



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, March 23, 2021 at 6:00 PM
COUNCIL CHAMBERS | 1901 5th Street

COUNCIL MEMBERS

Mayor: Robert K Nelson

Mayor Pro Tem: Jason W. Childers

Council Members: Brent P. Marceaux, Becca Sitz, Floyce Brown, Jim Folse

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

AGENDA

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

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

CALL TO ORDER

INVOCATION & PLEDGE

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

Mayor Pro Tem Jason Childers

CERTIFICATION OF QUORUM

MISSION STATEMENT

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

Mayor Pro Tem Jason Childers

APPROVAL OF AGENDA

APPROVAL OF MINUTES

- 1. Meeting minutes of Regular Council meeting of March 9, 2021**

2. Meeting minutes of Council Workshop on March 2, 2021**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.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- 3. Ordinance ~ An Ordinance amending Ordinance 818 adopted by the Joint Airport Zoning Board of the City of Bay City - Matagorda County, and amending the City of Bay City Code of Ordinances Chapter 18 Aviation, Article II ("Airport Zoning"); providing a penalty; providing for severability; and providing an effective date. James Mason, Airport Manager**
- 4. Resolution ~ A Resolution of the City Council of the City of Bay City, Texas ("City"), approving (I) the Resolution of the Board of Directors of Bay City Community Development Corporation ("Corporation") regarding a loan in the amount of \$ 3,190,660.65; (II) A sales tax remittance agreement between the City and the Corporation; (III) resolving other matters incident and related to the loan; and (IV) the authority of the Mayor to execute, on behalf of the City, a General Certificate of the City and the Sales Tax Remittance Agreement. Jessica Russell, BCCDC Executive Director**
- 5. Property ~ Discuss, consider, and/or approve surplus property of Police Department vehicles for auction and/or donation. Robert Lister, Chief of Police**
- 6. Variance ~ Discuss, consider, and/or approve a variance to Chapter 98,100 building line requirement requirements at Meadowood S/D Phase 1, Lot 26, Block 2 (4512 Starling Dr.) Angela Thomas, Fusion Development Inc**
- 7. Declaration ~ Discuss, consider, and/or approve an extension of the Declaration of Local State of Disaster. Robert K. Nelson, Mayor**
- 8. Presentation ~ Discussion of waiver of Pilot Fees with Bay City Housing Authority. La Wanda Davis, PHA Executive Director, and Bill Bell, Commissioner**
- 9. Financials ~ Discuss, consider, and/or approve the City of Bay City waiving the Bay City Housing Authority payment in lieu of taxes (Pilot) fees for fiscal years ending March 31, 2012 through March 31, 2020, not to exceed \$82,793. Shawna Burkhart, City Manager**

CLOSED / EXECUTIVE SESSION

- 10. Pursuant to Texas Government Code Section 551.071, (1) for consultation with the City Attorney regarding the following: Cause No. 19-E-0013, Ronnie Dean Reeves, Vidala Leal Rodas, Danyal Sheniel Manning and the Bay City Housing Authority vs. Mark A. Bricker, Mayor, Defendant.**

11. Pursuant to Texas Government Code 551.071(2) to consult with its attorney on attorney client matters.
12. Pursuant to Texas Government Code Section 551.072 to discuss the purchase, exchange, lease, or value of real property.
13. Pursuant to Texas Government Code Section 551.087, (1) to discuss commercial or financial information that BCCDC has received from a business prospect that BCCDC seeks to have locate, stay, or expand in Bay City and with which BCCDC is conducting economic development negotiations; and/or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).
14. Pursuant to the Texas Government Code Section 551.074 (To discuss appointment, employment, evaluation, responsibilities and duties, reassignment, discipline or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: City Manager.

OPEN SESSION

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

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

ADJOURNMENT

AGENDA NOTICES:

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

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

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

CERTIFICATION OF POSTING

This is to certify that the above notice of a Regular Called Council Meeting was posted on the front window of the City Hall of the City of Bay City, Texas on **Friday, March 19, 2021 before 6:00 p.m.** Any questions concerning the above items, please contact Mayor Robert K. Nelson at (979) 245-2137.

CITY OF BAY CITY

MINUTES • MARCH 09, 2021

COUNCIL
CHAMBERS | 1901
5th Street

City Council Regular Meeting

6:00 PM

1901 5TH STREET
BAY CITY TX, 77414



Mayor

Robert K. Nelson

Councilman

Jim Folse

Mayor Pro Tem

Jason W. Childers

Councilman

Brent P. Marceaux

Councilwoman

Becca Sitz

Councilwoman

Floyce Brown

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

CALL TO ORDER

Mayor Robert K. Nelson called the meeting to order at 6:01 pm.

INVOCATION & PLEDGE

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

Councilman James Folse

CERTIFICATION OF QUORUM**PRESENT**

Mayor Robert K. Nelson
Councilwoman Floyce Brown
Councilman Jim Folse
Councilman Brent P. Marceaux
Councilwoman Becca Sitz

ABSENT

Mayor Pro Tem Jason W. Childers, excused

Quorum certified. Also present: Shawna Burkhart, City Manager and Anne Marie Odefey, City Attorney.

MISSION STATEMENT

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

Councilman James Folse

APPROVAL OF AGENDA

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

PUBLIC COMMENTS

David Torrez, 1616 Cottonwood, discussed road conditions and how Golden Ave needs work.

Martha Brown who is with the Ebony Club and works with children, stated that for 39 years they have had summer camp, except last year due to covid, and have used the Service Center Auditorium. This year she was told it would be 200 a day to use the auditorium and they need 5 days, plus they have to pay the woman coming. They wont be able to give scholarships due

to the cost of the auditorium. Ms. Brown asked if the family know the city is charging that much to non-profit.

APPROVAL OF MINUTES

Motion made by Councilwoman Brown to approve the minutes, Seconded by Councilman Marceaux. Voting Yea: Mayor Nelson, Councilwoman Brown, Councilman Folsie, Councilman Marceaux, Councilwoman Sitz. Motion carried.

1. **Minutes of Council Workshop Meeting on January 26, 2021**
2. **Minutes of Regular Council Meeting on January 26, 2021**
3. **Minutes of Council Workshop Meeting on February 23, 2021**
4. **Minutes of Regular Council Meeting on February 23, 2021**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

5. **Report ~ Review residential usage of the HHW Solutions.** Krystal Mason, Code Compliance Officer

Krystal Mason, Code Compliance Officer, presented to Council an update on the HHW program. Participants are still running low. Estimate 2 to 2.5 tons of waste diverted from the landfill. Ms. Mason added that they have been working on different marketing schemes. Mayor Nelson asked what HHW thinks, Ms. Mason replied that he says it is low compared to other cities. Councilman Marceaux added that it is always worthy of review and consideration of its viability. Shawna Burkhart, City Manager, replied that we will continue review.

6. **Report ~ Bay City Police Department Annual Report and Highlights.** Robert Lister, Chief of Police

Robert Lister, Chief of Police, presented council the annual report of crime stats of the department. Chief first reviewed his racial profile report, use of force, fleet accident review, accident/injury report. Chief went over the crime stats for 2020. Chief stated that homicide increased 30% increase nationwide and our city had the most he has seen over his career. Three of the homicides were results of incidents that occurred at a club, that club has been closed and owner is evicting the tenant. Working on an ordinance to limit time open (how late) like some cities have. The department is getting gun locks to give away. Providing flyers to hotels to hand to guest to remind them to remove valuables from vehicles. Chief added that they will try to get the citizens on patrol going. Adding home and business inspection for break-in prevention, getting Sgt. Sullivan re-certified to do those inspections.

Councilman Marceaux stated that 2020 crazy year and noted that the Police Department training hours were down. Councilwoman discussed dispatch

communication issues.

7. **Ordinance ~ An Ordinance authorizing the issuance of the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2021A (CWSRF); authorizing execution and delivery of a paying agent/registrar agreement and an escrow agreement relating to such certificates; prescribing the form of said certificates; levying a tax and pledging surplus revenues of the water and sewer system in payment thereof; and enacting other provisions relating thereto.**Scotty Jones, Finance Director

Scotty Jones, Finance Director, reviewed the proposed ordinance stating that is was a 30 year CO. Mayor Nelson polled the council.

Motion made by Councilman Marceaux to approve the Ordinance, Seconded by Councilwoman Brown.

Voting Yea: Mayor Nelson, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

8. **Ordinance ~ An Ordinance authorizing the issuance of the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2021B (DWSRF); authorizing execution and delivery of a paying agent/registrar agreement and an escrow agreement relating to such certificates; prescribing the form of said certificates; levying a tax and pledging surplus revenues of the water and sewer system in payment thereof; and enacting other provisions relating thereto.**

Scotty Jones, Finance Director

Mayor Nelson polled council.

Motion made by Councilwoman Brown to approve the Ordiance Seconded by Councilman Folse.

Voting Yea: Mayor Nelson, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

9. **Report ~ Update on Winter Event within the community.**Shawna Burkhart, City Manager

Shawna Burkhart, City Manager, gave summary of overall observation was limited interaction with the County EOC. Their was a strong desire of the City directors to form their own EOC with a defined plan. in addition, concerns about provisions distributions. Received assistance from County Precinct 1, Airport, Parks and Recreation, Public Works, Heidi Martinez for communications with citizen, and Mayor Nelson. Service Stations were limited on gasoline during that period. There was fuel at our site for our equipment and will make sure necessary employees have access badges. There was

a problem with the afterhours emergency line, citizens using when not emergency. We needed a location for warming station, the Service Center and church provided services. We need to communicate to citizens at the same time each day. Need internal text protocol to summarize the day. Communication when city offices closed went thru Rhonda Clegg and that worked well. Barry Calhoun wants one person to communicate through. Councilman Marceaux asked about fuel, clarified that it was service stations not city warehouse. Councilwomen Brown asked when council be notified? Ms. Burkhart stated that she failed to do herself and will send daily feed.

Heidi Martinez reviewed the process communicating with citizens and information gathered. Main concern of citizens was water, lack of and pressure. She provided resources regarding protecting pipes. Each we received information from other entities and directors, we shared on Facebook. The key thing to remember is that the city was trying to remain transparent. Updates were made to website. Sent about 4 Facebook updates a day, graphics designed for those posts because Facebook improves the algorith so more visibility. Ms. Burkhart added that Heidi worked a lot of hours keeping up the posts, web, and getting volunteers.

Allysa Dibbern updated council on Public Works list of items and lessons learned. Communication was key. Water pressure did decrease due to frozen main. Suggest a "did you know" or fact sheet to prepare for winter storm. Need to winterize our city facilities and equipment and determine what rental equipment may be needed.

Ms. Burkhart added that one lesson learned was not have a water distribution in the center of town due to traffic issues.

Councilman Folse added that the warming station was a citizen concern. He also added that what we did not hear about is the fire department and no water.

10. Declaration ~ Discuss, consider, and/or approve a Declaration of Local State of Disaster. Robert K. Nelson, Mayor

Motion made by Councilman Marceaux to approve the Declaration of Local State of Disaster and to extend it 14 days, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

CLOSED / EXECUTIVE SESSION

Council adjourned into Executive Session at 7:25 p.m.

11. Pursuant to Texas Government Code Section 551.087, (1) to discuss commercial or financial information that BCCDC has received from a business prospect that BCCDC seeks to have locate, stay, or expand in Bay City and with which BCCDC is conducting economic development negotiations; and/or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

OPEN SESSION

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

Council reconvened into the Regular session at 8:05 p.m. There were no items to discuss.

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilman Marceaux would thank Mayor, City Manager, and staff during the freeze and extra efforts. Councilman Marceaux would like Council to consider some level of compensation due to the scope of work that the Mayor did, which was above.

Councilwoman Brown stated concerns of Robinson and Duncan, she was informed name is City of Bay City Trustee. She stated the property is a dump, Code Enforcement has been called. Code Enforcement needs more training or more personnel, the City has jurisdiction. Councilwoman Brown added that the 2900 block of Avenue E has a partial privacy obstructing front door.

Councilwoman Sitz wants to know about street sweeper. Mayor Nelson responded that no one trained yet to drive the sweeper. Councilwoman Brown added that John Deer may provide training. Councilwoman Sitz stated that she wanted to parrot Mr. Torrez's comment regarding the railroad tracks; Mayor Nelson responded that the Railroad fixed but job was not good and he has been in contact. Councilwoman stated that charger/mustang noise needs to be enforced. Ms. Burkhart responded that the City does not have a meter to record decibal.

Mayor Nelson thanked the businesses, churches, citizens, and organizations that helped during the winter storm recovery.

ADJOURNMENT

Motion made by Councilman Marceaux to adjourn, Seconded by Councilwoman Brown. Voting Yea: Mayor Nelson, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried and Council adjourned at 8:17 p.m.

PASSED AND APPROVED, this ____ day of _____, 2021.

ROBERT K. NELSON, MAYOR

CITY OF BAY CITY, TEXAS

JEANNA THOMPSON

CITY SECRETARY

CITY OF BAY CITY

MINUTES • MARCH 02, 2021

BAY CITY GAS CO. |
1100 6th Street

City Council Workshop

9:30 AM

1901 5TH STREET
BAY CITY TX,77414



Mayor

Robert K. Nelson

Councilman

Jim Folse

Mayor Pro Tem

Jason W. Childers

Councilman

Brent P. Marceaux

Councilwoman

Becca Sitz

Councilwoman

Floyce Brown

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CALL TO ORDER

Council Workshop was in conjunction with the Bay City Gas Company Special Called meeting. Mayor Robert K. Nelson called the Council Workshop to order at 9:30 am.

CERTIFICATION OF QUORUM

COUNCIL PRESENT:

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

BAY CITY GAS COMPANY BOARD PRESENT:

Terrance Allen, Board Chairman
Janet Peden
Mayor Robert K. Nelson

Absent:

Councilman James Folse
Councilman Brent Marceaux

Quorum present.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND / OR APPROVAL

1. Discussion with the Bay City Gas Company regarding 2021 billing adjustments.

Kevin Hecht, Bay City Gas Company Director, summarized the predicament the Bay City Gas Company found themselves in during Winter Storm Uri. The Bay City Gas Company had order gas based on several years statics of usage. However, the week long freeze had used all gas and usage had doubled. The Gas Company was forced to purchase daily at the current rate which had grossly inflated. These costs are what the customers pay. Mr. Hecht recommended billing 15% of the February cost and billing installments over 9 months.

There were discussion as to what the State or Federal levels will do regarding the inflated prices, if anything.

Mayor Pro Tem Childers suggested the Gas Company provide a public announcement to post on the City's Facebook page.

ADJOURNMENT

Mayor Nelson adjourned the meeting at 10:55 am. (Note: at this time there was not a quorum)

PASSED AND APPROVED, this ____ day of _____, 2021.

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

JEANNA THOMPSON
CITY SECRETARY

ORDINANCE NO. _____

AN ORDINANCE AMENDING ORDINANCE 818 ADOPTED BY THE JOINT AIRPORT ZONING BOARD OF THE CITY OF BAY CITY-MATAGORDA COUNTY, AND AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 18 AVIATION, ARTICLE II (“AIRPORT ZONING”); PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

DIVISION I – GENERALLY.

SEC. 18-35. – PURPOSE-SHORT TITLE.

This section is adopted pursuant to the authority conferred by the Airport Zoning Act, as amended, Texas Local Government Code (hereinafter “TLGC”) Chapter 241,

It is hereby found that Airport Hazards and Obstructions have the potential for endangering the lives and property of users of Bay City Regional Airport and property or occupants of land in its vicinity; that an Obstruction may affect existing and future instrument approach minimums of Bay City Regional Airport; and that an Obstruction may reduce the size of areas available for the landing, taking off and maneuvering of aircraft. Accordingly, it is declared that:

- (1) The establishment of an Obstruction or development near an airport that is incompatible with the safe operation of that airport has the potential of being a public nuisance and may injure the region served by Bay City Regional Airport;
- (2) The encroachment of noise-sensitive or otherwise incompatible land uses within certain areas set forth hereinbelow may endanger the health, safety and welfare of the owners, occupants or users of the land;
- (3) It is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of Obstructions that are a Hazard to Air Navigation or potential incompatible land uses be prevented;
- (4) The prevention of these Obstructions and land use conflicts should be accomplished, to the extent legally possible, by the exercise of the police power without compensation;
- (5) The Bay City Regional Airport fulfills an essential community purpose. It is further declared that the prevention of the establishment of Hazards to Air Navigation; the elimination, removal, alteration or mitigation of Hazards to Air Navigation; the marking and lighting of Obstructions; and the prevention of the establishment of incompatible land use on properties adjacent to the Airport are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

This Article shall be known and may be cited as the Consolidated Hazard Area and Compatible Land Use Zoning Regulations for Bay City Regional Airport.

State Law Reference – Power to adopt zoning ordinances for height hazard and compatible use, TLGC §§ 241.011, 241.012.

Sec. 18-36. – DEFINITIONS.

As used in this Article, unless the context otherwise requires:

ADMINISTRATIVE AGENCY: means the appropriate person or office of a political subdivision which is responsible for the administration and enforcement of this Article. It shall be the duty of the office of the Bay City Regional Airport Manager to administer and enforce the regulations prescribed herein and is hereby designated as the Administrative Agency.

AIRPORT: means that area of land located within Matagorda County, Texas, currently referred to as the Bay City Regional Airport which is designed and set aside for the landing and taking off of aircraft, in the past, present, and future, used and to be used in the interest of the public for such purpose. The term includes an area with installations relating to flights, including installations, facilities, cargo handling, and bases of operations for tracking flights or requiring data concerning flights.

AIRPORT ELEVATION: means the established elevation of the highest point on the runway, either existing or planned, at the airport measured in feet above mean sea level (MSL), based on the North American Datum of 1983 (NAD 83). The airport elevation of Bay City Regional Airport is 45 feet above mean sea level (MSL). This elevation is defined in the current Airport Layout Plan, which is incorporated herein by reference.

AIRPORT HAZARD: means any structure or tree or use of land which obstructs that air space required for the flights of aircraft or which obstructs or interferes with the control or tracking and/or data acquisition in the landing, taking off or flight at any airport, or at any installation or facility relating to flight, and tracking and/or data acquisition of the flight craft; hazardous, interfering with or obstructing such landing, taking off or flight of aircraft or which is hazardous to or interferes with tracking and/or data acquisition pertaining to flight and flight vehicles.

AIRPORT LAYOUT PLAN: means a planning document, required by the Federal Aviation Administration (FAA), for the identification of airport facilities, appurtenances, and proposed improvements associated with the airport. The current Airport Layout Plan for Bay City Regional Airport was approved on August 17, 2018. The official copy of the Airport Layout Plan is on file in the Airport Managers office.

AIRPORT ZONING ACT: means the Airport Zoning Act, TLGC Chapter 241.

APPROACH SURFACE: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 18-40. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES: These zones are set forth and further detailed in Section 18.40 of this Article.

BOARD OF ADJUSTMENT: The Bay City-Matagorda County Joint Airport Zoning Board for Bay City Regional Airport hereby appoints the Bay City City Council to act as the Board of Adjustment for this Article.

COMPATIBLE LAND USE: means a use of land in the vicinity of the Airport within the development zone that does not endanger that health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations or the risk of personal injury or property damage created by the operations of the Airport, including the taking off and landing of aircraft.

COMPATIBLE LAND USE AREA: meaning an area of land located in the vicinity of the airport as indicated on “Exhibit 3” attached hereto and made a part hereof.

CONICAL SURFACE: A surface extending outward and upward from the periphery of the horizontal surface for a horizontal distance of 4,000 feet.

HAZARD TO AIR NAVIGATION: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

HEIGHT: For the purpose of determining the height limits in all zones set forth in this Article and shown on the map(s) herein, the datum shall be mean sea level elevation based on NAD 83 unless otherwise specified.

HORIZONTAL SURFACE: A horizontal plane above the airport, the perimeter of which is an oval constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of Runway 13/31 and connecting the arcs by tangent lines.

JOINT AIRPORT ZONING BOARD: Means the Bay City-Matagorda County Joint Airport Zoning Board consisting of five members, two members appointed by the Commissioners’ Court of Matagorda County and two members appointed by the City Council of the City of Bay City with the fifth member elected by a majority of the members so appointed with the fifth member so elected to serve as chairman of said Joint Airport Zoning Board.

LANDING AREA: The surface area of the Airport used for the landing, take-off or taxiing of aircraft.

NONCONFORMING USE: Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. Runway 13/31 is defined for this Article as a non-precision instrument runway.

OBJECT OF NATURAL GROWTH: Means any tree, shrub or other vegetation.

OBSTRUCTION: Any structure, growth, or other object, including a mobile object which exceeds a limiting height set forth in Section 18-40.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.

PRIMARY RUNWAY: Existing or planned paved runway greater than 3200 feet in length on which a majority of the approaches to and departures from the airport occur. Runway 13/31 is the primary runway at the Bay City Regional Airport.

PRIMARY SURFACE: A surface longitudinally centered on a runway and extending 200 feet beyond each end of the runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The width of the primary surface for Runway 13/31 is 500 feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY: A defined area on an airport prepared for landing and take-off of aircraft along its length. The length of Runway 13/31 at Bay City Regional Airport is 5,107 feet.

STRUCTURE: An object, including a mobile object, constructed or installed by man, including, but not limited to, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

TRANSITIONAL SURFACES: A surface extending outward at 90-degree angles to the primary and approach surfaces until they intersect the horizontal surface.

Sec. 18-37 Conflicting Regulations

Other ordinances, articles in this ordinance and any other regulations applicable to the same subject matter, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

State Law Reference – Conflict of an airport hazard area and compatible land use zoning regulation with another regulation TLGC §241.901 and §241.902.

Sec. 18-38 – APPEALS.

(1) Any person aggrieved, any taxpayer affected, or the Joint Airport Zoning Board that believes the decision of the Administrative Agency, made in administration of this Article, is an improper application of these regulations, may appeal to the Board of Adjustment.

(2) All appeals hereunder must be taken within a reasonable time, but no later than four (4) weeks after a decision is reached by the Administrative Agency, as provided by the rules of the Board of Adjustment, by filing with the Administrative Agency a notice of appeal specifying the grounds thereof. The Administrative Agency, as shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Administrative Agency certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate, a stay would, in the opinion of the Administrative Agency, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by Order of the Board of Adjustment on notice to the Administrative Agency and on due cause shown.

(4) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney.

(5) The Board of Adjustment may in conformity with the provisions of this Article, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination, as may be appropriate under the circumstances.

State Law Reference – Appeal to board, TLGC § 241.036

Sec. 18-39. – JUDICIAL REVIEW.

Any person aggrieved, any taxpayer affected, or the Joint Airport Zoning Board that believes the decision of the Board of Adjustment is illegal, may appeal to a court of competent jurisdiction, as provided by the Airport Zoning Act.

State Law Reference – Judicial review of board position, TLGC § 241.041

SEC. 18-40. – ZONES.

In order to carry out the provisions of this Article, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surface, Transition Surface, Horizontal Surface, Conical Surface, and Wildlife Protection Control – as defined in **SEC. 18-36 Definitions** - as they apply to the Bay City Regional Airport. Such zones are shown on the Joint Airport Zoning Maps consisting of Exhibits 1 through 5, prepared by Professional Engineers (PEs) and dated December 2019, which are attached to this Article and made a part hereof. An area

located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

(1) APPROACH ZONES

(a) Runway 13 Approach Zone is established beneath the approach surface at the end of Runway 13 (northwest threshold) on Bay City Regional Airport for landings and take-offs. The inner edge of the approach zone shall have a width of 500 feet which coincides with the width of the primary surface at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 2,035 feet at a horizontal distance of 5,317 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

(b) Runway 31 Approach Zone is established beneath the approach surface at the end of Runway 31 (southeast threshold) on Bay City Regional Airport for landings and take-offs. The inner edge of the approach zone shall have a width of 500 feet which coincides with the width of the primary surface at a distance of 200 feet beyond the end of the runway, widening thereafter uniformly to a width of 2,081 feet at a horizontal distance of 5,470 feet beyond the end of the runway, its centerline being the continuation of the centerline of the runway.

(2) TRANSITION ZONES: Transition Zones are hereby established beneath the transition surface adjacent to each runway and approach surface as indicated on the attached exhibits. Transition surfaces, symmetrically located on either side of runways, have variable widths as shown on the attached exhibits.

(3) HORIZONTAL ZONE: The volume beneath a horizontal plane 150 feet above the established airport elevation defined in the Airport Layout Plan.

(4) CONICAL ZONE: The volume beneath the conical surface extending outward and upward from the periphery of the horizontal surface sloping upward and outward twenty (20) feet horizontally for each foot vertically, for a horizontal distance of 4,000 feet.

(5) WILDLIFE PROTECTION CONTROL ZONE: The area located within 10,000 feet of the airport operations area and further defined in Section 18-44(2).

Sec. 18-41. – HEIGHT LIMITATIONS.

Except as otherwise provided in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Article to a height in excess of the applicable height limit herein established for each zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

(1) HORIZONTAL ZONE: Within the Horizontal Surface, one hundred and fifty (150) feet above the airport elevation or a height of 195 feet above mean sea level.

(2) CONICAL ZONE: Within the Conical Surface, sloping upward and outward twenty (20) feet horizontally for each foot vertically to a height of three hundred and fifty (350) feet above the airport elevation or a height of 395 feet above mean seal level.

The Horizontal and Conical Zones with height limitation elevations are depicted in Exhibit 1.

Beneath the Horizontal Zone lie the Approach and Transition Zones.

(3) APPROACH ZONES

(a) Runway 13: Slopes upward and outward thirty-four (34) feet horizontally for each foot vertically, beginning at the end of and at the elevation of the primary surface and extending to its intersection with the Horizontal Zone 5,317 feet from the end of the runway.

(b) Runway 31: Slopes upward and outward thirty-four (34) feet horizontally for each foot vertically, beginning at the end of and at the elevation of the primary surface and extending to its intersection with the Horizontal Zone 5,470 feet from the end of the runway.

(4) TRANSITION ZONES

(a) Runway 13/31: Slopes upward and outward seven (7) feet horizontally for each foot vertically, upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to its intersection with the Horizontal Zone.

The Approach and Transition Zones with height limitation elevations are depicted in Exhibit 2. Height limitations within the Approach and Transition Zones supersede the Horizontal Zone limit.

SEC. 18-42 – COMPATIBLE LAND USE AREA.

The area within which land use compatibility zoning may take place shall be known as the “Compatible Land Use Area.” (Exhibit 3 of this Article.) The compatible land use area means that land located within and outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half (1.5) statute miles from the centerline of the primary runway and lines no farther than five (5) statute miles from each end of the runway. This land will be separated into tiers indicated below.

(1) Tier 1. Is the area within the airport boundaries as currently depicted on Exhibit 3, but is subject to change as the airport acquires land.

(a) Development on this land is prohibited without consent of the Administrative Agency.

(2) Tier 2. Is the area outside airport boundaries and within a rectangle bounded by lines located no farther than one and one-half (1.5) statute miles from the centerline of the primary runway and lines no farther than five (5) statute miles from each end of the runway.

- (a) Within the jurisdiction of City of Bay City Public Works Department and Matagorda County Environmental Health Department, applications for building permit(s) within the limits of Tier 2 will require notification to the permittee by permit application that property and improvements are located within Tier 2. The contents of the notice are in (b) below.
- (b) NOTICE: The land you are acquiring is located within The Compatible Land Use Area of the Bay City Regional Airport. The property may be subject to noise levels of DNL 65dB or higher because of aircraft take-off and landing patterns that may affect the enjoyment of your land and/or restrict the purposes for which you intend to use your land.
- (c) This notice is required to be disclosed by the seller, real estate agent, and/or title company to any potential buyer of land in Tier 1 or Tier 2 of the Bay City Regional Airport.
- (d) This notice must be recorded with the deed in the deed records of Matagorda County when a new deed is recorded.

State Law Reference – Controlled compatible land use area, TLGC § 241.003 (7)

Sec. 18-43.- RESERVED (AIRPORT DEVELOPMENT)

Sec. 18-44. – OTHER USE RESTRICTIONS.

(1) Airport Safety. Except as provided in this Section, no use may be made of land or water within the entirety of Matagorda County in such a manner as to create electrical interference with navigational signals or radio communications between the Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise in any way endanger or interfere with the landing, taking off, or maneuvering of aircraft intending to use the airport.

(2) Wildlife Protection Control. Except as provided in this Section, no use may be made of land or water within the Wildlife Protection Control Zone as established by this Article in such a manner as to create potential bird strike hazards to aircraft intending to use the airport. Such activities include but are not limited to: waste disposal (landfills), water management facilities (storm- and wastewater), water drainage retention ponds, wetlands, dredge spoil areas, incompatible agricultural uses, golf courses, and landscaped areas as shown in Exhibit 4, which is attached and incorporated herein.

State Law Reference – Reasonableness of airport zoning regulations, Local Government Code § 241.018

Sec. 18-45. – NONCONFORMING USES.

(1) Regulations Not Retroactive. The regulations prescribed by this Article shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article and whose completion is diligently pursued. For purposes of this Article, permitted non-conforming structures shall include all phases or elements of a multi-phase structure, regardless of whether actual construction has commenced, which has received a determination of no hazard by the Federal Aviation Administration under Part 77 of the Federal Aviation Regulation (14 Code of Federal Regulations, part 77) before the airport zoning regulations were adopted or amended under the Airport Zoning Act.

(2) Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Administrative Agency to indicate to the operators of aircraft in the vicinity of the Airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport. If in the future the nonconforming structure is altered by eighty (80) percent or more, it will be the responsibility of the owner to provide the markers and lights at their expense.

State Law Reference – Nonconforming uses and structures, TLGC § 241.019

Secs. 18-46 ---18-66. -- RESERVED

DIVISION 2: ADMINISTRATION.

Sec. 18-67. – PERMITS.

Application: Within the jurisdiction of City of Bay City Public Works Department and Matagorda County Environmental Health Department, applications for building permit(s) within the Zones as noted in **Sec. 18-40** above, will require a “Airport Hazard and Land Use Permit”. The Airport Hazard and Land Use Permit could restrict some aspects of the potential use, size, height, lighting, glare potential or construction of your building. Airport Hazard and Land Use Permit applications must be approved before any building permit will be issued. If an Airport Hazard and Land Use Permit is disapproved, a variance may be requested, see paragraph 4 below. The Airport Hazard and Land Use Permit will be given at the time of the building permit request and must be returned to the Administrative

Agency in person, mail or email. The manner and address to return the application is described at the bottom of the permit. A copy of the approved or disapproved permit will be returned to the city or county before a building permit could be issued by either agency.

State Law Reference – Controlled compatible land use area, TLGC § 241.003(7)

(1) Future Uses: Except as specifically provided in a, b, c, d, and e hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for following Sec. 18-67 above and granted. Along with the permit application, those improvements that exceed height limitations under Section (e) below, a separate determination of application to the FAA for airspace study of the proposed change shall be made. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 18.67(4).

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

(c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.

(d) In areas lying within the limits of the Wildlife Protection Control Area, no permit shall be required for improvements that do not create an attractant for wildlife, particularly birds.

The Wildlife Protection Control Zone is depicted in Exhibit 4.

(e) In areas where the proposed structure or tree does not exceed a height based on a slope of one hundred (100) feet outward horizontally for each foot vertically, for a horizontal distance of 20,000 feet from the nearest point of the nearest runway, no permit shall be required for any tree or structure except when such tree or structure would extend above the height limit of any of the above subsections.

The FAA Notification limits are depicted in Exhibit 5.

(2) Existing Uses: No permit shall be granted that would allow the establishment or creation of any airport hazard or permit a non-conforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(3) Non-conforming Uses Abandoned or Destroyed: Whenever the Administrative Agency determines that a non-conforming structure or tree has been abandoned or more than eighty (80) percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from this Article.

(4) Variances: Any person denied an Airport Hazard permit following Section 18-67 by the Administrative Agency may request a variance, by applying to the City Council of the City of Bay City sitting as the Board of Adjustment, following Section 18-38 for a variance from such regulations in question. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the Administrative Agency for advice as to the aeronautical effects of the variance.

The Board of Adjustment shall allow a variance from an airport zoning regulation if:

- (a) a literal application or enforcement of the regulation would result in practical difficulty or unnecessary hardship; and
- (b) the granting of the relief would:
 - (i) result in substantial justice being done;
 - (ii) not be contrary to the public interest; and
 - (iii) be in accordance with the spirit of the regulation and this Article.
- (c) The Board of Adjustment may impose any reasonable conditions on the variance that it considers necessary to accomplish the purposes of this Article.

If the Administrative Agency does not respond to the application within fifteen (15) days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(5) Obstruction Marking and Lighting: Any permit or variance granted may, if such

action is deemed advisable to effectuate the purpose of this Article and be reasonable in the circumstances, be so conditioned as to require the Permittee, to allow the Bay City Airport to install, operate, and maintain the necessary markings and lights.

State Law Reference – Permits, TLGC § 241.020; Board of Adjustment, TLGC §§ 241.032, .033 and .034

Sec. 18-68 – ENFORCEMENT.

It shall be the duty of the Administrative Agency to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the Administrative Agency upon a form published for that purpose. Applications required by this Article to be submitted to the Administrative Agency shall be considered and granted or denied within a reasonable period of time. Applications for variances shall be made to the Board of Adjustment by first filing said application for variance with the Administrative Agency, who shall forthwith transmit said application to the Board of Adjustment for determination.

State Law Reference – Administrative agency, TLGC § 241.031

Sec. 18-69 – BOARD OF ADJUSTMENT.

As provided for under the authority of the laws of the State of Texas, including but not limited to the Airport Zoning Act, the Joint Airport Zoning Board for Bay City Regional Airport hereby appoints the Bay City City Council to act as the Board of Adjustment for this Chapter with all rules, membership, voting and findings to be in compliance with the procedures set forth in TLGC §§ 241.032, .033,.034, and this Section.

State Law Reference – Board of Adjustment, TLGC §§ 241.032, .033 and .034

Sec. 18.70 – ENFORCEMENT AND REMEDIES.

The Administrative Agency may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Article or of any order or ruling made in connection with its administration or enforcement including, but not limited to, an action for injunctive relief as provided by the Airport Zoning Act.

State Law Reference – Additional remedies, TLGC § 241.044

Sec. 18-71. – PENALTIES.

Each violation of this Article or of any regulation, order, or ruling promulgated hereunder shall constitute a misdemeanor and upon conviction shall be punishable by a fine of not more than \$500.00 and each day a violation continues to exist shall constitute a separate offense.

Section 18-81.- SEVERABILITY.

If any of the provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 18-82. EFFECTIVE DATE.

WHEREAS, the immediate operation of the provisions of this Ordinance is necessary for the preservation of the public health, public safety, and general welfare an EMERGENCY is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage by the Bay City – Matagorda County Joint Airport Zoning Board and publication and posting as required by law. Adopted by the Bay City-Matagorda County Joint Airport Zoning Board this _____ day of _____, 2021.

William Cornman, Chairman

Julie Estlinbaum, Member

C. Wayne Neal, Chairman

Gary Faris, Member

Stephen Johnson, Chairman

This Ordinance shall become effective immediately upon passage.

PASSED AND APPROVED on this the _____ day of _____ 2021.

Robert K. Nelson, Mayor
City of Bay City

ATTEST:

APPROVED AS TO FORM:

City Secretary
City of Bay City

Anne Marie Odefey, City Attorney

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Floyce Brown	_____	_____	_____
James Folse	_____	_____	_____
Jason Childers, Mayor Pro Tem	_____	_____	_____
Becca Sitz	_____	_____	_____
Brent Marceaux	_____	_____	_____

Robert K. Nelson, Mayor,
City of Bay City

ATTEST:

City Secretary

**CITY OF BAY CITY**

1901 FIFTH STREET
 BAY CITY, TEXAS 77414
 (979) 245-2137
 FAX: (979) 323-1626

AGENDA ITEM SUBMISSION FORM

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

Citizen
 Member

XXX City Staff

Council

Requestor Name: Jessica Russell,

Date Submitted: March 12, 2021

Position Title (If City Staff): BCCDC Executive Director

Council Meeting Date: April 23, 2021

Type of Agenda Item:

Consent Agenda Presentation

XXX Regular Item for Discussion

Public Hearing

Executive Session

Agenda Wording:

Consider and approve A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS ("CITY"), APPROVING (I) THE RESOLUTION OF THE BOARD OF DIRECTORS OF BAY CITY COMMUNITY DEVELOPMENT CORPORATION ("CORPORATION") REGARDING A LOAN IN THE AMOUNT OF \$3,190,660.65; (II) A SALES TAX REMITTANCE AGREEMENT BETWEEN THE CITY AND THE CORPORATION; (III) RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE LOAN; AND (IV) THE AUTHORITY OF THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A GENERAL CERTIFICATE OF THE CITY AND THE SALES TAX REMITTANCE AGREEMENT.

Executive Summary of Item:

CERTIFICATE FOR RESOLUTION

On April 23, 2021, we, the undersigned officers of the Bay City Community Development Corporation (the "Corporation"), hereby certify as follows:

1. The Board of Directors of the Corporation convened in Regular Meeting on March 15, 2021 at the designated meeting place, and the roll was called of the duly constituted officers and members of said Board of Directors, to wit: President Floyce Brown, Vice President Becca Sitz, Secretary Jason Childers, Board members Erik Frankson, Robert Knox and Jeannette Bell.

and all of said persons were present, except the following absentees: _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said Meeting: a written

RESOLUTION OF THE BOARD OF DIRECTORS OF THE BAY CITY COMMUNITY DEVELOPMENT CORPORATION REGARDING A LOAN IN THE PRINCIPAL AMOUNT OF \$3,190,660.65

was duly introduced for the consideration of said Board of Directors and read in full. It was then duly moved and seconded that said Resolution be adopted; and, after due discussion, said motion carrying with it the adoption of said Resolution, prevailed and carried by the following vote:

AYES: All members of the Board of Directors shown present above voted "Aye" except as shown below.

NOES: _____

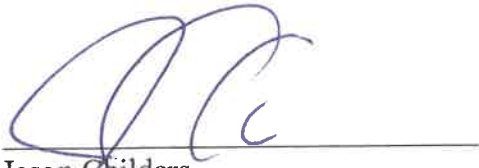
ABSTAIN: _____

2. That a true, full and correct copy of the aforesaid Resolution adopted at the Meeting described in the above and foregoing paragraph is attached to and follows this Certificate; that said Resolution has been duly recorded in said Board of Directors' minutes of said Meeting; that the above and foregoing paragraph is a true, full and correct excerpt from said Board of Directors' minutes of said Meeting pertaining to the adoption of said Resolution; that the persons named in the above and foregoing paragraph are the duly chosen, qualified and acting officers and members of said Board of Directors as indicated therein; that each of the officers and members of said Board of Directors was duly and sufficiently notified officially and personally, in advance, of the time, place and purpose of the aforesaid Meeting, and that said Resolution would be introduced and considered for adoption at said Meeting, and each of said officers and members consented, in advance, to the holding of said Meeting for such purpose, and that said Meeting was open to the public and public notice of the time, place and purpose of said Meeting was given, all as required by Chapter 551, Texas Government Code.

3. That the President of the Board of Directors of the Corporation has approved and hereby approves the aforesaid Resolution; that the President and the Secretary of said

Corporation have duly signed said Resolution; and that the President and the Corporation Secretary of said Corporation hereby declare that their signing of this Certificate shall constitute the signing of the attached and following copy of said Resolution for all purposes.

Signed on the date first written above.

A handwritten signature in blue ink, appearing to be 'J Childers', written over a horizontal line.

Jason Childers
Secretary, Board of Directors

A handwritten signature in blue ink, appearing to be 'Floyce Brown', written over a horizontal line.

Floyce Brown
President, Board of Directors

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE BAY CITY
COMMUNITY DEVELOPMENT CORPORATION REGARDING A
LOAN IN THE PRINCIPAL AMOUNT OF \$3,190,660.65**

WHEREAS, BAY CITY COMMUNITY DEVELOPMENT CORPORATION ("*Borrower*") proposes to enter into a Loan Agreement dated as of April 23, 2021 (as amended, restated, supplemented and/or otherwise modified, the "*Loan Agreement*"), with Government Capital Corporation, as lender ("*Lender*") to enable the Corporation to (1) refinance (a) that certain promissory note in the original principal amount of \$1,947,759.63 dated as of May 31, 2016 executed by the Corporation and payable to Government Capital Corporation (the "Series 2016 Note") and (b) that certain promissory note in the original principal amount of \$2,033,620.51 dated as of April 25, 2016 executed by the Corporation and payable to Government Capital Corporation (the "*Series 2016A Note*" and together with the Series 2016 Note the "*Refunded Obligations*"), and (2) pay costs of issuing the loan, in an amount equal to \$2,106,491.36 and as security for the payment of the principal of and interest thereon, the Borrower has agreed to pledge its Economic Development Sales and Use Tax. All capitalized terms used herein, but not otherwise defined herein, shall have the meaning ascribed to such term in the Loan Agreement.

WHEREAS, the proposed form of the Loan Agreement, the Series 2021 Note (as defined in the Loan Agreement) and the Sales Tax Remittance Agreement (as defined in the Loan Agreement) have been presented to this meeting.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF
BAY CITY COMMUNITY DEVELOPMENT CORPORATION AS FOLLOWS:**

Section 1. The Board of Directors agrees to enter into the Loan Agreement, Series 2021 Note and the Sales Tax Remittance Agreement to refinance the Refunded Obligations in the amount of \$3,190,660.65 at an interest rate agreed upon by the Lender and the Borrower on the date of execution of the execution of the Series 2021 Note, the Loan Agreement and the Sales Tax Remittance Agreement and, in order to secure the principal and interest on the Series 2021 Note, to pledge its Economic Development Sales and Use Tax.

Section 2. That any one or more of the Authorized Officers of the Borrower listed in Section 3 below be, and each of them hereby is, authorized to execute, acknowledge and deliver in the name and on behalf of Borrower to the Lender the Loan Agreement, including all attachments and exhibits thereto, the Series 2021 Note and the Sales Tax Remittance Agreement. The Loan Agreement, Series 2021 Note and Sales Tax Remittance Agreement shall be in substantially the form presented to this meeting with such changes as the signing officer shall determine to be advisable. Further, said Authorized Officers are authorized to execute, acknowledge and deliver in the name and on behalf of the Borrower any other agreement, instrument, certificate, representation and document, and to take any other action as may be advisable, convenient or necessary to enter into such Loan Agreement, Series 2021 Note and Sales Tax Remittance Agreement; the execution thereof by any such Authorized Officer shall be conclusive as to such determination.

Section 3. That for the purpose of this resolution, the following persons, or the persons holding the following positions, are "*Authorized Officers*" duly authorized to enter into the transaction contemplated by this resolution in the name and on behalf of Borrower:

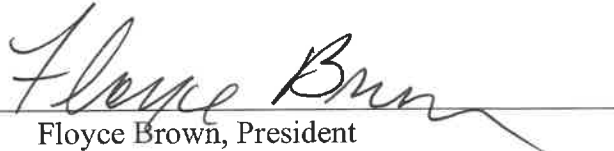
<u>Name</u>	<u>Title</u>
Floyce Brown	President
Becca Sitz	Vice-President
Jim Frankson	Treasurer
Jason Childers	Secretary

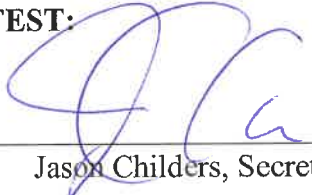
Section 4. That there is hereby authorized the execution and delivery by the Authorized Officers or any one of them in the name of and on behalf of Borrower the Loan Agreement, including all attachments and exhibits thereto, the Series 2021 Note and the Sales Tax Remittance Agreement in substantially the form presented to this meeting with such changes as the signing officer shall determine advisable, and the execution thereof shall be conclusive as to such determination.

Section 5. That this Resolution shall take effect immediately.

PASSED AND ADOPTED this March 15, 2021.

BAY CITY COMMUNITY DEVELOPMENT CORPORATION

By: 
Floyce Brown, President

ATTEST:

By: _____
Jason Childers, Secretary

RESOLUTION NO. R-2021-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS (“CITY”), APPROVING (I) THE RESOLUTION OF THE BOARD OF DIRECTORS OF BAY CITY COMMUNITY DEVELOPMENT CORPORATION (“CORPORATION”) REGARDING A LOAN IN THE AMOUNT OF \$3,190,660.65; (II) A SALES TAX REMITTANCE AGREEMENT BETWEEN THE CITY AND THE CORPORATION; (III) RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE LOAN; AND (IV) THE AUTHORITY OF THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A GENERAL CERTIFICATE OF THE CITY AND THE SALES TAX REMITTANCE AGREEMENT.

WHEREAS, the Bay City Economic Development Corporation (the “*Corporation*”) has been duly created and organized pursuant to the provisions of Chapter 505, Local Government Code, as amended (formerly Section 4B of the Development Corporation Act of 1979, Article 5190.6, Texas Revised Civil Statutes Annotated, as amended) (the “*Act*”) by the City of Bay City, Texas (the “*City*”); and

WHEREAS, pursuant to the Act, the Corporation is empowered to borrow money for the purpose of financing the cost of any “*project*” defined as such by the Act; and

WHEREAS, the Board of Directors of the Corporation has found and determined that refinancing (a) that certain promissory note in the original principal amount of \$1,947,759.63 dated as of May 31, 2016 executed by the Corporation and payable to Government Capital Corporation (the “*Series 2016 Note*”) and (b) that certain promissory note in the original principal amount of \$2,033,620.51 dated as of April 25, 2016 executed by the Corporation and payable to Government Capital Corporation (the “*Series 2016A Note*” and together with the Series 2016 Note the “*Refunded Obligations*”) is authorized under the Act and loan proceeds may be used for such financing pursuant to that certain Loan Agreement, dated as of April 23, 2021, (as amended, restated, supplemented and/or otherwise modified, the “*Loan Agreement*”) in the original principal amount of \$3,190,660.65 (the “*Loan*”) between the Corporation and Government Capital Corporation (the “*Lender*”); and

WHEREAS, the Corporation proposes to enter into a Sales Tax Remittance Agreement, dated as of April 23, 2021, (as amended, restated, supplemented and/or otherwise modified, the “*Sales Tax Remittance Agreement*”) with the City; pursuant to, which among other things, the Corporation will pledge its sales tax revenues to the Lender to secure repayment of the Loan;

WHEREAS, the Act requires the City Council of the City approve the resolution of the Corporation providing for the execution and delivery of the Loan Agreement.

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

Section 1. The Resolution approving the Loan Agreement and authorizing the issuance of the Series 2021 Note (as defined in the Loan Agreement) authorized by the Corporation (the “Corporation Resolution”) on March 15, 2021, and submitted to the City Council this day, is hereby approved in all respects. The Series 2021 Note is being issued to refinance the Refunded Obligations and to pay the Costs of Issuance (as defined in the Loan Agreement).

Section 2. The approvals herein given are in accordance with the Act, and the Series 2021 Note shall never be construed an indebtedness or pledge of the City, or the State of Texas (the “State”), within the meaning of any constitutional or statutory provision, and the owner of the Note shall never be paid in whole or in part out of any funds raised or to be raised by taxation (other than sales tax proceeds as authorized pursuant to Chapter 505 of the Act) or any other revenues of the Corporation, the City, or the State, except those revenues assigned and pledged by the Loan Agreement and the Sales Tax Remittance Agreement.

Section 3. The City hereby agrees to promptly collect and remit to the Corporation the Economic Development Sales and Use Tax (defined in the Loan Agreement) to provide for the prompt payment of the Series 2021 Note, and to assist and cooperate with the Corporation in the enforcement and collection of sales and use taxes imposed on behalf of the Corporation.

Section 4. The Sales Tax Remittance Agreement attached hereto as Exhibit A is incorporated by reference as a part of this Resolution for all purposes, with respect to the obligations of the City and Corporation during the time the Series 2021 Note is outstanding, is hereby reapproved as to form and substance. Furthermore, the Mayor and the City Secretary and the other officers of the City are hereby authorized, jointly and severally, to execute and deliver such endorsements, instruments, certificates, documents, or papers necessary and advisable to carry out the intent and purposes of this Resolution.

Section 5. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by V.T.C.A. Government Code, Chapter 551, as amended.

Section 7. This Resolution shall be in force and effect from and after its passage on the date shown below.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

PASSED AND ADOPTED, this ____ day of _____, 2021.

CITY OF BAY CITY, TEXAS

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson, City Secretary

APPROVED AS TO FORM:

Anne Marie Odefey, City Attorney

EXHIBIT A
Sales Tax Remittance Agreement

CERTIFICATE OF CITY SECRETARY

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §
CITY OF BAY CITY §

I, the undersigned, City Secretary of the City of Bay City, Texas DO HEREBY CERTIFY as follows:

1. On March 23, 2021, a regular meeting of the City Council of the City of Bay City, Texas, was held at a meeting place within the City; the duly constituted members of the Council being as follows:

Robert K. Nelson	Mayor
Jason Childers	Mayor Pro Tem
Floyce Brown	Council Member
Jim Folse	Council Member
Brent Marceaux	Council Member
Becca Sitz	Council Member

and all of said persons were present at said meeting, except the following: _____. Among other business considered at said meeting, the attached resolution entitled:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS (“CITY”), APPROVING (I) THE RESOLUTION OF THE BOARD OF DIRECTORS OF BAY CITY COMMUNITY DEVELOPMENT CORPORATION (“CORPORATION”) REGARDING A LOAN IN THE AMOUNT OF \$3,190,660.65; (II) A SALES TAX REMITTANCE AGREEMENT BETWEEN THE CITY AND THE CORPORATION; (III) RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE LOAN; AND (IV) THE AUTHORITY OF THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY, A GENERAL CERTIFICATE OF THE CITY AND THE SALES TAX REMITTANCE AGREEMENT.

was introduced and submitted to the City Council for passage and adoption. After presentation and due consideration of the resolution, and upon a motion made and seconded, the resolution was duly passed and adopted by the Council to be effective immediately by the following vote:

AYES: All members of the City Council shown present above voted “Aye”, except as noted below,

NOES: _____

ABSTAIN: _____

all as shown in the official Minutes of the City Council for the meeting held on the aforesaid date.

2. The attached resolution is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the City Council on the date of the aforesaid meeting are those persons shown above and, according to the records of my office, advance notice of the time, place and purpose of said meeting was given to each member of the Council; and that said meeting, and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the above-entitled resolution, was posted and given in advance thereof in compliance with the provisions of V.T.C.A., Chapter 551, Government Code, as amended.

IN WITNESS WHEREOF, I have hereunto signed my name officially on the date first written above.

Jeanna Thompson, City Secretary

From: [Robert Lister](#)
To: [Jeanna Thompson](#)
Subject: Vehicles considered Surplus
Date: Wednesday, March 17, 2021 3:57:47 PM

Unit #702 2005 Ford Crown Victoria (93,937)
Unit #817 2014 Ford Explorer (134,675)
Unit #818 2014 Ford Explorer (113,343), donate to Constable Schoppe. Precinct 1.
Unit #844 2015 Ford Explorer (108,883)
Unit #845 2015 Ford Explorer (106,883)

Chief Lister

Sent from my iPhone



**CITY OF BAY CITY
VARIANCE REQUEST**

1901 5th Street
Bay City, TX 77414
(979) 245-5311
(979) 323-1681 fax

All requests for a variance shall be filed with the City Secretary. Each request shall be accompanied by a \$75.00 filing fee, a drawing/illustration depicting the property affected by the request, and any additional supplemental documentation that you want the Variance Committee to consider. **Incomplete requests will not be accepted.**

Date: March 10, 21

Name of Requestor (please print): Fusion Development LLC - Angela Thomas

Address of Requestor: 565 S. Mason Rd #448 Katy, Tx 77450 Phone Number: 713-252-0584

Email Address: athomas1200@yahoo

Address of subject property: 4512 Starling Dr 77414

Legal description of subject property: Lot 26, Block of Meadowood Phase 1

Section(s) of the City's Code of Ordinances from which the variance is being sought:

- Sec. _____ of the Code of Ordinances
- Sec. _____ of the Code of Ordinances
- Sec. _____ of the Code of Ordinances

In detail, please state the reason for the request: Left side of property has 10' BLE. So right side of property is 3 feet from BLE. Total of 9' between lot 26 and lot 25 structures. I need variance to build on lot 26 closer than 5' BLE on right side of property. It has 3.5' BL.

The Variance Committee will consider variance requests from the following:

- (a) Ch. 22 (Buildings and Building Regulations)
- (b) Ch. 46 (Flood Damage Prevention)
- (c) Ch. 54 (Mobile Homes, etc.)
- (d) Ch. 78 (Off Street Parking (Angle Parking))
- (e) Ch. 94 (Streets, Sidewalks and Other Public Places)
- (f) Ch. 98, Sec. 98-122 - Subdivision Streets
- (g) Ch. 110, Sec. 110-178 (Traffic and Vehicles (Angle Parking)).

Otherwise, the Planning Commission will consider the variance request.

Decisions of the Variance and Planning Committees shall be filed with the City Secretary's Office and promptly reported to the requestor. All decisions may be appealed to the City Council.

Requestor Signature

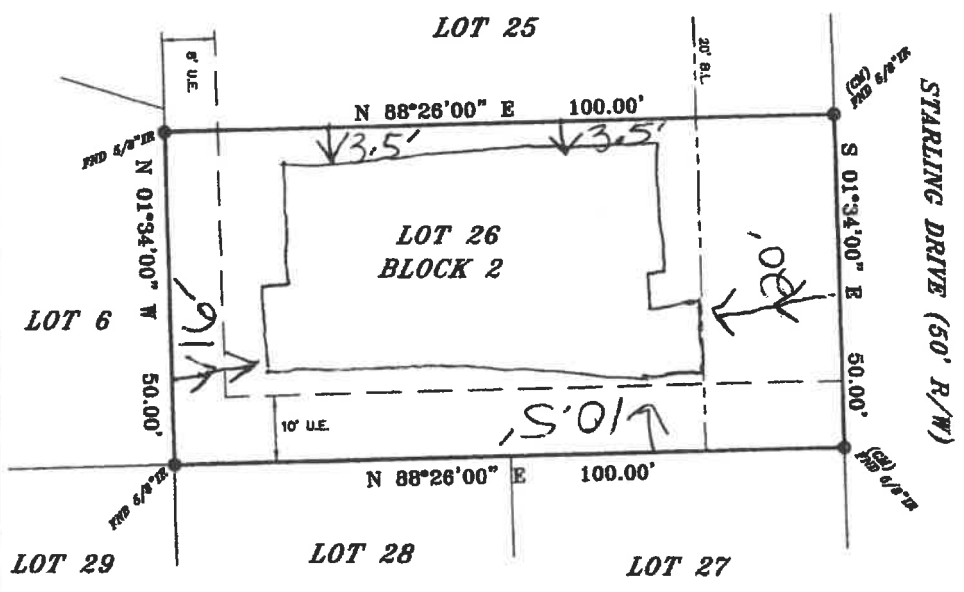
ADDRESS: 0 STARLING DRIVE, BAY CITY, TX 77414

GRAPHIC SCALE



LEGEND

	600' R/W		COVERED AREA
	UTILITY EASEMENT		CONCRETE
	50' R/W		WOOD
	10' U.E.		



LEGAL DESCRIPTION
 LOT NO. TWENTY-SIX (26), IN BLOCK NO. TWO (2), OF MEADOWOOD PHASE ONE, A SUBDIVISION OF 13.78 ACRES OUT OF THE ELISHA HALL LEAGUE, ABSTRACT 45, MATAGORDA COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED AS PLAT FILE NO. 353B-354A OF THE PLAT RECORDS OF MATAGORDA COUNTY, TEXAS.



ELEVATION EXPRESS LAND SURVEYS
 WWW.ELEVATIONEXPRESSLANDSURVEYS.COM
 1450 W. GRAND PARKWAY SOUTH
 SUITE G-158
 KATY, TX 77494
 281-674-5685



George Joseph Malakkal

I DO HEREBY CERTIFY THAT THIS SURVEY WAS THIS DAY MADE ON THE GROUND OF THE PROPERTY LEGALLY DESCRIBED HEREON, IS CORRECT AND THERE ARE NO ENCROACHMENTS EXCEPT SHOWN, AS WAS DONE BY ME OR UNDER MY SUPERVISION, AND CONFORMS TO OR EXCEEDS THE CURRENT STANDARDS AS ADOPTED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYORS.

BUYER FUSION DEVELOPMENT
 JOB# 1906035
 OF# 191829A
 DATE: 6/29/2019

ALL BEARINGS ARE BASED ON THE MAP OR PLAT OF RECORD, IF THE SUBJECT PRIORITIES LIES IN A RECORDED SUBDIVISION OF SAID COUNTY MENTIONED IN LEGAL DESCRIPTION, IN THE CASE WHERE A LEGAL DESCRIPTION MENTIONS NO RECORDED PLAT OR HAS AN ATTACHED METES AND BOUNDS ALL BEARINGS ARE BASED ON TEXAS SOUTH CENTRAL GRS COORDINATE SYSTEM (NAD 83) WITH 80% ROAD CORRECTION, UNLESS OTHERWISE NOTED.
 THIS SURVEY IS CERTIFIED FOR THE TRANSACTION ONLY, IT IS NOT TRANSFERABLE TO ADDITIONAL DISTRIBUTION OR ALIENABLE CHANGES. SUBJECT TO ANY AND ALL RECORDED AND UNRECORDED EASEMENTS, DEEDS, RESTRICTIONS OR EULOGY LINES THAT MAY APPLY TO SUBJECT PROPERTY, NO RESEARCH WAS DONE FOR SUCH EASEMENTS OR RESTRICTIONS BY ELEVATION EXPRESS LAND SURVEYS, THEREFORE WE NOT RESPONSIBLE FOR SHOWING SUCH EASEMENTS OR RESTRICTIONS. EASEMENTS SHOWN ON SURVEY ARE RELATED TO NOTES FROM OR SHOWN ON A RECORDED PLAT OF LEGAL DESCRIPTION AND/OR ARE MENTIONED IN SCHEDULE "B" OF PROVIDED TITLE COMMITMENT.

Any reference to the 100 year flood plain or flood hazard zone are an estimate based on the data shown on the Flood Insurance Rate Map provided by FEMA and should not be interpreted as a study or determination of the flooding probabilities at this property. According to the Flood Insurance Rate Map for MATAGORDA COUNTY, Dated 5-5-2005, Map No. 4854550205C, the property described lies within "ZONE C" outside the 500 yr. flood. Flood information is based on graphic plotting only due to inherent inaccuracies on FEMA maps, we can not assume responsibility for exact determination.



City Hall Deposit Form

Date: 3/11/21

Customer Name and/or Business Name: ANGELA THOMAS / FUSION DEVELOPMENT

Address (if regarding Liens): _____

<u>Deposit Category:</u> (Please Circle One)	<u>G/L Code:</u>	<u>Cash Collection Code:</u>
Liens	11-3613	155.0000
Food Truck Permits	11-3510	
Taxi Cab Permits	11-3510	
Other (Please Circle One)	11-36	
<u>Variance Request</u>		
Candidate Filing Fee for Election		
Open Records Request		

CITY OF BAY CITY, TX
979-245-0035

REC#: 00672274 3/11/2021 1:53 PM
OPER: COL TERM: 022
REF#: _____
PAID BY: _____

Payment Method: (Please Circle One) Payment Amount:

Cash

Check

Money Order

Credit Card

\$75.00

ACCT #: XXXX-XXXX-XXXX-7441
AUTH #: 321967
TRAN #: 000027609682

TYPE: PURCHASE
APP NAME: Visa
ENTRY MODE: CHIP

AMOUNT USD\$ 75.00

Customer Signature

Angela Thomas

City Secretary Signature

EMV DETAILS:
AC: FE2DDFA9C66A0B6F
AID: A0000000031010
ATC: 01B1
TSI: 6800
TVR: 8080008000

TRAN: MISC. GE MISC. GENERAL FUND
 ANGELA THOMAS
 11 -3699
 OTHER INCOME 75.00CR

TENDERED: 75.00 CREDIT CARD
APPLIED: 75.00-
CHANGE: 0.00



CITY OF BAY CITY

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

ROBERT K. NELSON
 MAYOR

ORDER NO. 2021-02

DECLARATION OF LOCAL STATE OF DISASTER

WHEREAS, the City of Bay City has suffered widespread or severe damage, injury, or loss of life or property (or there is imminent threat of same) resulting from Winter Storm Uri that occurred between 15th and through the 19th of February 2021; and

WHEREAS, costs incurred to respond to Winter Storm Uri continue to mount;

WHEREAS, declaring the extension of the local disaster will facilitate and expedite the use and deployment of resources to enhance preparedness and response.

WHEREAS, on March 4, 2021, the Mayor of Bay City, Texas determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property.

NOW, THEREFORE, we, the City Council, do hereby certify that Winter Storm Uri continues to cause damage and the City is still addressing this disaster. In accordance with the authority vested in the court by Section 418.108(a) of the Texas Government Code, we hereby extend the declaration of a state of disaster for Bay City from February 21, 2021 and ending approximately nineteen days later on March 12, 2021.

WHEREAS, the City Council of Bay City has determined that extraordinary measures must be taken to alleviate the suffering of people and to protect or rehabilitate property,

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

That a local state of disaster is hereby declared to be continued from February 22, 2021 through March 12, 2021 for Bay City, Texas, pursuant to section 418.108(a) of the Texas Government Code.

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

Pursuant of §418.108(d) of the Texas Government Code, this declaration of a local state of disaster activates the City of Bay City's emergency management plan.



CITY OF BAY CITY

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

ROBERT K. NELSON
MAYOR

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

ORDERED this the 22nd day of February, 2021.

A handwritten signature in blue ink, appearing to read 'Robert K. Nelson', is written over a horizontal line.

Robert K. Nelson
Mayor

Susana Brito

From: director@baycitypha.org
Sent: Thursday, February 4, 2021 2:58 PM
To: Mayor's Office
Cc: 'boutique.babybottoms'; 'Smith, Phillip E'; 'Walls, Lorraine D'
Subject: FW: Letter to the City Council of Bay City, Texas

City Manager,

This is a letter written by The Housing Authority Of Bay City FIYA Accountant concerning the importance of the City Council waiving of PILOT Fees along with the impact this balance has on the Housing Authority.

La Wanda

From: Neil Arnold <Neil.Arnold@mrisoftware.com>
Sent: Thursday, February 4, 2021 2:48 PM
To: director@baycitypha.org
Cc: Morgan Mays <Morgan.Mays@mrisoftware.com>
Subject: Letter to the City Council of Bay City, Texas

To: Members of the Bay City, Texas City Council

Re: Housing Authority of Bay City, Texas

My name is Neil Arnold and I lead the Accounting Services division of MRI Software. MRI serves as the fee accountant for the Bay City Housing Authority (BHA). As you may know, the Housing Authority has faced several challenges over the past few years including financial challenges. Our job as the fee accountant is to produce monthly financial statements for BHA and notify management and the board of commissioners of financial irregularities or other concerns. We also look for ways to help BHA improve their operations to further the housing authority's mission – "providing safe, decent and sanitary housing and improved living conditions for every low-income family."

The housing authority has been working hard to improve processes and live within their means. A lot of good progress has been made over the last year and the Section 8 program is beginning to show an improved financial condition. I am writing to ask for your help with the Public Housing program. Public housing authorities are allowed to pay PILOT (Payment In Lieu Of Taxes) to the local government instead of real estate taxes. Due to the financial troubles at BHA, the housing authority has been unable to pay the annual PILOT to the city for the past few years. BHA current owes \$91,253.30 to the city for PILOT for the years 2012-2021. This liability shows on the balance sheet of the housing authority and negatively affects the financial ratios that HUD uses to assess the financial condition of BHA. BHA management and board are working hard to make changes that will improve the scoring and allow BHA to come off of HUD's "Troubled PHA" list. The city can play a BIG part in making that happen by agreeing to forgive the past year's PILOT owed to the city by BHA.

I respectfully ask that you consider forgiving the prior years' PILOT balance due to the city to help the Bay City Housing Authority improve their financial scoring and come off of HUD's troubled list.

Please feel free to contact me with any questions. Thanks in advance for your consideration.

Sincerely,

Neil Arnold, CPA Director – Accounting Services
Lindsey Software - An MRI Software Company Little Rock
+1.501.319.6598 lindseysoftware.com

ITEM #9.



This electronic message transmission contains information from MRI Software LLC which is (i) confidential; or (ii) otherwise the exclusive property of the intended recipient or MRI Software LLC (neither of which is waived nor lost by mistaken delivery). This information is intended for the use of the individual or entity that is the intended recipient. If you are not the designated recipient, please be aware that any dissemination, distribution or copying of this communication is strictly prohibited. Please notify us if you have received this message in error, and remove both emails from your system. Any unauthorized use is expressly prohibited. Thank you for your assistance.

Computation of Payments in Lieu of Taxes

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

For Fiscal Year Ended 3/31/2016

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency: Bay City Housing Authorit	Location: 3012 Sycamore Street	Contract Number: FW259	Project Number: TX24P035001
Part I - Computation of Shelter Rent Charged.			
1. Tenant Rental Revenue (FDS Line 703)		<u>\$172,516.15</u>	
2. Tenant Revenue Other (FDS Line 704)			
3. Total Rental Charged (Lines 1 & 2)			<u>\$172,516.15</u>
4. Utilities Expense (FDS Line 931 - 939)			<u>\$10,212.67</u>
5. Shelter Rent Charged (Line 3 minus Line 4)			<u>\$162,303.48</u>
Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)			
1. Shelter Rent Charged (Line 5 of Part I, above)			
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year			
3. Less: Tenant Bad Debt Expense (FDS Line 964)			
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year			
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)			
Part III - Computation of Approximate Full Real Property Taxes.			
(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
County	\$649,690.00	0.004200	\$2,728.70
City	\$649,690.00	0.006000	\$3,898.14
School	\$649,690.00	0.013300	\$8,640.88
Total			\$15,267.72
Part IV - Computation of Approximate Full Real Property Taxes. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)			
1. Approximate full real property taxes			
2. Accruing annual contribution for all projects under the contract			
3. Prorate share of accruing annual contribution*			
4. 20% of accruing annual contribution (20% of Line 3)			
5. Approximate full real property taxes Less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)			
Part V - Computation of Approximate Full Real Property Taxes.			
1. 10% of shelter rent (10% of Line 5 of Part I or 10% of Line 5 of Part II, whichever is applicable)**			<u>\$16,230.35</u>
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)			<u>\$15,267.72</u>
* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project. ** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.			
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 u.s.c 3729, 3802).			
Prepared By:		Approved By:	
Name: Lindsey & Company, Inc.		Name: LaWanda Davis	
Title: Fee Accountant	Date: 12/30/1899	Title: Executive Director	Date: 12/30/1899

Previous Editions are Obsolete

Page 1 of 1

**Computation of Payments
in Lieu of Taxes**

**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

For Fiscal Year Ended 3/31/2017

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency: Bay City Housing Authority	Location: 3012 Sycamore Street	Contract Number: FW259	Project Number: TX24P035001
Part I - Computation of Shelter Rent Charged.			
1. Tenant Rental Revenue (FDS Line 703)	<u>\$186,332.26</u>		
2. Tenant Revenue Other (FDS Line 704)	<u> </u>		
3. Total Rental Charged (Lines 1 & 2)			<u>\$186,332.26</u>
4. Utilities Expense (FDS Line 931 - 939)			<u>\$9,030.77</u>
5. Shelter Rent Charged (Line 3 minus Line 4)			<u>\$177,301.49</u>
Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)			
1. Shelter Rent Charged (Line 5 of Part I, above)			<u> </u>
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year			<u> </u>
3. Less: Tenant Bad Debt Expense (FDS Line 964)			<u> </u>
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year			<u> </u>
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)			<u> </u>
Part III - Computation of Approximate Full Real Property Taxes.			
(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
County	\$649,690.00	0.004200	\$2,728.70
City	\$649,690.00	0.006600	\$4,287.95
School	\$649,690.00	0.014400	\$9,355.54
Total			\$16,372.19
Part IV - Computation of Approximate Full Real Property Taxes. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)			
1. Approximate full real property taxes			<u> </u>
2. Accruing annual contribution for all projects under the contract			<u> </u>
3. Prorate share of accruing annual contribution*			<u> </u>
4. 20% of accruing annual contribution (20% of Line 3)			<u> </u>
5. Approximate full real property taxes Less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)			<u> </u>
Part V - Computation of Approximate Full Real Property Taxes.			
1. 10% of shelter rent (10% of Line 5 of Part I or 10% of Line 5 of Part II, whichever is applicable)**			<u>\$17,730.15</u>
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)			<u>\$16,372.19</u>
* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project.			
** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.			
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 u.s.c 3729, 3802).			
Prepared By:		Approved By:	
Name: Lindsey & Company, Inc.		Name: LaWanda Davis	
Title: Fee Accountant	Date: 12/30/1899	Title: Executive Director	Date: 12/30/1899

Previous Editions are Obsolete

Computation of Payments in Lieu of Taxes

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

For Fiscal Year Ended 3/31/2018

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency: Bay City Housing Authorit	Location: 3012 Sycamore Street	Contract Number: FW259	Project Number: TX24P035001
Part I - Computation of Shelter Rent Charged.			
1. Tenant Rental Revenue (FDS Line 703)		<u>\$196,210.49</u>	
2. Tenant Revenue Other (FDS Line 704)			
3. Total Rental Charged (Lines 1 & 2)			<u>\$196,210.49</u>
4. Utilities Expense (FDS Line 931 - 939)			<u>\$11,322.40</u>
5. Shelter Rent Charged (Line 3 minus Line 4)			<u>\$184,888.09</u>
Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)			
1. Shelter Rent Charged (Line 5 of Part I, above)			
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year			
3. Less: Tenant Bad Debt Expense (FDS Line 964)			
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year			
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)			
Part III - Computation of Approximate Full Real Property Taxes.			
(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
County	\$649,690.00	0.004200	\$2,728.70
City	\$649,690.00	0.006600	\$4,287.95
School	\$649,690.00	0.015500	\$10,070.20
Total			\$17,086.85
Part IV - Computation of Approximate Full Real Property Taxes. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)			
1. Approximate full real property taxes			
2. Accruing annual contribution for all projects under the contract			
3. Prorate share of accruing annual contribution*			
4. 20% of accruing annual contribution (20% of Line 3)			
5. Approximate full real property taxes Less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)			
Part V - Computation of Approximate Full Real Property Taxes.			
1. 10% of shelter rent (10% of Line 5 of Part I or 10% of Line 5 of Part II, whichever is applicable)**			<u>\$18,488.81</u>
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)			<u>\$17,086.85</u>
* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project.			
** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.			
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012; 31 u.s.c 3729, 3802).			
Prepared By:		Approved By:	
Name: Lindsey & Company, Inc.		Name: LaWanda Davis	
Title: Fee Accountant	Date: 12/30/1899	Title: Executive Director	Date: 12/30/1899

Previous Editions are Obsolete

Page 1 of 1

Computation of Payments in Lieu of Taxes

U.S. Department of Housing and Urban Development Office of Public and Indian Housing

For Fiscal Year Ended 3/31/2019

OMB Approval No. 2577-0026 (Exp. 10/31/2009)

Public reporting burden for the collection of information is estimated to average .4 hours. This includes the time for collecting, reviewing, and reporting the data. The information will be used for HUD to ascertain compliance with requirements of Section 6(D) of the U.S. Housing Act, which provides for PHA exemptions from real and personal property taxes, and inclusion in the formula data used to determine public housing operating subsidies. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Name of Local Agency:	Location:	Contract Number:	Project Number:
Bay City Housing Authority	3012 Sycamore Street	FW259	TX24P035001
Part I - Computation of Shelter Rent Charged.			
1. Tenant Rental Revenue (FDS Line 703)		<u>\$168,975.50</u>	
2. Tenant Revenue Other (FDS Line 704)		<u> </u>	
3. Total Rental Charged (Lines 1 & 2)			<u>\$168,975.50</u>
4. Utilities Expense (FDS Line 931 - 939)			<u>\$13,376.13</u>
5. Shelter Rent Charged (Line 3 minus Line 4)			<u>\$155,599.37</u>
Part II - Computation of Shelter Rent Collected. To be completed only if Cooperation Agreement provides for payment of PILOT on basis of Shelter Rent Collected.)			
1. Shelter Rent Charged (Line 5 of Part I, above)			<u> </u>
2. Add: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at beginning of fiscal year			<u> </u>
3. Less: Tenant Bad Debt Expense (FDS Line 964)			<u> </u>
4. Less: Accounts Receivable - Tenants (FDS Lines 126, 126.1, & 126.2) at end of fiscal year			<u> </u>
5. Shelter Rent Collected (Line 1 plus Line 2 minus Lines 3 & 4)			<u> </u>
Part III - Computation of Approximate Full Real Property Taxes.			
(1) Taxing Districts	(2) Assessable Value	(3) Tax Rate	(4) Approximate Full Real Property Taxes
County	\$649,690.00	0.004300	\$2,793.67
City	\$649,690.00	0.006600	\$4,287.95
School	\$649,690.00	0.015400	\$10,005.23
Total			\$17,086.85
Part IV - Computation of Approximate Full Real Property Taxes. (To be completed if Cooperation Agreement limits PILOT to an amount by which real property taxes exceed 20% of annual contribution.)			
1. Approximate full real property taxes			<u> </u>
2. Accruing annual contribution for all projects under the contract			<u> </u>
3. Prorate share of accruing annual contribution*			<u> </u>
4. 20% of accruing annual contribution (20% of Line 3)			<u> </u>
5. Approximate full real property taxes Less 20% of accruing annual contribution (Line 1 minus Line 4, if Line 4 exceeds Line 1, enter zero)			<u> </u>
Part V - Computation of Approximate Full Real Property Taxes.			
1. 10% of shelter rent (10% of Line 5 of Part I or 10% of Line 5 of Part II, whichever is applicable)**			<u>\$15,559.94</u>
2. Payments in Lieu of Taxes (If Part IV is not applicable, enter the amount shown on Line 1, above, or the total in Part III, whichever is the lower. If Part IV is applicable, enter the amount shown on Line 1, above, or the amount shown on Line 5 of Part IV, whichever is lower.)			<u>\$15,559.94</u>
* Same as Line 2 if the statement includes all projects under the Annual Contributions Contract. If this statement does not include all projects under the Annual Contributions Contract, enter prorata share based upon the development cost of each project.			
** If the percentage specified in the Cooperation Agreement or the Annual Contributions Contract with HUD is lower, such lower percentage shall be used.			
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties (18 U.S.C. 1001, 1010, 1012: 31 u.s.c 3729, 3802).			
Prepared By:		Approved By:	
Name: Lindsey & Company, Inc.		Name: LaWanda Davis	
Title: Fee Accountant	Date: 12/30/1899	Title: Executive Director	Date: 12/30/1899

Previous Editions are Obsolete

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DISCUSS, CONSIDER AND/OR APPROVE THE CITY OF BAY CITY WAIVING THE BAY CITY HOUSING AUTHORITY PAYMENT IN LIEU OF TAXES (PILOT) FEES FOR FISCAL YEARS ENDING MARCH 31, 2012 THROUGH MARCH 31, 2020, NOT TO EXCEED \$82,793.



EXECUTIVE SUMMARY

HOUSING AUTHORITY REQUEST FOR WAIVER OF PILOT FEES

BACKGROUND: The City and Bay City Housing Authority signed a cooperation agreement in June 1989. Section 3b and 3c of the agreement cover “Payment in Lieu of Taxes” to be paid on an annual basis. Recorded minutes show City Council waived 1991 and 1992. Reported provide by Housing Authority show a waiver again granted for 2004, 2008, and 2009 however minutes were not provided.

In April 2020, The Housing Authority requested City Council to consider waiving pilot fees from March 2016 to March 2020.

City Council considered this request on April 28, 2020; however the vote was made to deny the request until the Audit was complete. The Audit has been completed. Below is what the auditors show as the accrued liability per audit each year.

March 31, 2015-	\$18,429 (Includes any amounts due prior to 2015)
March 31, 2016-	\$22,452
March 31, 2017-	\$38,501
March 31, 2018-	\$54,547
March 31, 2019-	\$70,197
March 31, 2020-	\$82,793

ATTACHMENTS: Statement of Net Position as of March 31, 2020 (Audited Financial Statements)

EXHIBIT A

HOUSING AUTHORITY OF BAY CITY, TEXAS
STATEMENT OF NET POSITION

MARCH 31, 2020

	General	Housing Choice Voucher	Total
ASSETS			
Current assets			
Cash and cash equivalents	\$ 88,491	\$ 36,114	\$ 124,605
Investments	103,826	0	103,826
Accounts receivable net	1,748	1,087	2,835
Prepaid items and other assets	10,764	0	10,764
Inventory	3,039	0	3,039
Restricted assets - cash and cash equivalents	42,905	43,161	86,066
Total Current Assets	250,773	80,362	331,135
Capital Assets, net			
Land and other non-depreciated assets	325,998	0	325,998
Other capital assets - net of depreciation	1,596,713	579	1,597,292
Total Capital Assets, net	1,922,711	579	1,923,290
Total Assets	\$ 2,173,484	\$ 80,941	\$ 2,254,425
LIABILITIES			
Current Liabilities			
Accounts payable	\$ 69,776	\$ 5,765	\$ 75,541
Unearned income	21,969	0	21,969
Compensated absences payable	497	65	562
Accrued PILOT	82,793	0	82,793
Deposits due others	28,024	0	28,024
Total Current Liabilities	203,059	5,830	208,889
Noncurrent Liabilities			
Compensated absences payable	4,477	582	5,059
Total Liabilities	207,536	6,412	213,948
NET POSITION			
Net investment in capital assets	1,922,711	579	1,923,290
Restricted assets	0	43,161	43,161
Unrestricted	43,237	30,789	74,026
Net Position	\$ 1,965,948	\$ 74,529	\$ 2,040,477

The Notes to the Financial Statements are an integral part of these statements.