



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, September 28, 2021 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."*

Mayor Pro Tem Jason Childers

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.

Mayor Pro Tem Jason Childers

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.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

- 1. Ratify the Declaration of Local State Disaster, Order 2021-04, resulting from Hurricane Nicholas.**
- 2. Payment of invoices as recommended by the TIRZ #1 Board to pay out of TIRZ #1 Funds.**
- 3. City Council Special Called Meeting Minutes of September 9, 2021**
- 4. City Council Regular Meeting minutes of September 16, 2021**
- 5. City Council Workshop Meeting Minutes of September 23, 2021**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- 6. Award ~ Government Finance Officer's Association (GFOA) Distinguished Budget Presentation Award. Scotty Jones, Finance Director**
- 7. Property ~ Discussion of Bay City Volunteer Fire Department participation with the proposed location of Public Safety Services. Randy Frontz, Fire Chief**
- 8. Presentation ~ TxCDBG Contract No. 7219029 & 7220002, Presentation A1024, Overview of the Section 3 Goals of the CDBG Program. Alyssa Dibbern, Engineering Tech**
- 9. Report ~ Civic Center report and updates. Mitch Thames, Bay City Chambers of Commerce and Agriculture**
- 10. Policy ~ Discuss, consider, and/or approve the Budgetary and Financial Management Policy. Scotty Jones, Finance Director**
- 11. Policy ~ Discuss, consider, and/or approve a Resolution to adopt the City's Investment Policy. Scotty Jones, Finance Director**
- 12. Agreement ~ Discuss, consider, and/or approve ratification of first amendment to agreement by and between the City of Bay City, Texas and DebrisTech, LLC. Scotty Jones, Finance Director**
- 13. Contract ~ Discuss, consider, and/or approve ratifying the contract with DRC Emergency Services, LLC for debris removal and finding that competitive bidding is not feasible because an emergency or exigency exists that could affect the health and safety of the public due to Hurricane Nicholas. Scotty Jones, Finance Director**

- 14. Contract ~ Discuss, consider, and approve entering into a Professional Services Agreement with David Pettit Economic Development, LLC for TIRZ Board #2 advisory.** Scotty Jones, Finance Director
- 15. Resolution ~ Discuss, consider, and/or accept a Resolution of the City Council of the City of Bay City, Texas, calling for a public hearing on the creation of a Public Improvement District (PID) and being located within the City of Bay City.** Shawna Burkhardt, City Manager
- 16. Ordinance ~ Discuss, consider, and/or approve an Ordinance amending the City Code of Ordinances relating sections of Chapter 38, Article V "Noise" including Section 38.171 "Unreasonable Noise Prohibited and Section 38.173 "Tests and Standards for Noises"; providing an effective date.** Shawna Burkhardt, City Manager
- 17. Property ~ Discuss, consider, and/or approve donating the City owned property, AB 0269 , I&GN Co., 3.077 acres (2624 16th St.) to the Bay City Independent School District.** Shawna Burkhardt, City Manager
- 18. Discussion ~ Discuss amending fees for use of the Service Center (USO).** Jim Folse, Councilman

CLOSED / EXECUTIVE SESSION

- 19. Pursuant to Texas Government Code 551.071(1) to consult with its attorney on attorney client matters.**

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 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, September 24, 2021 before 6:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.



ROBERT K. NELSON
MAYOR

CITY OF BAY CITY

ITEM #1.

1901 FIFTH STREET ★ BAY CITY, TEXAS 77414
(979) 245-2137 ★ FAX (979) 323-1626
cityofbaycity.org

ORDER 2021-04

DECLARATION OF LOCAL STATE OF DISASTER

WHEREAS, THE CITY OF BAY CITY on the 13th day of September 2021, has suffered widespread or severe damage, injury, or loss of life or property (or there is imminent threat of same) resulting from

Hurricane Nicholas that began on September 13, 2021

WHEREAS, THE MAYOR of BAY CITY has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property.

NOW, THEREFORE, BE IT PROCLAIMED BY THE MAYOR OF BAY CITY:

1. That a local state of disaster, effective on September 13th, 2021, is hereby declared for CITY OF BAY CITY pursuant to §418.108(a) of the Texas Government Code.

2. Pursuant of §418.108(b) of the Texas Government Code, the state of disaster shall continue for a period of not more than seven (7) days from the date of this declaration unless continued or renewed by the CITY COUNCIL of BAY CITY:

3. Pursuant of §418.108(c) of the Texas Government Code, this declaration of a local state of disaster shall be given prompt and general publicity and shall be filed promptly with CITY SECRETARY.

4. Pursuant of §418.108(d) of the Texas Government Code, this declaration of a local state of disaster activates the CITY emergency management plan.

5. That this proclamation shall take effect immediately from and after its issuance.

Declared this 13th day of September, 2021.

Robert K. Nelson

MAYOR

CONSENT AGENDA:

CONSIDER AND/OR APPROVE INVOICES RECOMMENDED BY THE TIRZ 1 BOARD TO PAY OUT OF TIRZ 1 FUNDS.



EXECUTIVE SUMMARY

BACKGROUND:

On July 17, 2019, the TIRZ Board recommended approval of a Developer Agreement between City of Bay City and SAL Holding, LLC for the development of Cottonwood Park.

On November 19, 2020 TIRZ Board approved up to \$20,689.77 for reimbursement of Phase II based on documentation received. Receipted substantiated totaled **\$20,167.68** paid out in May and September of 2021.

In addition, the City receives 2.5% (**\$2,097.57**) administration fee based on revenue collected each year.

AGENDA ITEM FOR CITY COUNCIL APPROVAL*Consider/Approve TIRZ 1 expenditures as recommended by the TIRZ Board***Tax Increment Reinvestment Zone #1***The Board of Directors shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. (Ord. 1556, 1567)*

Invoice Date	Invoice #	Requested/ Recommended by	Check Amount	Payee	Description	Category	Check #
5/1/2021		N/A	\$2,097.57	City of Bay City	FY 2021 2.5% Admin Fee	Administrative Costs	
5/13/2021	N/A	TIRZ Board	\$16,038.97	SAL Holding, LLC	Phase II- Cottonwood Park	Public ROW	192436
TOTAL			\$18,136.54				

Notes: TIRZ Board approved up to \$20,689.77 on Phase II Reimbursement on November 19,2020. City pays as invoices are submitted.

AGENDA ITEM FOR CITY COUNCIL APPROVAL*Consider/Approve TIRZ 1 expenditures as recommended by the TIRZ Board***Tax Increment Reinvestment Zone #1***The Board of Directors shall make recommendations to the City Council concerning the administration, management, and operation of the Zone. (Ord. 1556, 1567)*

Invoice Date	Invoice #	Requested/ Recommended by	Check Amount	Payee	Description	Category	Check #
9/10/2021	N/A	TIRZ Board	\$4,128.71	SAL Holding, LLC	Phase II- Cottonwood Park	Public ROW	
TOTAL			\$4,128.71				

Notes: TIRZ Board approved up to \$20,689.77 on Phase II Reimbursement on November 19, 2020. City pays as invoices are submitted.

CITY OF BAY CITY

MINUTES • SEPTEMBER 09, 2021

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Special Called 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

Mayor Nelson called the meeting to order at 6 p.m.

CERTIFICATION OF QUORUM

Mayor Robert K. Nelson certified that a quorum was present.

PRESENT

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

APPROVAL OF AGENDA

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

After the agenda was approved, Mayor Nelson allowed for Public Comments.

Bay City resident Kay Orr spoke to Mayor and Council and informed them of a water leak in the alley in the Valhalla neighborhood. Ms. Orr stated that for the last four (4) months water has been flowing into Cottonwood Creek.

PUBLIC HEARINGS

1. **Public Hearing ~ Conduct a public hearing to receive public comment on the Bay City Community Development Corporation proposed Operating Budget for Fiscal Year 2022.**

Finance Director Scotty Jones directed Mayor and Council to page 4 of their Council packets. Mrs. Jones also informed Mayor and Council that CDC's Budget was located on the City's website and at the back of the Council Chambers.

The Mayor opened the Public Hearing at 6:03 p.m.
The Mayor closed the Public Hearing at 6:03 p.m.

2. **Public Hearing ~ Conduct a public hearing to receive public comment on the City of Bay City's proposed Capital Improvement Program.**

Finance Director Scotty Jones informed Mayor and Council that the proposed Capital Improvement Program had been placed on the City's website, posted in the paper and

was located in back of Council Chambers. Mrs. Jones explained that year 1 capital items were in the proposed budget, and years 2-5 could change.

The Mayor opened the Public Hearing at 6:04 p.m.

The Mayor closed the Public Hearing at 6:04 p.m.

3. Public Hearing ~ Conduct a public hearing to receive public comment on the City of Bay City's proposed Property (Ad Valorem) Tax Rate for Fiscal Year 2022.

Finance Director Scotty Jones guided Mayor and Council to page 7 of their Council packets. Mrs. Jones reminded Council that the proposed tax rate was \$.02 lower than the current rate of \$.65500. The proposed rate drops \$.02 to equal \$.63500. Mrs. Jones also pointed out to Council that the M&O rate had been previously dropped in order to keep the same tax rate and increase the I&S rate.

Mayor Nelson asked how did the proposed tax rate effect the City's ability to pay bills. Mrs. Jones stated the proposed tax rate would bring in \$265,000. The dollars would help fund salaries and the increase in health insurance. Mrs. Jones went on to state that windstorm and property insurance increased \$20,000, as well as the increase in the light bill over the next 2 years.

The Mayor opened the Public Hearing at 6:08 p.m.

The Mayor closed the Public Hearing at 6:08 p.m.

Councilwoman Sitz expressed her disappointment that the City could not go with the no new revenue rate. She added that with all that is going on, it was discouraging.

Mayor Pro Tem Childers commented that it has been pretty positive to finally get here. He reminded Councilwoman Sitz that when they came on board the City was in dire straits. He stated that it would be great to keep some revenue. Mayor Pro Tem Childers commented that he liked the proposal and that it would allow for the City to work toward capital projects.

Mayor Nelson stated that the proposed tax rate would help to keep the City solvent, and if the property values rose then they could talk about that then.

Councilman Westmoreland stated that he agreed with Councilwoman Sitz, but would like to reserve his comments for agenda item 6.

CDC Executive Director Jessica Russell, spoke about the CDC's strategic planning session and how the City needed to maintain its revenue. She also spoke about working partnerships and wanted to show her support for Shawna and her proposed tax rate.

4. Public Hearing ~ Conduct a public hearing to receive public comment on the City of Bay City's Proposed Budget for Fiscal Year 2022.

Finance Director Scotty Jones asked for any comments on the budget that had been put together. The General Fund budget is \$16.2 million and the overall budget is over \$29 million.

City Manager Shawna Burkhart stated that if there were any serious changes being proposed they needed to know so that they could make those changes this weekend, since approval is next Tuesday.

REGULAR ITEMS

5. Budget ~ Discuss, consider, and/or approve postponing the final Budget vote for Fiscal Year 2022 until September 14, 2021.

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

6. Budget ~ Discuss, consider, and/or approve the City's Compensation Plan and take any action.

Director of Human Resources, Rhonda Clegg provided Mayor and Council with a handout that described the background of the City's compensation plan and staff's recommendation for the upcoming fiscal year. There was much discussion between City Council and Mrs. Clegg regarding the contents of the document provided, as well as Council's desire for the City to implement a merit pay program. Mrs. Clegg stated she understood Council's position, and agreed there was a need. However, Mrs. Clegg asked that the proposed recommendations of staff, along with the consideration of certification pay be the path for the City this upcoming fiscal year. She added that if the City would implement the recommendations presented, then next year the City could focus its effort and compensation dollars on a merit pay program for Fiscal Year 2023.

Motion made by Mayor Pro Tem Childers, Seconded by Mayor Nelson, to move forward with bringing all employees to minimum of their salary range; address years in position; provide a 3% increase to employees that do not fall within the above-mentioned categories; and to bring back in January a merit pay program.
Voting Yea: Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland

7. Budget ~ Discuss, consider, and/or approve an amendment to the Fiscal Year 2022 Proposed Budget.

Finance Director Scotty Jones commented that she had never done this before. She stated that in regards to certification pay she would bring a number back to Council, once the budget is settled.

Councilman Westmoreland asked about the increase in revenue for valuations and sales taxes. He questioned if the \$230,000 could be reduced from capital to be able to show the citizens what the City was doing with the new revenue. If capital expenditures were reduced by \$230,000 and earmarked it would then show citizens what the City was doing.

Mayor Pro Tem Childers asked if there were any specific items Councilman Westmoreland was referring to, and Councilman Westmoreland listed some of the departments with capital. Mrs. Jones commented that the City could back off the FARF Fund. Councilman Westmoreland asked what was actually going to come out of the FARF Fund, and Mrs. Jones stated \$199,000. City Attorney Anne Marie Odefey asked if the City adopted a policy about the FARF Fund, and Mrs. Jones stated yes, but it did not bind the City to a certain amount. Mrs. Jones suggested another option, but added that she would feel more comfortable coming back to Council at the end of the year.

Mayor Nelson stated that the City could earmark the dollars for streets, since it was the most noticeable. Councilwoman Sitz commented that the City could just use the equipment we purchased that we do not use. Mrs. Jones pointed out to Council that there was \$250,000 set aside in the Street Fund. Councilman Westmoreland stated that since Council had decided to postpone this, they could have Mrs. Jones come back with options. Mrs. Jones added that she did feel okay to take \$100,000 from Reserve and \$130,000 from FARF.

It was agreed to allow Mrs. Jones to come back before Council with options.

8. Discussion ~ Discuss a Public Improvement District (PID) of Maddox Properties.

City Manager, Shawna Burkhart informed Mayor and Council that the City was in receipt of all the documents from Mr. Maddox to proceed with their request for a PID. She went on to state that if the City received approval from Julie Partain, it would show up on the 14th's agenda. The timeline provided to Mayor and Council showed when the PID petition would need to be accepted. Mrs. Burkhart stated that the City is closer to providing a document that would outline what is public and private for debt issuance.

Mrs. Russell thanked everyone for all of their time and effort, and informed everyone that groundbreaking would take place in October.

Mrs. Burkhart asked Mayor and Council to think of what they would like to include in the development agreement. Things they would like to see in the subdivision.

Mrs. Odefey clarified the difference between the PID Agreement and petition and the Development Agreement. She clarified what Mrs. Burkhart was asking of them--do you want concrete streets, the devotion of a portion of land as a park. What are some things you would like to see beyond what the City's subdivision ordinance requires, such as fencing or the creation of a HOA. Mrs. Odefey added that they needed to chew on those ideas of what they would like to see. She stated that she would send out the document with the different ideas.

CLOSED / EXECUTIVE SESSION

Mayor Nelson adjourned from open meeting at 7:17 p.m.

9. Legal ~ Executive Session pursuant to Section 551.071 of the Texas Government code (Consultation with Counsel on legal matters).

Mayor and Council adjourned from Executive Session at 7:52 p.m.

OPEN SESSION

Mayor and Council entered into Open Session at 7:53 p.m.

COMMENTS FROM MAYOR AND COUNCIL:

Mrs. Clegg extended an invitation to Mayor and Council to the Bay City Youth Soccer Club's Opening Ceremonies on Saturday, September 11, 2021, at 9 a.m. at the Multipurpose Building.

Mrs. Odefey informed Council of dinner reservations her firm had for staff during the TML Conference.

Councilman Westmoreland thanked the City Employees for their help with the Rice Festival.

Councilwoman Sitz wanted to speak about the Street Sweeper. She stated she wanted to see it moved. Mayor Nelson stated that staff was needed in order to operate it. She moved on and pointed out that the Airport did not have a comment section on its page. Councilwoman Sitz suggested that citizens be allowed to report issues by submitting a picture to Public Works.

Mayor Pro Tem Childers stated that the City needed to work on issues like Valhalla, because taking 4 months to get it done was not good.

Councilwoman Brown pointed out to that the sidewalks on Hwy 60 South were overgrown. Mayor Nelson stated that the ordinance needed to be corrected, because there is confusion on what the property owner is responsible for. Currently the City follows policy.

ADJOURNMENT

Minutes

City Council Special Called Meeting

September 09, 2021

Motion made by Councilwoman Brown, Seconded by Mayor Pro Tem Childers to adjourn at 8 p.m. Voting Yea: Mayor Nelson, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland

PASSED AND APPROVED, this 28th day of September 2021.

ROBERT NELSON, MAYOR

CITY OF BAY CITY, TEXAS

JEANNA THOMPSON

CITY SECRETARY

CITY OF BAY CITY

MINUTES • SEPTEMBER 16, 2021

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Regular Meeting - RESCHEDULED

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 meeting was called to order by Mayor Robert K. Nelson 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."*

Councilwoman Becca Sitz

CERTIFICATION OF QUORUM**PRESENT**

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

ABSENT

Councilman Brad Westmoreland, excused

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.

Councilwoman Becca Sitz

APPROVAL OF AGENDA

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

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.

David Torrez, 1616 Cottonwood, was concerned about sidewalk maintenance and roads.

APPROVAL OF MINUTES

Minutes

City Council Regular Meeting - RESCHEDULED

September 16, 2021

No minutes to approve.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

No consent items.

PUBLIC HEARINGS

1. **Public Hearing ~ Pursuant to Texas Local Government Code, Section 370.002, The City of Bay City, Texas shall conduct a Public Hearing to review the Ordinance Codified in Division 2 of Article II of Chapter 66 of the Code of Ordinances and receive public comment on the City of Bay City's Curfew Ordinance.** Robert Lister, Chief of Police

Robert Lister, Chief of Police, addressed council regarding 2nd public hearing. Mayor asked for public comments on the ordinance. David Torres asked what the ordinance was about. Chief Lister summarized the curfew ordinance.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

2. **Resolution ~ Discuss, consider, and/or approve a Resolution of the City of Bay City continuing without amendments the Juvenile Curfew Ordinance as codified in the City of Bay City Code of Ordinances, Division 2 of Article II of Chapter 66.**

Robert Lister, chief of Police, introduced the resolution to continue the curfew ordinance.

Motion made by Mayor Pro Tem Childers to approve the resolution continuing without amendments to the Juvenile Curfew Ordinance, Seconded by Councilwoman Brown. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried.

3. **Budget ~ Discuss, consider, and/or approve the Bay City Community Development Corporation's Budget for Fiscal Year 2022.**

Motion made by Councilwoman Brown to approve the Bay City Community Development Corporation's Budget for Fiscal Year 2022, Seconded by Mayor Pro Tem Childers. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried.

4. **Resolution ~ Discuss, consider, and/or approve a Resolution of the City of Bay City, Texas adopting the City of Bay City Five Year Capital Improvement Program.**

Motion made by Councilwoman Sitz to approve the City of Bay City Five Year Capital Improvement Program, Seconded by Mayor Pro Tem Childers. Voting Yea: Mayor

Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried.

5. Budget ~ Discuss, consider, and/or approve an amendment to the Fiscal Year 2022 Proposed Budget.

Motion made by Councilwoman Brown to approve an amendment to the fiscal Year 2022 Proposed Budget, Seconded by Mayor Pro Tem Childers. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried.

6. Ordinance ~ An Ordinance adopting an Operating Budget for the City of Bay City, Texas for Fiscal Year 2022 and all designated, specified, noted, and indicated levies, rates, reserves, revenue provisions, and planned expenditure inherent, expressed, and included therein; providing for a cumulative clause: providing for severability: and providing for an effective date.

Motion made by Councilwoman Sitz to approve the Ordinance adopting an operating budget for the City of Bay City, Seconded by Mayor Pro Tem Childers. Mayor Nelson polled Council.

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

7. Budget ~ Consider, and/or approve a motion to ratify the Property Tax increase reflected in the Budget for the City of Bay City Fiscal Year 2022.

Motion made by Mayor Pro Tem Childers to approve a motion to ratify the property tax increase, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried.

8. Ordinance ~ An Ordinance adopting the Tax Rate of \$0.63500 per \$100.00 of assessed valuation for the City of Bay City, Texas, for the purpose of paying the current expenses of the City for the Fiscal Year ending September 30, 2022, levying a maintenance and operations rate of \$0.47137 and for the further purpose of creating a sinking fund to retire the principal and interest of the bond indebtedness of the City, levying a debt service rate of \$0.16363; providing for alien on all real and personal property to secure payment of taxes due thereon; providing a severability clause herewith; and providing for an effective date.

Motion made by Councilman Jim Folse to approve the ordinance that the property tax rate be increased by the adoption of a tax rate of \$0.6350, which is effectively a 3.99 percent increase in the tax rate, Seconded by Mayor Pro Tem Childers. Mayor Nelson polled the Council.

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

9. Presentation ~ Discussion and update on proposed development with Bold Fox.

Mitch Thames, Bay City Chamber of Commerce and Agriculture, commended the City for having a contract to remove debris. Mr. Thames stated that he was here to introduce a development proposal, as requested by TIRZ #2 Board. Mr. Thames said that Bold Fox Development does a theme development, with wet retention and ponds. Mr. Thames presented that the 50 acres that will be the first of many projects that could be proposed. Development is 189 to 200 homes in the \$180,000 to \$240,000 price range, 1400 to 1600 square foot homes. Bold Fox Development wants to be second to draw money from TIRZ, behind BCCDC, who is still owed for parking lot. There are multiple ideas, but the 50 acre single family and the regional detention park is the focus. Shawna Burkhart, City Manager, added that what has been discussed is if and when Bold Fox property is annexed, it is done at the same time as the Milberger property.

10. Agreement ~ Discuss, consider, and/or approve an extension for the current development agreement between SAL Holdings LLC and the TIRZ #1 regarding Phase II.

Scotty Jones, Finance Director, addressed the development agreement extension that the TIRZ #1 Board has approved.

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

11. Report ~ Review residential usage of the HHW Solutions.

Krystal Mason, Code Compliance Officer, gave the update on the House Hold Waste collection. Ms. Mason stated that we still do not have a large number of participants. There has been six tons of house hold waste diverted from the landfill. Ms. Mason believes many still use the county annual house hold waste collection which will be this October 9th. Council discussed ways of advertising. Mayor Pro Tem Childers asked when contract expired and Ms. Krystal replied February 2022. Mayor Pro Tem Childers stated that we are not seeing the user buy in to offset costs.

CLOSED / EXECUTIVE SESSION

Council adjourned into an Executive Session at 7:03pm.

12. Executive Session pursuant to the Texas Government Code Section 551.074 (To discuss appointment, employment, evaluation, responsibilities and duties,

reassignment, discipline or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: City Manager.

**13. Executive Session pursuant to Texas Government Code Section 551.087
(Deliberation regarding Economic Development).**

OPEN SESSION

Council reconvened back into Regular Session at 8:23 pm. Council took no action on agenda items #12 and #13.

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilman Folse announce that Zeinab Ghais is doing wings around town for photos and he thanked the Mayor for attending the soccer opening ceremony. Council thanked the linemen out restoring power and the Mayor Nelson gave a summary of the restoration.

ADJOURNMENT

Motion made by Councilwoman Brown to adjourn the meeting, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz. Motion carried and the meeting was adjourned at 8:27 pm.

PASSED AND APPROVED, this 28th day of September 2021.

ROBERT K. NELSON, MAYOR
CITY OF BAY CITY, TEXAS

JEANNA THOMPSON
CITY SECRETARY

CITY OF BAY CITY

MINUTES • SEPTEMBER 23, 2021

COUNCIL
CHAMBERS | 1901
5th Street

City Council Workshop

5:00 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 meeting was called to order by Mayor Robert K. Nelson at 5:05 pm.

CERTIFICATION OF QUORUM**PRESENT**

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

CLOSED / EXECUTIVE SESSION

Council adjourned in to an Executive Session at 5:06 pm.

- 1. Executive Session pursuant to Texas Government Code Section 551.087
(Deliberation regarding Economic Development).**

OPEN SESSION

Council adjourned the Executive Session and reconvened in to a regular meeting at 5:51 pm.
There was no action from the Executive Session.

ADJOURNMENT

Motion made by Councilwoman Brown to adjourn the meeting, Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilwoman Sitz, Councilman Westmoreland. Motion carried and the meeting adjourned at 5:52 pm.

PASSED AND APPROVED, this 28th day of September 2021.

ROBERT NELSON, MAYOR
CITY OF BAY CITY, TEXAS

JEANNA THOMPSON
CITY SECRETARY



EXECUTIVE SUMMARY

GOVERNMENT FINANCE OFFICER'S ASSOCIATION (GFOA) DISTINGUISHED BUDGET PRESENTATION AWARD

BACKGROUND: On August 12, 2021, the City was informed based on examination by independent reviewers, that the City's FY 2021 Budget Document was awarded. This award is the highest form of recognition in governmental budgeting. The award is valid for one year.

This is one of four award programs that the City applies for each year.

In addition to the Distinguished Budget Presentation award, the City was a recipient of the Triple Crown medallion, which signifies the government has received all three GFOA awards (the Certificate of Achievement for Excellence in Financial Reporting Award, Distinguished Budget Presentation Award, and Popular Annual Financial Reporting Award) for FYE 2019.

FOR IMMEDIATE RELEASE

August 12, 2021

For more information, contact:

Technical Services Center

Phone: (312) 977-9700

Fax: (312) 977-4806

E-mail: budgetawards@gfoa.org

(Chicago, Illinois)--Government Finance Officers Association is pleased to announce that **City of Bay City, Texas**, has received GFOA's Distinguished Budget Presentation Award for its budget.

The award represents a significant achievement by the entity. It reflects the commitment of the governing body and staff to meeting the highest principles of governmental budgeting. In order to receive the budget award, the entity had to satisfy nationally recognized guidelines for effective budget presentation. These guidelines are designed to assess how well an entity's budget serves as:

- a policy document
- a financial plan
- an operations guide
- a communications device

Budget documents must be rated "proficient" in all four categories, and in the fourteen mandatory criteria within those categories, to receive the award.

When a Distinguished Budget Presentation Award is granted to an entity, a Certificate of Recognition for Budget Presentation is also presented to the individual(s) or department designated as being primarily responsible for having achieved the award. This has been presented to **Finance Department**.

There are over 1,700 participants in the Budget Awards Program. The most recent Budget Award recipients, along with their corresponding budget documents, are posted quarterly on GFOA's website. Award recipients have pioneered efforts to improve the quality of budgeting and provide an excellent example for other governments throughout North America.

Government Finance Officers Association (GFOA) advances excellence in government finance by providing best practices, professional development, resources and practical research for more than 21,000 members and the communities they serve.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished
Budget Presentation
Award*

PRESENTED TO

**City of Bay City
Texas**

For the Fiscal Year Beginning

October 01, 2020

Christopher P. Merrill

Executive Director



**The Government Finance Officers Association
of the United States and Canada**

presents this

CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION

to

**Finance Department
City of Bay City, Texas**



The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards

Executive Director

Christopher P. Morill

Date: **August 12, 2021**

Bay City Volunteer Fire Department, Inc.

FOUNDED – 1909
1920 SIXTH STREET BAY CITY, TEXAS 77414

Phone (979) 245-8313

“LIVING TO SERVE”

Fax (979) 323-1644

Sec. 501 (C) (3)
76-0023835

August 19, 2021

Randy Frontz

Bay City Volunteer Fire Department

RE: Proposed relocation of Fire Station

The officers and members of the Bay City Volunteer Fire Department would like to thank you for giving us the opportunity to explain to you why we are against the proposed relocation of the fire station and/or the creation of a substation in the 4000 block of Avenue F.

Our number one reason for being against relocating to the 4000 Block of Avenue F: LOCATION and we know location effects RESPONSE TIME and response time will affect OUTCOME.

Our fire station is strategically located.

1) We are within blocks of the downtown business area which has the oldest buildings and the heaviest fire load along with the Matagorda County Court House and Matagorda County Museum.

2) We are within blocks of the busiest intersection in the county. Per TX Dot 2000 Traffic Report there is an estimated 15,712 vehicles during DAYTIME HOURS PER DAY that pass through Hwy 35 and Hwy 60.

3) We are within 1 block of Hwy 35 West which has Bay City High School, Matagorda Regional Hospital, Bay City Civic Center, Matagorda County Dome, along with hotels, businesses, and residential neighborhoods.

4) We are within 1 block of Hwy 35 East which has Matagorda County 4 story office building, the vast majority of businesses, restaurants, multi-story hotels, churches and industrial businesses.

5) We are within 2 blocks of Hwy 60 South which has Matagorda County Jail along with other businesses and churches.

6) We are within 2 blocks of Hwy 60 North which also has businesses and restaurants.

7) Our 911 area of responsibility covers not only Bay City but also extends 5 miles to the west on Hwy 35 towards Markham and approximately 10 miles to the north on Hwy 60. We also provide mutual aid service to all fire departments in the county.

Sub Station:

1) No one can predict what will happen in 15-20 years from now. We have been in service to this community since 1909 which is 112 years. We have a good group of dedicated men and women from all walks of life and feel we have done an excellent job. Our success is also attributed to the Council's support in the past and present. If at any time we feel a need for a sub-station due to growth and expansion of the city, it would be on Hwy 35 East. The City has already extended the city limit to just outside of Van Vleck. Large industry (Tenaris) is located in that area along with a truck stop, movie theatre, strip mall, and a retail store. I've also been told that there may be (2) 200 house sub-divisions, one by the movie theatre and a second one behind McCoy's, coming soon.

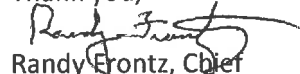
Conclusion:

Our forefathers built (3) fire stations. The first one at 2001 6th Street (Tangle's Hair Salon), the second one at 1824 6th Street (Municipal Court), and the third one at 1920 6th Street (our current fire station). All these fire stations are within a block of each other which shows this is the most STRATEGIC location for us. We are against the proposal to relocate and do not feel a sub-station with paid firefighters is needed.

According to National Fire Protection Agency (NFPA) survey there are approximately 1,115,000 firefighters in the United States of which 30% are career and 70% are volunteer.

Again, we would like to thank City Council, City Manager, and Mayor for this opportunity to share our views.

Thank you,



Randy Frontz, Chief

Bay City Volunteer Fire Department

**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: 9/20/2021Position Title (If City Staff): Engineering TechCouncil Meeting Date: September 28, 2021

Type of Agenda Item:

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

Agenda Wording:

TxCDBG Contract No. 7219029 & 7220002, Presentation A1024, Overview of the Section 3 Goals of the CDBG Program"

Executive Summary of Item:

TDA issued a revised Section 3 Rule, Policy Issuance CDBG 20-01 on July 1, 2021 that now applies to all projects receiving CDBG funds. As part of this policy issuance, localities are required to present the Section 3 CDBG program goals in a City Council meeting. The intent of the Section 3 Program goals is to promote economic opportunities for low and very low-income persons in projects using CDBG funds.

HUD published a final rule updating requirements related to Section 3 of the Housing and Urban Development Act of 1968, as amended, which became effective on November 30, 2020. The Texas Department of Agriculture issued Policy Issuance CDBG 20-01 on July 1, 2021 to update the Section 3 requirements within the CDBG Implementation Manual. The purpose of the final rule is to improve the reporting and promotion of economic opportunities for low- and very low-income persons in projects using CDBG funds.

A1024 Section 3 Presentation to the City of Bay City



The [City of Bay City recently received the following grant award:

- Grant Contract No. [719029 (CD) & 720002 (Main Street)
- Award Amount: 719029 (CD) \$350,000 & 720002 (Main Street) \$500,000
- Project: [719029 Sewer Improvements & 720002 Main Street]



The grant is funded through the
Community Development Block Grant, via:

- U.S. Department of Housing and Urban
Development

and

- Texas Department of Agriculture



Section 3 Concepts

ITEM #8.

- As a condition of funding, the City of Bay City must comply with Section 3 of the Housing and Urban Development Act of 1968.
- To the greatest extent feasible, Grant Recipients must direct economic opportunities generated by CDBG funds to low- and very low-income persons.



Section 3 Concepts

ITEM #8.

In part, this means ensuring that:

- Section 3 Businesses have the information to submit a bid or proposal for the project; and
- Section 3 Workers have information about any available job opportunities related to the project.

For precise definitions, see TxCDBG Policy Issuance 20-01



Section 3 Business

ITEM #8.

A company may qualify as a Section 3 Business if:

- it is owned by low-income persons;
- it is owned by Section 8-Assisted housing residents; or
- 75% of all labor hours for the business in a 3 month period are performed by Section 3 Workers

Register at:

- HUD's Section 3 website:
<https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>
- Certify as a Section 3 Business (Form A1023)



Section 3 Business

ITEM #8.

These projects are expected to include the following contracting opportunities:

- (7219029 CD Sewer Improvements - Android Construction Services awarded construction contract on April 2, 2021. No subcontractors anticipated at this time.
- Administration services – GrantWorks (previously selected)
- Engineering Services – Urban Engineering (previously selected)
- (7220002 Main Street) Project is in design and has not bid out
- Administration services – GrantWorks (previously selected)
- Engineering Services – (previously selected)



Section 3 Worker

ITEM #8.

You may qualify as a Section 3 Worker if:

- Your annual income is below the county threshold for your family size. For example, the county threshold for a family size of one is \$33,000
- You are a current or recent Youthbuild participant

Register your information and search for opportunities at:

- WorkInTexas.gov
- HUD's Section 3 Opportunity Portal
<https://hudapps.hud.gov/OpportunityPortal/>



Targeted Section 3 Worker

ITEM #8.

Section 3 Workers that reside near the project locations may also qualify as Targeted Section 3 Workers.

For these project, that service area is defined by the attached maps:



County 7220002

ITEM #8.

County	Tract	Blockgroup	F2019LMUniv
County	730301	1	770
County	730301	4	1080
County	730301	3	1220
County	730201	4	1755
County	730201	6	195
County	730400	3	800
County	730201	5	810
County	730201	2	1410
County	730301	2	955
County	730100	3	610
County	730100	2	950
County	730400	2	405
County	730201	1	1125
County	730100	1	1200
			13285

Section 3 Boundary Viewer

Find address or place



ITEM #8.

Bay City # 7219029

County	CountyName	Tract	Blockgroup	F2019LMUniv
321	Matagorda County	730400	1	1570
321	Matagorda County	730301	3	1220
321	Matagorda County	730201	4	1755
321	Matagorda County	730201	6	195
321	Matagorda County	730400	3	800
321	Matagorda County	730201	5	810
321	Matagorda County	730301	2	955
321	Matagorda County	730100	3	610
321	Matagorda County	730100	2	950
321	Matagorda County	730201	1	1125
321	Matagorda County	730100	1	1200
F2019LMUniv Total:				11190

Tract 730100 Block Group 2

Tract 730100 Block Group 1

Tract 730201 Block Group 6

Tract 730201 Block Group 1

Tract 730201 Block Group 4

Tract 730201 Block Group 5

Tract 730301 Block Group 3

Tract 730301 Block Group 2

Tract 730400 Block Group 1

Tract 730100 Block Group 3

Tract 730400 Block Group 3

Tract 730700 Blockgroup 2

-95.765 29.035 Degrees

2mi



The City will track all hours worked on the project based on the three categories of workers.

This will require collection of certain income information.





For More Information

ITEM #8.

TxCDBG Policy Issuance 20-01

REVISED Policy Issuance 20-01 Section 3 v1.pdf
(texasagriculture.gov)

24 CFR Part 75

Electronic Code of Federal Regulations (eCFR)

Robert K. Nelson, Mayor Bay City

Michele Goerke GrantWorks

GRANT ADMINISTRATION SERVICES

Amendment No. 1

Related to CITY OF BAY CITY 2020 Program Year
Texas Community Development Block Grant Program
Contract Number 7220002

THIS AMENDMENT, MADE ON THE 1st DAY OF JULY, 2021 BY AND BETWEEN THE CITY OF BAY CITY, hereinafter referred to as the Client, and GRANTWORKS, INC., Austin, Texas, hereinafter referred to as the Consultant.

Whereas the Texas Department of Agriculture - Office of Rural Affairs issued Policy Issuance 20-01: Federal Provisions for Section 3 Requirements effective July 1, 2021 requiring updated Terms and Conditions to be amended into existing contracts; therefore, Part II – Terms and Conditions is amended to replace Item No. 12 with the following clause:

12. ECONOMIC OPPORTUNITIES FOR SECTION 3 RESIDENTS AND SECTION 3 BUSINESS CONCERNS.

a. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

b. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

c. The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

d. The Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the TxCDBG Project Implementation Manual.

All other terms and conditions of the Agreement between the Client and GrantWorks will remain in full force and effect.

IN WITNESSETH HEREOF, the Client and the Consultant have executed this Amendment as of the date indicated above.

GrantWorks, Inc.
2201 Northland Drive
Austin, TX 78756

City of Bay City
1901 Fifth Street
Bay City, Texas 77414

BY:



Bruce J. Spitzengel, President

BY:

Mayor

A1002**SECTION 3 POLICY**

In accordance with 12 U.S.C. 1701u, (Section 3), the City of Bay City agrees to implement the following steps, which, to the *greatest extent feasible*, will provide job training, employment and contracting opportunities for Section 3 residents and Section 3 businesses of the areas in which the program/project is being carried out.

- A. Introduce and pass a resolution adopting this plan as a policy to strive to attain goals for compliance to Section 3 regulations by increasing opportunities for employment and contracting for Section 3 residents and businesses.
- B. Assign duties related to implementation of this plan to the designated Civil Rights Officer.
- C. Notify Section 3 residents and business concerns of potential new employment and contracting opportunities as they are triggered by TxCDBG grant awards through the use of: Public Hearings and related advertisements; public notices; bidding advertisements and bid documents; notification to local business organizations such as the Chamber(s) of Commerce or the Urban League; local advertising media including public signage; project area committees and citizen advisory boards; local HUD offices; regional planning agencies; and all other appropriate referral sources. Include Section 3 clauses in all covered solicitations and contracts.
- D. Maintain a list of those businesses that have identified themselves as Section 3 businesses for utilization in TxCDBG funded procurements, notify those businesses of pending contractual opportunities, and make this list available for general Grant Recipient procurement needs.
- E. Maintain a list of those persons who have identified themselves as Section 3 residents and contact those persons when hiring/training opportunities are available through either the Grant Recipient or contractors.
- F. Require that all Prime contractors and subcontractors with contracts over \$100,000 commit to this plan as part of their contract work. Monitor the contractors' performance with respect to meeting Section 3 requirements and require that they submit reports as may be required by HUD or TDA to the Grant Recipient.
- G. Submit reports as required by HUD or TDA regarding contracting with Section 3 businesses and/or employment as they occur; and submit reports within 20 days of federal fiscal year end (by October 20) which identify and quantify Section 3 businesses and employees.
- H. Maintain records, including copies of correspondence, memoranda, etc., which document all actions taken to comply with Section 3 regulations.

As officers and representatives of the City of Bay City, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.



Robert K. Nelson, Mayor



Date

SECTION 3 POLICY

In accordance with 12 U.S.C. 1701u, (Section 3), the City of Bay City agrees to implement the following steps, which, to the *greatest extent feasible*, will provide job training, employment and contracting opportunities for Section 3 residents and Section 3 businesses of the areas in which the program/project is being carried out.

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As officers and representatives of the City of Bay City, we the undersigned have read and fully agree to this plan, and become a party to the full implementation of this program.



 Robert K. Nelson, Mayor

4/13/21

 Date

~ DISCUSS, CONSIDER, AND/OR APPROVE THE BUDGETARY AND FINANCIAL MANAGEMENT POLICY



EXECUTIVE SUMMARY

BUDGETARY & FINANCIAL MANAGEMENT POLICY

BACKGROUND:

The GFOA recommends that Financial Policies be reviewed by the governing body at least annually.

The Policy itself requires an annual review. This is usually reviewed in conjunction with the City's annual budget process.

FINANCIAL IMPLICATIONS:

Financial Policies protect City dollars by providing sound proactive guidelines to follow for fiscal accountability.

IMPACT ON COMMUNITY SUSTAINABILITY:

Provides policy guidelines to protect City dollars.

RECOMMENDATION:

Staff recommends City Council annually approve the Budgetary and Financial Management Policy document.

ATTACHMENTS:

Budgetary & Financial Management Policy



Budgetary & Financial Management Policies

The goal of formally adopting financial management and budgetary policies is to provide sound guidelines in planning the City's financial future. The adoption and adherence to these policies will help ensure long-term financial stability and a healthy financial position for the City of Bay City.

General Budgetary Policies

Budget Preparation

The City Budget shall be prepared in accordance with all applicable Charter requirements and State laws. The goal each year shall be to present the Proposed Budget to Council no later than six weeks prior to the end of the fiscal year and for the final approval of the Budget to be ready for Council action no later than two weeks before the end of the fiscal year. The Budget shall be comprehensive in nature and address all major funds of the City.

Government Finance Officer Association Distinguished Budget Program

The goal this year and each year following will be for the City's Budget to conform to the requirements of the Distinguished Budget Program of the G.F.O.A. and be submitted thereto for peer review.

Balanced Budget

It shall be a requirement each year for the budget of each fund to be balanced. This means that total resources available, including prior year ending resources plus projected revenues, shall be equal to or greater than the projected expenditures for the coming year. In a case where a deficit fund balance does occur, the goal shall be to limit deficits to only those amounts representing one-time capital expenditures and/or to adjust revenues and/or expenses so that the deficit is eliminated in no more than two budget years.

Public Hearings, Availability of Budget to Public

Upon completion of the Proposed Budget to Council, the City holds public hearings in August and September. A copy of the Proposed Budget is made available in the City Secretary's Office, the Bay City Library, and on the City's website. These hearings provide the Citizens of Bay City a chance to ask questions as well as an opportunity for Council to hear any recommendations before final approval of the budget.

Cost Center Accounting and Budgeting

It shall be the policy of the City to allocate cost, and budget accordingly, to the various funds to the extent practical. This includes such items as utility costs, fuel costs, vehicle lease charges, overhead manpower and insurance fees.

Bond Ratings

It shall be the City's long-term goal to improve its bond ratings for general obligation bonds and revenue bonds. The City's policy shall be to manage its budget and financial affairs in such a way so as to promote enhancement of its bond ratings. This financial management includes the following:

- *Develop and maintain a multi- year operating budget*
- *Develop and maintain a multi-year capital improvements plan*
- *Implement financial procedures to quickly identify financial problems & limit budget shortfalls*
- *Review projected revenue methodologies annually*
- *Review method of determining appropriate cash reserve levels annually*

Administrative Overhead Fee to Enterprise Funds

It shall be the budgetary policy of each enterprise fund to pay to the General Fund an amount as set by the Budget each year. This charge shall be set as a percent of fund revenues and shall be construed as a payment for general administrative overhead, including management, accounting, legal, and personnel services. From an accounting perspective, such fee shall be treated as a fund operating transfer.

Budget Projections for Revenues and Expenditures

Most individual budget projections are a collaborative effort between the Division Heads, the Director of Finance, and the City Manager. The Director of Finance will note the methodology for estimating each major revenue or expense item budgeted; taking into consideration the insight of the respective Division Head. Revenue and expense estimates are always to be conservative so as to reduce any potential for budget shortfalls.

Maintenance of Plant and Equipment

The operating budget will provide for the adequate maintenance and replacement of the capital plant, building, infrastructure, and equipment. Deferral of such costs on a long-term continued basis will not be an acceptable policy to use in balancing the budget.

Financial Management Policies

Fund Balance Policy

Purpose

The purpose of this policy is to establish a key element of the financial stability of the City of Bay City by setting guidelines for fund balance in accordance with Governmental Accounting Standards Board (GASB) Statement No. 54. Unassigned fund balance is an important measure of economic stability and it is essential that the City maintain adequate levels of unassigned fund balance to mitigate financial risk that can occur from unforeseen revenue fluctuations, unanticipated expenditures, and other similar circumstances. This policy will ensure the City maintains adequate fund balances in the operating fund with the capacity to:

1. Provide sufficient cash flow for daily financial needs,
2. Secure and maintain investment grade bond ratings,
3. Offset significant economic downturns or revenue shortfalls, and
4. Provide funds for unforeseen expenditures related to emergencies.

Definitions

Fund Equity – A fund’s equity is generally the difference between its assets and its liabilities.

Fund Balance – The fund equity of a governmental fund for which an accounting distinction is made between the portions that are spendable and nonspendable.

Fund Balance reporting in governmental funds: Fund balance will be reported in governmental funds under the following categories using the *definitions* provided by GASB Statement No. 54:

- 1) **Nonspendable fund balance** – includes the portion of net resources that cannot be spent because of their form (i.e. inventory, long-term loans, or prepaids) or because they must remain in-tact such as the principal of an endowment.
- 2) **Restricted fund balance** – includes the portion of net resources on which limitations are imposed by creditors, grantors, contributors, or by laws or regulations of other governments (i.e. externally imposed limitations). Amounts can be spent only for the specific purposes stipulated by external resource providers or as allowed by law through constitutional provisions or enabling legislation. Examples include impact fees, grants, and debt covenants.
- 3) **Committed fund balance** – includes the portion of net resources upon which the Council has imposed limitations on use. Amounts that can be used only for the specific purposes determined by a *formal action* of the council. Commitments may be changed or lifted only by the Council taking the same *formal action* that originally imposed the constraint. The formal action must be approved before the end of the fiscal year in which the commitment will be reflected on the financial statements. An example would be committing hotel/motel tax funds for future consideration of a reconstruction project (i.e. Visitor’ Center).
- 4) **Assigned fund balance** – includes the portion of net resources for which an *intended* use has been established by the City Council or the City Official authorized to do so by the City Council.

Assignments of fund balance are much less formal than commitments and do not require formal action for their imposition or removal. In governmental funds other than the general fund, assigned fund balance represents the amount that is not restricted or committed which indicates that resources are, at a minimum, intended to be used for the purpose of that fund. An example would be encumbrances (i.e. Purchase Orders) for purchase of goods and/or supplies and/or construction services.

Authority to Assign - The City Council delegates the responsibility to assign funds to the City Manager or their designee to be used for specific purposes. City Council shall have the authority to assign any amount of funds to be used for specific purposes. Such assignments cannot exceed the available (spendable, unrestricted, uncommitted) fund balance in any particular fund. The assignments may occur subsequent to fiscal year-end.

- 5) **Unassigned fund balance** – includes the amounts in the general fund in excess of what can properly be classified in one of the other four categories of fund balance. It is the residual classification of the general fund and includes all amounts not contained in other classifications. Unassigned amounts are technically available for any purpose.

Minimum Unassigned Fund Balance

General Fund - Being a City on the Gulf Coast, it shall be the goal of the City to maintain a fund balance in the General Fund equal to 120 days of the operating expenditures and a policy to maintain a **unassigned** fund balance of no less than 90 days of operating expenditures and outgoing transfers as to provide operating liquidity and contingency funding for non-specific unscheduled expenditures such as natural disasters or major unexpected expenditures. In the event that the unassigned fund balance is calculated to be less than the policy stipulates, the City shall plan to adjust budget resources in subsequent fiscal years to restore the balance.

Hotel/Motel Tax Fund – Since the City's Convention Center qualifies for use of Hotel/Tax, it shall be the goal of the City to maintain a fund balance in the Hotel/Motel Fund to support the annual cost for repairs and maintenance of the Civic Center. The proper level of this unassigned fund balance will be based on the most recent three-year average cost of building maintenance plus the most recent insurance payment for the Civic Center or \$50,000 whichever is greater.

Committed Fund Balances

Fixed or Capital Asset Replacement- The City Council commits an additional portion of the General Fund Reserve for fixed asset replacement related to machinery and equipment. On an annual basis, the City strives to commit dollars equal to one year's depreciation expense of machinery and equipment for assets on record as of the previous fiscal year end. The balance at year end in this account will be the committed fund balance.

Replenishment of Minimum Fund Balance Reserves

If unassigned fund balance unintentionally falls below 90 days or if it is anticipated that at the completion of any fiscal year the projected unassigned fund balance will be less than the minimum requirement, the City Manager shall prepare and submit a plan to restore the minimum required level as soon as economic conditions allow. The plan shall detail the steps necessary for the replenishment of fund balance as well as an estimated timeline for achieving such.

These steps may include, but are not limited to, identifying new, nonrecurring, or alternative sources of revenue; increasing existing revenues, charges and/or fees; use of year end surpluses; and/or enacting cost saving measures such as holding capital purchases, reducing departmental operating budgets, freezing vacant positions, and/or reducing the workforce. The replenishment of fund balance to the minimum level shall be accomplished within a three to four-year period. If restoration of the reserve cannot be accomplished within such a period without severe hardship to the City of Bay City, then the Council shall establish an extended timeline for attaining the minimum balance.

Order of Expenditure of Funds

When multiple categories of fund balance are available for expenditure (for example, a construction project is being funded partly by a grant, funds set aside by the Council, and unassigned fund balance), the Council will first spend the most restricted funds before moving down to the next most restrictive category with available funds.

Appropriation of Unassigned Fund Balance

Appropriation from the minimum unassigned fund balance shall require the approval of the City Council and shall be utilized only for one-time expenditures, such as capital purchases, and not for ongoing operating expenditures unless a viable revenue plan designed to sustain the expenditure is simultaneously adopted.

The Council may appropriate unassigned fund balances for emergency purposes, as deemed necessary, even if such use decreases the fund balance below the established minimum.

Monitoring and Reporting

The Director of Finance shall be responsible for monitoring and reporting the City's reserve balances. The City Manager is directed to make recommendations to the Council on the use of reserve funds both as an element of the annual operating budget submission and from time to time throughout the fiscal year as needs may arise.

Compliance with the provisions of the policy shall be reviewed as a part of the annual operating budget adoption process and subsequent review will be included in the annual audit and financial statement preparation procedures.

Fund Balance Policy for Component Units

Each Component Unit (i.e. Bay City Community Development, Bay City Gas Company) shall create a fund balance/reserve policy that shall be approved by the City Council.

Revenue Management Policy

The City strives for the following optimum characteristics in its revenue system:

- ***Simplicity and Certainty.*** The City shall strive to keep the revenue classification system simple to promote understanding of the revenue sources. The City shall describe its revenue sources and enact consistent collection policies to provide assurances that the revenue is collected according to budgets and plans.
- ***Equity.*** The City shall make every effort to maintain equity in its revenue system structure. The City shall minimize all forms of subsidization between entities, funds, services, utilities, and customers.
- ***Realistic and Conservative Estimates.*** Revenues are to be estimated realistically. Revenues of volatile nature shall be budgeted conservatively.
- ***Centralized Reporting.*** Receipts will be submitted daily to the Finance Department for deposit and investment. Daily transaction reports and supporting documentation will be prepared.
- ***Review of Fees and Charges.*** The City shall review all fees and charges annually in order to match fees and charges with the cost of providing that service.
- ***Aggressive Collection Policy.*** The City shall follow an aggressive policy of collecting revenues. Utility services will be discontinued (i.e. turned off) for non-payment in accordance with established policies and ordinances. The Matagorda County Tax Office is responsible for delinquent tax collection, through the central collection agency, shall be encouraged to collect delinquent property taxes using an established tax suit policy and sale of real and personal property to satisfy non-payment of property taxes. A warrant officer in the Police Division will aggressively pursue outstanding warrants, and the Court will use a collection agency to pursue delinquent fines.

Use of Fund Balance and Non-Recurring Revenues

The City will use non-recurring revenues and excess fund balance for capital expenditures or for non-recurring expenditures. These non-recurring revenues will not be used to fund recurring type maintenance and operating costs. *For example, the City receives annual contributions from the City's two component units- the Bay City Gas Company and the Bay City Community Development Corporation. These appropriations are treated as non-recurring in the sense that they are committed for capital expenditures (i.e. park amenities and/or street projects).*

Property Tax Revenue

All real and business personal property located within the City shall be valued at 100% of the fair market value based on the appraisal supplied by the Matagorda County Appraisal District. Reappraisal and reassessment is provided by the Appraisal District. A ninety-eight percent (98%) collection rate shall serve each year as a goal for tax collections and the budgeted revenue projection shall be based in average collection rate calculated by the Matagorda County Appraisal District. Property tax rates shall be maintained at a rate adequate to fund an acceptable service level. Based upon taxable values, rates will be adjusted to fund this service level. Collection services shall be contracted out with a collection agency, currently the Matagorda County Tax Office.

Interest Income

Interest earned from investment of available monies, whether pooled or not, shall be distributed to the funds in accordance with the equity balance of the fund from which monies were invested.

User Based Fees and Service Charges

For services associated with a user fee or charge, the direct and indirect costs of that service shall be offset wholly or partially by a fee where possible. There shall be an annual review of fees and charges to ensure that the fees provide adequate coverage of costs of services.

Water and Wastewater Rates and other fees for Services

Water and wastewater shall be set to generate revenues required to cover operating expenditures, meet the legal requirements of applicable bond covenants, and provide for an adequate level of working capital. It is the goal of the City that the Water and Wastewater Fund, and other enterprise funds, not be subsidized by property tax revenue.

Intergovernmental Revenues/Grants/Special Revenues

Grant revenues and other special revenues shall be spent for the purpose(s) intended. The City shall review grant match requirements and include in the budget all grant revenues and expenditures.

Collection of Charges

The City will follow a policy of collecting, on a timely basis, all fees, charges, taxes and other revenues properly due to the City. The City will follow an aggressive policy of collecting all delinquencies due to the City.

Revenue Monitoring

Revenues actually received are to be regularly compared to budgeted revenues (at least monthly) with a formal report to City Council at least quarterly. If revenue estimates are down, the Director of Finance shall recommend to Council a corrective action to minimize the impact on the budget at the next available Council Meeting.

Expenditure Control Policy

Appropriations

The responsibility for budgetary control lies with the Department Head. Department Heads may not approve expenditures that exceed monies available at the departmental budget level excluding personnel and capital expenditures. Capital expenditures are approved by the City Council on a per project basis normally during the annual budget process.

Amendments to the Budget

In accordance with the City Charter, under Article 10.14 (Budget Amendments after Adoption) provides, that if, during the fiscal year, the City Treasurer certifies that there are available for appropriation revenues in excess of those estimated in budget, the Council, by ordinance, may make supplemental appropriations for the fiscal year up to the amount of the excess.

Central Control

Unspent funds in salary and capital allocation object codes may not be spent for any purpose other than their specifically intended purpose without prior authorization of City Manager.

City Manager's Authority to Amend the Budget

The City Manager is authorized to transfer budgeted amounts within and among departments; however any revisions that alter the total expenditures/expenses must be approved by the City Council.

Purchasing

All purchases shall be made in accordance with the Purchasing Policies approved by the City Council.

Prompt Payment

All invoices approved for payment by the proper City authorities shall be paid by the Finance Department within thirty (30) calendar days of receipt, in accordance with the provisions of state law. Proper procedures shall be established that enables the City to take advantage of all purchase discounts, except in the instance where payments can be reasonably and legally delayed in order to maximize the City's investable cash.

Long-Term Debt Policy

Revenue Bond Debt Service Account

It shall be the policy of the City to always be in strict compliance with the requirements of the ordinance that created the Revenue Bond Debt Service Fund. Monthly transfers are to be made to this account each year in accordance with the bond debt service payment schedule. The balance in the account must be adequate to cover semi-annual payments as they become due.

General Obligation Bond Debt Service Account

It shall be the policy of the City to always be in strict compliance with the requirements of the ordinance that created the General Obligation Bond Interest and Sinking Fund Account. Taxes, as applicable shall be distributed to this account monthly as received. Utility Revenues transferred to the Interest and Sinking Fund Account shall occur, as needed prior to the semi-annual payment dates. The balance in the account must be adequate to cover semi-annual payments as they become due.

Capital Improvement Plan (CIP)

The City will develop a multi-year plan to present to Council each year for approval. The City will provide a list of proposed capital improvements, funding recommendations, and prospective timing of projects. CIP projects shall be for equipment over \$2010,000, infrastructure over \$50,000 and facilities over \$25,000. Any maintenance and operational cost shall be disclosed that could impact future operating budgets.

Debt Policy Guidelines

- The City will limit long-term debt to only those capital projects that cannot be financed from current revenues.
- The City will not use long-term debt to finance recurring maintenance and operating costs.
- The City will not issue long-term debt for a period longer than the estimated useful life of the capital project.
- Decisions will be made based on long term goals rather than a short- term fix.
- Debt Service Funds will be managed and invested according to all federal, state, and local laws
- Coverage Ratios of Revenue Bonds will always be in compliance with the minimum coverage ratio required by the revenue bond ordinances. It shall be the goal of the City to achieve a budgeted coverage ratio of 1.60.

Other Fund Use Information

Governmental Funds

Most government functions are financed through governmental funds. The acquisition, use, and balances of the City's expendable resources and related current liabilities are accounted for through governmental funds. Long-term liabilities and fixed assets are not accounted for through governmental funds.

Proprietary Funds

These funds listed below are used to account for the ongoing activities of the City that are similar to those found in the private sector. These funds are financed through user charges to recover costs of services provided. Proprietary funds use accrual accounting, which means revenues are recognized when they are earned by the City and expenses are recognized when they are incurred. Enterprise funds are considered proprietary funds and are used to account for operations for the City's Public Utility Fund and Airport Fund.

Working Capital Position- the goal shall be to maintain a working capital position equal to 120 days of the operating budget and a policy to maintain a working capital position no less than 90 days of the operating budget.

Public Utility Fund

It shall be the general policy of the City to commit a portion of the reserve for fixed asset replacement as it strives to budget for revenue to cover depreciation.

Airport Fund

It will be the general policy of the City that the fees collected will be spent on maintenance of the facilities grounds, and other structures. The goal shall be to reduce the reliance of the general fund tax dollars for this purpose.

Implementation and Review

Upon adoption of this policy the City Council authorizes the City Manager to establish any standards and procedures which may be necessary for its implementation. The Director of Finance shall review this policy at least annually and make recommendations for changes to the Mayor and City Council.

~ **DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION TO ADOPT THE CITY'S INVESTMENT POLICY**



EXECUTIVE SUMMARY

INVESTMENT POLICY

BACKGROUND:

The Public Funds Investment Act (Chapter 2256, Government Code) requires the City's Investment Policy to be reviewed by the governing body at least annually.

FINANCIAL IMPLICATIONS:

An Investment Policy protects City dollars by restricting certain types of transactions to minimize risk. It also enables the City to invest in other instruments to increase interest earnings.

IMPACT ON COMMUNITY SUSTAINABILITY:

It provides policy guidelines to protect the investments of tax dollars.

RECOMMENDATION:

Staff recommends City Council approve the Resolution to re-adopt the City's Investment Policy.

ATTACHMENTS:

Resolution and Investment Policy

RESOLUTION NO. _____**A RESOLUTION OF THE CITY OF BAY CITY, TEXAS, ADOPTING AN INVESTMENT POLICY**

WHEREAS, the City Council of Bay City recognizes that the administration of City funds and the investment of those funds as its highest public trust; and

WHEREAS, City Council annually adopts an investment policy to protect the administration of City funds and the investment of such funds; and

WHEREAS, the City's Finance Director has recommended the adoption of the Investment Policy attached hereto; and

WHEREAS, deems it appropriate to adopt such policy.

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

Section one.

The Investment Policy attached hereto is hereby adopted annually beginning on October 1, 2021 and ending on September 30, 2022.

Section two.

Unless otherwise amended or revised by resolution of City Council, the Investment Policy shall remain in full force and effect and shall supersede such investment policies of prior date.

Section three.

This Resolution shall become effective October 1, 2021.

PASSED AND APPROVED AT BAY CITY TEXAS THIS 28th DAY OF SEPTEMBER 2021.

Robert K. Nelson, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

Jeanna Thompson, City Secretary

Anne Marie Odefey, City Attorney



Investment Policy and Strategy

I. POLICY STATEMENT

It is the policy of the City that the administration of its funds and the investment of those funds shall be handled as its highest public trust. Investments shall be made in a manner which will provide the maximum security of principal invested through limitations and diversification while meeting the daily cash flow needs of the City and conforming to the Public Funds Investment Act (the “Act”) Texas Government Code Chapter 2256. It is the intent of the City to be in complete compliance with local law and the Act.

II. SCOPE

This investment policy applies to all the financial assets and funds of the City. The City commingles its funds into one pooled investment fund for investment purposes to provide efficiency and maximum investment opportunity. These funds are defined in the City’s Comprehensive Annual Financial Report (CAFR).

Any new funds created by the City shall be included unless specifically exempted by the City Council and this policy.

III. OBJECTIVES

It is the policy of the City that all funds shall be managed and invested with four primary objectives, listed in order of their priority: safety, liquidity, diversification and yield.

Effective cash management is recognized as essential to good fiscal management. Cash management is defined as the process of managing monies in order to ensure maximum cash availability/flow.

Safety

The primary objective of the City’s investment activity is the preservation of capital. Each investment transaction shall be conducted in a manner to avoid capital losses, whether from security defaults, safekeeping, or erosion of market value.

Liquidity

The City’s investment portfolio shall be structured to meet all cash flow obligations in a timely manner. This shall be achieved by matching investment maturities with forecasted cash flow liabilities and maintain additional liquidity for unexpected liabilities.

Cash Flow Forecasting

Cash flow forecasting is designed to protect and sustain cash flow requirements of the City. Supplemental to the financial and budgetary systems, the Investment Officer will develop and use a cash flow forecasting process as needed to monitor and forecast cash positions for investment purposes.

Diversification

The City's portfolio shall be diversified by market sector and maturity in order to avoid market risk.

Yield

The benchmark of the City's portfolio shall be the 3 month or 6 month U.S. Treasury, designated for its comparability to the City's expected average cash flow pattern. The benchmark will serve as a risk measurement of the portfolio.

IV. STRATEGY

The City maintains one commingled portfolio for investment purposes which incorporates the specific investment strategy considerations and the unique characteristics of the fund groups represented in this portfolio. The investment strategy has as its primary objective assurance that anticipated liabilities are matched and adequate investment liquidity provided. The City shall pursue a conservative portfolio management strategy. This may be accomplished by creating a ladder maturity structure with some extension for yield advancement. **The maximum weighted average maturity (WAM) of the portfolio shall not exceed 1 year.**

V. LEGAL LIMITATIONS, RESPONSIBILITIES AND AUTHORITY

Direct specific investment parameters for the investment of public funds in Texas are found in the Public Funds Investment Act, Chapter 2256, Texas Government Code, (the "Act"). The Public Funds Collateral Act, Chapter 2257, Texas Government Code, specifies collateral requirements for all public funds deposits. All investments will be made in accordance with these statutes.

VI. INVESTMENT COMMITTEE

An Investment Committee consisting of the Finance Director and at least one Council Member shall meet at least quarterly to determine operational strategies and to monitor results. The Investment Committee shall discuss things such as economic outlook, portfolio diversification, maturity structure, and any potential risk of the City's funds. In addition, this committee shall review investment purchases that occurred since the last investment committee meeting and approve new brokers.

VII. DELEGATION OF INVESTMENT AUTHORITY

The Finance Director acting on behalf of the City, is designated as the Investment Officer of the City and is responsible for investment management decisions and activities. All participants in the investment process shall seek to act responsibly as custodians of the public trust.

The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials and staff. The Investment Officer shall attend at least one training session relating to the Officer's responsibility under this act within 12 months after assuming duties and thereafter, a training session should be attended not less than once every two years with at least 8 hours of instruction from an independent source. The Investment Officer shall designate a staff person as a liaison/deputy in the event circumstances require timely action and the Investment Officer is not available.

No officer or designee may engage in an investment transaction except as provided under the terms of this Policy and the procedures established.

Officers will refrain from personal business that would conflict with proper and impartial execution of their duties. All personal and business relationships with entities doing business with the City will be disclosed to the Investment Committee.

Limitation of Personal Liability

The investment Officer and those delegated investment authority under this Policy, when acting in accordance with the written procedures and this Policy and in accord with the Prudent Person Rule, shall be relieved of personal responsibility and liability in the management of the portfolio provided that deviations from expectations for a specific security's credit risk or market price change or portfolio shifts are reported in a timely manner and that appropriate action is taken to control adverse market effects.

VIII. PRUDENCE

The standard of prudence to be used in the investment function shall be the "prudent person" standard and shall be applied in the context of managing the overall portfolio. This standard states:

"Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the expected income to be derived."

IX. INTERNAL CONTROLS

The Investment Officer shall establish and maintain an internal control structure which will be reviewed annually with the independent auditor of the City. The controls shall be designed to prevent loss of public funds due to fraud, employee error, misrepresentation by third parties, unanticipated market changes, or imprudent actions by employees of the City. The internal controls shall address the following points at a minimum:

- Control of collusion,
- Separation of transaction authority from accounting and record keeping,
- Custodial safekeeping,
- Clear delegation of authority,
- Documentation of all transactions,

Monitoring Credit Ratings

The Investment Officer will monitor, on at least a monthly basis, the credit rating on all authorized investments in the portfolio that require a credit ratings based upon independent information from a nationally recognized credit agency. If any security falls below the minimum rating required by this Policy; the Investment Officer will immediately advise the Investment Committee of the loss of rating and the possible loss of principal. The Investment Committee and Investment Officer will decide on the prudent liquidation of the security.

X. AUTHORIZED INVESTMENTS

Acceptable investments under this policy shall be limited to the instruments listed below and as further defined and described by the Public Funds Investment Act. If changes are made to the Act, they are not authorized until this Policy is modified and adopted by City Council.

- A. Obligations of the United States Government, its agencies and instrumentalities, and government sponsoring enterprises, not to exceed five years to stated maturity, including collateralized mortgage obligations (CMOs); CMO's cannot be either an Interest-Only or Principal-Only CMO nor can it be an inverse floater.
- B. Fully insured or collateralized certificates of deposit from a bank doing business in the State of Texas, with a maximum maturity of 24 months, collateralized with 102% coverage with:
 - In accordance with 2256.010 of the Act, certificates of deposit may be purchased from a Texas depository institution through a nationally coordinated program in which (a) the depository arranges for deposits in one or more federally insured depositories allowing for full FDIC coverage and (b) the depository receives comparable deposits from other linked depositories.
 - Collateral agreements must be in writing and require a bank resolution of approval.
- C. FDIC insured *brokered certificates of deposit securities* from a bank in any US State, delivery versus payment to the safekeeping agent, not to exceed two years to maturity. Before purchase, the Investment Officer must verify FDIC status of the bank on www.fdic.gov to assure that the bank is FDIC insured.
- D. Commercial paper rated A-1/P-1 or the equivalent by at least two nationally recognized rating agencies not to exceed 90 days to stated maturity.
- E. AAA-rated money market mutual funds as defined by the Public Funds Investment Act.
- F. Obligations of the States, agencies thereof, Counties, Cities, and other political subdivisions of any state, with a maximum maturity not to exceed five years, and having been rated as investment quality by a nationally recognized investment rating firm of not less than "A" or its equivalent.
- G. AAA-rated, constant dollar Texas Local Government Investment Pools as defined by the Public Funds Investment Act - must be approved by City Council.

No additional security will be eligible for investment by the City until this policy has been amended and the amended version approved by the City Council. *Exceptions* to investment maturities may be approved by council in order to meet debt service requirements.

Competitive Bidding Requirement

Generally, the City will seek competitive offerings for all securities, including certificates of deposit before it invests to verify that the City is receiving fair market value/price for the investment with the *exception* of new issues that are still in syndicate.

The City recognizes that a competitive offering process is not always necessary or is not always in the best interest of the City. On these occasions, the Investment Officer is authorized to purchase a security without seeking competitive offerings. Examples of these occasions are:

- A. Market conditions are changing rapidly.
- B. The security is a “new issue” that is still in the primary market.
- C. A specific type of security, maturity date, or rate of return is sought that may not be immediately available.

Delivery versus Payment

All security transactions, including collateral for repurchase agreements, entered into by the City, shall be conducted on a delivery versus payment (DVP) basis. Funds shall not be released until receipt of the security by the City’s approved custodian.

Diversification

The City recognizes that investment risks can result from issuer defaults, and market price changes. Risk is controlled through portfolio diversification. The maximum limits for diversification will be:

Investment Type	Max % of Portfolio
US Obligations	not to exceed 80%
US Agencies/Instrumentalities	not to exceed 80%
-MB Securities	not to exceed 50%
Certificates of Deposits*	not to exceed 40%
Brokered CD*	not to exceed 20%
Commercial Paper	not to exceed 25%
Money Market Funds*	100%
Local Government Investment Pools	100%

*Limit per bank up to \$250,000 without collateralization agreement.

XI. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS

Depository

The City will designate at least one banking institution through a competitive process as its central banking services provider at least every five years in accordance with the Texas Government Code 105. Other banking institutions from which the City may purchase

certificates of deposit will also be designated after they provide their latest audited financial statements to the City. All depositories will execute a depository agreement and have the Bank's Board or Bank Loan Committee pass a resolution approving the agreement if collateral is required.

Security Broker/Dealers

The Investment Committee will review the list of authorized broker/dealers annually. The Investment Officer will obtain and maintain information on each broker/dealer. Securities broker/dealers not affiliated with a bank, who desire to transact business with the City must supply the following documents to be maintained by the Finance Department:

- audited financial statement for the most recent period,
- proof of certification by the National Association of Securities Dealers (NASD),
- proof of current registration with the State Securities Commission

Every broker/dealer, local government pool, and bank with whom the City transacts business will be provided a copy of this Investment Policy to assure that they are familiar with the goals and objectives of the City's investment program. A representative of the firm will be required to return a signed certification stating the Policy has been received and reviewed and that controls are in place to assure that only authorized securities are sold to the City.

XII. SAFEKEEPING AND COLLATERALIZATION

The laws of the State and prudent treasury management require that all purchased securities be bought on a delivery versus payment (DVP) basis and be held in safekeeping by either the City, an independent third party financial institution, or the City's designated depository.

All safekeeping arrangements shall be designated by the Investment Officer and an agreement of the terms executed in writing. The third party custodian shall be required to issue safekeeping receipts to the City listing each specific security, rate, description, maturity, cusip number, and other pertinent information. Each safekeeping receipt will be clearly marked that the security is held for the City or pledged to the City.

All securities pledged to the City for time or demand deposits shall be held by an independent third party bank doing business in Texas. The safekeeping bank may not be within the same holding company as the bank where the securities are pledged. The bank is responsible for monitoring collateral.

Collateralization

Collateralization shall be required on certificates of deposits over the FDIC insurance coverage of \$250,000. In order to anticipate market changes and provide a level of additional security for all funds, the collateralization level required will be 102% of the market value of the principal and accrued interest. Collateral will be held by an independent third party safekeeping agent.

XIII. PERFORMANCE EVALUATION AND REPORTING

The Investment Officer shall submit quarterly reports to the City Council containing sufficient information to permit an informed outside reader to evaluate the performance of the investment

program and consistent with statutory requirements. The Investment officer will report to the Investment Committee a report that will include the following at a minimum:

- A full description of all securities held at the end of the reporting period,
- Overall change in market value for each security and the change during the period as a measure of volatility (obtained by an independent source),
- Weighted average maturity (WAM) of the portfolio,
- Total earnings for the period,
- Compare market value of pledged securities to the ending balance of the City's portfolio,
- Analysis of the total portfolio by maturity, by book value, and
- Statement of the compliance of the investment portfolio with the Act and the Investment Policy and Strategy of the City.

XIV. INVESTMENT POLICY AMENDMENTS

The Director of Finance and the Investment Committee shall review the Investment Policy and Strategy on an annual basis. Future recommended changes will be approved by the City Council amending the current Investment Policy and Strategy resolution on record.

WITNESS MY HAND AND SEAL OF OFFICE THIS 28th DAY OF SEPTEMBER 2021
PASSED AND APPROVED THIS 28TH DAY OF SEPTEMBER 2021.

ROBERT K. NELSON, MAYOR
CITY OF BAY CITY, TEXAS

ATTEST:

JEANNA THOMPSON, CITY SECRETARY

DISCUSS, CONSIDER, AND/OR APPROVE THE RATIFICATION OF THE FIRST AMENDMENT TO AGREEMENT BY AND BETWEEN THE CITY OF BAY CITY, TEXAS AND DEBRISTECH, LLC.



EXECUTIVE SUMMARY

DEBRIS MONITORING

BACKGROUND:

The County performed Joint Procurement to include City of Palacios and City of Bay City in September 2017 following Hurricane Harvey. However, each entity has their own contract that was approved by their governing board. Contract Term in RFQ is below:

Term

- a) The period of the contract will be for a term of two (2) years or twenty-four (24) months and the option to extend annually for up to three (3) years with an annual recertification and price adjustment. Debris Monitoring Services shall be put out for Competitive Bidding once every five (5) years, at a minimum.
- b) The project is referred to as the Disaster Debris Monitoring Contract in the following sections of this RFQ.
- c) Matagorda County, City of Bay City, and City of Palacios retain the option to re-solicit new proposals at any time if in its best interest.

The Amendment to the Contract attached is ensure that it is termed as a 5-year contract and in sync with the other entities contracts. This contract expires September 30, 2022.

FINANCIAL IMPLICATIONS:

Various Labor Rates and will be reimbursable by FEMA if the City/County meet threshold.

RECOMMENDATION:

Approve the Amended Contract

ATTACHMENTS: Amendment to Contract

**FIRST AMENDMENT TO
AGREEMENT BY AND BETWEEN
CITY OF BAY CITY, TEXAS AND DEBRISTECH, LLC**

This First Amendment to the Agreement by and between the City of Bay City, Texas and Debristech, LLC, a Mississippi limited liability company is made and entered into by and between the City of Bay City, Texas, a Home Rule Municipality and a governmental subdivision of the State of Texas (hereinafter referred to as “City”), and Debristech, LLC (hereinafter referred to as “Contractor”), collectively referred to as the “Parties”.

WITNESSETH:

1. EXISTING AGREEMENT

City entered into an Agreement with Contractor approved November 16, 2017 and effective September 30, 2017, subject to the terms, covenants and conditions contained in said Agreement. The Agreement is hereby incorporated by reference and made a part hereof for any and all purposes.

2. REVISION OF TERMS

City and Contractor agree that the terms approved by City Council provided for a two (2) year term with three (3) one year options to renew; however, the signed agreement is contrary to this term. It was and is the intent of the Parties that the Agreement be for the originally contemplated term and wish to extend the Agreement through September 30, 2022 and the Parties agree to modify the same and extend the term through September 30, 2022.

3. CONTINUATION OF ALL OTHER TERMS OF AGREEMENT

Except as specifically amended or modified herein, all other terms, covenants and conditions contained in the Agreement, are hereby incorporated by reference, and made a part hereof for any and all purposes, are republished, and shall continue in full force and effect.

4. FIRST AMENDMENT TO BE INCORPORATED WITH AGREEMENT

This First Amendment shall be attached to and become part of the Agreement effective on September 30, 2021.

5. BINDING EFFECT

This First Amendment, together with the original Agreement, in their entirety, as amended, shall be binding upon all the parties hereto, their respective assignees, and successors in office.

The parties hereby execute this Agreement effective this 30th day of September, 2021.

CITY OF BAY CITY, TEXAS

DEBRISTECH, LLC

By:



Robert K. Nelson, Mayor

By:



Brooks R. Wallace, Manager

Attest:



Jeanna Thompson, City Secretary

INDEPENDENT CONTRACTOR AGREEMENT

THIS INDEPENDENT CONTRACTOR AGREEMENT (the "Agreement") is made and entered into effective as of the 30th day of September, 2017 (the "Effective Date"), by and between **CITY OF BAY CITY, TEXAS** (the "City") and **DEBRISTECH, LLC**, a Mississippi limited liability company (the "Contractor").

RECITALS

WHEREAS, the City received substantial damage due to Hurricane Harvey and its aftermath; and

WHEREAS, the Mayor of the City declared the City a local disaster; and

WHEREAS, the City desires to preserve property in the City and protect the public health and safety of its residents; and

WHEREAS, the City desires to engage Contractor to perform certain Contractor Services (as hereinafter defined) and Contractor desires to perform such Contractor Services, all on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises, the mutual covenants and agreements contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Duties of Contractor. Effective as of the date of this Agreement, Contractor agrees to supply personnel as specifically requested in writing by the City to perform the services described in Exhibit A attached hereto (collectively, the "Contractor Services").

2. Independent Contractor Relationship. Contractor is an independent contractor and is solely responsible for all taxes, withholdings, and other similar statutory obligations in connection with the personnel supplied and services provided by Contractor pursuant to this Agreement, including, but not limited to, workers' compensation insurance and unemployment insurance. Nothing in this Agreement shall be deemed to create an agency, partnership, or joint venture between the parties, nor shall this Agreement be interpreted or construed as creating or establishing the relationship of employer and employee between the City and Contractor. Neither party hereto has the authority to act on behalf of or to enter into any contract, incur any liability or make any representation on behalf the other party. It is expressly understood that the Contractor is an independent contractor in every respect.

3. No Exclusive Duty. The Contractor shall devote sufficient time, attention, personnel and other resources to perform the Contractor Services, provided, however, the Contractor shall not be required to perform work exclusively for the City and Contractor may have other business interests and may engage in other activities in addition to those relating to the City.

4. Notice to Proceed. During a disaster event, the City will assess the situation and a Notice to proceed will be issued from the Mayor or his successor to the Contractor triggering the activation of this Agreement. For clarification, any requests to proceed or declination of services shall be in writing by the Mayor or his successor.

5. Term. Subject to the provisions of **Paragraphs 6 and 7**, the term of this Agreement shall commence on October 1, 2017 and terminate on September 30, 2018 ("Initial Term"), with an option to extend in one year terms annually for up to three (3) years with an annual recertification and price adjustment. Debris Monitoring Services shall be put out for Competitive Bidding once every five (5) years, at a minimum. In order for the City to exercise its option to extend the term of this Agreement beyond the Initial Term, the City shall provide notice to Contractor of its intent to exercise its option to extend the term of this Agreement by one (1) year no less than thirty (30) days prior to the end of the Initial Term. Thereafter, the City shall exercise this option by providing notice to Contractor no less than thirty (30) days prior to the end of the then current term.

6. Termination.

(a) The City or Contractor may terminate this Agreement without cause and at any time for any reason without any further obligation to the other party by providing the other party with thirty (30) days written notice.

7. Compensation. The City will pay Contractor an hourly rate for the personnel provided by Contractor pursuant to the payment schedule attached to **Exhibit B**. For each hour of services provided by any Contractor personnel in excess of forty (40) hours of work provided to the City per week, the City will pay Contractor at one and one-half times (1.5x) the hourly rate on **Exhibit B**. The parties acknowledge and agree that it is necessary and reasonable for Contractor's personnel to work overtime to perform the Contractor's Services. Contractor agrees to track the number of hours worked per week for the City and to provide invoices for services rendered to the City on a weekly basis. Payment shall be due from the City to the Contractor within fifteen (15) days of the regular meeting of the City Council immediately following receipt of the invoice. Interest shall accrue against any amounts overdue in accordance with the Texas Prompt Payment Act. For any amounts more than sixty (60) days overdue, Contractor shall have the right to suspend its provision of the Contractor Services until such payment is received. In no event shall the amount payable under this Agreement exceed \$250,000 (the "Cap"). If the Contractor performs services such that the amount payable under this Agreement reaches the Cap, this Agreement shall automatically terminate unless the parties agree to amend this Agreement to increase the amount of the Cap.

8. Sub-Contractors.

(a) Contractors may use Subcontractors for this project. Contractor must list Subcontractors proposed for this project and their respective duties.

(b) No Subcontractor may provide services unless the City consents. The Contractor shall be responsible for completing all contract work even if a Subcontractor has assumed responsibility to complete certain work. Also, the Contractor shall be

responsible for the actions and performance of all Subcontractors. Furthermore, the Contractor agrees that any subcontract for this project will include the same mandatory insurance requirements in favor of the City as are specified in the City's contract with the Contractor, unless Contractor provides such coverage for his/her Subcontractors. However, all subcontractors must provide their own Workers' Compensation Insurance per State law. Subcontractor certificates of insurance and endorsements must be collected by the Contractor and made available for the City review upon request.

9. Taxes. Contractor shall be solely responsible for the payment of all taxes and/or assessments imposed on the payments of compensation for the performance of services outlined herein, including, without limitation, any unemployment insurance or tax, self-employment tax, federal, state and foreign income taxes, and any federal social security payment or similar taxes (and Contractor shall provide evidence to the City, upon the City's request, that such have been paid). Notwithstanding, the City may withhold from any amounts payable under this Agreement such federal, state, local or foreign taxes as shall be required to be withheld pursuant to any applicable law or regulation; provided, however, that the City shall provide the Contractor with written substantiation of withholding and remittance of such taxes upon Contractor's request.

10. No Breach. Each party hereby represents and warrants to the other party that: (a) it has all right, power and authority to grant the rights granted herein and to perform all of its obligations hereunder; (b) by entering into this Agreement and performing the obligations herein, it will not breach or violate any agreement, charter, instrument or other document to which it is a party or otherwise bound; and (c) it is currently in compliance and, throughout the term of this Agreement, it shall comply, in all material respects, with all applicable laws, rules and regulations.

11. Non-Disclosure. In connection with the Contractor Services, the City may be exposed to certain information that Contractor considers to be confidential or proprietary, or which is otherwise designated by the Contractor as confidential or secret (collectively, "Confidential Information"). During the term of this Agreement and for three (3) years thereafter, the City: (a) shall use reasonable care to protect all Confidential Information it receives; (b) shall not use Confidential Information for any purpose unrelated to the Contractor Services; and (c) shall not, directly or indirectly, disclose any Confidential Information to any third party except to such of the City's employees, agents and representatives who have a need to know such information for purposes of the Contractor Services and are bound by confidentiality obligations no less restrictive than those imposed on the City under this Agreement. The Contractor shall clearly mark and identify all information given to the City that Contractor deems confidential. Anything required to be public under The Public Information Act shall remain public and the City shall not be held liable for disclosure of such information. City agrees to seek an Attorney General's Opinion on the nature of the information before disclosing. The Contractor may assist the City in describing the reasons the information is confidential in the request for opinion. The City shall be responsible for any unauthorized disclosure or use of Confidential Information by the City's employees, agents and representatives that is not classified public information under The Public Information Act.

The obligations set forth in this **Paragraph 11** shall not apply to such Confidential Information which (i) is or becomes generally available to the public other than as a result of a disclosure by the City; (ii) was available to City on a non-confidential basis prior to its disclosure

by the Contractor or its agents; or (iii) becomes available to City on a non-confidential basis from a source other than the Contractor or its agents.

Notwithstanding the foregoing, if City is requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) to disclose any Confidential Information, City shall promptly notify the Contractor of such request(s) so that the Contractor may seek an appropriate protective order or waive compliance with the provisions of this Agreement. City agrees to cooperate fully with the Contractor in seeking any protective order. If, in the absence of a protective order or the receipt of a waiver hereunder, City is, nonetheless, in the reasonable opinion of their counsel, compelled to disclose any such Confidential Information or else stand liable for contempt or suffer other censure or penalty, then it may disclose such information pursuant to such request or requirement without liability hereunder.

12. Dispute Resolution.

(a) Should any dispute between the Parties arise under this Agreement (a "Dispute"), written notice of such Dispute shall be delivered from one party to the other and thereafter, the parties, through their appointed representatives or designees (each an "Authorized Representative"), shall first meet and attempt to resolve the Dispute in face-to-face negotiations. This meeting shall occur within thirty (30) days of the date on which a written notice of such Dispute is received from the complaining party.

(b) If no resolution is reached through the informal process set forth in **Section 12(a)** above, at the direction of either party's Authorized Representative, either party may seek any remedy at law or in equity that may be available. Any disputes shall be brought in a state district court in Matagorda County, Texas.

13. Insurance. Contractor shall maintain as a condition precedent to this Agreement approved and satisfactory insurance issued by a company authorized to do business in Texas, as follows:

(a) Commercial General Liability - A policy in the minimum amount of \$2,000,000.00 each occurrence and \$2,000,000.00 aggregate for bodily injury and property damage combined. Such general comprehensive insurance, the premiums for which have been paid by the Contractor, shall cover any claim for damages of whatever nature brought by any person, corporation or business entity against the Contractor, the City, its employees, named insureds, or additional insureds, or any of them arising out of or in any manner connected with the services provided to the City.

(b) Business Automobile Liability. The coverage of this insurance shall apply to owned, non-owned and hired automobiles with limits not less than \$300,000.00 each person and \$500,000.00 each accident for bodily injury and \$100,000.00 each accident for property damage.

(c) Worker's Compensation and Employers Liability Insurance. In accordance with the laws of that State of Texas. Coverage shall be an amount not less than \$1,000,000.00 per employee for each accident or disease.

(d) Additional Insured and Waiver of Subrogation. All insurance policies required by this Agreement, except Workers Compensation, shall name the City as an additional insured and shall contain a waiver of subrogation against the City, its agents and employees. Contractor and Contractor's insurance carrier waive any and all rights whatsoever with regard to subrogation against City as an indirect party to any suit arising out of personal or property damages resulting from Contractor's performance under this agreement.'

(e) Discharge of Claim or Right. No claim or right arising out of a breach of this Agreement can be discharged in whole, or in part, by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing, signed by the aggrieved.

(f) Claims Made Basis. If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the Agreement and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of two (2) years beginning from the time the work under this Agreement is completed.

(g) Condition Precedent. Contractor shall furnish the City as a condition precedent to this Agreement evidence of approved and satisfactory workers' compensation insurance issued by a company authorized to do business in Texas providing workers' compensation insurance to Contractor's employees, unless Contractor is not required by law to have such insurance coverage.

(h) Cancellation of Policy. No cancellation of or changes to the certificates, or the policies, may be made without sixty (60) days prior, written notification to the City.

14. Assignment. This Agreement shall not be assigned, in whole or in part, by Contractor without the prior written consent of the City, which shall not be unreasonably withheld.

15. Solid Waste Disposal Act. During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of The Solid Waste Disposal Act of 1965, as amended (42 U.S.C.A. § 6901, et seq.).

16. Contract Work Hours and Safety Standards Act. During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of The Contract Work Hours and Safety Standards Act, as amended (40 United States Code, Chapter 37).

17. Clean Air Act. During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of the Clean Air Act, as amended (42 U.S.C. § 7401, et seq.).

18. Federal Water Pollution Control Act (Clean Water Act). During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of the Federal Water Pollution Control Act (Clean Water Act), as amended (33 U.S.C. § 1251 et seq.).

19. Energy Policy and Conservation Act. During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable federal, state and local laws pertaining to energy efficiency, including but not limited to, the Energy Policy and Conservation Act, as amended (42 U.S.C.A. § 6201 et seq.).

20. Byrd Anti-Lobbying Amendment. During the term of this Agreement and any extensions thereof, the Contractor shall at all times comply with all applicable provisions of the Byrd Anti-Lobbying Amendment (42 U.S.C. § 1352, et seq.).

21. Non-Discrimination and Opportunity. The Contractor will not discriminate against any person, employee or applicant for work or employment because of race, color, religion, sex, sexual orientation, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation or national origin. Such action shall include, but not be limited to the following: employment, upgrading demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices as required by applicable law setting forth the provisions of this nondiscrimination clause.

(a) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin.

(b) The Contractor shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(c) The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor, with regard to the work performed by it during the term of this Agreement, shall not discriminate on the grounds of race, color, sex, sexual orientation

or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

(e) In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and applicable regulations relative to nondiscrimination on the grounds of race, color, sex, sexual orientation or national origin.

(f) The Contractor shall furnish all information and reports required by Executive Order 11246 and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts for purposes of investigation to ascertain compliance with such rules, regulations, and relevant orders of the Secretary of Labor.

(g) The Contractor shall comply with all provisions of Executive Order 11246 and of the rules, regulations and relevant orders of the Secretary of Labor.

(h) The Contractor will comply with all provisions of Executive Order 12250 Coordination of Grant-Related Civil Rates Statutes.

(i) In the event of the contractor's non-compliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(j) The contractor shall include the provisions of **Paragraphs (1) through (10)** in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

22. Minority Businesses, HUB Notification. The Contractor shall take steps to solicit employment, subcontractor, vendor, volunteer and other employment opportunities with respect to services provided to City under this Agreement from minority and women owned businesses using the affirmative steps outlined in 2 CFR 200.321(b).

23. Davis-Bacon Act. Davis-Bacon Act (40 U.S.C. 3141-3144) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, Contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors are required to pay wages not less than once a week.

24. Disclosure of Certain Relationships. Texas Local Government Code Chapter 176 requires that any vendor or person who enters or seeks to enter into a contract with a local governmental entity (including any agent of such person or vendor) disclose in the Questionnaire Form CIQ the vendor or person's employment, affiliation, business relationship, family relationship or provision of gifts that might cause a conflict of interest with a local governmental entity. By law, this questionnaire must be completed and filed with the records administrator of the City no later than the seventh business day after the date the person engages or communicates with the City or becomes aware of facts that require the completion of the questionnaire pursuant to Texas Local Government Code section 176.006.

25. Certificate of Interested Parties. Effective January 1, 2016, all contracts and contract amendments, extensions, or renewals executed by the City Council will require the completion of Form 1295 "Certificate of Interested Parties" pursuant to Government Code § 2252.908. Form 1295 must be completed by vendor at time of signed contract submittal. Contractor is responsible for completion of this form.

26. Force Majeure. Except with respect to payment obligations under this Agreement, neither party hereto shall be liable for any failure to perform due to strikes, riots, civil disturbances, acts of terrorism, wars, failures or fluctuations in electrical power or telecommunications equipment, or any other cause beyond such party's reasonable control (each an "Event of Force Majeure"). The parties shall use their commercially reasonable efforts to minimize the consequences of any Event of Force Majeure.

27. Non-Appropriation. All payments or expenditures made by the City under this Agreement are subject to the City's appropriation of funds for such payments or expenditures to be paid in the budget year for which they are made. If an agreement made, the City reasonably believe that legally available funds in an amount sufficient to pay all amounts due can be obtained.

28. Immunity. The City does not agree to waive or relinquish any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of its execution of this Agreement and performance to the covenants contained herein. The City specifically reserves any claim it may have to sovereign, qualified, or official immunity as a defense to any action arising in conjunction with this Agreement.

29. No Boycott. The City may not enter into a contract with a company for goods or services unless the contract contains written verification from the company that (i) it does not boycott Israel; and (ii) it will not boycott Israel during the term of this contract. See Ch. 2270 of the Texas Government Code. By executing this Agreement, Contractor verifies that it does not boycott Israel and agrees that during the term of this Agreement, it will not boycott Israel, as that term is defined in Section 808.001 of the Texas Government Code, as amended.

30. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without reference to principles of conflict of laws. The captions of this Agreement are not part of the provisions hereof and shall have no force or effect. This Agreement may not be amended or modified otherwise than by a written agreement executed by the parties hereto or their respective successors and legal representatives.

(b) All notices and other communications hereunder shall be in writing and shall be given by hand delivery to the other party or by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Contractor:

DebrisTech, LLC
Attn: Brooks Wallace
925 Goodyear Boulevard
Picayune, Mississippi 39466

If to the City:

Mark A. Bricker, or his successor
Mayor
City of Bay City
1901 5th Street
Bay City, TX 77414

With Courtesy Copies to:

David Holubec, or her successor
City Secretary
City of Bay City
1901 5th Street
Bay City, Texas 77414

or to such other address as either party shall have furnished to the other in writing in accordance herewith. Notice and communications shall be effective under Texas Rules of Civil Procedure Rule 5.

(c) The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

(d) The parties' respective rights under this Agreement are cumulative and either party's exercise or enforcement of any right or remedy under this Agreement will not preclude such party's exercise or enforcement of any other right or remedy which such party is entitled to enforce at law or in equity.

(e) Contractor's or the City's failure to insist upon strict compliance with any provision of this Agreement or the failure to assert any right Contractor or the City may have hereunder shall not be deemed to be a waiver of such provision or right or any other provision or right of this Agreement.

(f) If any provision of this Agreement shall be deemed unlawful, void or unenforceable for any reason, it shall be deemed severable, and in no way shall effect the validity or enforceability of, the remaining provisions of this Agreement.

(g) This Agreement shall not be construed or interpreted in favor of or against Contractor or the City on the basis of draftsmanship or preparation of the Agreement.

(h) From and after the date this Agreement is signed by both City and Contractor, this Agreement shall supersede all prior and contemporaneous agreements and understandings between Contractor and the City, whether written or oral, with respect to the subject matter hereof.

(i) This Agreement can only be amended or modified in a written document signed by both Contractor and the City.

(j) All rights and obligations of the parties hereto that either expressly, or by their nature, survive the expiration or termination of this Agreement shall survive such expiration or termination.

(k) This Agreement and any amendment, waiver, approval or consent relating hereto may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The delivery by any party of an executed signature page to this Agreement or any amendment, waiver, approval or consent relating hereto by facsimile transmission or by electronic email in Adobe Corporation's Portable Document Format (or PDF) shall be deemed to be, and shall be enforceable to the same extent as, an original signature page hereto or thereto. Any party who delivers such a signature page agrees to later deliver an original counterpart to any party that requests it.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Independent Contractor Agreement as of the date first written above.

-CONTRACTOR-

-CITY-

DEBRISTECH, LLC

CITY OF BAY CITY, TEXAS

By: _____
Brooks R. Wallace, Manager

By: 
Name: Mark A. Bricker
Title: Mayor

ATTEST:


David Holubec, City Secretary

IN WITNESS WHEREOF, the parties have executed this Independent Contractor Agreement as of the date first written above.

-CONTRACTOR-

-CITY-

DEBRISTECH, LLC

CITY OF BAY CITY

By: 

Brooks R. Wallace, Manager

By: _____
Name: Mark A. Bricker
Title: Mayor

ATTEST:

David Holubec, City Secretary

EXHIBIT A
SCOPE OF SERVICES

Scope of Services:

Disaster Debris Monitoring Services - The selected firm will be expected to provide disaster debris monitoring services to include debris generated from the public rights-of-way, private property, drainage areas/canals, waterways, and other public, eligible, or designated areas.

1. The Disaster Debris Monitoring Contract will encompass the areas of Bay City. Bay City disaster recovery planning includes considerations for removing and processing the volumes and types of debris and waste expected to be generated by a major disaster such as a tornado or other natural or man-made hazard that encompasses the procedures for disposing of that material. The planning approach is formulated in part on the concept of strategic pre-positioning of the agreements and resources necessary for timely, coordinated recovery operations, including removal of debris and wastes from public property, public rights-of-way, private property, drainage areas/canals, waterways, and other public, eligible, or designated areas throughout the City using entity-owned forces, in accordance with current statutes and regulations.

2. Services shall be performed on an "as needed basis" when directed by the City. The City will provide guidance and direction on priorities and specific needs for the monitoring operations. The Contractor, in concert with the City shall determine the method and manner of monitoring the removal and disposal of debris that provide the greatest economy of operations and cost to the City. The Contractor shall then provide for the cost-effective and efficient monitoring of materials accumulated or deposited on public property, as described above and the removal and final disposal of those materials.

3. The Contractor will be expected to provide all personnel, equipment, forms, record keeping materials, supplies and other resources necessary to carry out the specified services and to provide ongoing and periodic reports to the City for its use in providing documentation of State and Federal officials pursuant to Federal reimbursement of eligible recovery costs. The Contractor must be fully cognizant of all pertinent Federal (FEMA, U.S. Army Corps of Engineers, etc.) and State of Texas documentation requirements and procedures and be prepared to assist the City staff in compiling and managing information and data necessary for those purposes.

4. Prior to initiating work under this project, the Contractor shall present to the City for review and discussion a General Operations Plan and sufficient supporting documentation to adequately describe all planned actions for monitoring the removal, handling and eventual disposal of disaster-generated debris and wastes. The Contractor shall agree to execute this plan, with all manners of contingencies recognized, upon being authorized by the City to begin work. When identifying resources to be made available under this contract, the Contractor must use a planning standard approach. Specifically, the Contractor shall identify the expected sources and quantities of debris and other wastes that are expected to be encountered and the anticipated level of operational resources (personnel, equipment, TDSRS operations, etc.) that will be deployed by the Debris Management contractor. The Contractor must then identify sufficient monitoring resources (personnel, equipment, materials, etc.) to ensure the availability of personnel and equipment to initiate all required activities within 48 hours of being so directed. For this purpose, identification of Contractor/Sub-Contractor(s) and a general equipment/personnel inventory will suffice.

5. The Contractor will be responsible for coordinating operations in such a manner as to least interfere with the work of the Debris Removal and Hauling contractor, damage assessment teams, local utility company crews and other recovery operations forces. Such coordination shall be effected through communications with City designated departments and/or personnel when so authorized by the City. To the extent authorized by the City or designee, the Contractor shall coordinate monitoring operations directly with the Debris Removal and Hauling contractor when necessary to achieve effective and efficient integration of forces.

6. The Contractor shall provide reports, summaries, and analysis of daily activities associated with the debris and waste removal and disposal operations in the form and frequency specified by the City upon issuance of the authorization to proceed. The Contractor shall be prepared to advise the City and other local officials of the types, scopes, forms, and formats of data and information required by Federal and State agencies and shall provide all pertinent documentation in a manner that satisfies those agencies' requirements.

7. Specific services may include:

- Serving as "Debris Manager" for disaster debris operations.
- Coordinating daily briefings on the status, effectiveness, volumes handled, staffing, and other pertinent data for all debris operations with City management staff.
- Monitoring and supervision of Temporary Debris Staging and Reduction Sites (TDRS) locations and any other permitting/regulatory issues as necessary.
- All monitoring workforce requirements, including but not limited to staffing, training, equipment, safety training and enforcement, mobilization, transportation and logistic support.
- Site Safety Plan preparation and maintenance.
- Scheduling work for all team members and contractors on a daily basis.
- Hiring, scheduling, and managing field staff.
- Monitoring recovery contractor operations, and making/implementing recommendations to improve efficiency and speed up recovery work.
- Assisting the City with responding to public concerns, comments, and complaints.
- Certifying contractor vehicles for debris removal using methodology and documentation practices appropriate for contract monitoring.
- Truck and trailer measurement, certification, marking and tracking.
- Equipment registry and tracking.
- Debris/waste management workforce registry and tracking.
- Debris management tracking.

- Trip ticket management.
- Entering load tickets into a database application.
- Digitization of source documentation (such as load tickets).
- Developing daily operational reports to keep the City informed of work progress.
- Development of maps, GIS applications, etc, as necessary.
- QA/QC program management.
- Comprehensive review, reconciliation, and validation of debris removal contractor(s) invoices prior to submission to the City for processing.
- Project Worksheet and other pertinent report preparation required for reimbursement by FEMA, FHWA and any other applicable agency for disaster recovery efforts by the City and designated debris removal contractors.
- Final report and appeal preparation and assistance.
Related activities for effective and efficient debris management operations deemed necessary or desirable on the basis of the Contractor's experience when authorized by the City.

8. Public Assistant Consulting Services - As directed by the City the Contractor shall provide:

- Identification of eligible emergency and permanent work (Category A-G);
- Damage Assessment
- Assistance in attaining Immediate Needs Funding;
- Prioritization of recovery workload;
- Loss measurement and categorization;
- Insurance evaluation, documentation adjusting and settlement services;
- Project Worksheet formulation, generation and review.
- FEMA, FHWA, HMGP, CDBG, NRCS and additional reimbursement support;
- Staff augmentation with experienced Public Assurance Coordinators and Project Officers;
- Interim inspections, final inspections, supplemental Project Worksheet generation and final review;
- Appeal services and negotiations;
- Reconstruction and long-term infrastructure planning; and
- Final review of all emergency and permanent work performed.

9. Contractor must have the capacity to manage a large workforce and to carry the expenses associated with a major recovery operation prior to the initial City payment and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance. Each Contractor must also have: (1) an established management team, (2) an established network of resources to provide the necessary equipment and personnel, (3) comprehensive workforce management, operations, and safety plans, and (4) demonstrable experience in major disaster recovery cleanup projects. Although a single Contractor is preferred, the City may at its sole discretion award multiple contracts if no single Contractor is capable of providing all of the necessary services or as a reserved back up.

10. The debris management operations will be carried out under the direction of the City Emergency Management in conjunction with other Matagorda County. The City will be pre-contracting with one primary vendor for debris removal operations. That vendor will also be responsible, under certain conditions, for removal of hazardous, and toxic/hazardous waste associated debris such as construction and demolition debris, vegetative debris and other disaster associated debris caused by the disaster. That vendor is responsible for: (1) clearing roadways, (2) removing debris and certain waste from roadways, public right-of-ways, and public property, (3) operating Temporary Debris Staging and Reduction Areas, (4) volumetric reduction of debris, and ultimate disposal of the debris and waste. The general concept of disaster debris/waste removal operations includes multiple, scheduled passes of each populated area and each right-of-way directed. This will allow citizens to return to their properties and bring materials to the right-of-ways as recovery progresses. The City will prescribe the specific procedures to be followed after ascertaining the scope and nature of the disaster's impacts. Curbside segregation of debris and disaster-generated or removal management vendor will be required to aid in the segregation and waste stream management processes. Any hazardous materials and/or industrial wastes encountered by the debris removal vendor will be set aside for collection and disposal by the debris removal vendor's properly trained and equipped removal team. The City will pre-designate approximately Temporary Debris Staging and Reduction Sites (TDRS) for the sole purpose of the temporary staging and reduction of clean woody debris and construction and demolition materials. The City will also help to identify the public and private landfills that will be used for disposal of storm generated debris. The Contractor will be expected to provide debris monitoring services at each TDRS and landfill as well as in the field during clearing, loading and hauling operations. The Contractor will be responsible for monitoring all of the Debris Removal/Hauling activities during the course of the recovery/cleanup period.

EXHIBIT B
PAYMENT SCHEDULE

COST PROPOSAL FORM - The hourly labor rates shall include all applicable overhead and profit. Non-labor related project costs will be billed to Bay City at cost, without mark-up.

<u>POSITIONS</u>	<u>HOURLY RATES</u>
Project Manager	\$85.00
Operations Managers	\$70.00
Scheduler/Expeditors	\$0.00**
GIS Analyst	\$0.00**
Field Supervisors	\$50.00
Debris Site/Tower Monitors	\$38.00
Environmental Specialist	\$75.00
Data Manager	\$0.00**
Field Coordinators (Crew Monitors)	\$38.00
Load Ticket Data Entry Clerks (QA/QC)	\$0.00**
Billing/Invoice Analysts	\$0.00**
Project Coordinators	\$0.00**

**Due to the size of the project this position will not be needed

DISCUSS, CONSIDER, AND/OR APPROVE RATIFYING THE CONTRACT WITH DRC EMERGENCY SERVICES, LLC FOR DEBRIS REMOVAL AND FINDING THAT COMPETITIVE BIDDING IS NOT FEASIBLE BECAUSE AN EMERGENCY OR EXIGENCY EXISTS THAT COULD AFFECT THE HEALTH AND SAFETY OF THE PUBLIC DUE TO HURRICANE NICHOLAS.



EXECUTIVE SUMMARY

DEBRIS REMOVAL SERVICES

BACKGROUND:

The City sustained damages as a result of Hurricane Nicholas making landfall on September 13, 2021. The City took measure to immediately clear debris from the roadways following the storm. The City staff determined that the most efficient route would be to perform emergency procurement to remove unsafe debris piles immediately. In addition, this contractor specializes in these services and are accustomed with all federal requirements. The Contractor is ready and on standby for TCEQ approved disposal sites. The Contractor will honor the same competitive rates as provided to the County.

The City will begin competitive procurement and work to align the contract period with the County's to prepare for a future joint procurement opportunity for debris removal services.

FINANCIAL IMPLICATIONS:

Variable Rates—reimbursable by FEMA if the City/County meet threshold. (Exhibit A)

RECOMMENDATION:

Approve the Emergency Debris Removal Contract

ATTACHMENTS: Contract with DRS Emergency Services

Exhibit A (Vendor Rates) and Exhibit B (FEMA Contract Rider) will be handed out at meeting.

AGREEMENT FOR DEBRIS CLEARANCE AND REMOVAL

THE STATE OF TEXAS §
 §
 COUNTY OF MATAGORDA §

This Agreement for Debris Clearance and Removal (“Agreement”) is entered into, and made effective, this 24th day of September, 2021, by and between the City of Bay City, Texas, a Texas municipal corporation (the “City”) and DRC Emergency Services, LLC (“DRC”).

DRC Emergency Services, LLC hereby agrees to provide such services to the City of Bay City, Texas on an emergency basis using the rate table attached hereto as Exhibit “A” upon receipt of a written notice to proceed from City.

Notwithstanding any provisions in the parties’ contract to the contrary, the City of Bay City, Texas’ payment obligations to DRC Emergency Services, LLC for the performance of work are not contingent upon any determination of debris eligibility by Matagorda County or FEMA.

This Agreement is being procured on an emergency basis based upon the following:

1. There is a need to procure on an emergency basis as there is the existence of a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to the Applicant. The City will begin competitive procurement immediately to be ready for future events, however this contract has an end date of 30 days from the City’s notice to proceed, so it proves short time is needed.
2. A noncompetitive procurement is necessary because current disaster contractors (WCA – trash company) cannot provide immediate needed services. This is to immediately remove debris from public right-of-ways to enable a safer and cleaner community.
3. If the City had to do sealed bid, it would take 90 days to award the bid at minimum with another unknown number of days before the contractor could begin depending on other cities or counties served. This is inefficient as the Contractor is already performing work for other entities in the area.

FEMA Rider attached as Exhibit “B” is incorporated herein and attached hereto.

City of Bay City, Texas

DRC Emergency Services, LLC

By:_____

Robert K. Nelson, Mayor

By:_____

Date signed:_____

Date Signed:_____

DISCUSS, CONSIDER, AND/OR APPROVE ENTERING INTO A PROFESSIONAL SERVICES AGREEMENT WITH DAVID PETIT ECONOMIC DEVELOPMENT, LLC FOR TIRZ BOARD #2 ADVISORY.



EXECUTIVE SUMMARY

BACKGROUND:

Alex Kamkar, Bold Fox Development, discussed a proposal of development in TIRZ 2 and in the City's ETJ at a workshop in July.

The Board met on September 9, 2021 where David Petit was conferenced in to explain what steps would need to take place to change the boundaries of the TIRZ and amend the Finance Project Plan. DPED was the originally company hired in the creation of TIRZ 1, 2, and 3. Mr. Pettit replied that there will need to be an amendment to the creation ordinance, public hearing, and other taxing entities will need to amend participation agreements.

The Board then concluded discussion by recommending services of David Pettit, DPED, LLC.

FINANCIAL IMPLICATIONS:

\$23,500 plus reimbursable expenses capped at \$1,500

RECOMMENDATION:

Approve the Agreement/Contract

ATTACHMENTS: DPED Proposal/Contract



September 24, 2021

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

RE: Professional Services Proposal

Dear Ms. Burkhardt,

David Pettit Economic Development, LLC ("DPED") is pleased to provide this proposal for economic development professional services relating to an amendment to the existing Tax Increment Reinvestment Zone Number Two (TIRZ #2) in the City of Bay City, Texas ("City").

The Project

It is our understanding that the City of Bay City, Texas is interested in amending the existing TIRZ #2 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, amending a TIRZ and the authorized use of funds from the TIRZ. An amended 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.

An amended 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 311.007 of the Tax Code the governing body of the municipality that designated a reinvestment zone by ordinance may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. Additionally, Section 311.011 states the board of directors of the zone at any time may adopt an amendment to the project plan consistent with the requirements and limitations of the chapter and the amendment takes effect on approval by the governing body of the municipality that created the zone.

Scope of Services

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

- Amendment to the TIRZ #2 Creation Ordinance
- Amendment to the TIRZ #2 Project and Financing Plan Ordinance
- Amendments to TIRZ #2 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 will update the Taxable Value Analysis to reflect revised 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 Amended TIRZ Project and Financing Plan Amendment

DPED would then develop an amended 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 amended 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 amending TIRZ #2, 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 on a monthly basis, subject to on-going progress on the work effort. Reimbursable expenses not to exceed \$1,500 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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BAY CITY, TEXAS, CALLING FOR A PUBLIC HEARING ON
THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT
AND BEING LOCATED WITHIN THE CITY OF BAY CITY

WHEREAS, the City Council (the “City Council”) of the City of Bay City, Texas (the “City”) has received a petition (the “Petition”) requesting creation of a public improvement district (the “PID”) under Chapter 372 of the Texas Local Government Code (the “Act”), from the record owners of taxable real property representing more than fifty percent (“50%”) of the appraised value of the real property liable for assessment (as determined by the most recent certified appraisal roll for Matagora County) in the proposed PID and the record owners of taxable real property that constitute more than 50% of all of the area of all taxable real property that is liable for assessment in the proposed PID; and

WHEREAS, the Petition, a copy of which is attached hereto as Exhibit A, has been examined, verified, and found to meet the requirements of Sections 372.005(a) and 372.005(b) of the Act and to be sufficient for consideration by the City Council; and

WHEREAS, the boundaries of the proposed PID are described in the Exhibit A to the Petition, said area for the PID being within the City; and

WHEREAS, the City Council accepts the Petition and desires to schedule a public hearing to consider the creation of the PID to finance the following public improvements (collectively, the “Authorized Improvements”): (i) design, construction and other allowed costs related to street and roadway improvements, including related drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) design, construction and other allowed costs related to storm drainage improvements, (iii) design, construction and other allowed costs related to water, wastewater and drainage (including detention) improvements and facilities, (iv) design, construction and other allowed costs related to parks, open space and recreational improvements including trails and landscaping related thereto; (v) design, construction and other allowed costs related to projects similar to those listed in sections (i) – (iv) above authorized by the Act, including similar of-site projects that provide a benefit to the property within the PID; (vi) payment of expenses incurred in the establishment, administration, and operation; and (vii) payment of expenses associated with financing such public improvement projects, which may include but are not limited to, costs associated with the issuance and sale of revenue bonds secured by assessments levied against the Property within the PID and (viii) maintenance and operation expenses of the Authorized Improvements. These Authorized Improvements shall promote the interests of the City and confer a special benefit upon the Property.

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

SECTION 1: That a public hearing is hereby scheduled at 6:00 P.M. on October 26, 2021, in the City Council Chamber at Bay City City Hall, 1901 Fifth Street, Bay City, Texas 77414 to receive public comment on the creation of the PID in the area described in Exhibit A to the Petition, pursuant to the Act; and

SECTION 2: That notice of said hearing, in the substantially final form set forth in Exhibit B attached hereto, with such changes as may be approved by the City's counsel, shall be published in a newspaper of general circulation in the City and in a newspaper of general circulation in the City before the 15th day prior to the hearing as required by the Act; and

SECTION 3: That written notice, in the substantially final form set forth in Exhibit B attached hereto with such changes as may be approved by the City's counsel, shall be mailed to each property owner, as reflected on the tax rolls, of property subject to assessment within the PID, before the 15th day prior to the date set for the hearing; and

SECTION 4: That all of the above recitals are hereby found to be true and correct factual determinations of the City and are hereby approved and incorporated by reference as though fully set forth herein; and

SECTION 5: That if any portion of this Resolution shall, for any reason, be declared invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions hereof and the City Council hereby determines that it would have adopted this Resolution without the invalid provision; and

SECTION 6: That this Resolution shall be in full force and effect from and after its passage, and it is accordingly so resolved.

[Signature Page Follows]

DULY RESOLVED by the City Council of the City of Bay City, Texas, on the ____ day
of _____, 2021.

Mayor,
City of Bay City, Texas

ATTEST:

City Secretary
City of Bay City, Texas

EXHIBIT A
PETITION
(see attached Petition)

EXHIBIT B

NOTICE OF PUBLIC HEARING OF THE CITY OF BAY CITY, TEXAS TO CONSIDER THE ADVISABILITY OF THE CREATION OF A PUBLIC IMPROVEMENT DISTRICT TO MAKE CERTAIN IMPROVEMENTS OVER CERTAIN PROPERTY LOCATED WITHIN THE CITY.

NOTICE IS HEREBY GIVEN THAT the City Council (the “City Council”) of the City of Bay City, Texas (the “City”), pursuant to Chapter 372 of the Texas Local Government Code, as amended (the “Act”), will hold a public hearing at That a public hearing is hereby scheduled at 6:00 P.M. on October 26, 2021, in the City Council Chamber at Bay City City Hall, 1901 Fifth Street, Bay City, Texas 77414 for the purpose of considering the establishment by the City of a public improvement district to be located within the extraterritorial jurisdiction of the City.

In accordance with the Act, the City Council has received a petition (the “Petition”) from certain property owners within the extraterritorial jurisdiction of the City (the “Petitioners”), that requests the establishment of a public improvement district (the “PID”). The Petition and the legal description of the property to be included in the PID are on file and open for public inspection in the office of the City Secretary at Bay City City Hall, 1901 Fifth Street, Bay City, Texas 77414. The public hearing is being held with respect to the advisability of creating the PID and the improvements to be made therein.

GENERAL NATURE OF THE AUTHORIZED IMPROVEMENTS: The general nature of the proposed public improvements (collectively, the “Authorized Improvements”) may include: (i) design, construction and other allowed costs related to street and roadway improvements, including related drainage, utility relocation, signalization, landscaping, lighting, signage, off-street parking and right-of-way; (ii) design, construction and other allowed costs related to storm drainage improvements, (iii) design, construction and other allowed costs related to water, wastewater and drainage (including detention) improvements and facilities, (iv) design, construction and other allowed costs related to parks, open space and recreational improvements including trails and landscaping related thereto; (v) design, construction and other allowed costs related to projects similar to those listed in sections (i) – (iv) above authorized by the Act, including similar of-site projects that provide a benefit to the property within the PID; (vi) payment of expenses incurred in the establishment, administration, and operation; (vii) payment of expenses associated with financing such public improvement projects, which may include but are not limited to, costs associated with the issuance and sale of revenue bonds secured by assessments levied against the Property within the PID, and (viii) maintenance and operation expenses of the Authorized Improvements. These Authorized Improvements shall promote the interests of the City and confer a special benefit upon the Property.

ESTIMATED COST OF THE AUTHORIZED IMPROVEMENTS: The estimated cost to design, acquire and construct the Authorized Improvements, together with bond issuance costs, eligible legal and financial fees, eligible credit enhancement costs and eligible costs incurred in the establishment, administration and operation of the PID is \$9,000,000. The City will pay no costs of the Authorized Improvements, supplemental services or operation and

maintenance costs from funds other than assessments levied on property within the PID. The remaining costs of the proposed improvements will be paid from sources other than those described above.

PROPOSED METHOD OF ASSESSMENT: The City shall levy assessments on each parcel within the PID in a manner that results in the imposition of an equal share of the costs of the Authorized Improvements on property similarly benefitted by such Authorized Improvements. The proposed method of assessment shall be based upon (i) an equal apportionment per lot, per front foot, or per square foot of property benefiting from the Authorized Improvements, as determined by the City, (ii) the ad valorem taxable value of the property benefiting from the Authorized Improvements, with or without regard to improvements on the property, or (iii) in any manner that results in imposing equal shares of the cost on property similarly benefitted.

PROPOSED APPORTIONMENT OF COSTS BETWEEN THE CITY AND THE PID: The City will not be obligated to provide any funds to finance the Authorized Improvements. All of the costs of the Authorized Improvements will be paid from assessments levied on properties in the PID and from other sources of funds available to the Petitioners.

BOUNDARIES OF THE PROPOSED PID: Approximately 50 acres located in the East part of the City of Bay City between Hubbard Road and Old Van Vleck road, North of the intersection of FM 457 and Highway 35A. A metes and bounds description is available for inspection at the offices of the City Secretary at the location described above.

All interested persons are invited to attend such public hearing to express their views with respect to the establishment of the PID and the Authorized Improvements to be made therein.

This Notice of Public Hearing is given and the public hearing is being held pursuant to the requirements of the Act.

THE CITY OF BAY CITY, TEXAS

Exhibit A.

Section 5. Method of assessment. The City shall levy assessments on each residential lot within the District in a manner that results in imposing equal shares of the costs on property similarly benefitted. The proposed method of assessment shall be based upon (i) an equal apportionment per lot, per front foot, or per square foot of property benefiting from the public improvements, as determined by the City, (ii) the ad valorem taxable value of the property benefiting from the improvements and services, or (iii) any combination thereof.

Section 6. Apportionment of cost. The proposed apportionment of cost between the District and the City as a whole is as follows:

The City will not be obligated to provide any funds to finance the Authorized Improvements. All of the costs of the Authorized Improvements will be paid from assessments levied on properties in the District and from other sources of funds, if any, available to the Petitioners.

Section 7. Management of the District. The management of the District will be the ultimate responsibility of the City; provided that, to the extent allowed by law, the City may initially contract with a non-profit organization or private company to carry out all or a part of such City responsibilities, as well as the day-to-day management and administration of the District.

Section 8. Concurrence of the Petitioner. The Petitioner signing this petition concurs in and requests the establishment of the District.

Section 9. Advisory board. An advisory board is not required but may be established by the City to develop and recommend an improvement plan to the City Council of the City.

This petition shall be filed with the Secretary of the City in support of the creation of the District by the City Council of the City as herein provided. The undersigned request that the City Council grant its consent as above stated.

RESPECTFULLY SUBMITTED, on this 23 day of 9, 2021.

[Signature on following page]

PETITIONER

Crescent Capital Investments, LLC
a Texas Limited Liability Company

By: 

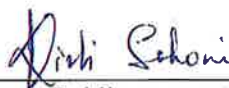
Name: Jamshed Momin
Title: Managing Member

Date: 9-23-21

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This instrument was acknowledged before me on this the 23rd day of September, 2021, by Jamshed Momin, Managing Member, of Crescent Capital Investments, LLC.





Notary Public in and for the
State of T E X A S

Exhibit A

LEGAL DESCRIPTION OF BOUNDARIES

PROPERTY DESCRIPTION
49.71 ACRES

STATE OF TEXAS }
COUNTY OF MATAGORDA }

All of that certain tract or parcel containing 49.71 acres situated in the I. & G. N. R. R. Company Survey, Abstract No. 270 and in the I. & G. N. R. R. Company Survey, Abstract No. 271 of Matagorda County, Texas and being a part of the same property described as 40.40 acres in Deed dated February 20, 1937 from Amalio Teresa Meschkat to A. Uher, recorded in Volume 116, Page 516 of the Deed Records of Matagorda County, Texas and a part of the same property described as 5.09 acres in Deed dated June 14, 1937 from Gulf Coast Water Company to A. Uher, recorded in Volume 120, Page 402 of the Deed Records of Matagorda County, Texas and a part of the same property described as 28.68662 acres in Deed dated April 10, 1950 from G. A. Bailey and Myrtle Bailey to A. Uher, recorded in Volume 214, Page 28 of the Deed Records of Matagorda County, Texas. This 49.71 acres is more particularly described by metes and bounds as follows:

BEGINNING at an existing 1/2 inch iron rod (N=13,555,407.98; E=2,946,942.49) located in the West line of Old Van Vleck Road and at the Southeast corner of a 0.72 acre tract described in Deed recorded in File No. 20173019 of the Official Records of Matagorda County, Texas for the Northeast corner of this 49.71 acres being described;

THENCE South 03° 17' 50" East, with the West line of Old Van Vleck Road a distance of 393.66 feet to an existing fence corner post located at the Northeast corner of a 1.0 acre tract described in Deed recorded in File No. 112151 of the Official Records of Matagorda County, Texas and at the Southeast corner of a 20 Foot Wide Utility Easement described in Deed recorded in File No. 20176742 of the Official Records of Matagorda County, Texas for East corner of this 49.71 acres being described;

THENCE South 86° 25' 58" West [deed call = South 86° 26' 30" West] crossing a portion of the said 28.68662 acre tract with the North line of the said 1.0 acre tract and the South line of the said Utility Easement, a distance of 295.31 feet [deed call = 295.40 feet] to an existing 1/2 inch iron rod located in the East line of an 8.214 acre tract described in Deed recorded in File No. 20176743 of the Official Records of Matagorda County, Texas and at the Northwest corner of the said 1.0 acre tract and at the Southwest corner of the said Utility Easement for a corner of this 49.71 acres being described;

THENCE North 03° 20' 12" West [deed call = South 03° 19' 40" East], crossing a part of the said 28.68662 acre with the East line of the said 8.214 acre tract, a distance of 154.80 feet [deed call = 155.10 feet] to a 5/8 inch iron rod with plastic cap set at the Northeast corner of the said 8.214 acre tract for an interior corner of this 49.71 acres being described;

**PROPERTY DESCRIPTION
49.71 ACRES**

(continued)

THENCE South 86° 39' 48" West [deed call = North 86° 40' 20" East], crossing a portion of the said 28.68662 acre tract with the North line of the said 8.214 acre tract, a distance of 501.45 feet [deed call = 501.45 feet] to a 5/8 inch iron rod with plastic cap set at the Northwest corner of the said 8.214 acre tract for an interior corner of this 49.71 acres being described;

THENCE South 03° 20' 12" East [deed call = South 03° 19' 40" East], crossing a portion of the said 28.68662 acre tract with the West line of the said 8.214 acre tract, a distance of 424.23 feet [deed call = 424.31 feet] to an existing 1/2 inch iron rod located in the North line of a 13.7228 acre tract described in Deed recorded in File No. 20185002 of the Official Records of Matagorda County, Texas and at a corner of the said 8.214 acre tract for a corner of this 49.71 acres being described;

THENCE North 88° 50' 06" West [deed call = South 88° 50' 30" East], crossing a portion of the said 28.68662 acre tract and a portion of the above referenced 40.40 acre tract, with the North line of the said 13.7228 acre tract, a distance of 839.55 feet to an existing fence corner post located at the Northwest corner of the said 13.7228 acre tract for an interior corner of this 49.71 acres being described;

THENCE South 01° 06' 18" West [deed call = North 01° 09' 30" East], crossing a portion of the said 40.40 acre tract with the West line of the said 13.7228 acre tract and the West line of a 26,216 Square Foot tract described in Deed recorded in File No. 20205482 of the Official Records of Matagorda County, Texas, a distance of 650.02 feet to an existing 1/2 inch iron rod located in the North line of State Highway No. 35 and at the Southwest corner of the said 26,216 Square Foot tract for the Southeast corner of this 49.71 acres being described;

THENCE North 86° 14' 09" West, with the North line of State Highway No. 35, a distance of 161.42 feet to an existing 1/2 inch iron rod located at the East corner of a 0.84 acre tract described in Deed recorded in File No. 104270 of the Official Records of Matagorda County, Texas for the lower Southwest corner of this 49.71 acres being described;

THENCE North 36° 39' 10" West [deed call = South 33° 35' East], with the Northeast line of the said 0.84 acre tract and the Northeast line of the above referenced 5.09 acre tract and the Southwest line of the said 40.40 acre tract, a distance of 262.05 feet [deed call = 263.16 feet] to an existing 5/8 inch iron rod located at the Northeast corner of the said 0.84 acre tract for an interior corner of this 49.71 acres being described;

THENCE North 86° 16' 07" West [deed call = South 83° 00' East], crossing the said 5.09 acre tract with the North line of the said 0.84 acre tract, a distance of 184.42 feet [deed call = 184.4 feet] to an existing 5/8 inch iron rod located in the East line of the James Svetlik Subdivision relative to the plat recorded in Volume 2, Page 44 of the Plat Records of Matagorda County, Texas and in the West line of the said 5.09 acre tract and at the Northwest corner of the said 0.84 acre tract for the upper Southwest corner of this 49.71 acres being described;

Page Two

PROPERTY DESCRIPTION
49.71 ACRES

(continued)

THENCE North 36° 52' 07" West [plat call = South 34° 30' East], with the Northeast line of the said subdivision and the West line of the said 5.09 acre tract, a distance of 1524.89 feet to an existing 1/2 inch iron rod located at the North corner of the said subdivision and at the Southwest corner of Birkner's Addition to the City of Bay City relative to the plat recorded in Volume 2, Page 85 of the Plat Records of Matagorda County, Texas and at the West corner of the said 5.09 acre tract for the West corner of this 49.71 acres being described;

THENCE North 54° 34' 44" East [plat call = South 56° 17' West], with an interior line of the said Birkner's Addition and the Northwest line of the said 5.09 acre tract, a distance of 94.27 to an existing 1/2 inch iron rod located at an interior corner of the said Birkner's Addition and at a corner of the said 5.09 acre tract for the Northwest corner of this 49.71 acres being described;

THENCE South 86° 47' 48" East [plat call = North 85° 04' West], with an interior line of the said Birkner's addition and the South line of a 10.00 acre tract described in Deed recorded in File No. 20151699 of the Official Records of Matagorda County, Texas and the South line of A. L. L. Subdivision relative to the plat recorded in Slide 351B-352A of the Plat Records of Matagorda County, Texas and the South line of Sander's and Ray Addition to the City of Bay City relative to the plat recorded in Volume 3, Page 34 of the Matagordqa County Plat Records and the South line of the said 0.72 acre tract and with the North line of the said 5.09 acre tract and with the North line of the said 40.40 acre tract and with the North line of the said 28.68622 acre tract, a distance of 2953.16 feet to the **PLACE OF BEGINNING**, containing within these metes and bounds 49.71 acres.

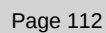
The bearings and coordinates recited herein are Texas State Plane South Central Zone NAD'83 Grid based on RTK Network Base HAPB_0219. This Property description and a plat were prepared from a survey made on the ground under my direction on October 19, 2020.



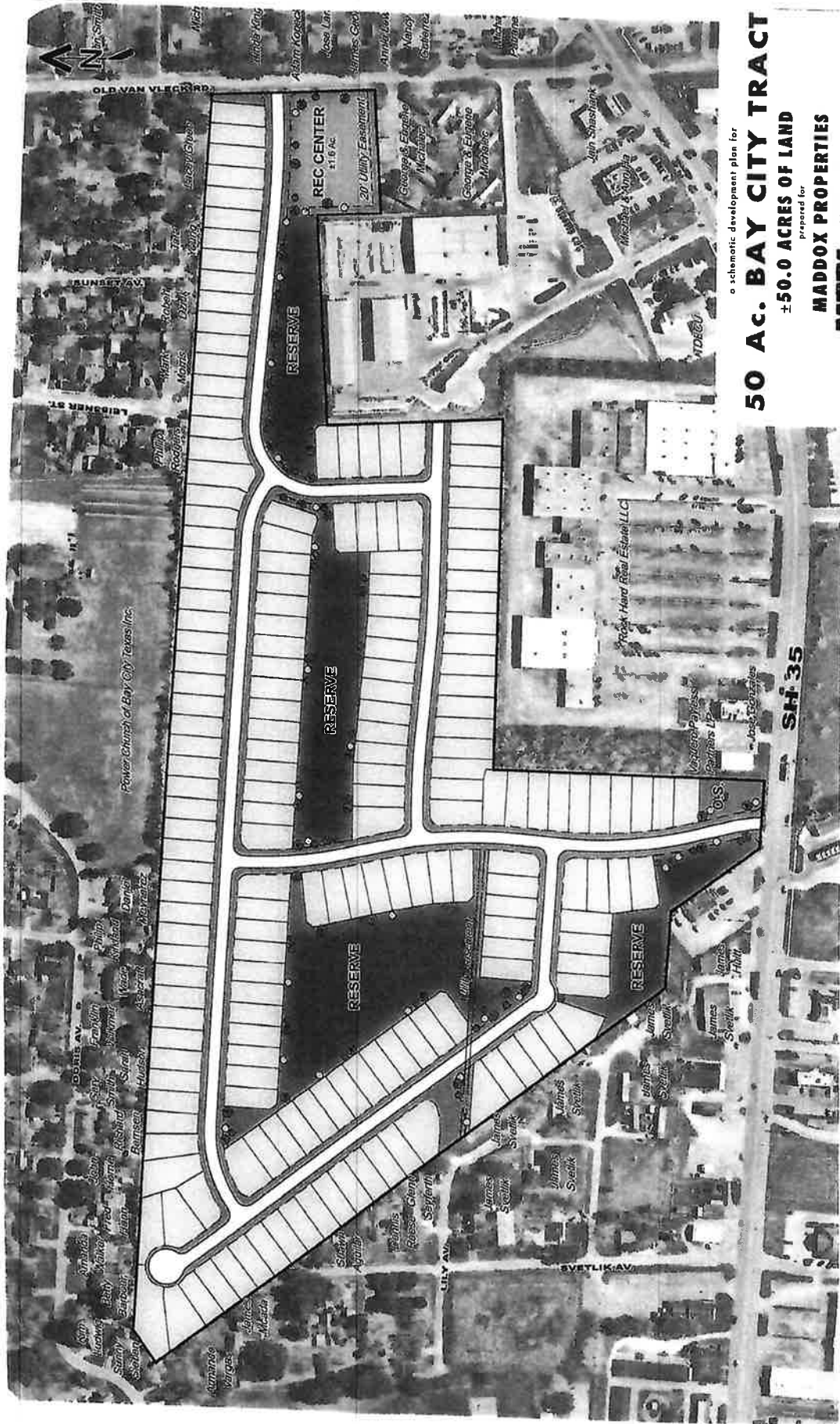
G & W ENGINEERS, INC.
 TBPLS Firm No. 10022100
 Henry A. Danysh
 Registered Professional
 Land Surveyor, No. 5088



Page Three



DEPICTION OF THE PROPERTY



50 AC. BAY CITY TRACT

±50.0 ACRES OF LAND

Prepared for

MADDOX PROPERTIES
24275 Katy Freeway, Ste. 200
Katy, Texas 77494
Tel: 281-610-1422

MTA
REGISTERED ENGINEER

SCALE
0 10 20 40 Feet

MTA-4688
JANUARY 12, 2021

LOT SUMMARY

50'x125'	189 LOTS	100%
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TOTAL 189 LOTS

THIS MAP IS A GRAPHIC REPRESENTATION FOR INFORMATION PURPOSES ONLY AND IS NOT FOR CONSTRUCTION OF CONSTRUCTION PERMITS. THE MAP IS A SCHEMATIC DEVELOPMENT PLAN FOR THE PROPERTY AND IS NOT TO BE USED FOR CONSTRUCTION OF CONSTRUCTION PERMITS. THE MAP IS A SCHEMATIC DEVELOPMENT PLAN FOR THE PROPERTY AND IS NOT TO BE USED FOR CONSTRUCTION OF CONSTRUCTION PERMITS.

#8064826.1

Exhibit B

ORDINANCE AMENDING THE CITY CODE OF ORDINANCES RELATING SECTIONS OF CHAPTER 38 ARTICLE V, NOISE INCLUDING SEC. 38.171 UNREASONABLE NOISE PROHIBITED AND SEC. 38.172 SPECIFIC NOISES, ACTS DECLARED LOUD AND DISTURBING; CREATING NEW SECTION 38.173 TESTS AND STANDARDS FOR NOISES; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS that the following amendment(s) are adopted as Amendments to Chapter 38 Article V, Section 38.171, Section 38.172, and creation of Section 38.173 in its Code of Ordinances.

Section 1. The following amendments are to be made to Sections as indicated of the Code of Ordinances. All insertions are made with red colored letters and all deletions are shown as such.

Sec. 38-171. - Unreasonable noise prohibited.

~~The creation of any unreasonable loud, disturbing and unnecessary noises in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited.~~

It shall be unlawful for any person to make, permit or allow to be made, or cause to be made or continued, any loud, unnecessary or unusual noise or any noise which disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of others within the limits of the city, unless the making and continuing of such noise is necessary for the improvement, protection or preservation of property or the health, safety, life or limb of some person.

Sec. 38-172 Specific noises, acts declared loud and disturbing.

(2)The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between 11:00 p.m. and 7:00 a.m. as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity. No stationary loudspeaker or amplifier shall be operated on any weekday between the hours of 11:00 p.m. and 7:00 a.m., and no such stationary loudspeaker or amplifier shall be operated at any time on Sunday between the hours of 7:00 a.m. and 1:00 p.m. In residential areas, noise shall not exceed sixty (60) dB(a) from 7 a.m. to 10 p.m. Noise shall not exceed fifty (50) dB(a) after 10 p.m. to 7 a.m. In and around non-residential property, noise shall not exceed sixty (60) dB(a) after 10 p.m. on a Sunday, Monday, Tuesday, Wednesday, or Thursday and before 7 a.m. on the following morning or after 12 a.m. and before 7 a.m. on a Saturday or Sunday.

(15) *Mufflers.* No person shall operate a gasoline engine or any similar engine of any kind unless the engine shall be equipped with an exhaust muffler in effective working condition, which muffler shall be used whenever the engine is in operation so that there will be no excessive or unusual noise, or the engine shall be so constructed or designed that the noise is

deadened as if such engine were equipped with a muffler. No person shall operate a motor vehicle upon any street unless such motor vehicle is equipped with a muffler at all times in good working order sufficient to prevent excessive or unusual noise.

Sec. 38.173 Tests and standards for noises.

Factors to consider: The standards which shall be considered in determining whether a violation of subsection (20) of section 10-20 exists shall include but shall not be limited to the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or artificial.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature of the area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or constant.
- (12) Whether the noise is produced by a commercial or noncommercial activity.

Section 2: Other than as amended herein, all remaining sections of Chapter 38 Article V, remain in full force and effect. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED AND APPROVED on this 28th day of September, 2021.

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

ATTEST:

APPROVED AS TO FORM:

Jeanna Thompson,
City Secretary
City of Bay City, Texas

Anne Marie Odefey, City Attorney

Council Member:	Voted Aye	Voted No	Absent
Robert K. Nelson, Mayor	_____	_____	_____
Floyce Brown	_____	_____	_____
James Folse	_____	_____	_____
Jason Childers	_____	_____	_____
Becca Sitz	_____	_____	_____
Brad Westmoreland	_____	_____	_____

ORDINANCE NO. 1660

AN ORDINANCE OF THE CITY OF BAY CITY, TEXAS, REVISING THE FEE SCHEDULE LABELED “APPENDIX B” IN THE CODE OF ORDINANCES OF THE CITY OF BAY CITY, TEXAS; ADOPTING NEW FEES FOR CHAPTER 70 PARKS AND RECREATION; PROVIDING FOR REPEAL; PROVIDING FOR RATIFICATION; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bay City, Texas, (“City”) has adopted numerous ordinances that provide for fees and charges for various city services; and

WHEREAS, the City has determined that it would be convenient to consolidate those fees and charges into one ordinance that can be reviewed and amended as needed from time to time; and

WHEREAS, the City has determined that the fees and charges specified herein are reasonable, necessary, fair, and designed to fund the various activities to which they pertain; and

WHEREAS, the City has determined that the fees and charges specified herein will promote the health, safety, and welfare of City;

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

Section 1. The facts and recitations contained in the preamble to this Ordinance are true and correct and incorporated herein for all purposes.

Section 2. *Fees Schedule adopted.* The City hereby adopts the Fee Schedule for Chapter 70 attached hereto as Exhibit “A” and labeled “Appendix B” in the City of Bay City, Texas, Code of Ordinances and imposes the fees and charges set forth therein upon the various services to which they pertain. These fees and charges shall be collected by the City in accordance with the various City ordinances that more particularly describe each such fee or charge.

Section 3. *Repeal.* All ordinances or parts of ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

Section 4. *Ratification.* The City ratifies any past action taken regarding charging of fees.

Section 5. *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Bay City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 6. *Effective Date.* This Ordinance shall be effective on January 1, 2021 and may be published as required by law.

PASSED, APPROVED, AND ADOPTED on this 15th day of December 2020.



Jeanna Thompson

Jeanna Thompson, City Secretary
City of Bay City

Robert K. Nelson

Robert K. Nelson, Mayor
City of Bay City

APPROVED AS TO FORM:

Anne Marie Odefey

Anne Marie Odefey, City Attorney

Council Member:

Voted Aye

Voted No

Absent

Robert K. Nelson

☒

Mayor

Floyce Brown

☒

Jim Folse

☒

Jason Childers

☒

Mayor Pro Tem

Becca Sitz

☒

Brent Marceaux

☒

APPENDIX B - FEE SCHEDULE (NEW FEES TO BE ADDED TO EXISTING PARKS FEES)

Section Number	Subject	Fee Amount
Chapter 70 – Parks and Recreation		
	Facility - Service Center	
	(1) Service Center- Library Room	\$150.00/day + \$100.00 Deposit
	(2) Service Center- Kitchen	\$150.00/day + \$100.00 Deposit
	(3) Service Center- Dining Room	\$150.00/day + \$100.00 Deposit
	(4) Service Center- Gusman Room	\$150.00/day + \$100.00 Deposit
	(5) Service Center- Lobby	\$400.00/day + \$100.00 Deposit
	(6) Service Center- Entire Facility	\$1,800/day + \$500.00 Deposit
(a) Civic, Social, Charitable, Non-profit, and Other Governmental organizations shall pay one-half the rental fee for Service Center options 1-5 and one-third the rental fee of option 6. Municipal and County Government shall be charged an administrative recovery fee of \$50 for options 1-5 and \$100 for options 6. All parties pay the same deposit with the exception of Municipal and County Government.		
(b) A charge of \$25.00 per hour per person for City staff to set and take down. This only applies to the Auditorium or Entire Facility Rental.		
(c) Facility Use Hours: Monday-Sunday are 8:00 AM to 10:00 PM. Any time needed beyond 10:00 PM shall be charged \$100.00/hour inclusive of cleaning time.		