
Estimated Construction Consultant Fees:		\$90,000.00	\$67,500.00	\$22,500.00
MISC./FINANCE FEES				
Land Costs (14 AC. For ponds and paving)	\$532,000.00		532,000.00	0.00
Development Costs (legal fees, financing fees, interest)	259,000.00			259,000.00
Estimated Misc./Finance Fees:		\$791,000.00	\$532,000.00	\$259,000.00
PID FEES				
Consultant Fees for P3 Work	15,000.00		0.00	15,000.00
Estimated PID Fees:		\$15,000.00	\$0.00	\$15,000.00
ESTIMATED PROJECT COST TOTAL:		\$8,400,743.00	\$6,255,656.00	\$2,145,087.00
Estimated Financing Costs, Including Reserve Funds, Delinquency Fund, etc:			\$2,815,045.00	
TOTAL PID PROJECT COST:			\$9,070,701.00	

EXHIBIT D

RESERVED

EXHIBIT E**LANDOWNER CONSENT****CONSENT AND AGREEMENT OF LANDOWNERS**

This Consent and Agreement of Landowner is issued by _____, an Texas limited liability company, as the landowner (the “Landowner”) who collectively hold record title to all property located within the [_____ Public Improvement District] (the “PID”) created by the City of _____ pursuant to a petition of Landowner. Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in the City’s ordinance levying assessments on property within the PID, dated _____, 2021, including the Service and Assessment Plan and Assessment Rolls attached thereto (the “Assessment Ordinance”). [TO BE EXECUTED PRIOR TO THE LEVY OF ASSESSMENTS]

Landowner hereby declare and confirm that they collectively hold record title to all property in the PID which are subject to the Assessment Ordinances, as set forth on Exhibit A. Further, Landowner hereby ratify, declare, consent to, affirm, agree to and confirm each of the following:

1. The creation and boundaries of the PID, the boundaries of each Assessed Property, and the Authorized Improvements for which the Assessments are being made, as set forth in the Service and Assessment Plan.
2. The determinations and findings as to benefits by the City in the Assessment Ordinance and the Service and Assessment Plan.
3. The Assessment Ordinance and the Service and Assessment Plan and Assessment Roll.
4. The right, power and authority of the City Council to adopt the Assessment Ordinances and the Service and Assessment Plans and Assessment Roll;
5. Each Assessment levied on each Assessed Property as shown in the Service and Assessment Plan (including interest and Administrative Expenses as identified in the Service and Assessment Plan and as updated from time to time as set forth in the Service and Assessment Plan).
6. The Authorized Improvements specially benefit the Assessed Property in an amount in excess of the Assessment levied on each Assessed Property, as such Assessments are shown on the Assessment Roll.
7. Each Assessment is final, conclusive and binding upon such Landowners, regardless of whether such Landowners may be required to pay Assessments under certain circumstances pursuant to the Service and Assessment Plan.

8. The then-current owner of each Assessed Property shall pay the Assessment levied on the Assessed Property owned by it when due and in the amount required by and stated in the Service and Assessment Plan and the Assessment Ordinance.
9. Delinquent installments of the Assessment shall incur and accrue interest, penalties, and attorney's fees as provided in the PID Act.
10. The "Annual Installments" of the Assessments may be adjusted, decreased and extended in accordance with the Service and Assessment Plan, and the then-current owner of each Assessed Property shall be obligated to pay its revised amounts of the Annual Installments, when due, and without the necessity of further action, assessments or reassessments by the City.
11. All notices required to be provided to it under the PID Act have been received and to the extent of any defect in such notice, Landowners hereby waive any notice requirements and consents to all actions taken by the City with respect to the creation of the PID and the levy of the Assessments.
12. That the resolution creating the PID, the Ordinance levying the Assessments, the Service and Assessment Plan and a Notice of Creation of Special Assessment District and Imposition of Special Assessment to be provided by the City, shall be filed in the records of the County Clerk of Matagora County, with copies of the recorded documents delivered to the City promptly after receipt thereof by the recording party, as a lien and encumbrance against the Assessed Property.
13. Each Assessed Property owned by the Landowner identified in the Service and Assessment Plan and Assessment Roll are wholly within the boundaries of the PID.
14. There are no Parcels owned by the Landowners within the boundaries of the PID that are not identified in the Service and Assessment Plan and the Assessment Roll.
15. Each Parcel owned by the Landowners identified in the Service and Assessment Plan and Assessment Roll against which no Assessment has been levied was Non-Benefited Property as of _____, 20__.

Originals and Counterparts. This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

[Execution page follows]

IN WITNESS WHEREOF, the undersigned has caused this Agreement and Consent of Landowner to be executed as of _____, 2021.

By:

By:

By: _____
Name:
Its

STATE OF TEXAS §
 §
COUNTY OF MATAGORA §

This instrument was acknowledged before me on the ____ day of _____, 20____ by _____, as, an Texas limited liability company on behalf of said company.

Notary Public, State of Texas

EXHIBIT F

FORM OF PAYMENT CERTIFICATE

PAYMENT CERTIFICATE NO. _____

Reference is made to that certain Indenture of Trust by and between the City and the Trustee dated as of _____ (the “Indenture”) relating to the “City of _____, Texas, Special Assessment Revenue Bonds, Series 20__ (_____ Public Improvement District Project)” (the “Bonds”). Unless otherwise defined, any capitalized terms used herein shall have the meanings ascribed to them in the _____, LLC an Texas limited liability company (the “Developer”) and requests payment to the Developer (or to the person designated by the Developer) from:

_____ the Public Improvement Account of the Project Fund

from _____, N.A., (the “Trustee”), in the amount of _____ (\$_____) for labor, materials, fees, and/or other general costs related to the creation, acquisition, or construction of certain Public Improvements providing a special benefit to property within the _____ Public Improvement District.

In connection with the above referenced payment, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Certificate for Payment Form on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The itemized payment requested for the below referenced Public Improvements has not been the subject of any prior payment request submitted for the same work to the City or, if previously requested, no disbursement was made with respect thereto.
3. The itemized amounts listed for the Public Improvements below is a true and accurate representation of the Public Improvements associated with the creation, acquisition, or construction of said Public Improvements and such costs (i) are in compliance with the Development Agreement, and (ii) are consistent with and within the cost identified for such Public Improvements as set forth in the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the Service and Assessment Plan.
5. The Developer has timely paid all ad valorem taxes and Annual Installments of Public Assessments it owes or an entity the Developer controls owes, located in the _____ Public Improvement District and has no outstanding delinquencies for such Public Assessments.

6. All conditions set forth in the Indenture and the Development Agreement for the payment hereby requested have been satisfied.

7. The work with respect to Public Improvements referenced below (or its completed segment) has been completed, and the City has inspected such Public Improvements (or its completed segment).

8. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested are as follows:

Payee / Description of Public Improvement	Total Cost Public Improvement	Budgeted Cost of Public Improvement	Amount requested be paid from the Public Improvement Account

Attached hereto are receipts, purchase orders, change orders, and similar instruments which support and validate the above requested payments. Also attached hereto are "bills paid" affidavits and supporting documentation in the standard form for City construction projects.

Pursuant to the Development Agreement, after receiving this payment request, the City has inspected the Public Improvements (or completed segment) and confirmed that said work has been completed in accordance with approved plans and all applicable governmental laws, rules, and regulations.

Payments requested hereunder shall be made as directed below:

- a. X amount to Person or Account Y for Z goods or services.
- b. Payment instructions

I hereby declare that the above representations and warranties are true and correct.

By: _____

Name: _____

Title: _____

APPROVAL OF REQUEST

The City is in receipt of the attached Certificate for Payment, acknowledges the Certificate for Payment, and finds the Certificate for Payment to be in order. After reviewing the Certificate for Payment, the City approves the Certificate for Payment and authorizes and directs payment of the amounts set forth below by Trustee from the Project Fund to the Developer or other person designated by the Developer as listed and directed on such Certificate for Payment. The City's approval of the Certificate for Payment shall not have the effect of estopping or preventing the City from asserting claims under the Development Agreement, the Reimbursement Agreement, the Indenture, the Service and Assessment Plan, or any other agreement between the parties or that there is a defect in the Public Improvements.

Amount of Payment Certificate Request	Amount to be Paid by Trustee from Improvement Account
\$_____	\$_____

CITY OF BAY CITY, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT G**FORM OF CLOSING DISBURSEMENT REQUEST**

The undersigned is an agent for _____, LP, (the “Developer”) and requests payment from:

[the Cost of Issuance Account of the Project Fund][the Improvement Account of the Project Fund] from _____, (the “Trustee”) in the amount of _____ DOLLARS (\$_____) for costs incurred in the establishment, administration, and operation of the _____ Public Improvement District (the “District”), as follows:

Closing Costs Description	Cost	PID Allocated Cost
TOTAL		

In connection to the above referenced payments, the Developer represents and warrants to the City as follows:

1. The undersigned is a duly authorized officer of the Developer, is qualified to execute this Closing Disbursement Request on behalf of the Developer, and is knowledgeable as to the matters set forth herein.
2. The payment requested for the above referenced establishment, administration, and operation of the District at the time of the delivery of the Bonds has not been the subject of any prior payment request submitted to the City.
3. The amount listed for the below itemized costs is a true and accurate representation of the Actual Costs incurred by Developer with the establishment of the District at the time of the delivery of the Bonds, and such costs are in compliance with and within the costs as set forth in the Service and Assessment Plan.
4. The Developer is in compliance with the terms and provisions of the Development Agreement, the Indenture, and the Service and Assessment Plan.
5. All conditions set forth in the Indenture for the payment hereby requested have been satisfied.
6. The Developer agrees to cooperate with the City in conducting its review of the requested payment, and agrees to provide additional information and documentation as is reasonably necessary for the City to complete said review.

Payments requested hereunder shall be made as directed below:

- c. X amount to Person or Account Y for Z goods or services.
- d. Payment instructions

I hereby declare that the above representations and warranties are true and correct.

_____ ,

By: _____

Name: _____

Title: _____

Date: _____

APPROVAL OF REQUEST

The City is in receipt of the attached Closing Disbursement Request, acknowledges the Closing Disbursement Request, and finds the Closing Disbursement Request to be in order. After reviewing the Closing Disbursement Request, the City approves the Closing Disbursement Request to the extent set forth below and authorizes and directs payment by Trustee in such amounts and from the accounts listed below, to the Developer or other person designated by the Developer herein.

Closing Costs	Amount to be Paid by Trustee from Cost of Issuance Account
\$ _____	\$ _____

CITY OF BAY CITY, TEXAS

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT H**HOME BUYER DISCLOSURE PROGRAM**

The Developer of _____ Public Improvement district (the “PID”) shall record notice of the PID in the appropriate land records for the Property. The Developer shall require in its contracts with builders within the PID that the builders provide notice to prospective homebuyers in accordance with the following minimum requirements:

2. Attach the Recorded Notice of the Authorization and Establishment of the PID and the final Assessment Roll for such Assessed Parcel (or if the Assessment Roll is not available for such Assessed Parcel, then a schedule showing the maximum 30-year payment for such Assessed Parcel) in an addendum to each residential homebuyer’s contract on brightly colored paper.
3. Collect a copy of the addendum signed by each buyer and provide to the City.
4. Require signage indicating that the Property for sale is located in a special assessment district and require that such signage be located in conspicuous places in all model homes.
6. If the homebuilders estimate monthly ownership costs, they must include special assessments in estimated property taxes.
7. Notify Settlement Companies that they are required to include special taxes on HUD 1 forms and include in total estimated taxes for the purpose of setting up tax escrows

EXHIBIT I
RESERVED

EXHIBIT J

CONCEPT PLAN



EXHIBIT K

AMENITIES

1. A playground with playground equipment valued at a minimum of \$40,000.

**RESOLUTION~ A RESOLUTION OF THE CITY OF BAY CITY, TEXAS
APPROVING AN ADDENDUM TO ENGAGEMENT AGREEMENT WITH
BRACEWELL LLP RELATING TO PUBLIC IMPROVEMENT DISTRICTS**



EXECUTIVE SUMMARY

ADDENDUM TO ENGAGEMENT AGREEMENT– BRACEWELL

BACKGROUND:

September 23, 2021- A petition for a public improvement district (PID) was signed by owners of said property.

September 28, 2021- The City Council called for a public hearing for the creation of a public improvement district (PID) under Chapter 372 of the Texas Local Government Code.

The resolution attached allows the City to engage bond counsel services when needed to finance public improvements within the PID. Typically, the bond counsel is paid when PID bonds are issued.

RECOMMENDATION: Staff recommends City Council approve the resolution as presented.

ATTACHMENTS: Resolution

RESOLUTION NO. _____**A RESOLUTION OF THE CITY OF BAY CITY, TEXAS APPROVING AN
ADDENDUM TO ENGAGEMENT AGREEMENT WITH BRACEWELL
LLP RELATING TO PUBLIC IMPROVEMENT DISTRICTS**

WHEREAS, the City of Bay City, Texas (the “City”) desires to establish public improvement districts (“PIDs”) and issue bonds and other obligations from time to time as authorized by Texas Statutes, in order to finance or refinance public improvements within PIDs; and

WHEREAS, the City desires to engage competent, experienced bond counsel services for the issuance of these bonds and other obligations; and

WHEREAS, Bracewell LLP (“Bracewell” or the “Firm”) is a nationally recognized law firm providing bond counsel services; and

WHEREAS, the City and the Firm desire to enter into an addendum to their existing engagement agreement (the “Addendum”) that sets forth the agreement between the parties with respect to bond counsel services;

NOW THEREFOR BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BAY CITY:

SECTION 1. The recitals set forth in the preamble of this Resolution are true and correct in all material respects.

SECTION 2. It is hereby found, determined and declared that there is a substantial need for Bracewell’s legal services; the legal services cannot be adequately performed by the attorneys and supporting personnel of the City; and the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained and the compensation for such services will be paid from the proceeds of the bonds or other obligations issued by the City.

SECTION 3. The City hereby approves the Addendum by and between the City and the Firm in substantially the form attached hereto as Exhibit A, with such changes as may be approved by the City Manager, and the Mayor or the City Manager are hereby authorized to execute such Addendum and the City Secretary may attest such signature.

SECTION 4. It is hereby found, determined, and declared that a sufficient written notice of the date, hour, place, and subject of this meeting of the City Council of the City was posted at the location and the time required by law preceding this meeting, as required by the Open Meetings Act, Chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Resolution and the subject matter thereof has been discussed, considered and formally acted upon. It is further found, determined and declared that sufficient written notice of the Addendum was posted as required by Chapter 2254, Texas

Signature Page – Resolution Approving Addendum to Engagement Letter

Government Code. The City Council further ratifies, approves and confirms such written notices and the contents and posting thereof.

PRESENTED AND PASSED on this the ____ day of _____, 2022.

Robert K. Nelson, Mayor
City of Bay City, Texas

ATTEST:

Jeanna Thompson, City Secretary
City of Bay City, Texas

EXHIBIT A
BRACEWELL ADDENDUM

March 10, 2021

Ms. Shawna Burkhart
City Manager
City of Bay City, Texas
1901 Fifth Street
Bay City, TX 77414

Re: Addendum to Engagement Letter – City of Bay City, Texas

Dear Ms. Burkhart:

Thank you for engaging us to represent the City of Bay City, Texas (“City” or “Client”) as special counsel to the City. We appreciate the confidence you have shown in Bracewell LLP (“Bracewell” or “Firm”) and look forward to this opportunity to represent your interests.

This addendum to our existing bond counsel engagement letter is for the purpose of adding an additional matter to our scope of services. The Terms of Engagement attached to this addendum will replace those included in the original engagement letter. This addendum has been approved by Bracewell subject to the conditions described in this letter.

A. Scope of Engagement

Bracewell will represent Client in connection with advice and counsel regarding the creation of one or more public improvement districts (each, a “PID”) and the negotiation of related development agreements (each, a “Development Agreement”) with the developer(s) undertaking development within the PID (each, a “Developer”) of the PID. Bracewell will also represent the City in connection with its issuance, from time to time, of bonds, and other debt obligations (“Obligations”) related thereto.

We agree that our services as counsel to the City in connection with PID matters may include the following as directed by the City:

1. Drafting the Development Agreement and other City documents relating to the PID, including policies and procedures for creation of a PID by the City;
2. Drafting documents relating to the creation of the PID and the levy of Assessments;

Bracewell LLP

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bracewell.com

AUSTIN CONNECTICUT DALLAS DUBAI HOUSTON LONDON NEW YORK SAN ANTONIO SEATTLE WASHINGTON, DC

3. Attendance at all meetings of the City Council as required or requested in connection with the planning and authorization of Obligations, including consultation on federal income tax matters;
4. Preparation of the ordinances of the City Council authorizing issuance of Obligations, together with all other legal documents comprising the transcript of proceedings for authorization and issuance of Obligations;
5. Preparation of and submission to the Attorney General of Texas of a transcript of proceedings for each series of Obligations to obtain the approval of the Attorney General and registration of Obligations by the Comptroller of Public Accounts of Texas;
6. Preparation and filing of legal documents required under federal income tax law for the Obligations;
7. Representation of the City at the closing of the sale of Obligations, including preparation of all closing documents; and
8. If appropriate, the delivery at closing of our approving opinion as to the validity of the Obligations under Texas law, and the exclusion of interest on the Obligations from gross income of the holders under federal income tax law.

The services outlined above do not include such matters as services as disclosure counsel in connection with the sale of the Obligations, work on post-closing federal tax or disclosure issues, obtaining IRS rulings or clarifications of federal tax law, presentations to rating agencies or bond insurers, or “blue sky” or securities registration services. We will be pleased to provide legal services in connection with any matters not included in paragraphs 1 through 8 above, but we believe that such additional services, if requested by the City, should be the subject of an addendum to this letter or a separate letter of engagement. Our representation of the City with respect to any particular series of Obligations will end upon the closing for that particular series of Obligations.

This Engagement Letter may be supplemented to reflect new matters or issues that deviate from the current engagement in scope, billing arrangements, complexity, risk, or that otherwise require a substantial change in terms and conditions. The Terms of Engagement, however, will govern all projects and engagements for Client.

B. Fees, Expenses and Billing

1. Third Party Payment of Certain PID Creation Fees

Bracewell acknowledges that Client intends to pay the portion of the legal fees, other than bond counsel fees, related to this engagement from an escrow account funded the developers participating in such PIDs (each a “Developer”). Invoices will be delivered to Client. Client is Bracewell’s only client in this engagement; no attorney-client or other relationship exists between Bracewell and the Developer, and the Developer will not have any authority as to the performance of this engagement. Client understands and consents to fees and expenses being paid from funds deposited by the Developer.

2. Development Agreement Related Fees.

Legal fees incurred in connection with the development of City policies or the negotiation of the Development Agreement may be paid from the proceeds of the Obligations to be issued by the City in connection with the PID. Such fees shall be in addition to any fees due under Section C of this Agreement. However, if Obligations are not expected to be issued or have not been issued within twelve months of the execution of the Development Agreement or if the Development Agreement is not executed, the Firm will invoice the City for such fees and expenses, and the City will be responsible for the timely payment of such fees and expenses.

Fees described in paragraphs 1 and 2 will be based primarily on an hourly charge determined by the amount of time devoted by Bracewell professionals to perform the legal services contemplated by this engagement. Other factors authorized by Rule 1.5(a) of the ABA Model Rules of Professional Conduct also may be considered when determining the fees charged by Bracewell.

Billing rates for our attorneys vary according to the experience of the individuals. Our current billing rates for those attorneys in our section who you might ask to work on your matter range from \$250 an hour for the most junior associate to \$950 an hour for the most senior partner. In an effort to reduce overall legal costs, we utilize paralegal and administrative assistant personnel whenever appropriate. Time devoted by such paralegal personnel to client matters is currently charged at billing rates generally ranging from \$150 to \$350 per hour. Billing rates for attorneys, paralegal and administrative assistant personnel are, from time to time, reviewed and adjusted.

Matters involving the production of electronically stored information may result in additional fees and expenses being incurred by the Firm and/or by third-party vendors on behalf of Client. See the attached Terms of Engagement for more details.

3. Ongoing PID Administrative Related Fees.

Legal fees relating to the ongoing administration of the PID, including the review of annual updates to the Service and Assessment Plan, shall be billed at our hourly rates determined by the amount of time devoted by Bracewell professionals to this work. Our fees for ongoing administration of the PID will be paid from assessments levied for administrative costs within the PID.

C. PID Bond Counsel Fees

Our services as Bond Counsel under this Letter will commence following the adoption of a Service and Assessment Plan for a public improvement district. Any services provided prior to the adoption of the Service and Assessment Plan shall be addressed as provided in Section B of this Letter. For our services as bond counsel in connection with the authorization, issuance and sale of each series of public improvement district Obligations, the City will pay us, from the proceeds of sale of each issue or installment of the Obligations, the following:

1. an amount equal to 3% of the first \$5,000,000 in principal amount of such Series of Obligations; and

2. 2-1/2% of the principal amount of such Series of Obligations above said first \$5,000,000 in principal amount but not exceeding \$10,000,000 in principal amount; and
3. 2% of the principal amount of such Series of Obligations above \$10,000,000 in principal amount but not exceeding \$15,000,000 in principal amount; plus
4. an amount equal to 1-1/2% of the principal amount of such Series of Obligations above \$15,000,000 in principal amount.

The above fee schedule shall be applicable to each separate series, issue or installment of Obligations, but shall only be due with respect to Obligations actually issued, sold and delivered. Our fee for bond counsel services for any separate issue or installment of Obligations shall not be less than \$50,000. Our fee for serving as bond counsel on any issue of refunding bonds for the refunding of any Obligations will be 1% of the principal amount of such bonds, but not less than \$50,000.

If the City chooses to issue bond anticipation notes in connection with a bond issue, our fee for such services will be 1% of the principal amount of such note, but not less than \$10,000.

Thank you again for the opportunity to represent you in this matter.

Very truly yours,

Bracewell LLP

Jonathan K. Frels
Partner

AGREED AND ACCEPTED:

City of Bay City, Texas

By: _____
Its: _____
Date: _____

BRACEWELL LLP**TERMS OF ENGAGEMENT****Introduction**

These are the Terms of Engagement adopted by Bracewell LLP ("Bracewell") and the addressee of the preceding Engagement Letter ("Client") and referred to in our Engagement Letter as the basis for our representation. Because they are an integral part of our agreement to provide representation, we ask that you review this document carefully and retain it for your files. If you have any questions after reading it, please promptly inform your principal contact at the Firm.

Client of the Firm

Because Bracewell has been engaged to represent the Client only, the engagement does not include the Client's family members, affiliated or related entities, or their respective individual officers, directors, partners, equity owners or employees.

Unless otherwise specifically stated in the Engagement Letter, our representation does not include any parent, subsidiary, or affiliated entity; employee, officer, director, shareholder, member or partner of an entity; or, any commonly owned entity. For any trade association, our representation does not include any member of the trade association; and for individuals, our representation does not include any employer, partner, spouse, sibling, or other family member. In the event we are asked to undertake representation of any other entity in connection with this engagement, we will do so only by agreement defined in the Engagement Letter.

Our Relationship with Others and Conflicts of Interest

We have performed a conflicts check on the names you provided to Bracewell. Based on a check of these names, and under the applicable standards in the governing rules of professional conduct, we believe Bracewell is free to undertake the Matter. If we identify a conflict after work on this Matter has begun, you agree to use reasonable efforts to help us resolve the conflict to the satisfaction of all parties.

Bracewell accepts this engagement on the understanding that our representation of you will not preclude us from accepting another engagement from a new or existing client provided that (1) such engagement is not substantially related to the subject matter of services we provide to you and (2) such other engagement would not impair the confidentiality of related client information.

Billing Arrangements and Terms of Payment

Fees for professional services and expenses are not contingent on the outcome of the project, unless expressly stated in the Engagement Letter.

Bracewell issues invoices on a periodic basis, normally each month, for fees and expenses. Invoices are due on receipt and are considered past due 30 days after receipt.

Clients frequently ask us to estimate the fees and other charges they are likely to incur in connection with a particular matter. Any estimate is based on professional judgment and facts and circumstances

that appear at the time. As such, any estimate is subject to the understanding that, unless we agree otherwise in writing, it does not represent a maximum, minimum, or fixed-fee quotation. The ultimate cost frequently is more or less than the amount estimated.

It may be necessary for us to retain third parties, such as consultants, experts and investigators, in order to represent you adequately. In that event, you will be responsible for the prompt payment of the invoices of those third parties. Although we may advance third-party disbursements in reasonable amounts, we will ask you to pay larger third-party invoices (usually those over \$500) directly to the third party providing the services.

If the representation will require a concentrated period of activity, such as a trial, arbitration, or hearing, we reserve the right to require the payment of all amounts owed and the prepayment of the estimated fees and expenses to be incurred in completing the trial, arbitration, or hearing, as well as arbitration fees likely to be assessed. If you fail to pay timely the estimated fees and expenses, we will have the right to cease performing further work and the right to withdraw from the representation, subject to any applicable rules of court or other applicable tribunal.

Although an insurer's payment of defense costs may be applied to billings of the firm, the payment obligation remains with you. Failure of any insurer to pay all or part of the billings for this project does not relieve you from the obligation to pay billings in full and in a timely manner.

Matters Involving e-Discovery

Many matters require the handling or production of electronically stored information ("ESI"). In litigation, the rules of civil procedure in federal court, as well as in many other jurisdictions, address the gathering and production of ESI ("e-Discovery"). Failure to comply with the rules governing e-Discovery can subject Client and the Firm to possible discovery sanctions. The Firm has developed an e-Practice Department (the "e-Department") to assist the Firm's clients in litigation matters that involve e-Discovery issues. The e-Department head, a lawyer who specializes in e-Discovery matters ("e-Practice Counsel"), and the e-Practice Project Managers will assist Client in handling e-Discovery projects that may arise in connection with the Firm's representation of Client.

The Firm has identified a number of preferred e-Discovery providers that it can recommend to Client ("Outside Vendors"). Client will make the ultimate decision on which Outside Vendor to retain on a matter. Client will contract directly with and will be invoiced by the Outside Vendor for e-Discovery services. In most cases, the Outside Vendor will handle the collection, processing, hosting, and production of Client's ESI. The Firm's e-Department professionals will serve as a liaison between Client, the Outside Vendor and the Firm's attorneys throughout the process, and the Firm will bill the Client for that time. Unless other arrangements are made between the Firm and Client, the Firm's lawyers will handle the review of Client's ESI before production.

Certain matters involving less than 5GB of ESI can be handled by the Firm internally, rather than by an Outside Vendor. In such matters, and upon prior agreement between Client and the Firm, an Outside Vendor will collect the Client's ESI and deliver to the Firm for processing, hosting, review and production. Client will contract directly with the provider for the collection of the ESI. The Firm will charge the client from \$150 to \$250 per GB for processing, depending on the format of the data, and from \$20 to \$40 per GB per month for hosting/storage, depending on the volume of the data.

It is anticipated that the Firm's e-Department professionals will assist Client in both e-Discovery matters handled by Outside Vendors and those handled by the Firm internally. The Firm will bill Client for the time of these professionals.

The hourly rate of the Firm's e-Practice Counsel is \$450 per hour. The range of hourly rates for the Firm's e-Practice Project Managers is \$225 - \$300 per hour. The hourly billing rates of the Firm's e-Department professionals are set, reviewed and adjusted by Bracewell on an annual basis and will appear on the periodic invoice provided for this engagement.

Interest on Past Due Accounts

If Client fails to pay any invoice when due, the past due amount shall accrue interest at the rate of six percent (6%) per annum, beginning on the date due until paid in full. Such interest shall be calculated based upon a year of 365/366 days (as applicable) for the actual number of days the invoice has been outstanding beyond the due date, and shall be compounded monthly. Such interest shall be payable upon demand and will be invoiced separately. The total interest due on past due invoices is available upon inquiry.

Taxes

The Client agrees that all payments under the Engagement Letter shall be payable to Bracewell in U.S. Dollars, free and clear of any and all present and future taxes, levies, imposts, duties, deductions, withholdings, fees, liabilities and similar charges (the "Taxes"). If any Taxes are required to be withheld or deducted from any amount payable under the Engagement Letter, then the amount payable under the Engagement Letter shall be increased to the amount which, after deduction from such increased amount of all Taxes required to be withheld or deducted therefrom, will yield to Bracewell the amounts stated to be payable to Bracewell under the Engagement Letter.

Termination

Because Bracewell has been engaged to provide services in connection with the representation specifically defined in our Engagement Letter, the attorney-client relationship terminates upon our completion of those services.

You may terminate the engagement at any time, with or without cause, by notifying us in writing. The firm also can terminate the engagement before the completion of its representation of you in the specified matter if (a) the continued representation would result in a violation of the applicable rules of professional conduct or other law; (b) the termination can be accomplished without material adverse effect on your interests; (c) you persist in a course of action that Bracewell reasonably believes is criminal or fraudulent, or you have used our services to perpetrate a crime or fraud, (d) the firm has a fundamental disagreement with the objective or tactics in this engagement; (e) you deliberately and substantially fail to discharge an obligation regarding this engagement, including the payment of fees and expenses and the duty of cooperation as provided in the Terms of Engagement; or (f) other good cause for termination exist. In the event that the firm intends to terminate the engagement, the firm will give reasonable notice and allow you access to your files relating to this engagement.

For purposes of this Engagement Letter, this engagement terminates upon written notice of termination by Client or by Bracewell, or 120 days after the date of Bracewell's last substantive legal service billed to Client's account, whichever may first occur.

The termination of our services will not affect your responsibility for payment of legal services rendered and other charges incurred before termination and in connection with an orderly transition of the project.

After completion of the representation, however, changes may occur in the applicable laws or regulations that could affect your future rights and liabilities in regard to the matter. Bracewell has no continuing obligation to give advice with respect to any future legal developments that may relate to the project.

Disposition and Retention of Materials

Bracewell has adopted and implemented an information governance and records management program including a comprehensive policy and records retention schedule. At the close of any matter Bracewell may return Client documents and property, send them to a storage facility for a limited time, or have them destroyed according to our records retention schedule. At Client's request, Client documents and property will be returned to you upon receipt of payment for outstanding fees and costs. Your request must be specific and designate your representative to receive the files. Client is responsible for paying the reasonable cost to retrieve, duplicate and deliver the Client files. Your request for return of Client files must be delivered to Bracewell no later than 120 days after the last substantive service relating to the closed matter. A substantive service does not include audit letter research and preparation, or any other service that does not directly relate to the substantive discharge of a Client engagement.

You agree that Bracewell owns and retains its own files, inclusive of related electronically stored information, pertaining to the engagement. You will not have the right or ability to require us to deliver such files (or copies thereof) to you. Examples of Bracewell files are: firm administrative materials, financial files and documents, time and expense reports, personnel and staffing materials, credit and accounting records, electronic mail correspondence (other than such correspondence which was sent to you by a member of our firm) and internal lawyer's work product, such as drafts, notes, memoranda and legal and factual research, including investigative reports prepared by or for the internal use of lawyers.

It is important for Client to alert Bracewell in advance of special treatment, sensitive information, retention requirements and other unique conditions pertaining to Client files. Client agrees that it will notify Bracewell in a timely, written and specific manner, concerning any requirement for special or unusual handling or attention of its Client files. This includes any statutory or regulatory requirements relating to confidentiality and retention of Client files.

Choice of Law

Because Bracewell performs legal services in a number of jurisdictions, for consistency and predictability, the Client and Bracewell agrees that the Texas Disciplinary Rules of Professional Conduct (found at www.texasbar.com or www.legalethictexas.com) will govern all issues of legal ethics and professionalism.

Pursuant to Texas Government Code section 81.079, we are required to provide you with notice of the existence of the State Bar of Texas grievance process. That information can be found here: www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=23454 (English)

www.texasbar.com/AM/Template.cfm?Section=File_a_Grievance&Template=/CM/ContentDisplay.cfm&ContentID=23636 (Spanish).

Disclaimer

We cannot guarantee the outcome of any matter. Any expression of our professional judgment regarding your matter or the potential outcome is, of course, limited by our knowledge of the facts and based on the law at the time of expression. It is also subject to any unknown or uncertain factors or conditions beyond our control.

Either at the commencement or during the course of the representation, we may express opinions or beliefs about the matter or various courses of action and the results that might be anticipated. Any expressions on our part concerning the outcome of the representation, or any other legal matters, are based on our professional judgment and are not guarantees.

By signing the Engagement Letter or otherwise indicating your acceptance of the Engagement Letter, you acknowledge that Bracewell has made no promises or guarantees to you about the outcome of the representation, and nothing in these Terms of Engagement shall be construed as such a promise or guarantee.

Your Cooperation

To enable us to provide effective representation, you agree to: (1) disclose to us fully, accurately and on a timely basis, all facts and documents that are or might be material or that we may request; (2) keep us apprised on a timely basis of all developments relating to the representation that are or might be material; (3) attend meetings, conferences, and other proceedings when it is reasonable to do so; (4) provide updated information for conflicts purposes, if necessary; and (5) cooperate fully with us in all matters relating to the engagement.

Modification of Our Agreement

The Terms of Engagement reflect our agreement on the terms of all engagements, and are not subject to any oral agreements, modifications, or understandings. Any change in these Terms of Engagement must be made in writing signed by both Bracewell and Client.

Anti-Boycott Verification. The Firm hereby verifies that it and its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, do not boycott Israel and, to the extent this Engagement is a contract for goods or services, will not boycott Israel during the term of this Engagement. The foregoing verification is made solely to comply with Section 2271.002, Texas Government Code, and to the extent such Section does not contravene applicable Federal law. As used in the foregoing verification, “boycott Israel” means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes. As used in this paragraph, the Firm understands “affiliate” to mean an entity that controls, is controlled by, or is under common control with the Firm within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

Iran, Sudan and Foreign Terrorist Organizations. The Firm represents that neither it nor any of its parent company, wholly- or majority-owned subsidiaries, and other affiliates is a company identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 2252.153 or Section 2270.0201, Texas Government Code, and posted on any of the following pages of such officer's internet website:

<https://comptroller.texas.gov/purchasing/docs/sudan-list.pdf>,
<https://comptroller.texas.gov/purchasing/docs/iran-list.pdf>, or
<https://comptroller.texas.gov/purchasing/docs/fto-list.pdf>.

The foregoing representation is made solely to comply with Section 2252.152, Texas Government Code, and to the extent such Section does not contravene applicable Federal law and excludes the Firm and each of its parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, that the United States government has affirmatively declared to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization. As used in this paragraph, the Firm understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Firm within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

Energy Company Anti-Boycott Verification. The Firm hereby verifies that to the extent that this Engagement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 13, 87th Texas Legislature, Regular Session ("SB 13")), as amended, neither the Firm nor the parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, of the Firm boycott energy companies and, such entities will not boycott energy companies during the term of this Engagement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "boycott energy companies" has the meaning provided in Section 809.001 of the Texas Government Code. As used in this paragraph, the Firm understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Firm within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

No Discrimination Against Firearm Entity Verification. The Firm verifies that to the extent this Engagement constitutes a contract for goods or services for which a written verification is required under Section 2274.002, Texas Government Code (as added by Senate Bill 19, 87th Texas Legislature, Regular Session, "SB 19"), as amended, neither the Firm nor the parent company, wholly- or majority-owned subsidiaries, and other affiliates, if any, of the Firm have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and such entities will not during the term of the Engagement discriminate against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, to the extent Section 2274.002, Texas Government Code does not contravene applicable Texas or federal law. As used in the foregoing verification, "discriminate against a firearm entity or firearm trade association" has the meaning in Section 2274.001(3) of the Texas Government Code, and "firearm entity" and "firearm trade association" have the meanings provided in Section 2274.001(6) and (7) of the Texas Government Code (as added by SB 19). As used in this paragraph, the Firm understands "affiliate" to mean an entity that controls, is controlled by, or is under common control with the Firm within the meaning of SEC Rule 405, 17 C.F.R. § 230.405, and exists to make a profit.

In Conclusion

If you have questions or concerns, at any time, relating to the terms and conditions of this engagement, the services or advice provided by Bracewell, or the fees and expenses reflected in the invoices, please bring them to the attention of your principal contact at our firm, or Bracewell's General Counsel or Managing Partner.

A RESOLUTION OF THE CITY OF BAY CITY, TEXAS APPROVING AN
ADDENDUM TO ENGAGEMENT AGREEMENT WITH BRACEWELL LLP
RELATING TO PUBLIC IMPROVEMENT DISTRICTS

1. The City of Bay City, Texas (the “City”) desires to establish public improvement districts (“PIDs”) and issue bonds and other obligations from time to time as authorized by Texas Statutes, in order to finance or refinance public improvements within PIDs;
2. Bracewell LLP’s (“Bracewell” or the “Firm”) is a full service firm that includes a national public finance practice and has the necessary competence, qualification and experience to serve as bond counsel for the City in connection with the issuance of such obligations;
3. Bracewell currently serves as bond counsel for the City, and the proposed addendum would add the issuance of bonds and other obligations associated with PIDs to Bracewell’s scope of services;
4. The City’s attorneys and supporting personnel do not have the required experience, qualifications or resources to adequately perform bond counsel services for the issuance of bonds or other obligations;
5. Given the nature of bond counsel services and the source of payment therefor (being from the proceeds of bonds or other obligations issued by the City) such legal services cannot reasonably be obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency; and
6. Entering into a contingent fee contract with Bracewell for these additional bond counsel services is in the best interest of the residents of the City as the City will have competent, qualified and experienced counsel to advise on the issuance of the bonds and other obligations, and the provision of such legal services will not financially impact the City as the compensation for such services will be paid from the proceeds of such bonds or other obligations.

~ **DISCUSS, CONSIDER, AND/OR APPROVE THE CITY'S QUARTERLY FINANCIAL AND INVESTMENT REPORT FOR THE QUARTER ENDING DECEMBER 31, 2021**



EXECUTIVE SUMMARY

QUARTERLY FINANCIAL & INVESTMENT REPORT

BACKGROUND: Quarterly financial reports provide the most accurate reflection of the quarter activity for each major fund. Reports are provided to City Council via email with a formal presentation at the next available Council meeting. In addition, the Finance Committee meets quarterly to review the Investment Report in detail. This time also serves as an opportunity to discuss the City's finances. In the event that financial decisions or budgetary amendments need attention prior to this date-the Finance Director shall request a Special Called Meeting. All reports are posted to the City's website along with other financial information.

FINANCIAL IMPLICATIONS: Timely financial data provides City Council time to make informed decisions to prevent any negative financial implications.

IMPACT ON COMMUNITY SUSTAINABILITY: The report provides financial information to the public. (i.e., costs of services, revenue sources)

RECOMMENDATION: Staff recommends City Council approve the Quarterly Financial & Investment Report.

ATTACHMENTS: Quarterly Financial Report for Quarter Ending December 31, 2021 (Presented and Handed out at meeting)