



BAY CITY

MINUTES • AUGUST 10, 2017

Council Chambers

Regular Meeting

7:00 PM

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

1. CALL TO ORDER

2. INVOCATION AND PLEDGE OF ALLEGIANCE - COUNCILMAN JASON CHILDERS

Attendee Name	Title	Status	Arrived
Becca Sitz	Councilwoman	Present	
Jason Childers	Councilman	Present	
Mark A. Bricker	Mayor	Present	
Chrystal Folse	Councilwoman	Present	
William Cornman	Mayor Pro-Tem	Present	
Julie Estlinbaum	Councilwoman	Present	

3. CERTIFICATION OF QUORUM

A quorum was certified by Mayor Mark A. Bricker.

4. APPROVAL OF AGENDA

The agenda was approved by motion. The motion was made by Councilwoman, Julie Estlinbaum and seconded by Councilwoman Chrystal Folse. The motion was approved unanimously.

5. 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.

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.

None

6. CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

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

Each consent agenda item was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilman Jason Childers. The motion was approved unanimously.

1. Appointment

~ DISCUSS, CONSIDER AND/OR APPROVE THE MAYOR'S APPOINTMENT OF JUDITH ALLEN TO THE BAY CITY HISTORIC COMMISSION BOARD AS CHAIRPERSON.

Approved

2. Resolution

~ DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION ACCEPTING A NEW DRAINAGE EASEMENT FROM TX BAY CITY HOSPITALITY, INC. IN EXCHANGE FOR THE CITY'S ABANDONMENT/RELEASE TO OWNER OF PRIOR DRAINAGE EASEMENTS.

Marla Jasek, Asst Director Public Works

Approved

3. Resolution

DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION TO ADOPT THE CITY'S BUDGETARY AND FINANCIAL MANAGEMENT POLICIES.

Scotty Jones, Director of Finance

Approved

4. Appointment

~ APPOINT COUNCILWOMAN BECCA SITZ TO REPRESENT THE CITY OF BAY CITY ON THE BAY CITY ECONOMIC ACTION COMMITTEE.

Mayor Mark A. Bricker

Approved

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

1. Proclamation

~ PROCLAMATION - NATIONAL HEALTH CENTER WEEK, AUGUST 13 - 19, 2017.

Mayor Mark A. Bricker

The National Health Center Proclamation was presented and discussed by guest, Jessica Russell with MEHOP. Mayor Mark A. Bricker made the official Proclamation.

2. Report

~ CONSIDER PLACING A PROPOSAL TO ADOPT A TAX RATE FOR THE 2017 – 2018 FISCAL YEAR AS AN ACTION ITEM ON THE AGENDA OF A FUTURE MEETING, SPECIFYING THEREIN THE DESIRED RATE AND PUBLISHING NOTICE THEREOF.

Finance Director, Scotty Jones

Finance Director, Scotty Jones presented the information regarding the Fiscal Year 2018 Tax Rate Proposal.

Councilman Bill Cornman made the following motion: "I approve placing a proposal to adopt a tax rate for fiscal year 2018 as an action item on the September 14, 2017 Council agenda with a desired rate of .65500 per 100 value and publishing notice thereof."

The motion was seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.

3. Report

~ CONSIDER SETTING TWO (2) PUBLIC HEARINGS ON THE PROPOSED 2017 TAX RATE FOR THURSDAY, AUGUST 24, 2017 AND THURSDAY AUGUST 31, 2017.

Finance Director, Scotty Jones

Finance Director, Scotty Jones presented to the Council and Mayor suggestions regarding public hearings to set a tax rate for Fiscal Year 2018. The dates decided upon by motion, were August 24, 2017 and August 31, 2017. The Motion was made by Councilman Bill Cornman and seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.

4. Report

~ CONSIDER SETTING TWO (2) PUBLIC HEARINGS ON THE PROPOSED 2017 - 2018 FISCAL YEAR BUDGET AND THE 5 YEAR CAPITAL IMPROVEMENT PLAN FOR THURSDAY, AUGUST 24, 2017 AND THURSDAY, AUGUST 31, 2017.

Finance Director, Scotty Jones

Finance Director, Scotty Jones presented to the Council and Mayor suggestions regarding public hearings for Fiscal Year 2018 budget. The dates decided upon by motion, were August 24, 2017 and August 31, 2017. The Motion was made by Councilman Jason Childers and seconded by Councilwoman Becca Sitz. The motion was approved unanimously.

5. Agreement

~ DISCUSS, CONSIDER AND/OR APPROVE THE DEVELOPMENT FINANCING AGREEMENT BY AND AMONG THE CITY OF BAY CITY, TEXAS REINVESTMENT ZONE NUMBER TWO, CITY OF BAY CITY AND BAY CITY COMMUNITY DEVELOPMENT CORPORATION.

BCCDC Director, DC Dunham

Bay City Community Development Corporation Director, DC Dunham, made the TIRZ #2 Financing agreement presentation to the Council and Mayor.

6. Bid

~ DISCUSS, CONSIDER, AND/OR APPROVE AWARDDING THE CONSTRUCTION BID FOR THE GRACE WATER PLANT IMPROVEMENTS PROJECT TO W.W. PAYTON CORPORATION IN THE AMOUNT OF \$570,000.00 AND AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT APPROVED TO FORM BY THE CITY ATTORNEY BETWEEN THE CITY OF BAY CITY AND W.W. PAYTON CORPORATION.

Barry Calhoun, Director of Public Works

Public Works Director, Barry Calhoun reviewed the bid specifics for the Grace Street Water Plant improvement project. The recommended to Mayor and Council to award the bid to the W. W. Peyton Company. The recommendation was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilman Jason Childers. The motion was approved unanimously.

7. Ordinance

~ DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 46 FLOODS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Marla Jasek, Asst Director Public Works

Assistant Public Works Director, Marla Jasek presented the Floodplain Ordinance to Mayor and Council members. This is an attempt to update and improve the existing plan. The plan was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilwoman Becca Sitz. The motion passed unanimously.

8. Property

~ DISCUSS, CONSIDER, AND/OR APPROVE A REQUEST TO DEEM ONE (1) POLICE DEPARTMENT VEHICLE AS SURPLUS AND AUTHORIZE STAFF TO SELL SAID SURPLUS VEHICLE BY PUBLIC AUCTION.

James Reckaway

This item was tabled until a future Council meeting.

9. Agreement

~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION APPOINTING THE LAW FIRM OF DENTON, NAVARRO, ROCHA, BERNAL & ZECH, P.C., TO PROVIDE LEGAL SERVICES AS CITY ATTORNEY AND DESIGNATING A CITY ATTORNEY AND ASSISTANT CITY ATTORNEYS.

Mayor Mark A. Bricker

The resolution to approve the law firm of Denton, Navarro, Rocha, Bernal and Zech, P. C. as legal council for the City of Bay City was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.

10. Litigation

~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION AUTHORIZING A LAWSUIT AGAINST CP LIVING 23 (TEXAS) LP, CP LIVING (TX) LLC, AND CP 23 (TX), LLC IN MATAGORDA COUNTY, TEXAS AND APPOINTING THE LAW FIRM OF DENTON, NAVARRO, ROCHA, BERNAL, AND ZECH, PC TO REPRESENT THE CITY IN THIS LAWSUIT.

Mayor Mark A. Bricker

The resolution to approve the law firm of Denton, Navarro, Rocha, Bernal and Zech, P. C. representing the City of Bay City in litigation against CP Living 23 was approved by motion. The motion was made by Councilwoman Julie Estlinbaum and seconded by Councilwoman Chrystal Folse. The motion was approved unanimously.

8. EXECUTIVE SESSION

The Council and Mayor went into Executive Session at 7:10 PM and again at 8:10PM. They returned to open session at 9:05PM.

1. Appointment

~ PURSUANT TO SEC. 551.074 OF THE TEXAS GOVERNMENT CODE (PERSONNEL MATTERS) CITY COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE ON THE APPOINTMENT, EMPLOYMENT, EVALUATION, AND DUTIES OF THE CITY ATTORNEY.

Mayor Mark A. Bricker

2. Litigation

~ PURSUANT TO SEC. 551.071 OF THE TEXAS GOVERNMENT CODE (CONSULTATION WITH ATTORNEY) CITY COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING PENDING LITIGATION: CITY OF BAY CITY, TEXAS V. CP LIVING 23 (TEXAS) LP, CP LIVING (TX) LLC, AND CP 23 (TX).

Mayor Mark A. Bricker

3. Agreement

~ PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071(CONSULTATION WITH ATTORNEY), COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BAY CITY, TEXAS AND APPLE TEXAS RESTAURANTS, INC.

Mayor Mark A. Bricker

4. Personnel

~ PURSUANT TO SEC. 551.074 OF THE TEXAS GOVERNMENT CODE (PERSONNEL MATTERS) CITY COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO DELIBERATE ON THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE; TO WIT: HUMAN RESOURCES DIRECTOR, RHONDA CLEGG.

Councilman, Jason Childers

9. OPEN SESSION

The decision to honor the economic agreement with Apple Texas Restaurants was approved by motion. The Motion was made by Councilwoman Julie Estlinbaum and seconded by Councilman Jason Childers. The motion was approved unanimously.

1. Report

~ CITY COUNCIL SHALL RECONVENE IN OPEN SESSION AND MAY DISCUSS, CONSIDER, AND/OR TAKE ACTION ON ANY ITEM LISTED ABOVE THAT WAS CONSIDERED AND DISCUSSED IN EXECUTIVE SESSION (IF NECESSARY).

Mayor Mark A. Bricker

10.ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

11.ADJOURNMENT

AGENDA NOTICES:

Action by Council Authorized:

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

Attendance By Other Elected or Appointed Officials:

It is anticipated that members of other city board, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the other city boards, commissions and/or committees. Notice is hereby given that the meeting, to the extent required by law, is also noticed as a meeting of the other boards, commissions and/or committees of the City, whose members may be

Agenda City Council August 8, 2013 in attendance. The members of the boards, commissions and/or committees may participate in discussions on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless such item and action is specifically provided for on an agenda for that board, commission or committee subject to the Texas Open Meetings Act.

Executive Sessions Authorized:

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

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on Friday, August 4, 2017 before 7:00 p.m. Any questions concerning the above items, please contact Mayor Mark A. Bricker at (979) 245-2137.

David Holubec
City Secretary



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Appointment
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2718

AGENDA ITEM (ID # 2718)

**~ DISCUSS, CONSIDER AND/OR APPROVE THE MAYOR'S
APPOINTMENT OF JUDITH ALLEN TO THE BAY CITY
HISTORIC COMMISSION BOARD AS CHAIRPERSON.**

As we manage our boards and commissions, we are finding that many of our members have not been renewed by Mayor and Council for a number of years. This is an agenda item to correct this issue so we are following the organization's by-laws as they pertain to membership terms in office. Judith Allen has agreed to stay on as Chairperson until we find her replacement.

COMMENTS - Current Meeting:

Approved



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: Public Works
Category: Property
Prepared By: Marla Jasek
Initiator: Marla Jasek
Sponsors:
DOC ID: 2720

RESOLUTION (ID # 2720)

**~ DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION
ACCEPTING A NEW DRAINAGE EASEMENT FROM TX BAY
CITY HOSPITALITY, INC. IN EXCHANGE FOR THE CITY'S
ABANDONMENT/RELEASE TO OWNER OF PRIOR
DRAINAGE EASEMENTS.**

TX BAYCITY HOSPITALITY, INC. is requesting that the City abandon two existing drainage easements and convey a new drainage easement to match the current drainage channel.

In October 2001, two (2) consecutive drainage easements, which run diagonally from the northwest corner of the property to the east property line, were dedicated and accepted by the City. When the Studio 6 Motel was constructed in 2006, the drainage was re-routed to drain from west to east along the north property line and then south along the east property line until it exited the property. The drainage change was approved and shown on the construction drawings; however the documents for the new easement and release of the old easements were not prepared and approved.

There are no known problems with drainage in the channel as it exists today. Staff recommends approval of Resolution accepting a new drainage easement from TX BAYCITY HOSPITALITY, INC. and release of the prior easements.

COMMENTS - Current Meeting:

Approved

RESOLUTION NO. _____

ACCEPTANCE OF A NEW DRAINAGE EASEMENT FROM TX BAYCITY HOSPITALITY, INC. IN EXCHANGE FOR CITY ABANDONMENT/RELEASE TO OWNER OF PRIOR DRAINAGE EASEMENT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, DETERMINING THAT ABANDONMENT/RELEASE OF PRIOR CITY DRAINAGE EASEMENTS THROUGH THE PROPERTY TO OWNER, IN EXCHANGE FOR ACCEPTANCE OF A NEW DRAINAGE EASEMENT ALONG THE NORTH AND NORTHEAST PROPERTY LINE; APPROVING THE ACCEPTANCE OF SAID DRAINAGE EASEMENT FROM TX BAYCITY HOSPITALITY, INC, PROPERTY OWNER OF A TRACT OF LAND CONTAINING 0.67 ACRES, BEING OUT OF LOT 1 OF THE 1ST NATIONAL BANK'S BUCKS BAYOU SUBDIVISION, THE SAME PROPERTY DESCRIBED AS 1.00 ACRE AND 2 ACRES IN A WARRANTY DEED RECORDED IN FILE NO. 051897 OF THE OFFICIAL RECORDS OF MATAGORDA COUNTY, TEXAS, AS MORE PARTICULARLY DESCRIBED HEREIN AND AUTHORIZING ABANDONMENT/RELEASE TO OWNER OF PRIOR CITY EASEMENT IN EXCHANGE FOR NEW SUBJECT EASEMENT.

WHEREAS, the City Council of the City of Bay City finds and determines that public convenience and necessity requires the acceptance for dedication of a new replacement easement for drainage and owner, TX BAYCITY HOSPITALITY, INC., has agreed to dedicate easements over, across and under a certain property being along the north and northeast property lines of Lot 1 of the 1st National Bank's Bucks Bayou Subdivision, recorded in File No. 051897 of the Official Records of Matagorda County, Texas, as described in the attached "*Drainage Easement and Right of Way*" conveying a 0.67 acre drainage easement (Exhibit A) with referenced Survey (Exhibit B), all attached hereto and incorporated by reference, in exchange for the City's abandonment and release of prior recorded City drainage easements, as provided and described in the "*Release, Termination, Cancellation and Abandonment of Easements*" and referenced exhibits which are attached hereto and incorporated by reference; and

WHEREAS, the City of Bay city, through its duly authorized representatives, has been able to agree with owners, TX BAYCITY HOSPITALITY, INC., for acceptance of such "*Drainage Easement and Right of Way*" by the City for therein stated purpose, and TX BAYCITY HOSPITALITY, INC. has agreed to donate and grant the subject Easement for dedication to the City of Bay City upon terms contained in the said Easement; and

WHEREAS, the City of Bay City has agreed to the abandonment and release of prior City drainage easements, as provided and described in the "*Release, Termination, Cancellation and Abandonment of Easements*" and referenced attached exhibits, which are attached hereto and incorporated by reference, in exchange for the above referenced "*Drainage Easement and Right of Way*", it being determined that the subject exchange is with the owner who owns the underlying fee and such exchange is in the best interest of the City for its current needs for rights-of-way/public purposes;

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

Attachment: Studio 6 Resolution (2720 : Studio 6 Easements)

- Section 1. The facts and matters set forth in the preamble of this Resolution are hereby found to be true and correct.
- Section 2. The City Council of the City of Bay City finds that it shall accept the subject easement from owner, TX BAYCITY HOSPITALITY, INC., as provided in the *"Drainage Easement and Right of Way"* with reference Exhibits "A" and "B" attached hereto and incorporated by reference over the therein described tract of land, in exchange for the City's abandonment and release of prior City drainage easements, as provided and described in the *"Release, Termination, Cancellation and Abandonment of Easements"* which is attached hereto and incorporated by reference.
- Section 3. The Mayor is authorized to execute any documentation necessary to accept, document, release and/or record the *"Drainage Easement and Right of Way"* and the *"Release, Termination, Cancellation and Abandonment of Easements"*, as provided herein.

PASSED, APPROVED AND RESOLVED THIS 10TH DAY of August 2017.

CITY OF BAY CITY, TEXAS

Mark Bricker, Mayor

ATTEST:

David Holubec, City Secretary

Attachment: Studio 6 Resolution (2720 : Studio 6 Easements)

City of Bay City
Attention: City Secretary
1901 5th Street
Bay City, TX 77414

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

DRAINAGE EASEMENT AND RIGHT OF WAY

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
COUNTY OF MATAGORDA §

THAT TX BAYCITY HOSPITALITY, INC., a Texas corporation, herein called "GRANTOR", for and in consideration of the sum of \$10.00 cash and other good and valuable consideration in hand paid by the City of Bay City, hereinafter called "GRANTEE", the receipt and sufficiency of which are hereby acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY, unto GRANTEE, its successors and assigns, an easement and right-of-way for the sole and exclusive purpose of a drainage easement, including but not limited to the placing, construction, operating, repairing, maintaining, rebuilding or replacing, relocating and removing a pipeline and/or pipelines, along, upon across and beneath the certain parcel of land located in the 1st National Bank's Bucks Bayou Subdivision, Matagorda County, Texas, as described in Exhibits "A" and "B", all as attached hereto and made a part hereof for all purposes.

The drainage easement and right of way herein granted is perpetual and is expressly made subject to the following terms, covenants and conditions:

I.

Said easement and right-of-way is granted for the sole and limited purpose, and no other, of enabling GRANTEE to construct, operate, maintain, repair, remove and replace stormwater drainage and flood control improvements for the purpose of controlling the flow of surface and flood waters and to afford better drainage. GRANTEE may remove brush or natural growth that interferes with GRANTEE'S use.

II.

GRANTOR reserves for itself, its successors and assigns, a right of ingress and egress over and across the easement described herein so long as that right of ingress and egress does not substantially interfere with the easement granted. Nothing herein shall permit GRANTOR to construct or install any structures, culvert pipes or other improvements in said easement without the

express written consent of GRANTEE, which consent may be conditioned upon GRANTOR's obligation, at the sole cost and expense of GRANTOR, to comply with GRANTEE's plans and/or requirements and/or specifications, but which consent shall not be unreasonably withheld if said conditions are met.

III.

This conveyance shall be for GRANTEE to have and to hold the above described easement and right of way, together with all and singular the rights and appurtenances thereunto in any wise belonging, unto the said City of Bay City, its successors and assigns forever.

IV.

GRANTEE shall, at its own cost and expense, clean up the debris caused by any municipal construction or repair in a workmanlike manner and shall maintain the property and promptly repair all damage and deterioration caused by GRANTEE'S use thereof. Any construction debris caused by GRANTOR shall be removed by GRANTOR at GRANTOR'S expense.

V.

GRANTOR reserves all oil, gas and other minerals in, on or under the above described property.

VI.

The easements and other rights and privileges herein conveyed to GRANTEE shall be subject to termination upon the occurrence of one or more of the following:

- A. When the purposes hereof cease to exist.
- B. When abandoned by GRANTEE.
- C. The use by GRANTEE of the property for any other purpose; or
- D. The breach by GRANTEE of the terms of this agreement.

Termination hereof may be sought in a court of competent jurisdiction after notice to GRANTEE and opportunity to cure or remedy such failure, omission or breach, within thirty (30) days from the date of such notice. No waiver of any default, breach or non-compliance with respect to any of the covenants, conditions, undertakings or provisions hereof which may be granted or tolerated by GRANTOR shall operate as or be construed to constitute a waiver of any subsequent or different breach or default or of any subsequent or different non-compliance or as a waiver of any of GRANTOR'S rights under this paragraph with respect to any such subsequent or different breach or default or any such subsequent or different non-compliance.

VII.

Any notice to be given by one party to the other hereunder shall be delivered or deposited into the custody of the United States Postal Service by certified mail, return receipt requested, postage prepaid, and addressed to the following:

GRANTOR:
Tx Baycity Hospitality, Inc.
1823 Emerald Trace Lane
Pearland, TX 77584

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

VIII.

This agreement shall be binding upon the administrators, heirs, executors, assigns and successors of the parties hereto.

IX.

This agreement contains the entire agreement of the parties and may not be amended without the written consent of all parties.

[Signature pages follow this page.]

Attachment: Studio 6 new easement (2720 : Studio 6 Easements)

Executed and effective the date set forth below.

GRANTOR:

TX BAYCITY HOSPITALITY, INC.

BY: _____

Nakul D. Bhatka, General Manger

Dated: _____

THE STATE OF TEXAS §

§

COUNTY OF MATAGORDA §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally Nakul D. Bhatka, General Manager for TX BAYCITY HOSPITALITY, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____ 2017.

NOTARY PUBLIC in and for
MATAGORDA COUNTY, TEXAS

GRANTEE:

THE CITY OF BAY CITY

BY: _____

Mark Bricker, Mayor

ATTEST: _____

David Holubec, City Secretary

Dated: _____

THE STATE OF TEXAS §

§

COUNTY OF MATAGORDA §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Mark A. Bricker, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____ 2017.

NOTARY PUBLIC in and for
MATAGORDA COUNTY, TEXAS

EXHIBIT A

**PROPERTY DESCRIPTION
DRAINAGE EASEMENT
0.67 ACRE**

**STATE OF TEXAS }
COUNTY OF MATAGORDA }**

All of that certain tract or parcel containing 0.67 acre situated in the I. & G. N. R. R. Company Survey 5, Block 3, Abstract No. 274 of Matagorda County, Texas and being a part of Lot 1 of the First National Bank's Bucks Bayou Subdivision relative to the plat recorded in Volume 1, Page 67 of the Plat Records of Matagorda County, Texas and being the same property described as 1.00 acre and 2 acres in Warranty Deed dated March 10, 2005 from Don Kelly and Teri Kelly to Tx Bay City Hospitality, Inc., recorded in File No. 051897 of the Official Records of Matagorda County, Texas. This 3.00 acres is more particularly described by metes and bounds as follows:

BEGINNING at an existing 1/2 inch iron rod (N=13,557,196.89; E=2,949,910.37) located in the Northeast line of a 5.6768 acre tract described in Deed recorded in File No. 078216 of the Official Records of Matagorda County, Texas and at the South corner of a 1.97 acre tract described in Deed recorded in File No. 095747 of the Official Records of Matagorda County, Texas and at the West corner of the above referenced 1.00 acre tract for the West corner of this 0.67 acre being described;

THENCE North 54° 43' 44" East [Deed call = North 57° 14' East], with the Southeast line of the said 1.97 acre tract and the Northwest line of the said 1.00 acre tract and the Northwest line of the above referenced 2 acre tract, a distance of 236.86 feet [Deed calls = 79.03 feet and 158.08 feet] to a 5/8 inch iron rod with plastic cap set at the West corner of a 0.46 acre tract described in Deed recorded in File No. 037244 of the Official Records of Matagorda County, Texas and at the North corner of the said 2 acre tract for the North corner of this 0.67 acre being described;

THENCE South 35° 26' 45" East [Deed call = South 32° 46' East], with the Southwest line of the said 0.46 acre tract and the Southwest line of a 0.87 acre tract described in Deed recorded in File No. 20144322 of the Official Records of Matagorda County, Texas and the Southwest line of a 0.4855 acre tract described in Deed recorded in Volume 194, Page 764 of the Official Records of Matagorda County, Texas and the Northeast line of the said 2 acre tract, a distance of 260.07 feet for the East corner of this 0.67 acre being described;

THENCE South 54° 33' 15" West a distance of 60.00 feet for the South corner of this 0.67 acre being described;

Page One



**PROPERTY DESCRIPTION
DRAINAGE EASEMENT
0.67 ACRE**

(continued)

THENCE North 35° 26' 45" West a distance of 87.00 feet for an interior corner of this 0.67 acre being described;

THENCE South 54° 33' 15" West a distance of 10.00 feet for a corner of this 0.67 acre being described;

THENCE North 35° 16' 16" West a distance of 103.29 feet for an interior corner of this 0.67 acre being described;

THENCE South 54° 43' 44" West a distance of 167.17 feet to the common line between the said 5.6768 acre tract and the said 1.00 acre tract for a corner of this 0.67 acre being described;

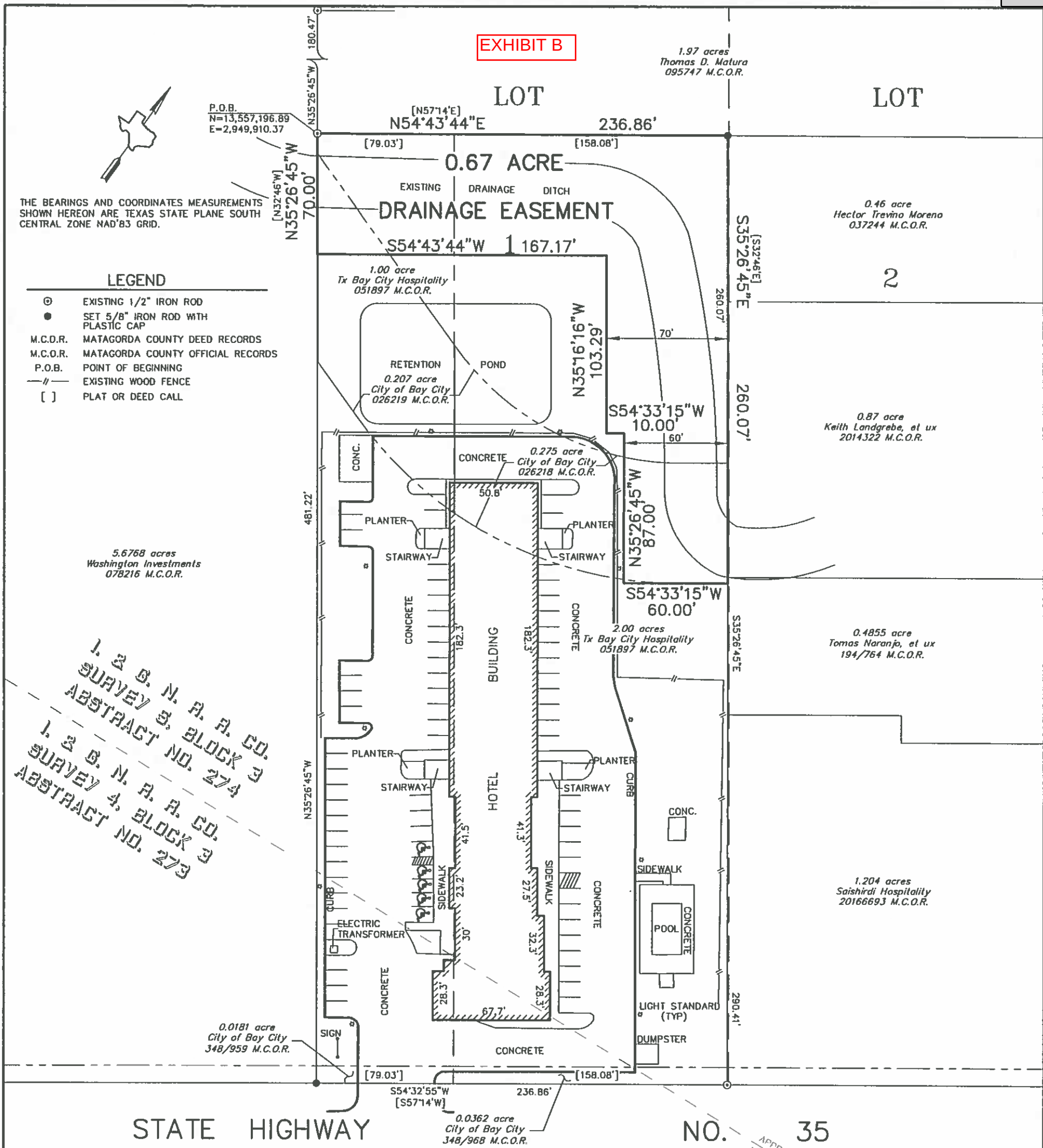
THENCE North 35° 26' 45" West [deed call = North 32° 46' West], with the common line between the said 5.6768 acre tract and the said 1.00 acre tract, a distance of 70.00 feet to the **PLACE OF BEGINNING**, containing within these metes and bounds 0.67 acre.

The bearings and coordinates and measurements recited herein are Texas State Plane South Central Zone NAD'83 Grid. This property description and a plat were prepared from a survey made on the ground under my direction on July 12, 2017.


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



Page Two



Attachment: Studio 6 Easement-Exhibit-B (2720 : Studio 6 Easements)

FILE NO.: 7659-001A	G & W ENGINEERS, INC. • ENGINEERING • SURVEYING • PLANNING • 205 W. LIVE OAK STREET, PORT LAVACA, TEXAS 77979 TBPLS FIRM NO.: 10022100 (361) 552-4509; PORT LAVACA (979) 323-7100; BAY CITY	DRAWN BY: T.E.T.
JOB NO.: 7659-001		CHECKED BY: H.A.D.
SCALE: 1" = 60'		DATE: JULY 21, 2017

AFTER RECORDING RETURN TO:

City of Bay City
 Attention: City Secretary
 1901 5th Street
 Bay City, TX 77414

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

**RELEASE, TERMINATION, CANCELLATION
 AND ABANDONMENT OF EASEMENT**

THE STATE OF TEXAS §
 § KNOW ALL BY THESE PRESENTS:
 COUNTY OF MATAGORDA §

THAT THE UNDERSIGNED, CITY OF BAY CITY, herein called "GRANTOR", for and in consideration of the sum of \$10.00 cash and other good and valuable consideration to Grantor in hand paid by TX BAYCITY HOSPITALITY, INC., a Texas corporation, herein called "GRANTEE", whose address is 1823 Emerald Trace Lane, Pearland, TX 77584, the receipt of which is hereby acknowledged,

HAS RELEASED, REMISED AND RELINQUISHED, and by these presents does hereby RELEASE, REMISE AND RELINQUISH, unto Grantee and does hereby further TERMINATE, CANCEL AND ABANDON that certain 0.275 acre easement and that certain 0.207 acre easement as described in certain Easement Agreements dated October 31, 2001 from Palivela P. Raju and A. M. Durrani to Grantor and recorded as County Clerk's File Numbers 026218 and 026219, respectively, in the Official Records of Matagorda County, Texas on September 12, 2002, said 0.275 acre and 0.207 acre Easements being described in Exhibit "A-1" and "B-1", respectively, as attached hereto and made a part hereof for all purposes.

EXECUTED THE ____ DAY OF _____, 2017.

THE CITY OF BAY CITY

BY:

 Mark Bricker, Mayor

Attachment: Studio 6 Release (2720 : Studio 6 Easements)

ATTEST:

David Holubec, City Secretary

Dated: _____

THE STATE OF TEXAS §

§

COUNTY OF MATAGORDA §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Mark A. Bricker, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____ 2017.

NOTARY PUBLIC in and for
MATAGORDA COUNTY, TEXAS

Attachment: Studio 6 Release (2720 : Studio 6 Easements)

026218

EASEMENT AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
 COUNTY OF MATAGORDA §

1. GRANT OF EASEMENT

That we, Palivela P. Raju and A.M Durrani, hereinafter called Grantors, for and in consideration of TEN DOLLARS (\$10) and other good and valuable consideration paid by the CITY OF BAY CITY, hereinafter called Grantee, does hereby GRANT, SELL, and CONVEY to Grantee an easement and right-of-way across the tract of land/s described in the attached exhibits "A" and "B", attached hereto and incorporated herein by reference for all intents and purposes.

2. LOCATION OF EASEMENT

The easement and right-of-way hereby conveyed shall be a 70-foot easement upon and across the tract referenced above, and said easement is more particularly described in the attached exhibits "A", and "B".

3. PURPOSE OF EASEMENT

The right-of-way, easement, rights and privileges herein granted shall be used for the purpose of a drainage easement, including, but not limited to the placing, construction, operating, repairing, maintaining, rebuilding or replacing, relocating and removing a pipeline and/or pipelines.

(Parcel 3)

Drainage Easement - Page 1 of 5



0350018446001
 Year: 2002 No: 026218 Type: E

ORIGINAL

EXHIBIT A-1

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

4. *DURATION OF EASEMENT*

The easement rights and privileges granted herein shall be perpetual. Grantors hereby bind themselves, their heirs, legal representatives, successors and assigns to warrant and forever defend the above-described easement and right-of-way to Grantee, its successors and assigns, against every person, whomsoever claiming or to claim the same or any part hereof.

5. *EXCLUSIVENESS OF EASEMENT*

The easement, rights, and privileges granted herein are exclusive, and Grantors covenants that they will not convey any other easement or conflicting rights within the area covered by this grant.

6. *ENCROACHMENTS*

Grantee shall have the right to cut and trim trees or shrubbery which shall encroach upon the easement area herein conveyed, and Grantee shall dispose all cuttings and trimmings. Additionally, Grantee shall have the right and power to remove any obstruction of whatever nature which may encroach on or be upon the easement areas.

7. *EXCEPTIONS*

This conveyance is made and accepted subject to the following matters, to the extent same are in effect at this time: Any and all restrictions, covenants, conditions and easements, if any, relating to the property described in the attached exhibits "A" and "B", but only to the extent they are still in effect, shown of record in the County and State mentioned in exhibits "A" and "B", and to all zoning laws, regulations and

(Parcel 3)

Drainage Easement - Page 2 of 5

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they are still in effect, relating to the property described in exhibits "A" and "B".

8. *ENTIRE AGREEMENT*

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modifications concerning this instrument shall be of no force and effect excepting for a subsequent modification in writing signed by the party to be charged.

9. *ATTORNEY FEES*

In the event of any controversy, claim or dispute relating to this instrument or a breach hereof, the prevailing party shall recover from the losing party reasonable expenses, attorney fees, and costs.

10. *BINDING EFFECT*

This agreement shall bind inure for the benefit of the respective parties, their personal representatives, successors, and assigns.

IN WITNESS WHEREOF, this instrument is executed this 31 day of
October, 2001.

Palivela P. Raju
(signature)

Palivela P. Raju
(typed or printed name)

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §

This instrument was acknowledged before me on the 31 day of
October, 2001, by Palivela P. Raju.

Laura L. Watts
Notary Public, State of Texas

Typed or Printed Name of Notary

Laura L. Watts

Commission Expires: 11-28-04

IN WITNESS WHEREOF, this instrument is executed this 12th day of
December, 2001.

A. M. Durrani
(signature)

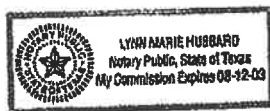
A. M. Durrani
(typed or printed name)

(Page 3)

Drainage Easement - Page 4 of 5

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §

This instrument was acknowledged before me on the 12th day of
December, 2001, by A. M. Durrani.



Lynn Marie Hubbard
Notary Public, State of Texas

Typed or Printed Name of Notary

Lynn Marie Hubbard

Commission Expires: 8/12/03

(Parcel 7)

Drainage Easement - Page 5 of 5

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

CHARLIE KALKOMEY SURVEYING, INC.

1816 MONS AVENUE
ROSENBERG, TEXAS 77471
281 342-2033

CHARLIE KALKOMEY
REGISTERED PROFESSIONAL LAND SURVEYOR

CHARLES A. KALKOMEY
REGISTERED PROFESSIONAL LAND SURVEYOR

PARCEL 3 - 70 FOOT PERMANENT EASEMENT

FIELD NOTES FOR A 0.275 ACRE TRACT OF LAND OUT OF A CALLED 2.0 ACRE TRACT OF LAND OUT OF LOT 1, FIRST NATIONAL BANK BUCKS BAYOU SUBDIVISION, IN THE I. & G. N. RAILROAD COMPANY SURVEY NO. 5, ABSTRACT 273, CITY OF BAY CITY, MATAGORDA COUNTY, TEXAS, SAID CALLED 2.0 ACRE TRACT BEING THE SAME TRACT DESCRIBED IN DEED RECORDED IN VOLUME 102, PAGE 278, DEED RECORDS, MATAGORDA COUNTY, TEXAS, AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BEING BASED ON THE SOUTHWEST LINE OF THAT CERTAIN CALLED 11.621 ACRE TRACT DESCRIBED IN DEED TO THE CITY OF BAY CITY, RECORDED IN VOLUME 243, PAGE 213, OFFICIAL RECORDS, MATAGORDA COUNTY, TEXAS, SAME BEING THE SOUTHEAST LINE OF YEAGER SUBDIVISION NO. 1 (FILE 183A, PLAT RECORDS, MATAGORDA COUNTY, TEXAS), AS BEING NORTH 17 DEGREES 35 MINUTES 42 SECONDS WEST (CALLED NORTH 17 DEGREES 35 MINUTES 42 SECONDS WEST).

COMMENCING at a 5/8 inch rod found at the north corner of said called 2.0 Acre Tract, same being the west corner of a certain adjoining called 0.46 acre tract described in deed Recorded in Volume 396, Page 465, Official Records, Matagorda County, Texas, said point also being located in the southeast line of a certain adjoining called 2.73 acre tract described in deed recorded in Volume 482, Page 61, Official Public Records, Matagorda County, Texas;

THENCE South 32 degrees 07 minutes 39 seconds East (called South 32 degrees 46 minutes East) along the common line of said called 2.0 acre tract and the aforementioned adjoining called 0.46 acre tract, 80.07 feet (called 80.0 feet) to a 5/8 inch iron rod found at the south corner of said called 0.46 acre tract, same being the west corner of a certain adjoining called 0.87 acre tract described in deed recorded in Volume 369, Page 688, Official Records, Matagorda County, Texas;

THENCE South 32 degrees 29 minutes 39 seconds East (called South 32 degrees 46 minutes East), 110.00 feet to a point for the north corner and Place of Beginning of the herein described 0.275 acre tract;

THENCE continuing South 32 degrees 29 minutes 39 seconds East (called South 32 degrees 46 minutes East) along said common line, 70.00 feet to point for the east corner of the herein described tract, said point being the south corner of the aforementioned called 0.87 acre tract, said point also being the west corner of a certain adjoining called 0.4855 acre tract described in deed recorded in Volume 194, Page 764, Official Records, Matagorda County, Texas;

THENCE South 57 degrees 30 minutes 20 seconds West, 27.50 feet to the point of curvature of a curve to the right;

THENCE around said curve to the right having a central angle of 34 degrees 39 minutes 52 seconds, a radius of 228.723 feet, a length of 138.38 feet, and a chord bearing South 74 degrees 50 minutes 16 seconds West, 136.28 feet to the point of intersection of said line with the southwest line of said called 2.0 acre tract, same being the southeast line of that certain adjoining called 1.0 acre tract described in deed recorded in Volume 72, Page 375, Deed Records, Matagorda County, Texas, for the south corner of the herein described 0.275 acre tract;

Exhibit "A"
page 1 of 2

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

FIELD NOTES 0.275 Acre Tract of Land (Cont'd)

Page 2

THENCE North 32 degrees 28 minutes 37 seconds West (called North 32 degrees 34 minutes 00 seconds West) along the common line of said called 2.0 acre tract and aforementioned adjoining called 1.0 acre tract, 97.14 feet to a point for the west corner of the herein described 0.275 acre tract, said point being located South 32 degrees 28 minutes 37 seconds East (called South 32 degrees 34 minutes 00 seconds East), 122.41 feet from a ½ inch iron rod found at the west corner of said 2.0 acre tract;

THENCE South 67 degrees 53 minutes 20 seconds East, 1.16 feet to the point of curvature of a curve to the left;

THENCE around said curve to the left having a central angle of 54 degrees 36 minutes 20 seconds, a radius of 158.723 feet, a length of 151.27 feet, and a chord bearing North 84 degrees 48 minutes 30 seconds East, 145.61 feet to the point of tangency of said curve;

THENCE North 57 degrees 30 minutes 20 seconds East, 27.50 feet to the Place of Beginning and 0.275 acre of land, more or less.

For reference and further description see Survey Plat No. 0408-03-MA prepared by the undersigned on same date.



[Signature]
Charles A. Kalkoney, R.P.L.S.
Texas Registration Number 2506
Date: June 19, 2001

Job Number 0408-03-MA

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FILED

02 SEP 12 AM '02

[Signature]
JIMMY L. DEAN
MATAGORDA COUNTY, TEXAS

STATE OF TEXAS COUNTY OF MATAGORDA
I hereby certify that this instrument was filed in the number
sequenced on this day and at the time designated herein by me,
and was duly recorded in the official records of
Matagorda County, Texas on

SEP 12 2002



[Signature]
COUNTY CLERK, Matagorda County, Texas

Exhibit "A"
page 2 of 2

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

026219

EASEMENT AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS
 COUNTY OF MATAGORDA §

1. GRANT OF EASEMENT

That I, Palivela P. Raju, hereinafter called Grantor, for and in consideration of TEN DOLLARS (\$10) and other good and valuable consideration paid by the CITY OF BAY CITY, hereinafter called Grantee, does hereby GRANT, SELL, and CONVEY to Grantee an easement and right-of-way across the tract of land/s described in the attached exhibits "A" and "B", attached hereto and incorporated herein by reference for all intents and purposes.

2. LOCATION OF EASEMENT

The easement and right-of-way hereby conveyed shall be a 70-foot easement upon and across the tract referenced above, and said easement is more particularly described in the attached exhibits "A" and "B".

3. PURPOSE OF EASEMENT

The right-of-way, easement, rights and privileges herein granted shall be used for the purpose of a drainage easement, including, but not limited to the placing, construction, operating, repairing, maintaining, rebuilding or replacing, relocating and removing a pipeline and/or pipelines.

(Parcel 4)

Drainage Easement - Page 1 of 4



03-001.2344706J
 Year: 2002 No: 026219 Type: E

EXHIBIT B-1

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

4. *DURATION OF EASEMENT*

The easement rights and privileges granted herein shall be perpetual. Grantor hereby bind himself, his heirs, legal representatives, successors and assigns to warrant and forever defend the above-described easement and right-of-way to Grantee, its successors and assigns, against every person, whomever claiming or to claim the same or any part hereof.

5. *EXCLUSIVENESS OF EASEMENT*

The easement, rights, and privileges granted herein are exclusive, and Grantor covenants that he will not convey any other easement or conflicting rights within the area covered by this grant.

6. *ENCROACHMENTS*

Grantee shall have the right to cut and trim trees or shrubbery which shall encroach upon the easement area herein conveyed, and Grantee shall dispose all cuttings and trimmings. Additionally, Grantee shall have the right and power to remove any obstruction of whatever nature which may encroach on or be upon the easement areas.

7. *EXCEPTIONS*

This conveyance is made and accepted subject to the following matters, to the extent same are in effect at this time: Any and all restrictions, covenants, conditions and easements, if any, relating to the property described in the attached exhibits "A" and "B", but only to the extent they are still in effect, shown of record in the County and State mentioned in exhibits "A" and "B", and to all zoning laws, regulations and

(Parcel 4)

Drainage Easement - Page 2 of 4

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they are still in effect, relating to the property described in exhibits "A" and "B".

8. *ENTIRE AGREEMENT*

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representation or modifications concerning this instrument shall be of no force and effect excepting for a subsequent modification in writing signed by the party to be charged.

9. *ATTORNEY FEES*

In the event of any controversy, claim or dispute relating to this instrument or a breach hereof, the prevailing party shall recover from the losing party reasonable expenses, attorney fees, and costs.

10. *BINDING EFFECT*

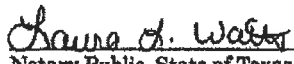
This agreement shall bind inure for the benefit of the respective parties, their personal representatives, successors, and assigns.

IN WITNESS WHEREOF, this instrument is executed this 31st day of
October, 2001.


 (signature)
Palivela P. Raju
 (typed or printed name)

THE STATE OF TEXAS §
 COUNTY OF MATAGORDA §

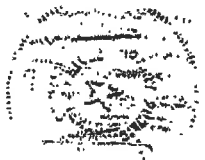
This instrument was acknowledged before me on the 31 day of
October, 2001, by Palivela P. Raju.


 Notary Public, State of Texas

Typed or Printed Name of Notary

Laura L. Walls

Commission Expires: 11-28-04



(Parcel 4)

Drainage Easement - Page 4 of 4

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

CHARLIE KALKOMEY SURVEYING, INC.

1815 MONG AVENUE
ROSENBERG, TEXAS 77471
281 342-2033

CHARLIE KALKOMEY
REGISTERED PROFESSIONAL LAND SURVEYOR

CHARLES A. KALKOMEY
REGISTERED PROFESSIONAL LAND SURVEYOR

PARCEL 4 - 70 FOOT PERMANENT EASEMENT

FIELD NOTES FOR A 0.207 ACRE TRACT OF LAND OUT OF A CALLED 1.0 ACRE TRACT OF LAND OUT OF LOT 1, FIRST NATIONAL BANK BUCKS BAYOU SUBDIVISION, IN THE I. & G. N. RAILROAD COMPANY SURVEY NO. 5, ABSTRACT 273, AND THE I. & G. N. RAILROAD COMPANY SURVEY NO. 4, ABSTRACT 274, CITY OF BAY CITY, MATAGORDA COUNTY, TEXAS, SAID CALLED 1.0 ACRE TRACT BEING THAT SAME TRACT DESCRIBED IN DEED RECORDED IN VOLUME 72, PAGE 375, DEED RECORDS, MATAGORDA COUNTY, TEXAS, AND BEING FURTHER DESCRIBED BY METES AND BOUNDS AS FOLLOWS, WITH ALL BEARINGS BEING BASED ON THE SOUTHWEST LINE OF THAT CERTAIN CALLED 11.621 ACRE TRACT DESCRIBED IN DEED TO THE CITY OF BAY CITY, RECORDED IN VOLUME 243, PAGE 213, OFFICIAL RECORDS, MATAGORDA COUNTY, TEXAS, SAME BEING THE SOUTHEAST LINE OF YEAGER SUBDIVISION NO. 1 (FILE 183A, PLAT RECORDS, MATAGORDA COUNTY, TEXAS), AS BEING NORTH 17 DEGREES 35 MINUTES 42 SECONDS WEST (CALLED NORTH 17 DEGREES 35 MINUTES 42 SECONDS WEST).

COMMENCING at a ½ inch pipe found at the west corner of said called 1.0 acre tract, same being the south corner of a certain adjoining called 2.73 acre tract described in deed recorded in Volume 482, Page 61, Official Public Records, Matagorda County, Texas, said point also being in the northeast line of a certain adjoining called 5.6768 acre tract described in deed recorded in Volume 119, Page 510, Deed Records, Matagorda County, Texas;

THENCE South 32 degrees 31 minutes 17 seconds East (called South 32 degrees 46 minutes East) along the common line of said called 1.0 acre tract and the aforementioned adjoining called 5.6768 acre tract, 11.63 feet to a point for the west corner and Place of Beginning of the herein described 0.207 acre tract;

THENCE South 67 degrees 53 minutes 20 seconds East, 135.95 feet to a point in the northeast line of said called 1.0 acre tract, same being the southwest line of a certain adjoining called 2.0 acre tract described in deed recorded in Volume 102, Page 278, Deed Records, Matagorda County, Texas, for the north corner of the herein described 0.207 acre tract;

THENCE South 32 degrees 28 minutes 37 seconds East (called South 32 degrees 46 minutes East) along the common line of said called 1.0 acre tract and aforementioned adjoining called 2.0 acre tract, 97.14 feet to a point for the east corner of the herein described 0.207 acre tract, said point being in a curve to the right;

THENCE around said curve to the right having a central angle of 19 degrees 56 minutes 28 seconds, a radius of 228.723 feet, a length of 79.60 feet, and a chord bearing North 77 degrees 51 minutes 34 seconds West, 79.20 feet to the point of tangency of said curve;

THENCE North 67 degrees 53 minutes 20 seconds West, 38.49 feet to a point in the common line of the said called 1.0 acre tract and the aforementioned adjoining called 5.6768 acre tract for the south corner of the herein described 0.207 acre tract;

Exhibit "A"
Page 1 of 2

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)

FIELD NOTES 0.207 Acre Tract of Land (Cont'd)

Page 2

THENCE North 32 degrees 31 minutes 17 seconds West (called North 32 degrees 46 minutes West) along said common line, 120.94 feet to the Place of Beginning and containing 0.207 acre of land, more or less.

For reference and further description see Survey Plat No. 0408-04-MA prepared by the undersigned on same date.



Charles A. Kalkomey, S.L.S.
Texas Registration Number 2506
Date: June 19, 2001

Job Number 0408-04-MA

E:\Surveying\Matagorda\0408-04-MA\field_Notes\0408-04-MA.wpd

FILED

02 SEP 12 AM 28

Bail Down
COUNTY CLERK
MATAGORDA COUNTY, TEXAS

STATE OF TEXAS
COUNTY OF MATAGORDA
I hereby certify that this instrument was duly executed and that the same has been duly recorded in the Official Records of Matagorda County, Texas on

SEP 12 2002

Bail Down
COUNTY CLERK, Matagorda County, Texas

Exhibit "A"
page 2 of 2

Attachment: Studio 6 Release Exhibit A-1 and B-1 (2720 : Studio 6 Easements)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

RESOLUTION (ID # 2737)

Meeting: 08/10/17 07:00 PM
Department: Finance
Category: Policy
Prepared By: Scotty Jones
Initiator: Scotty Jones
Sponsors:
DOC ID: 2737

DISCUSS, CONSIDER, AND/OR APPROVE A RESOLUTION TO ADOPT THE CITY'S BUDGETARY AND FINANCIAL MANAGEMENT POLICIES.

BACKGROUND:

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

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 formally adopt through Resolution the Budgetary and Financial Management Policy document.

ATTACHMENTS:

Budgetary and Financial Management Policy Document

COMMENTS - Current Meeting:

Approved



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. A copy of the Proposed Budget is made available in the City Secretary's Office or 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 Mayor. 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 Mayor 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 Mayor 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-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 time line 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 Mayor 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 as provided by the Appraisal District. A ninety-seven percent (97%) 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, wastewater, and garbage fees 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 policy 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. Personnel allocations may not be changed without the approval of Mayor.

Amendments to the Budget

In accordance with the City Charter, under Article 10.14 (Transfer of Appropriations) provides, with approval of the City Council, the Mayor may transfer any unencumbered appropriated balance within any office, department, or agency at any time. At the request of the Mayor, and within the last three

months of the fiscal year, the Council may by resolution transfer any unencumbered appropriation balance or portion thereof from an office, department or agency, to another.

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 Mayor.

Mayor's Authority to Amend the Budget

The Mayor 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 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 Mayor 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.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Appointment
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2741

AGENDA ITEM (ID # 2741)

**~ APPOINT COUNCILWOMAN BECCA SITZ TO REPRESENT
THE CITY OF BAY CITY ON THE BAY CITY ECONOMIC
ACTION COMMITTEE.**

COMMENTS - Current Meeting:

Approved



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

AGENDA ITEM (ID # 2749)

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Proclamation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2749

~ PROCLAMATION - NATIONAL HEALTH CENTER WEEK, AUGUST 13 - 19, 2017.

This proclamation was requested by Jessica Russell, Director of Employee and Public Affairs - MEHOP.

COMMENTS - Current Meeting:

The National Health Center Proclamation was presented and discussed by guest, Jessica Russell with MEHOP. Mayor Mark A. Bricker made the official Proclamation.

National Health Center Week, August 13-19 2017

A Proclamation

Whereas: For over 50 years, Community Health Centers have provided high-quality, affordable health care in our nation's underserved communities, demonstrating that locally governed healthcare can improve lives while lowering costs.

Whereas: What began as a small demonstration project in two states has grown into the country's largest primary care network, with Health Centers now serving as the health care home for over 24 million Americans through more than 9,000 delivery sites across the nation. One in every fourteen people living in the United States looks to a community health center for their care.

Whereas: Health Centers provide high quality, cost effective, and accessible primary and preventive care, including integrated medical, oral, vision, behavioral health, and pharmacy services, to all individuals regardless of insurance status or ability to pay.

Whereas: Health Centers are located in medically underserved areas and locally controlled by patient-majority boards, ensuring that each Health Center always remains responsive to the needs of the specific community it serves.

Whereas: Health Centers are locally owned and operated small businesses that serve as critical economic engines, helping to power local economies by generating billions of dollars in combined economic impact and creating jobs in some of the country's most economically deprived communities.

Whereas: Health Centers nationally employ nearly 170,000 people, including more than 11,200 physicians and more than 9,000 nurse practitioners, physician assistants, and certified nurse midwives who work as part of a multi-disciplinary clinical teams designed to treat the whole patient.

Whereas: The Health Center model continues to prove an effective means of reducing healthcare disparities and overcoming barriers to healthcare access, including geography, income and insurance status, and in doing so, improves health care outcomes and reduces health care system costs.

Whereas: Health Centers save the entire health system approximately \$24 billion annually by managing chronic conditions and keeping patients out of costlier health care settings, like hospital emergency rooms.

Whereas: Health Centers have worked tirelessly to grow the nation's primary care infrastructure to meet the pressing need for access to care, yet the Centers for Disease Control and Prevention (CDC) reports that 17.3% of Americans (or more than 55 million people) still did not have a regular place to go for healthcare in 2014.

Whereas: The demand for Health Centers continues to outpace growth, and expansion of health centers' capacity and reach will be essential to meet the needs of these new patients, as existing Health Centers are already at capacity and many communities lack any primary care services at all.

Whereas: National Health Center Week offers the opportunity to recognize America's Health Centers, their dedicated staff, board members, and all those responsible for their continued success and growth since the first health centers opened their doors more than 50 years ago. During this National Health Center Week, we celebrate the legacy of America's Health Centers and their vital role in shaping the future of America's health care system.

NOW, THEREFORE, I, Mark Bricker, do hereby proclaim August 13-19, 2017, as National Health Center Week. I encourage every citizen to visit MEHOP, our Community Health Center, and celebrate the important partnership between America's Health Centers and the communities they serve.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Report
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2751

AGENDA ITEM (ID # 2751)

**~ CONSIDER PLACING A PROPOSAL TO ADOPT A TAX RATE
FOR THE 2017 – 2018 FISCAL YEAR AS AN ACTION ITEM ON
THE AGENDA OF A FUTURE MEETING, SPECIFYING
THEREIN THE DESIRED RATE AND PUBLISHING NOTICE
THEREOF.**

COMMENTS - Current Meeting:

Finance Director, Scotty Jones presented the information regarding the Fiscal Year 2018 Tax Rate Proposal.

Councilman Bill Cornman made the following motion: "I approve placing a proposal to adopt a tax rate for fiscal year 2018 as an action item on the September 14, 2017 Council agenda with a desired rate of .65500 per 100 value and publishing notice thereof."

The motion was seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

AGENDA ITEM (ID # 2752)

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Report
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2752

**~ CONSIDER SETTING TWO (2) PUBLIC HEARINGS ON THE
PROPOSED 2017 TAX RATE FOR THURSDAY, AUGUST 24,
2017 AND THURSDAY AUGUST 31, 2017.**

COMMENTS - Current Meeting:

Finance Director, Scotty Jones presented to the Council and Mayor suggestions regarding public hearings to set a tax rate for Fiscal Year 2018. The dates decided upon by motion, were August 24, 2017 and August 31, 2017. The Motion was made by Councilman Bill Cornman and seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Report
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2740

AGENDA ITEM (ID # 2740)

**~ CONSIDER SETTING TWO (2) PUBLIC HEARINGS ON THE
PROPOSED 2017 - 2018 FISCAL YEAR BUDGET AND THE 5
YEAR CAPITAL IMPROVEMENT PLAN FOR THURSDAY,
AUGUST 24, 2017 AND THURSDAY, AUGUST 31, 2017.**

In order to follow the budget time line and follow the required notices, we recommend these dates for the budget public hearings.

COMMENTS - Current Meeting:

Finance Director, Scotty Jones presented to the Council and Mayor suggestions regarding public hearings for Fiscal Year 2018 budget. The dates decided upon by motion, were August 24, 2017 and August 31, 2017. The Motion was made by Councilman Jason Childers and seconded by Councilwoman Becca Sitz. The motion was approved unanimously.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2739

AGENDA ITEM (ID # 2739)

**~ DISCUSS, CONSIDER AND/OR APPROVE THE
DEVELOPMENT FINANCING AGREEMENT BY AND AMONG
THE CITY OF BAY CITY, TEXAS REINVESTMENT ZONE
NUMBER TWO, CITY OF BAY CITY AND BAY CITY
COMMUNITY DEVELOPMENT CORPORATION.**

COMMENTS - Current Meeting:

Bay City Community Development Corporation Director, DC Dunham, made the TIRZ #2 Financing agreement presentation to the Council and Mayor.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: Public Works
Category: Bid
Prepared By: Barry Calhoun
Initiator: Barry Calhoun
Sponsors:
DOC ID: 2721

AGENDA ITEM (ID # 2721)

**~ DISCUSS, CONSIDER, AND/OR APPROVE AWARDING THE
CONSTRUCTION BID FOR THE GRACE WATER PLANT
IMPROVEMENTS PROJECT TO W.W. PAYTON
CORPORATION IN THE AMOUNT OF \$570,000.00 AND
AUTHORIZE THE MAYOR TO EXECUTE A CONTRACT
APPROVED TO FORM BY THE CITY ATTORNEY BETWEEN
THE CITY OF BAY CITY AND W.W. PAYTON CORPORATION.**

In June 2016, the City of Bay City Public Works Department and Jones | Carter Engineering completed the Water System Analysis & Master Plan. The plan identified infrastructure capital improvement projects that should be completed to improve the City's utility water system including new capital projects and operations & maintenance projects. The Grace Water Plant No.5 Improvements Project was identified as the number one priority in this plan and consists of the installation of an additional booster pump, the installation of a hydro-pneumatic tank, as well as mechanical, electrical, and disinfection repairs to ensure proper operation of the water plant. The north side of the City's water system is primarily served by Water Plant No. 5 located on Grace Street, west of Avenue A. This particular water plant has three (3) Booster Pump cans, but only two (2) Booster Pumps currently installed. Electrical improvements associated with this project include a Motor Control Center, selected based on size to fit in the existing control building, Automatic Transfer Switch, fused disconnect switch, and SCADA Programming. These improvements will aid in pressure production and maintenance for the City's north side water system, in particular aiding in providing adequate flows to the Dunn Heat Exchangers production facility and future developments.

It is the recommendation of the Director of Public Works that City Council awards this bid. Delay of this project will result in continued water pressure issues on the City's north side, possibly hinder potential future development, and experience escalated cost on much needed repairs to this water plant.

Budget Source: 2016 Certificate of Obligations
Engineer Estimate: \$577,000
Engineering Services: \$85,000
Lowest Bid Amount: \$570,000

COMMENTS - Current Meeting:

Public Works Director, Barry Calhoun reviewed the bid specifics for the Grace Street Water Plant improvement project. The recommended to Mayor and Council to award the bid to the W. W. Peyton Company. The recommendation was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilman Jason Childers. The motion was approved unanimously.



August 1, 2017

22330 Merchants Way, Suite 1
Katy, Texas 77449-7821
Tel: 832.913.4000
Fax: 832.913.4001
www.jonescarter.com

Mr. Mark A. Bricker, Mayor
City of Bay City
1901 Fifth Street
Bay City, Texas 77414

Re: Construction of Grace Street Water Plant Improvements
City of Bay City
Job No. R0017-0039-00

Dear Mr. Bricker:

We received bids for the referenced contract in the offices of the City of Bay City on July 31, 2017 at 2:00 PM. Bids were publicly opened and read at that time.

Four (4) contractors submitted proposals for this work. A summary tabulation of the bids is enclosed for your review. W.W. Payton Corporation submitted the lowest Total Base Bid proposal in the amount of \$570,000.00.

We have worked with W.W. Payton Corporation in the past and find them to be an acceptable contractor. We recommend the referenced contract be awarded to W.W. Payton Corporation on the basis of their Total Base Bid proposal in the amount of \$570,000.00.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew B. Breazeale'.

Matthew B. Breazeale, P.E.
Vice President

CRH2

K:\R0017\R0017-0039-00 Grace Street Water Plant Improvements\3 Construction Phase\Contract Documents

Enclosures



JONES | CARTER

BID TABULATION SHEET

BIDS WERE RECEIVED IN THE OFFICE OF

Construction of Grace Street Water Plant Improvements

City Hall - Bay Cit

City of Bay City

Time:

2:00 PM

Public Bid

Job No. R0017-0039-00

Date:

7/31/201

BIDDERS

	W.W. Payton Corporation	Mercer Controls Inc.	Gemini Contracting Services, Inc.	Black Castle General Contractor			
Base Bid	\$570,000.00	\$710,050.00	\$719,000.00	\$764,887.00			
Bid Security	X	X	X	X			
Addendum No. 1	X	X	X	X			

Attachment: 0071_001 Recommend to Award (2721 : Award Bid - Grace Water Plant Improvements)

**PRELIMINARY COST ESTIMATE
FOR CONSTRUCTION OF
WATER PLANT NO. 5 (GRACE ST) IMPROVEMENTS
FOR CITY OF BAY CITY
5/19/17**

Item No.	Description	Unit	Quantity	Unit Price	Total
1.	Move-in and Set-up, including Bonds and Insurance	L.S.	1	\$ 30,000	\$ 30,000
2.	1,000 gpm Booster Pump	L.S.	1	42,000	42,000
3.	500 gpm Booster Pump	L.S.	1	27,000	27,000
3.	Plant Piping, Valves, Fittings, Thrust Blocks, and Pipe Supports	L.S.	1	25,000	25,000
4.	15,000 Gallon Hydropneumatic Tank including Foundation, Air Compressor, and Air Lines	L.S.	1	115,000	115,000
5.	Electrical Replacements & Improvements	L.S.	1	220,000	220,000
6.	Disinfection Improvements	L.S.	1	35,000	35,000
7.	Access Road Improvements	L.S.	1	30,000	30,000
8.	Site Work, Including Drainage	L.S.	1	12,000	12,000
9.	Hydro-mulch Water Plant Site	L.S.	1	2,000	2,000
10.	Protective Coatings for Proposed Facilities	L.S.	1	35,000	35,000
11.	Air Compressor and Accessories	L.S.	1	3,000	3,000
12.	Pollution Prevention	L.S.	1	1,000	1,000
Sub-Total All Items					577,000
Contingencies (10%)					58,000
Sub-Total with Contingencies					\$ 635,000

NOTE:

⁽¹⁾ This estimate represents my best judgment as a design professional familiar with the construction industry. Jones|Carter has no control over the cost of labor, materials, or equipment; over the Contractor's methods of determining bid prices; or over competitive bidding or market conditions. Accordingly, we cannot and do not guarantee that bids will not vary from this cost estimate.

This Document is Released for the Purpose of:
General Financial Planning
 Under the Authority of:
 Engineer: Stephanie S. Kaspar, P.E.
 License No.: 120152
 It is Preliminary in Nature and not to be Used for
 Feasibility of Land Purchases, Bond Applications, Loans or
 Grants.

Attachment: Cost Estimate 20170522V3 (2721 : Award Bid - Grace Water Plant Improvements)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

ORDINANCE (ID # 2728)

Meeting: 08/10/17 07:00 PM
Department: Public Works
Category: Planning / Plat
Prepared By: Marla Jasek
Initiator: Marla Jasek
Sponsors:
DOC ID: 2728

**~ DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE
OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS
AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES
CHAPTER 46 FLOODS; PROVIDING A SEVERABILITY
CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING
AN EFFECTIVE DATE**

The Texas Water Development Board conducted a Community Assistance Visit in January 2017. The purpose of a Community Assistance Visit is to evaluate the local floodplain management ordinances and enforcement practices to determine their effectiveness in accordance with the Federal Emergency Management Agency's (FEMA) National Flood Insurance Program regulations.

One of the items noted in the review, is that Bay City's ordinance language is outdated and missing necessary requirements that are needed for participation in the National Flood Insurance Program. A city council workshop was held on April 27, 2017 to discuss proposed revisions and additions to the existing ordinance. This is the final step in implementing the changes.

The major changes in the this ordinance are as follows:

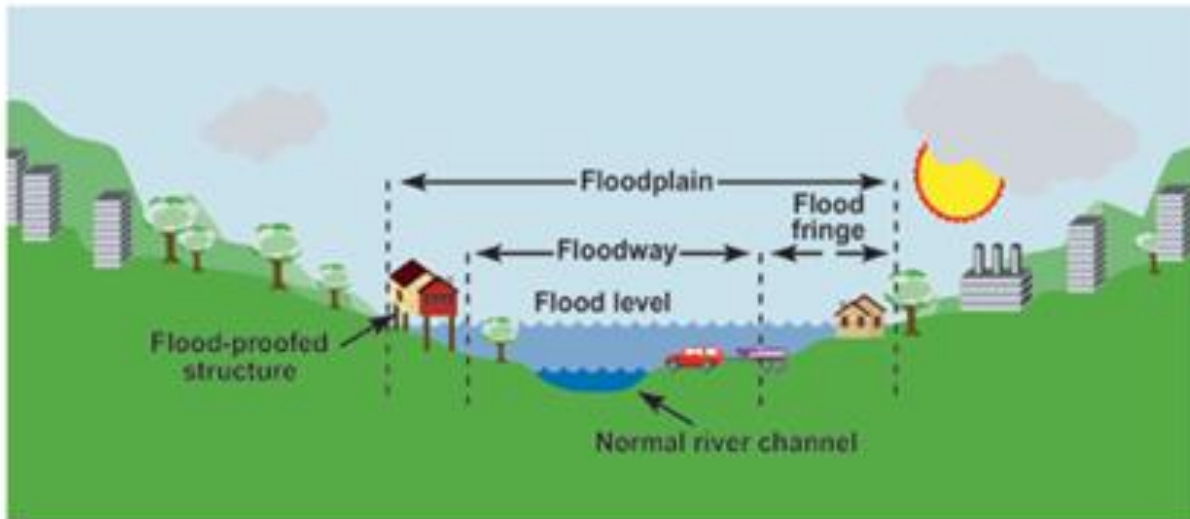
1. Adds several definitions
2. Changes floodplain administrator from building inspector to director of public work or his/her designee
3. Designates planning commission to hear variance requests for consistency with Chapter 98
4. Adds section regarding enclosures below lowest floor
5. Significant changes (clarifications) regarding mobile homes, recreational vehicles and metal storage containers (conex boxes) in the special flood hazard area
6. Adds a new section with specific requirements regarding the regulatory floodway

An illustration depicting the floodplain is attached for your reference.

COMMENTS - Current Meeting:

Assistant Public Works Director, Marla Jasek presented the Floodplain Ordinance to Mayor and Council members. This is an attempt to update and improve the existing plan. The plan was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilwoman Becca Sitz. The motion passed unanimously.

The floodplain



AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. *[Floodplain on illustration above.]*

REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. *[Floodway on illustration above.]*

BASE FLOOD ELEVATION (BFE) – The elevation that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood. *[Flood level on illustration above.]*

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 46 FLOODS; PROVIDING FOR A CUMULATIVE & CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO PUBLISH THE CAPTION IN ACCORDANCE WITH THE CITY CHARTER.

WHEREAS, the Section 2.02 of the City's Charter permits the City to pass and enforce ordinances, not inconsistent with the Charter and State law, upon any subject expedient for the life; general welfare; health, morals; comfort; safety; amusement; quiet; prosperity; and convenience of the City, its inhabitants, and property; and may provide suitable penalties for the violations of any ordinance;

WHEREAS, Chapter 46 of the City's Municipal Code of Ordinances promotes the public health, safety and general welfare and minimizes public and private losses due to flood conditions; and

WHEREAS, Section the Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated responsibility of the local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the Texas Water Development Board has conducted a Community Assistance Visit and recommended revisions and additions to Chapter 78 of the City's Municipal Code of Ordinances; and

WHEREAS, the City Council has determined that the safety, health and welfare of the citizens and general public require amendments to Chapter 78 of the Code of Ordinances to add definitions and clarify administration and implementation of the provisions of this ordinance; and

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

Section 2. Amendment to Municipal Code of Ordinances. The City of Bay City's Municipal Code of Ordinances, Chapter 46 (entitled "*Floods*"), is hereby amended in its entirety. The amended Chapter 46 (entitled "*Floods*") is attached as **Exhibit A**, fully incorporated herewith for all purposes.

Section 3. Cumulative. This Ordinance shall be cumulative of all fee provisions of the Code of Ordinances of the City of Bay City, Texas as to the fees set forth herein on the effective date of this Ordinance, except where the provisions of this Ordinance are in direct conflict with the

provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed.

Section 4. Amending Fees. The City Council may, from time to time, by adopting new ordinances add to the fees set forth herein, and the fees now or hereafter set forth may be modified from time to time by order of the City Council.

Section 5. Severability. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph, or section.

Section 6. Remedies. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of the Code of Ordinances in effect on the effective date of this Ordinance and modified by this Ordinance or any other ordinances in effect on the effective date of this Ordinance and modified by this Ordinance and requiring the payment of fees for licenses, permits, and other services provided by the City which have accrued on the effective date of this Ordinance; and any and all accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. Directive to City Secretary. The City Secretary is hereby authorized and directed to provide all documents and notices required by state law to effect this Ordinance.

Section 8. Effective Date. This Ordinance shall be in full force and effect from and after its final passage and any publication required by law.

PASSED AND APPROVED on this _____ day of August 2017.

Mark A. Bricker, Mayor

ATTEST:

David Holubec, City Secretary

APPROVED AS TO FORM.

M. Shannon Kackley, Asst. City Attorney
DENTON NAVARRO ROCHA BERNAL & ZECH, PC

Attachment: Floodplain Ordinance Aug 2017 mj 8-3-17 (sk 8 3 2017) (2728 : Floodplain Ordinance)

Exhibit A

Chapter 46 – Floods

ARTICLE I. – IN GENERAL

Secs. 46-1 – 46.18. – Reserved.

ARTICLE II. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 46-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alluvial fan flooding means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal means a request for a review of the chief building inspector's interpretation of any provisions of this article or a request for a variance.

Appurtenant structure means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

Area of future conditions flood hazard means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH or VO zone on a community's flood insurance rate map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet. This condition occurs where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V..

Base flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means the elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

Basement means any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system. **Critical feature** means an

integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

Existing manufactured home park or subdivisions means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). *First floor* means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

Flood or *flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood elevation study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study –see Flood elevation study.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood protections system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams,

reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents. **Floodway** –See *Regulatory Floodway*.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally dependent use" includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs. **Levee** means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale. **Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Metal Storage Container – means a pre-manufactured (not pre-built) accessory structure, commonly known as Conex boxes, sea-containers or cargo containers, designed for use as an individual shipping container in accordance with international standards or a metal structure designed and built for use as an enclosed truck trailer in accordance with Department of Transportation Standards. **New construction** means for the purpose of determining insurance rates, structures for which the "start of construction"

commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community (May 28, 1987) and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Person means an individual, partnership, firm, association, and all other legal entities.

Recreational vehicle means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special flood hazard area – see *Area of Special Flood Hazard*

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (PL 97-348)) includes substantial improvement and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The term "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means, for floodplain management purposes, a walled and roofed building, or a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either (1) any projects for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or (2) any alterations of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements, see section 60.6 of the National Flood Insurance Program Regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4) or (e)(5) of the National Flood Insurance Program (NFIP) is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Sec. 46-20. - Statutory authorization.

The legislature of the state has, in the Flood Control Insurance Act, Texas Water code, Section 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

Sec. 46-21. - Findings of fact.

- (a) The substantial growth of population and construction in the city in the last decade has resulted both in prosperity and congestion. In addition, the increased number of structures and square feet of paving have reduced natural water absorption by the ground and obstructed natural drainage paths. The mayor and city council are dedicated to providing the most efficient drainage practical, given the inherent natural obstacle of our gently sloping bay prairie.
- (b) The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect public health, safety and general welfare.
- (c) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities. When these obstructions are inadequately anchored, they also damage property in other areas. Structures and uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.
- (d) The city has had a program for the past several years in connection with the drainage district to improve the drainage in and around the city.

Sec. 46-22. - Statement of purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
- (7) Ensure the potential buyers are notified that property is in a flood area; and
- (8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Sec. 46-23. - Methods of reducing flood losses.

In order to accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage; and
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

Sec. 46-24. - Territorial applicability.

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Bay City.

Sec. 46-25. - Compliance and penalties for noncompliance.

- (a) No structure or land shall hereafter be located, altered, constructed, extended, converted or have its use changed without full compliance with the terms of this article and other applicable regulations.
- (b) Violation of the provisions of this article by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 46-26. - Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for the City of Bay City," dated June 5, 1985, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revision thereto are hereby adopted by reference and declared to be a part of this article. The flood insurance study is available at the office of the Director of Public Works.

Sec. 46-27. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 46-28. - Interpretation.

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the city ; and
- (3) Deemed neither to limit nor repeal any other powers granted under state law.

Sec. 46-29. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that

land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Secs. 46-30—46-46. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 46-47. - Designation of the Floodplain Administrator.

- (a) The Director of Public Works or his/her designee is hereby appointed to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance-National Flood Insurance Program Regulations) pertaining to floodplain management. (b) The duties and responsibilities of the floodplain administration shall include, but not be limited to:
- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance;
 - (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding;
 - (3) Review, approve or deny all applications for development permits required by section 46-48;
 - (4) Review permits for proposed development to ensure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334) from which prior approval is required;
 - (5) Make the necessary interpretation where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 46-49;
 - (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ),, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;
 - (7) Assure that the flood carrying capacity within the altered or relocated portion of such watercourse is maintained;
 - (8) When base flood elevation data has not been provided in accordance with section 46-26, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer the provisions of the article; and
 - (9) When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within zones A1—30 on the community's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at all at any point within the community.
 - (10) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.

Sec. 46-48. - Development permit.

- (a) A development permit shall be required to ensure conformance with the provisions of this article.
- (b) Application for a development permit shall be presented to the Floodplain Administrator on forms furnished by him and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations; existing and proposed structures; storage of materials; drainage facilities; and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 - (1) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential flood proofed structure shall meet the flood proofing criteria of section 46-73(2);
 - (4) A description from a registered professional engineer of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed development.
 - (5) Maintain a record of all such information in accordance with section 46-47(b)(1).
- (c) Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this article and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
 - (10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 46-49. - Variances.

- (a) The Planning Commission shall hear and render judgment on requests for variances from the requirements of this article.
- (b) The city council shall hear and render judgment on an appeal of a decision of the Planning Commission or a determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (c) Any person aggrieved by the decision of the city council may appeal such decision to the district court.
- (d) The Floodplain Administrator shall maintain a record of all actions involving an appeal including technical information, and shall report variances to the Federal Insurance Administration upon request.

- (e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.
- (f) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in section 46-48(c) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (g) Upon consideration of the factors noted in this section and the intent of this article, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) The following are prerequisites for granting variances:
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in:
 - 1. Increased flood heights;
 - 2. Additional threats to public safety or extraordinary public expense;
 - 3. Create nuisances;
 - 4. Cause fraud on or victimization of the public; or
 - 5. Conflict with existing local laws or ordinances.
 - (3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (1) The criteria outlined in subsections (a) through (i) of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (k) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Secs. 46-50—46-71. - Reserved.

DIVISION 3. - FLOOD HAZARD REDUCTION

Sec. 46-72. - General Standards.

In all areas of special flood hazard, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharges from the system into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 46-73. - Specific Standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Sections 46-26, 46-47(b)(8) or 46-75(3), the following provisions are required:

- (1) **Residential Construction** - New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 24 inches above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection, as proposed in section 46-48(b)(1), is satisfied.
- (2) **Nonresidential Construction** - New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to 24 inches above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structure are flood proofed shall be maintained by the Floodplain Administrator.
- (3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than 1 foot above grade.

- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Manufactured Homes -:

- a. Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated 24 inches above the base flood elevation and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- b. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated 24 inches above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- c. Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:
 - (i) the lowest floor of the manufactured home is 24 inches above the base flood elevation, or
 - (ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

- (5) **Recreational Vehicles** - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

(6) Metal Storage Containers

- a. Permanent metal storage containers are prohibited in areas of special flood hazard and the regulatory floodway.
- b. Require that temporary metal storage container placed on sites within Zones A1-30, AH, and AE on the community's FIRM (i) be on the site for fewer than 180 consecutive days, and (ii) be designed to withstand a 10 psf uplift load. Design shall be signed and sealed by a registered professional engineer

Sec. 46-74. - Standards for areas of shallow flooding (AO/AH zones).

Located within the areas of special flood hazard established in section 46-26 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures shall:
 - a. Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least three feet if depth number is not specified); or
 - b. Together with attendant utility and sanitary facilities, be designed so that below the base specified flood depth in an AO Zone, or below the base flood elevation in an AH Zone, the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in section 46-48(b)(1), are satisfied.
- (4) Require within AO/AH zones, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

Sec. 46-75. - Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and manufactured home subdivisions shall be consistent with Sections 46-21, 46-22 and 46.23..
- (b) All proposals for the development of subdivisions including mobile home parks and mobile home subdivisions shall meet floodplain development permit requirements of Section 46-48, 46-72 and 46-73 of this ordinance.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and mobile home subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Sections 46-26 and 46-47(8).
- (d) All subdivision proposals including the placement of manufactured home parks and mobile home subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including mobile home parks and mobile home subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

Sec. 46-77. – Floodways

Floodways - located within areas of special flood hazard established in Section 46-26, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (a) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through

hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (b) If Section 46-77(a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 46-72 and 46-73 of this ordinance.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

Section 46-78. Payment of Fees. All persons applying for a floodplain development permit described herein shall be required to submit a Flood Zone Elevation Confirmation Fee as established in Chapter 22-50. It shall be a violation of this Ordinance to start construction in an Area of Special Flood Hazard until such fee has been paid and the floodplain development permit approved.

Section 46-79. Penalties; violations; convictions.

(a) *Penalties.*

- (1) Any person who violates any of the provisions of this article shall be punished by a fine of not more than \$2000.00, and each and every day of continuance thereof shall constitute a distinct and separate offense.
- (2) Any person, firm, corporation or association who is caught violating any section of this chapter will not be eligible to apply or renew for one full year.

(b) *Violations.* Violation of any of the terms or provisions of this article by any corporation, association, or legal entity shall subject the officers and agents actively in charge of the business or such corporation, association, or legal entity to the penalty provided in this section.

(c) *Convictions.* Conviction under the provisions of this article shall be deemed just cause for the revocation of any license or permit which such person may have and/or hold under the provisions of this article.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: Police Department
Category: Property
Prepared By: James Reckaway
Initiator: James Reckaway
Sponsors:
DOC ID: 2717

AGENDA ITEM (ID # 2717)

**~ DISCUSS, CONSIDER, AND/OR APPROVE A REQUEST TO
DEEM ONE (1) POLICE DEPARTMENT VEHICLE AS
SURPLUS AND AUTHORIZE STAFF TO SELL SAID SURPLUS
VEHICLE BY PUBLIC AUCTION.**

COMMENTS - Current Meeting:

This item was tabled until a future Council meeting.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2719

AGENDA ITEM (ID # 2719)

**~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION
APPOINTING THE LAW FIRM OF DENTON, NAVARRO,
ROCHA, BERNAL & ZECH, P.C., TO PROVIDE LEGAL
SERVICES AS CITY ATTORNEY AND DESIGNATING A CITY
ATTORNEY AND ASSISTANT CITY ATTORNEYS.**

COMMENTS - Current Meeting:

The resolution to approve the law firm of Denton, Navarro, Rocha, Bernal and Zech, P. C. as legal council for the City of Bay City was approved by motion. The motion was made by Councilman Bill Cornman and seconded by Councilwoman Julie Estlinbaum. The motion was approved unanimously.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, APPOINTING THE LAW FIRM OF DENTON NAVARRO ROCHA BERNAL & ZECH, PC TO PROVIDE LEGAL SERVICES AS CITY ATTORNEY AND DESIGNATING A CITY ATTORNEY AND ASSISTANT CITY ATTORNEYS

WHEREAS, Section 8.01(a) of the City Charter states the City Attorney shall be appointed by the Mayor upon confirmation by three affirmative votes of Councilmembers; and

WHEREAS, Section 8.01(d) states Council may authorize Assistant City Attorneys to be appointed by the City attorney with the Consent of the Council; and

WHEREAS, the Mayor and City Council determine that the law firm of Denton Navarro Rocha Bernal & Zech PC is composed of competent Attorneys duly licensed to practice law in the State of Texas; and

WHEREAS, City Council desires to provide the greatest flexibility and value to the City in the provision of legal services.

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

SECTION 2. Appointment of Denton Navarro Rocha Bernal & Zech, PC. City Council confirms the Mayor's appointment of the law firm of Denton Navarro Rocha Bernal & Zech PC (the "Firm") to provide legal services as City Attorney.

SECTION 3. City Attorney. Charles E. Zech, a shareholder in the Firm, is hereby designated as the City Attorney.

SECTION 4. Assistant City Attorneys. City Council consents to the City Attorney appointing the lawyers of the Firm to be Assistant City Attorneys and they are hereby authorized to represent and provide legal services to the City at the direction of the City Attorney subject, ultimately, to the discretion of the Mayor and City Council.

PASSED AND APPROVED on this 10th day of August 2017.

MARK A. BRICKER, MAYOR

ATTEST

DAVID HOLUBEC, CITY SECRETARY

APPROVED AS TO FORM:

M. SHANNON KACKLEY, ASST. CITY ATTORNEY
DENTON NAVARRO ROCHA BERNAL & ZECH, PC

Attachment: Appointing Law Firm (2719 : Appoint Law Firm)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Litigation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2745

AGENDA ITEM (ID # 2745)

**~ DISCUSS, CONSIDER AND/OR APPROVE A RESOLUTION
AUTHORIZING A LAWSUIT AGAINST CP LIVING 23 (TEXAS)
LP, CP LIVING (TX) LLC, AND CP 23 (TX), LLC IN
MATAGORDA COUNTY, TEXAS AND APPOINTING THE LAW
FIRM OF DENTON, NAVARRO, ROCHA, BERNAL, AND ZECH,
PC TO REPRESENT THE CITY IN THIS LAWSUIT.**

COMMENTS - Current Meeting:

The resolution to approve the law firm of Denton, Navarro, Rocha, Bernal and Zech, P. C. representing the City of Bay City in litigation against CP Living 23 was approved by motion. The motion was made by Councilwoman Julie Estlinbaum and seconded by Councilwoman Chrystal Folse. The motion was approved unanimously.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING A LAWSUIT AGAINST CP LIVING 23 (TEXAS) LP, CP LIVING (TX) LLC, AND CP 23 (TX), LLC IN MATAGORDA COUNTY, TEXAS AND APPOINTING THE LAW FIRM OF DENTON NAVARRO ROCHA BERNAL & ZECH, PC TO REPRESENT THE CITY IN THIS LAWSUIT.

WHEREAS, Section 8.01(b) of the City Charter authorizes City Council to retain special legal counsel for any purpose and at any time it deems appropriate and necessary; and

WHEREAS, the Mayor and City Council have determined that the law firm of Denton Navarro Rocha Bernal & Zech PC is competent in litigation matters; and

WHEREAS, the City has claims against CP Living 23 (Texas), LP, CP Living (TX) LLC, and CP 23 (TX), LLC; and

WHEREAS, City Council has determined that it is appropriate and necessary to retain the firm of Denton Navarro Rocha Bernal & Zech PC to represent the City in its claims against CP Living 23 (Texas), LP, CP Living (TX) LLC, and CP 23 (TX), LLC in state district court in Matagorda County, Texas.

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

SECTION 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

SECTION 2. Appointment of Denton Navarro Rocha Bernal & Zech, PC to Represent the City. City Council confirms the Mayor's appointment of the law firm of Denton Navarro Rocha Bernal & Zech PC (the "Firm") to represent the City in its claims against CP Living 23 (Texas), LP, CP Living (TX) LLC, and CP 23 (TX), LLC in state district court in Matagorda County, Texas.

SECTION 3. Appointment is Appropriate and Necessary. City Council determines the appointment of the Firm to represent the City is appropriate and necessary.

PASSED AND APPROVED on this 10th day of August 2017.

MARK A. BRICKER, MAYOR

ATTEST

DAVID HOLUBEC, CITY SECRETARY

APPROVED AS TO FORM:

M. SHANNON KACKLEY, ASST. CITY ATTORNEY
DENTON NAVARRO ROCHA BERNAL & ZECH, PC

Attachment: Appointing Law Firm for CP Living Litigation (2745 : Pending Litigation Representation)



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Appointment
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2746

AGENDA ITEM (ID # 2746)

**~ PURSUANT TO SEC. 551.074 OF THE TEXAS
GOVERNMENT CODE (PERSONNEL MATTERS) CITY
COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO
DELIBERATE ON THE APPOINTMENT, EMPLOYMENT,
EVALUATION, AND DUTIES OF THE CITY ATTORNEY.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Litigation
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2747

AGENDA ITEM (ID # 2747)

**~ PURSUANT TO SEC. 551.071 OF THE TEXAS
GOVERNMENT CODE (CONSULTATION WITH ATTORNEY)
CITY COUNCIL SHALL CONVENE IN EXECUTIVE SESSION
TO RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY
REGARDING PENDING LITIGATION: CITY OF BAY CITY,
TEXAS V. CP LIVING 23 (TEXAS) LP, CP LIVING (TX) LLC,
AND CP 23 (TX).**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Agreement
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2750

AGENDA ITEM (ID # 2750)

~ PURSUANT TO TEXAS GOVERNMENT CODE SECTION 551.071(CONSULTATION WITH ATTORNEY), COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO RECEIVE LEGAL ADVICE FROM THE CITY ATTORNEY REGARDING CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF BAY CITY, TEXAS AND APPLE TEXAS RESTAURANTS, INC.



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Personnel
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2742

DISCUSSION ITEM (ID # 2742)

**~ PURSUANT TO SEC. 551.074 OF THE TEXAS
GOVERNMENT CODE (PERSONNEL MATTERS) CITY
COUNCIL SHALL CONVENE IN EXECUTIVE SESSION TO
DELIBERATE ON THE APPOINTMENT, EMPLOYMENT,
EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR
DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE; TO WIT:
HUMAN RESOURCES DIRECTOR, RHONDA CLEGG.**



City Council
1901 5Th Street
Bay City, TX 77414

SCHEDULED

AGENDA ITEM (ID # 2744)

Meeting: 08/10/17 07:00 PM
Department: City Secretary
Category: Report
Prepared By: David Holubec
Initiator: David Holubec
Sponsors:
DOC ID: 2744

**~ CITY COUNCIL SHALL RECONVENE IN OPEN SESSION
AND MAY DISCUSS, CONSIDER, AND/OR TAKE ACTION ON
ANY ITEM LISTED ABOVE THAT WAS CONSIDERED AND
DISCUSSED IN EXECUTIVE SESSION (IF NECESSARY).**