



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, January 12, 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."*

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.

APPROVAL OF AGENDA

PUBLIC COMMENTS

State Law prohibits any deliberation of or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff places the item on an agenda for a subsequent meeting.

APPROVAL OF MINUTES

- [1.](#) Minutes of City Council Regular meeting on December 15, 2020.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL**REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL**

- 2. Appointment ~ Discuss, consider and/or approve the appointment and swearing in of Daniel Shook as Fire Marshall for the City of Bay City.**
- 3. Resolution ~ Discuss, consider, and/or adopt a resolution by the City Council of the City of Bay City, Texas authorizing publication of notice of intention to issue certificates of obligation in connection with the receipt of financial assistance from the Texas Water Development Board through the Clean Water State Revolving Fund; and approving other matters incidental thereto.**
Barry Calhoun, Public Works Director
- 4. Resolution ~ Discuss, consider, and/or adopt a resolution by the City Council of the City of Bay City, Texas authorizing publication of notice of intention to issue certificates of obligation in connection with the receipt of financial assistance from the Texas Water Development Board through the Drinking Water State Revolving Fund; and approving other matters incidental thereto.**
Barry Calhoun, Public Works Director
- 5. Ordinance ~ Discuss, consider, and/or approve an ordinance of the City Council of the City of Bay City, Texas amending the City of Bay City Code of Ordinances Chapter 46 "Floods"; adopt Floodplain Management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3(d) of the National Flood Insurance Program (NFIP) regulations; adopt the National Flood Insurance Program Flood Insurance Study (FIS) with accompanying flood insurance rate maps dated January 15, 2021; providing an effective date; and directing the City Secretary to publish the caption in accordance with the City Charter.**
Barry Calhoun, Public Works Director
- 6. Report ~ Update on the progress on the construction of the new E-row t-hangars.**
James Mason, Airport Manager

CLOSED / EXECUTIVE SESSION

- 7. Executive session pursuant to Texas Government Code Section 551.087, (1) to discuss or deliberate regarding 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).**
- 8. Executive Session to consult with legal counsel about legal matters pursuant to Section 551.071(2) of the Texas Government Code.**

9. **Closed meeting to discuss personnel matters in accordance with Title 5, Section 551.074 of the Texas Government Code (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 of Employee).**

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, January 8, 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 • DECEMBER 15, 2020

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 Slitz

Councilwoman

Floyce Brown

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

CALL TO ORDER

Meeting was called to order by Mayor Robert K. Nelson 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 Jim Folse

CERTIFICATION OF QUORUM**PRESENT**

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

MISSION STATEMENT

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

Councilman Jim Folse

APPROVAL OF AGENDA

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

PUBLIC COMMENTS

Mitch Thames, Chambers of Commerce, gave Council an update on Civic Center walk ways and planters. There is rust around stucco leaching thru and will get a good coat of paint to seal. Mr. Thames also stated that rentals are up.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

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

1. Minutes of City Council Workshop on November 4, 2020

2. **Minutes of City Council Special Called Meeting on November 4, 2020**
3. **Minutes of City Council Workshop on November 10, 2020**
4. **Minutes of City Council Regular meeting on November 10, 2020**
5. **Minutes of City Council Special Called meeting on November 17, 2020**
6. **Minutes of City Council Workshop on December 1, 2020**
7. **Minutes of City Council Regular meeting on December 1, 2020**
8. **Payment of invoices as recommended by the TIRZ 1 Board to pay out of TIRZ 1 Funds.**
9. **Payment of invoices as recommended by the TIRZ #2 to pay out of TIRZ 2 Funds.**

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

10. **Presentation ~ Discuss, consider, and/or approve construction of Digital Billboard at Bay City Civic Center.**

Mitch Thames, Civic Center, presented the design of the electronic sign. The old sign was analog and difficult to find someone to repair. The new sign will be in front of the civic center in the green space, there is power and can be seen from the state highway, it will be big and bold. Mayor Pro Tem Childers asked if there was existing foundation, Mr. Thames replied that there is not and will be a brand new foundation. Councilman Marceaux asked if there was lightening protection and power surges - Mr. Thames said he will look into. Council had questions regarding budget, warranty, the logo change in the future and City Sign ordinance. Shawna Burkhart commented that Council could table until January 12th, giving us time to get the answers to their concerns.

Motion made by Mayor Pro Tem Childers to table approving the billboard, Seconded by Councilwoman Sitz. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

11. **Resolution ~ Discuss, consider, and/or adopt a resolution designating an engineering service provider for the Texas Hazard Mitigation Assistance, Building Resilient Infrastructure and Communities (BRIC), program application for project implementation.**

Alyssa Dibbern, Engineering Tech, presented the resolution to hire an Engineering provider. Ms. Dibbern stated that three engineering providers submitted bids and Urban Engineering rated as the highest. Ms. Dibbern recommended Urban Engineering.

Motion made by Councilman Marceaux to approve the Resolution, naming Urban Engineering as the service provider, Seconded by Mayor Pro Tem Childers. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown,

Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

12. Agreement ~ Discuss, consider and/or approve the Facility User Agreement and Deed Modification for the Service Center/USO.

Shawn Blackburn, Park & Recreation Director reviewed the facility user agreement and deed modification. Mr. Blackburn summarized that in October, the City met with Mr. Runnells who represents the family deed. On December 7th, Mr. Runnells confirmed approval and other family member approved as well. Council had had some concerns on how much we charged compared to other entities rentals, that we were not undercutting anyone. Mayor Pro Tem Childers asked if we got feed back from other venues, and Mr. Blackburn replied that they were similar but also very different. Ms. Odefey stated that Mr. Runnells was very excited about the use of the facility and that we reached out to him.

Motion made by Councilwoman Brown to approve the Facility User Agreement and Deed Modification for the Service Center, Seconded by Councilman Marceaux. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried.

13. Ordinance ~ Discuss, consider and/or approve an Ordinance of the City of Bay City, Texas, revising the Fee Schedule labeled "Appendix B" in the Code of Ordinances of the City of Bay City, Texas; adopting new fees for Chapter 70 Parks and Recreation; providing for repeal; providing for ratification; providing a penalty; providing for severability; and providing an effective date.

Scotty Jones, Finance Director, presented the Chapter 70 Fee Ordinance to put in place the fees for the service center. appendix B is same as the Facility Use Agreement. Ms. Odefey added that City Manager or Parks & Recreation Director can waive fees for various situations. Mayor Nelson polled Council.

Motion made by Mayor Pro Tem Childers to approve the Ordinance, Seconded by Councilman Folse.

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

CLOSED / EXECUTIVE SESSION: NONE

ITEMS / COMMENTS & MAYOR AND COUNCIL MEMBERS

Councilwoman Sitz congratulated Parks & Recreation on their great job on parks. Councilwoman Sitz also reminded everyone to shop local.

ADJOURNMENT

Motion made by Councilwoman Brown to adjourn the meeting, Seconded by Councilman Marceaux. Voting Yea: Mayor Nelson, Mayor Pro Tem Childers, Councilwoman Brown, Councilman Folse, Councilman Marceaux, Councilwoman Sitz. Motion carried and the meeting was adjourned at 6:33 pm.

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

ROBERT K. NELSON, MAYOR

CITY OF BAY CITY, TEXAS

JEANNA THOMPSON

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.

Requestor Name: Calhoun, Barry **Date Submitted:** 11/20/2020
Last, First *MM/DD/YYYY*

Requestor Type : City Staff **Meeting Date:** 12/01/2020
Citizen/City Staff/Council Member *MM/DD/YYYY*

Position Title Director of Public Works
For City Staff Only

Agenda Location: Resolution
(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)

Agenda Content:

DISCUSS, CONSIDER, AND/OR ADOPT A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO.

Executive Summary of Item:

The Clean Water State Revolving Fund, authorized by the Clean Water Act, provides low-cost financial assistance for planning, acquisition, design, and construction of wastewater, reuse, and stormwater infrastructure. Eligible applicants for the CWSRF include cities, counties, districts, river authorities, designated management agencies, authorized Indian tribal organizations, and public and private entities proposing nonpoint source or estuary management projects

The City of Bay City has submitted an application to the Texas Water Development Board (TWDB) to assist with obtaining funding in an effort to make critical improvements to the City's wastewater systems. These improvements will include upgrades to our existing wastewater treatment plant, wastewater lift stations, and wastewater collection system.

The Public Works Department along with Garver Engineering has been working together to analyze the total efficiency of the City's wastewater system to determine what improvements are necessary. Once collection of all the necessary supporting documentation is complete, we will proceed with submitting the application to the TWDB for approval of funding assistance. Once the application is received by TWDB, it will be reviewed over a 90-day period at which time the City will receive notification of their decision. The amount the City is applying for is \$36,400,000.

It is staff's recommendation to adopt this resolution.

RESOLUTION NO. R-2021-__

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

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

WHEREAS, the City of Bay City, Texas (the “City”) is pursuing financial assistance from the Texas Water Development Board (the “TWDB”) under the Clean Water State Revolving Fund; and

WHEREAS, the City Council of the City (the “City Council”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth in order to evidence a loan from the TWDB; and

WHEREAS, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; NOW, THEREFORE

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

Section 1. The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to

continue to pay these public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. For purposes of section 1.150-2(d) of the Treasury Regulations, to the extent that an official intent to reimburse has not previously been adopted by the City, this Notice serves as the City's official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 6. The City hereby authorizes City's financial advisor, USCA Municipal Advisors, LLC, bond counsel, Bracewell LLP, and engineer, Garver LLC, to proceed with the necessary arrangements for the sale of the Certificates and the receipt of financial assistance from the TWDB.

Section 7. The Mayor, City Manager, Finance Director, Director of Public Works, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 8. This resolution shall take effect immediately upon its passage.

Section 9. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

[Execution Page to Follow]

PASSED AND APPROVED on this the 12th day of January, 2021 by the City Council of the City of Bay City, Texas.

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

ATTEST:

Jeanna Thompson, City Secretary
City of Bay City, Texas

[SEAL]

APPROVED AS TO FORM:

City Attorney
City of Bay City, Texas

EXHIBIT ANOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Bay City, Texas (the “City”), will meet at City Hall, 1901 5th Street, Bay City, Texas, 77414 at 7:00 p.m. on the 9th day of March, 2021, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s Tax and Surplus Revenue Certificates of Obligation, Series 2021A (CWSRF), in the maximum aggregate principal amount not to exceed \$4,742,000, payable from ad valorem taxes and from a pledge of a lien on the surplus revenues of the City’s water and sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the certificates of obligation, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with improvements to the City’s sanitary sewer system, including the planning, acquisition and, design and construction of (i) the City’s wastewater treatment plant and lift stations, (ii) the City’s sewer lines, and (iii) the costs of professional services related thereto. The Certificates are being issued to evidence the receipt of financial assistance from the Texas Water Development Board under the Clean Water State Revolving Fund. The estimated combined principal and interest required to pay the Certificates on time and in full is \$ 5,992,828. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of approximately 1.60%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting in Resolution No. R-2021-__, dated January 12, 2021, which resolution is available from the City upon request) is \$ 12,769,824. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$ 15,621,048.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 12th day of January, 2021.

Jeanna Thompson
City Secretary
City of Bay City, Texas

EXHIBIT B
SELF-SUPPORTING DEBT

~~\$12,536,476~~
12,160,176

Total Principal Amount Designated as Self-Supporting

The total principal amount of self-supporting debt is comprised of some or all of the debt from the following series of obligations:

Series Designation

~~Tax and Revenue Obligations, Series 2012~~

Tax and Revenue Certificates of Obligation, Series 2014

Tax and Revenue Certificates of Obligation, Series 2016

Tax and Revenue Certificates of Obligation, Series 2020

General Obligation Refunding Bonds, Series 2021

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §

I, the undersigned officer of the City Council of the City of Bay City, Texas, hereby certify as follows:

1. The City Council of the City of Bay City, Texas, convened in a regular meeting on the 12th day of January, 2021, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

- | | |
|-------------------|---|
| Robert K. Nelson | Mayor |
| Floyce Brown | Council Member, Position No. 1 |
| Jim Folse | Council Member, Position No. 2 |
| Brent Marceaux | Council Member, Position No. 3 |
| Becca Sitz | Council Member, Position No. 4 |
| Jason W. Childers | Mayor Pro Temp and Council Member, Position No. 5 |

and all of said persons were present, except the following absentee(s): _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. R-2021-__

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE CLEAN WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. 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:

_____ Member(s) of City Council shown present voted "Aye."

_____ Member(s) of City Council shown present voted "No."

2. 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 City Council's minutes of said meeting; that the

above and foregoing paragraph is a true, full and correct excerpt from said City Council's 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 City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, 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; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 12th day of January, 2021.

[SEAL]

City Secretary
City of Bay City, Texas

Summary report:	
Litera® Change-Pro for Word 10.7.0.7 Document comparison done on 1/7/2021 3:05:17 PM	
Style name: Bracewell Style	
Intelligent Table Comparison: Active	
Original DMS: dm://DM/6264135/3	
Modified DMS: dm://DM/6264135/4	
Changes:	
Add	18
Delete	17
Move From	0
Move To	0
Table Insert	0
Table Delete	1
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	36



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.

Requestor Name: Calhoun, Barry **Date Submitted:** 11/20/2020
Last, First *MM/DD/YYYY*

Requestor Type : City Staff **Meeting Date:** 12/01/2020
Citizen/City Staff/Council Member *MM/DD/YYYY*

Position Title Director of Public Works
For City Staff Only

Agenda Location: Resolution
(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)

Agenda Content:

DISCUSS, CONSIDER, AND/OR ADOPT A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO.

Executive Summary of Item:

The Drinking Water State Revolving Fund, authorized by the Safe Drinking Water Act, provides low-cost financial assistance for planning, acquisition, design, and construction of water infrastructure. Eligible applicants for the DWSRF include publicly and privately-owned community water systems, including nonprofit water supply corporations and nonprofit, non-community public water systems.

The City of Bay City has submitted an application to the Texas Water Development Board (TWDB) to assist with obtaining funding in an effort to make critical improvements to the City's water systems. These improvements will include upgrades to our existing water plants, water distribution system and new water plants.

The Public Works Department along with Garver Engineering has been working together to analyze the total efficiency of the City's water systems to determine what improvements are necessary. Once collection of all the necessary supporting documentation is complete, we will proceed with submitting the application to the TWDB for approval of funding assistance. Once the application is received by TWDB, it will be reviewed over a 90-day period at which time the City will receive notification of their decision. The amount the City is applying for is \$20,330,000.

It is staff's recommendation to adopt this resolution.

RESOLUTION NO. R-2021-__

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

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

WHEREAS, the City of Bay City, Texas (the “City”) is pursuing financial assistance from the Texas Water Development Board (the “TWDB”) under the Drinking Water State Revolving Fund; and

WHEREAS, the City Council of the City (the “City Council”) deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth in order to evidence a loan from the TWDB; and

WHEREAS, it is hereby found and determined that the meeting at which this resolution is considered is open to the public as required by law, and public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended; NOW, THEREFORE

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

Section 1. The findings, determinations, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper that is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to

continue to pay these public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. For purposes of section 1.150-2(d) of the Treasury Regulations, to the extent that an official intent to reimburse has not previously been adopted by the City, this Notice serves as the City's official declaration of intent to reimburse itself from proceeds of the Certificates in the maximum principal amount and for expenditures paid in connection with the projects, each as set forth in Exhibit A hereof. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 6. The City hereby authorizes City's financial advisor, USCA Municipal Advisors, LLC, bond counsel, Bracewell LLP, and engineer, Garver LLC, to proceed with the necessary arrangements for the sale of the Certificates and the receipt of financial assistance from the TWDB.

Section 7. The Mayor, City Manager, Finance Director, Director of Public Works, City Secretary, and other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 8. This resolution shall take effect immediately upon its passage.

Section 9. The notice and agenda relating to this meeting and heretofore posted by the City Secretary, and the posting thereof, are hereby authorized, approved, and ratified.

[Execution Page to Follow]

PASSED AND APPROVED on this the 12th day of January, 2021 by the City Council of the City of Bay City, Texas.

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

ATTEST:

Jeanna Thompson, City Secretary
City of Bay City, Texas

[SEAL]

APPROVED AS TO FORM:

City Attorney
City of Bay City, Texas

EXHIBIT ANOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Bay City, Texas (the “City”), will meet at City Hall, 1901 5th Street, Bay City, Texas, 77414 at 7:00 p.m. on the ~~_____~~ of ~~_____~~ 9th day of March, 2021, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City’s Tax and Surplus Revenue Certificates of Obligation, Series 2021B (DWSRF), in the maximum aggregate principal amount not to exceed \$2,125,000, payable from ad valorem taxes and from a pledge of a lien on the surplus revenues of the City’s water and sewer system, bearing interest at any rate or rates not to exceed the maximum interest rate now or hereafter authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the certificates of obligation, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with improvements to the City’s water system, including the planning, acquisition, ~~and~~-design and construction of (i) two water plants, including water wells, ground storage tanks, hydropneumatic tanks, booster pump stations, disinfection equipment, and related infrastructure and equipment, (ii) water transmission lines, (iii) water meter replacements, and (iv) the costs of professional services related thereto. The Certificates are being issued to evidence the receipt of financial assistance from the Texas Water Development Board under the Drinking Water State Revolving Fund. The estimated combined principal and interest required to pay the Certificates on time and in full is \$ ~~_____~~ 2,703,236. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of approximately ~~_____~~ 1.65%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting in Resolution No. R-2021- __, dated January 12, 2021, which resolution is available from the City upon request) is \$ ~~_____~~ 12,769,824. Based on the City’s expectations, as of the date of this notice, the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$ ~~_____~~ 15,621,048.

WITNESS MY HAND AND THE OFFICIAL SEAL OF THE CITY, this 12th day of January, 2021.

Jeanna Thompson
City Secretary
City of Bay City, Texas

EXHIBIT B

SELF-SUPPORTING DEBT

~~\$12,536,476~~
12,160,176

Total Principal Amount Designated as Self-Supporting

The total principal amount of self-supporting debt is comprised of some or all of the debt from the following series of obligations:

Series Designation

~~Tax and Revenue Obligations, Series 2012~~

Tax and Revenue Certificates of Obligation, Series 2014

Tax and Revenue Certificates of Obligation, Series 2016

Tax and Revenue Certificates of Obligation, Series 2020

General Obligation Refunding Bonds, Series 2021

CERTIFICATE FOR RESOLUTION

THE STATE OF TEXAS §
COUNTY OF MATAGORDA §

I, the undersigned officer of the City Council of the City of Bay City, Texas, hereby certify as follows:

1. The City Council of the City of Bay City, Texas, convened in a regular meeting on the 12th day of January, 2021, at the regular meeting place thereof, within said City, and the roll was called of the duly constituted officers and members of said City Council, to wit:

- | | |
|-------------------|---|
| Robert K. Nelson | Mayor |
| Floyce Brown | Council Member, Position No. 1 |
| Jim Folse | Council Member, Position No. 2 |
| Brent Marceaux | Council Member, Position No. 3 |
| Becca Sitz | Council Member, Position No. 4 |
| Jason W. Childers | Mayor Pro Temp and Council Member, Position No. 5 |

and all of said persons were present, except the following absentee(s): _____, thus constituting a quorum. Whereupon, among other business, the following was transacted at said meeting: a written

RESOLUTION NO. R-2021-__

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION IN CONNECTION WITH THE RECEIPT OF FINANCIAL ASSISTANCE FROM THE TEXAS WATER DEVELOPMENT BOARD THROUGH THE DRINKING WATER STATE REVOLVING FUND; AND APPROVING OTHER MATTERS INCIDENTAL THERETO

was duly introduced for the consideration of said City Council. 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:

_____ Member(s) of City Council shown present voted "Aye."

_____ Member(s) of City Council shown present voted "No."

2. 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 City Council's minutes of said meeting; that the

above and foregoing paragraph is a true, full and correct excerpt from said City Council's 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 City Council as indicated therein; that each of the officers and members of said City Council was duly and sufficiently notified officially and personally, in advance, of the date, hour, 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; that said meeting was open to the public as required by law; and that public notice of the date, hour, place and subject of said meeting was given as required by Chapter 551, Texas Government Code.

SIGNED AND SEALED this 12th day of January, 2021.

City Secretary
City of Bay City, Texas

[SEAL]

Summary report:	
Litera® Change-Pro for Word 10.7.0.7 Document comparison done on 1/7/2021 3:04:24 PM	
Style name: Bracewell Style	
Intelligent Table Comparison: Active	
Original DMS: dm://DM/6264182/3	
Modified DMS: dm://DM/6264182/4	
Changes:	
Add	17
Delete	16
Move From	0
Move To	0
Table Insert	0
Table Delete	1
Table moves to	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	34



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.

Requestor Name: Calhoun, Barry **Date Submitted:** 01/07/2021
Last, First *MM/DD/YYYY*

Requestor Type : City Staff **Meeting Date:** 01/12/2021
Citizen/City Staff/Council Member *MM/DD/YYYY*

Position Title Director of Public Works
For City Staff Only

Agenda Location: Discussion Item - Ordinance
(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)

Agenda Content:

DISCUSS, CONSIDER AND/OR APPROVE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 46 FLOODS; ADOPT FLOODPLAIN MANAGEMENT MEASURES THAT SATISFY 44 CODE OF FEDERAL REGULATIONS (CFR) SECTION 60.3(D) OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) REGULATIONS; ADOPT THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE STUDY (FIS) WITH ACCOMPANYING FLOOD INSURANCE RATE MAPS DATED JANUARY 15, 2021; PROVIDING AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO PUBLISH THE CAPTION IN ACCORDANCE WITH THE CITY CHARTER.

Executive Summary of Item:

The City of Bay City must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum National Flood Insurance Program (NFIP) requirements by January 15, 2021, to avoid suspension from the NFIP. If suspended, the City becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.



FEMA

December 11, 2020

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Robert Nelson
Mayor, City of Bay City
1901 Fifth Street
Bay City, Texas 77414

Dear Mayor Nelson:

I am writing this letter as an official reminder that the City of Bay City, Texas, has until January 15, 2021, to adopt and have the Department of Homeland Security's Federal Emergency Management Agency (FEMA) Regional Office approve floodplain management measures that satisfy 44 Code of Federal Regulations (CFR) Section 60.3(d) of the National Flood Insurance Program (NFIP) regulations.

The City of Bay City must adopt floodplain management measures, such as a floodplain management ordinance, that meet or exceed the minimum NFIP requirements (copy enclosed) by January 15, 2021, to avoid suspension from the NFIP. If suspended, your community becomes ineligible for flood insurance through the NFIP, new insurance policies cannot be sold, and existing policies cannot be renewed.

The NFIP State Coordinating Office for your State has verified that Texas communities may include language in their floodplain management measures that automatically adopt the most recently available flood elevation data provided by FEMA. Your community's floodplain management measures may already be sufficient if the measures include suitable automatic adoption language and are otherwise in accordance with the minimum requirements of the NFIP. The NFIP State Coordinator can assist you further in clarifying questions you may have about automatic adoption.

Under the Flood Disaster Protection Act of 1973, as amended, flood insurance must be purchased by property owners seeking any Federal financial assistance for construction or acquisition of buildings in Special Flood Hazard Areas (SFHAs). This financial assistance includes certain federally guaranteed mortgages and direct loans, federal disaster relief loans and grants, as well as other similarly described assistance from FEMA and other agencies.

In addition, all loans individuals obtain from Federally regulated, supervised, or insured lending institutions that are secured by improved real estate located in SFHAs are also contingent upon the borrower obtaining flood insurance coverage on the building. However, purchasing and maintaining flood insurance coverage on a voluntary basis is frequently recommended for properties located outside SFHAs.

Your NFIP State Coordinator and FEMA would like to assist the City of Bay City to ensure it remains in good standing with the NFIP and avoids suspension from the Program. If your community is suspended, it may regain its eligibility in the NFIP by enacting the floodplain management measures established in 44 CFR Section 60.3 of the NFIP regulations. As stated in my previous correspondence, I recommend you contact your NFIP State Coordinator or the FEMA Regional Office if the City of Bay City is encountering difficulties in enacting its measures.

The Honorable Robert Nelson
December 11, 2020
Page 2

I recognize that your community may be in the final adoption process or may have recently adopted the appropriate floodplain management measures. Please submit these measures to the Floodplain Management Program at the Texas Water Development Board. Yi Ling Chan, CFM, the NFIP State Coordinator, is accessible by telephone at (512) 936-6903, in writing at 1700 North Congress Avenue, Austin, Texas 78701, or by electronic mail at yi.chan@twdb.texas.gov.

The FEMA Regional staff in Denton, Texas, is also available to assist you with your floodplain management measures. The FEMA Regional Office may be contacted by telephone at (940) 898-5127 or in writing. Please send your written inquiries to the Director, Mitigation Division, FEMA Region VI, at Federal Regional Center, 800 North Loop 288, Denton, Texas 76209-3698.

In the event your community does not adopt and/or submit the necessary floodplain management measures that meet or exceed the minimum NFIP requirements, I must take the necessary steps to suspend your community from the NFIP. This letter is FEMA's final notification before your community is suspended from the Program.

Additional information on community suspensions as proposed, other notices of current NFIP community status information, and details regarding updated publication requirements of community eligibility status information under the NFIP can be found on the Community Status Book section of our website at www.fema.gov. Please note that per *Revisions to Publication Requirements for Community Eligibility Status Information Under the National Flood Insurance Program*, 85 FR 68782 (October 30, 2020) (codified at 44 CFR pts 59 and 64), notices for scheduled suspension will no longer be published in the *Federal Register* as of June 2021 but will be available at www.fema.gov. Individuals without internet access will be able to contact their local floodplain management official and/or NFIP State Coordinating Office directly for assistance.

Sincerely,



Rachel Sears, Director
Floodplain Management Division
Mitigation Directorate | FEMA

Enclosure

cc: Tony Robinson, Regional Administrator, FEMA Region VI
Yi Ling Chan, CFM, NFIP State Coordinator, Texas Water Development Board
Barry Calhoun, Public Works Director, City of Bay City



National Flood Insurance Program Regulations

FEMA F-775 / June 2009



FEMA F-775
Catalog No. 09049-3



The Government Accounting Office (GAO) site - <http://www.gao.gov/>

The FEMA Federal Register Notices and Rules Archives - http://www.fema.gov/help/lib_arch.shtml

FEMA acronyms, Abbreviations and Terms (FAAT) - http://www.fema.gov/pdf/plan/prepare/faatlist03_05.pdf

FEMA Laws and Regulations and the National Flood Insurance Program

1. Flood Insurance related laws and regulations

The FEMA regulations are set forth in 44 Code of Federal Regulations (CFR). This book of Federal regulations is updated yearly, the FEMA regulations are updated every October 1. A good link to find the full set of regulations and parts thereof, is: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=%2Findex.tpl>. Once you are in the 44 CFR, go to the specific chapter title you are looking for (links to each chapter are listed below).

The National Flood Insurance Program (NFIP) regulations, a part of the FEMA Regulations, begins at 44 CFR 59, and runs through 44 CFR 80. Keep in mind that many of these parts are mitigation-related as well as being Flood insurance-related since much of the programs are intertwined, as you can see from the titles of each chapter below. The main area for flood insurance and the Standard Flood Insurance Policies are Chapter, or Part, 61 through 63.

44	CFR SUBCHAPTER B--INSURANCE AND HAZARD MITIGATION
59	59.1 To 59.30 General Provisions
60	60.1 To 60.26 Criteria For Land Management And Use
61	61.1 To 61.17 Insurance Coverage And Rates
62	62.1 To 62.24 Sale Of Insurance And Adjustment Of Claims
63	63.1 To 63.18 Implementation Of Section 1306(C) Of The National Flood Insurance Act Of 1968
64	64.1 To 64.6 Communities Eligible For The Sale Of Insurance
65	65.1 To 65.17 Identification And Mapping Of Special Hazard Areas

66	66.1 To 66.5	Consultation With Local Officials
67	67.1 To 67.12	Appeals From Proposed Flood Elevation Determinations
68	68.1 To 68.12	Administrative Hearing Procedures
69	[Reserved]	
70	70.1 To 70.9	Procedure For Map Correction
71	71.1 To 71.5	Implementation Of Coastal Barrier Legislation
72	72.1 To 72.7	Procedures And Fees For Processing Map Changes
73	73.1 To 73.4	Implementation Of Section 1316 Of The National Flood Insurance Act Of 1968
74	[Reserved]	
75	75.1 To 75.14	Exemption Of State-Owned Properties Under Self-Insurance Plan
76-77	[Reserved]	
78	78.1 To 78.14	Flood Mitigation Assistance
79	79.1 To 79.9	Flood Mitigation Grants
80	80.1 To 80.21	Property Acquisition And Relocation For Open Space

Then National Flood Insurance Program began in 1968 following a series of large hurricanes and storms, as noted in the initial law and those that followed. (42 U.S.C. 4001 et seq.). These laws became the regulations set forth above. The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, can be found at this site; http://www.fema.gov/pdf/fhm/frm_acts.pdf; or <http://www.law.cornell.edu/uscode/html/uscode42/uscode42.usc.sup.01.42.10.50.html>.

National Flood Insurance Reform Act of 1994 resulted in major changes to the National Flood Insurance Program (NFIP). The law amended the Flood Disaster Protection Act of 1973. It provides tools to make the NFIP more effective in achieving its goals of reducing the risk of flood damage

to properties and reducing Federal expenditures for uninsured properties that are damaged by floods. <http://www.fema.gov/pdf/nfip/riegle.pdf>. This Act can also be found through the FEMA Library. <http://www.fema.gov/library/viewRecord.do?id=2217>

In 2004, Congress amended the above laws by enacting the Flood Insurance Reform Act (FIRA) 2004 - <http://www.fema.gov/pdf/nfip/fira2004.pdf>

2. Disaster Relief and Emergency Management

Other laws and related material you may hear about include some of the mitigation laws, including the following:

The Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) (Stafford Act) amended the Disaster Relief Act of 1974, PL 93-288. This Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to FEMA and FEMA programs. <http://www.fema.gov/about/stafact.shtm>.

The Pre-disaster Mitigation Grant program is authorized through the Disaster Mitigation Act (DMA) which amends the Stafford Act; http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_public_laws&docid=f:publ390.106.pdf

The Mitigation Directorate has a regulations development page; http://online.fema.net/res_regulation.htm

3. Other useful sites

The site to find all regulations is at the National Archives, Federal Register site; <http://www.archives.gov/federal-register/cfr/>

If you are looking for daily Federal registers you can begin your search here - <http://www.archives.gov/federal-register/the-federal-register/>

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS AMENDING THE CITY OF BAY CITY CODE OF ORDINANCES CHAPTER 46 FLOODS; ADOPT FLOODPLAIN MANAGEMENT MEASURES THAT SATISFY 44 CODE OF FEDERAL REGULATIONS (CFR) SECTION 60.3(d) OF THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) REGULATIONS; ADOPT THE NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE STUDY (FIS) WITH ACCOMPANYING FLOOD INSURANCE RATE MAPS DATED JANUARY 15, 2021; PROVIDING AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO PUBLISH THE CAPTION IN ACCORDANCE WITH THE CITY CHARTER.

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

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

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

WHEREAS, certain areas of the City of Bay City are subject to periodic flooding, causing serious damages to properties within these areas; and

WHEREAS, under the National Flood Insurance Act of 1968, as amended residents of the City of Bay City can purchase Federally subsidized flood insurance if the City qualifies for, and participates in the National Flood Insurance Program; and

WHEREAS, it is the intent of this City Council to qualify for participation in the National Flood Insurance Program and to require the recognition and evaluation of flood hazards for all proposed developments within the identified floodplains of the City of Bay City; and

WHEREAS, the City Council of the City of Bay City has the legal authority to adopt and enforce floodplain management criteria to reduce future flood losses pursuant to Subchapter I, Section 16.315 of the Texas Water Code.

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

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

- a. The flood hazard areas of the City of Bay City are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- b. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

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

Section 3. Assures the Federal Emergency Management Agency it will enact as necessary, and maintain in force in those areas having flood hazards, adequate floodplain management standards with effective enforcement provisions consistent with the minimum criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations.

Section 4. Vests the Mayor, or his/her official designate, with the responsibility, authority, and means to.

- a. Assist the Administrator, at his/her request, in his/her delineation of the limits of the areas having special flood hazards.
- b. Provide such information as the Administrator may request concerning present uses and occupancy of the floodplain.
- c. Cooperate with Federal, State and local agencies and private firms which undertake to study, survey map, and identify floodplain areas, and cooperate with neighboring political subdivisions with respect to management of adjoining floodplain areas in order to prevent aggravation of existing flood hazards.
- d. Submit on as requested by the Administrator, a biennial report to the Administrator on the progress made during the past year within the City in the development and implementation of floodplain management measures.
- e. Upon occurrence, notify the Administrator in writing whenever the boundaries of the City have been modified or changed by annexation of new areas or if the City no longer has the authority to enforce floodplain management regulations in a particular area. Include within such notification a copy of a map of the City clearly delineating the new corporate limits or new area for which the City has assumed or has relinquished floodplain management regulatory authority.

Section 5. Appoints the Director of Public Works to maintain for public inspection and to furnish upon request, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest habitable floor of all new and substantially

improved structures located within the identified floodplain of the City of Bay City. The information should include whether or not such structures contain a basement, the elevation of the basement, and if the structure has been flood-proofed, the elevation to which the structure was flood-proofed.

Section 6. The City Secretary is hereby authorized and directed to provide all documents and notices required by state law to effect this Ordinance.

Section 7. This Ordinance shall be in full force and effect from and after its final passage and any publication required by law.

PASSED AND APPROVED on this _____ day of January 2021.

Robert K. Nelson, Mayor

ATTEST:

Jeanna Thompson, City Secretary

APPROVED AS TO FORM

Anne Marie Odefey, City Attorney
ROBERTS, ODEFEY, WITTE & WALL, LLP

Council Member:	Voted AYE	Voted NAY	Absent
Robert K. Nelson	_____	_____	_____
Floyce Brown	_____	_____	_____
Jason Childers	_____	_____	_____
Becca Sitz	_____	_____	_____
Jim Folse	_____	_____	_____
Brent Marceaux	_____	_____	_____

I, Jeanna Thompson, City Secretary of the City of Bay City, do hereby certify that the above and foregoing is a true and correct copy of a Ordinance made and entered by the City Council in regular session, on the _____ day of January 2021, as it appear on record in the Minutes of said City Council, Volume _____, Page_____.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This _____ day of January 2021.

Exhibit A

Chapter 46 – Floods

Footnotes:

--- (1) ---

State Law reference— Flood control and insurance act, V.T.C.A., Water Code § 16.311 et seq.

ARTICLE I. - IN GENERAL

Secs. 46-1—46-18. - Reserved.

ARTICLE II. - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 46-19. - Definitions.

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

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

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

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

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

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

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

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

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

Base flood elevation (BFE) means the elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year — also called the base flood.

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

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

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

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

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

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

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

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

First floor means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

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

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

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

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

Flood insurance study (FIS). See "flood elevation study."

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

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

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

Flood protections system means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

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

Floodway. See "regulatory floodway."

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

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

Historic structure means any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

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

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

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

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

Metal storage container means a pre-manufactured (not pre-built) accessory structure, commonly known as Conex boxes, sea-containers or cargo containers, designed for use as an individual shipping container in accordance with international standards or a metal structure designed and built for use as an enclosed truck trailer in accordance with department of transportation standards.

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

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

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

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

Special flood hazard area. See "area of special flood hazard."

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

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

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (1) Any projects for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or
- (2) Any alterations of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements, see section 60.6 of the national flood insurance program regulations.)

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

Water surface elevation means the height, in relation to the national geodetic vertical datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Code 1985, § 10-5; Code 2000, § 46-31; [Ord. No. 1608, § 2, 8-10-2017](#))

Sec. 46-20. - Statutory authorization.

The Legislature of the State of Texas has in the Flood Control Insurance Act, V.T.C.A., Water Code § 16.315, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

(Code 1985, § 10-1; Code 2000, § 46-32; [Ord. No. 1608, § 2, 8-10-2017](#))

Sec. 46-21. - Findings of fact.

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

(Code 1985, § 10-2; Code 2000, § 46-33; [Ord. No. 1608, § 2, 8-10-2017](#))

Sec. 46-22. - Statement of purpose.

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

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

(Code 1985, § 10-3; Code 2000, § 46-34; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

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

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

(Code 1985, § 10-4; Code 2000, § 46-35; [Ord. No. 1608, § 2, 8-10-2017](#).)

Sec. 46-24. - Territorial applicability.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Code 1985, § 10-6; Code 2000, § 46-36; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

- (a) No structure or land shall hereafter be located, altered, constructed, extended, converted or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.
- (b) Violation of the provisions of this ordinance by failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with conditions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements

shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing contained in this section shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1985, § 10-7; Code 2000, § 46-37; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

The areas of special flood hazard identified by the Federal Insurance Administration in the current scientific and engineering report entitled "The Flood Insurance Study (FIS) for the City of Bay City Matagorda County," dated January 15, 2021, with accompanying flood insurance rate maps and/or flood boundary-floodway maps (FIRM and/or FBFM) dated January 15, 2021 and any revision thereto are hereby adopted by reference and declared to be a part of this ordinance. The flood insurance study is available at the office of the director of public works.

(Code 1985, § 10-8; Code 2000, § 46-38; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

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

(Code 1985, § 10-9; Code 2000, § 46-39; [Ord. No. 1608, § 2, 8-10-2017](#).)

Sec. 46-28. - Interpretation.

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

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

(Code 1985, § 10-10; Code 2000, § 46-40; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(Code 1985, § 10-11; Code 2000, § 46-41; [Ord. No. 1608, § 2, 8-10-2017](#).)

Secs. 46-30—46-46. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 46-47. - Designation of the floodplain administrator.

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

(Code 1985, § 10-26; Code 2000, § 46-66; [Ord. No. 1608, § 2, 8-10-2017](#).)

Editor's note— [Ord. No. 1608, § 2, adopted August 10, 2017](#), amended § 46-47 to read as set out herein. Previously § 46-47 was titled "Enforcement officer."

Sec. 46-48. - Development permit.

- (a) A development permit shall be required to ensure conformance with the provisions of this ordinance.

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

(Code 1985, § 10-27; Code 2000, § 46-67; [Ord. No. 1608, § 2, 8-10-2017](#).)

Sec. 46-49. - Variances.

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

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

(Code 1985, § 10-28; Code 2000, § 46-68; [Ord. No. 1608, § 2, 8-10-2017](#).)

Secs. 46-50—46-71. - Reserved.

DIVISION 3. - FLOOD HAZARD REDUCTION

Sec. 46-72. - General standards.

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

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

(Code 1985, § 10-46; Code 2000, § 46-91; [Ord. No. 1608, § 2, 8-10-2017](#).)

Editor's note— [Ord. No. 1608, § 2, adopted August 10, 2017](#), amended § 46-72 to read as set out herein. Previously § 46-72 was titled "Areas of special flood hazard."

Sec. 46-73. - Specific standards.

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

- (1) *Residential construction.* New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to 24 inches above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in section 46-48(b)(1), is satisfied.
- (2) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to 24 inches above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structure are flood proofed shall be maintained by the floodplain administrator.
- (3) *Enclosures.* New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- a. A minimum of two openings on separate walls having a total net area of not less than one-square-inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one-foot above grade.
- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) *Manufactured homes.*

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

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

(6) *Metal storage containers.*

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

(Code 1985, § 10-47; Code 2000, § 46-92; [Ord. No. 1608, § 2, 8-10-2017](#).)

Editor's note— [Ord. No. 1608, § 2, adopted August 10, 2017](#), amended § 46-73 to read as set out herein. Previously § 46-73 was titled "Area where base flood elevation known."

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

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

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

(Code 1985, § 10-48; Code 2000, § 46-93; [Ord. No. 1608, § 2, 8-10-2017](#).)

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

- (a) All subdivision proposals including the placement of manufactured home parks and manufactured home subdivisions shall be consistent with sections 46-21, 46-22 and 46-23.
- (b) All proposals for the development of subdivisions including mobile home parks and mobile home subdivisions shall meet floodplain development permit requirements of section 46-48, 46-72 and 46-73.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and mobile home subdivisions which are greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to sections 46-26 and 46-47(8).
- (d) All subdivision proposals including the placement of manufactured home parks and mobile home subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including mobile home parks and mobile home subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(Code 1985, § 10-49; Code 2000, § 46-94; [Ord. No. 1608, § 2, 8-10-2017](#).)

Sec. 46-76. - Reserved.

Sec. 46-77. - Floodways.

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

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of section 46-72 and 46-73.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all of the provisions required by section 65.12.

([Ord. No. 1608, § 2, 8-10-2017](#))

Sec. 46-78. - Payment of fees.

All persons applying for a floodplain development permit described herein shall be required to submit a flood zone elevation confirmation fee as established in Appendix B of the City of Bay City Code of Ordinances. It shall be a violation of this section to start construction in an area of special flood hazard until such fee has been paid and the floodplain development permit approved.

([Ord. No. 1608, § 2, 8-10-2017](#))

Sec. 46-79. - Penalties; violations; convictions.

(a) *Penalties.*

- (1) Any person who violates any of the provisions of this article shall be punished by a fine of not more than \$2,000.00, and each and every day of continuance thereof shall constitute a distinct and separate offense.
- (2) Any person, firm, corporation or association who is caught violating any section of this chapter will not be eligible to apply or renew for one full year.

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

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

([Ord. No. 1608, § 2, 8-10-2017](#))



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.

Requestor Name: Mason, James **Date Submitted:** 01/07/2021
Last, First *MM/DD/YYYY*

Requestor Type : City Staff **Meeting Date:** 01/12/2021
Citizen/City Staff/Council Member *MM/DD/YYYY*

Position Title Airport Manager
For City Staff Only

Agenda Location: Discussion Item
(e.g.: Consent Agenda/ Discussion Item/ Public Hearing/ Executive Session/ Presentation)

Agenda Content:

UPDATE ON CONSTRUCTION FOR E-ROW T-HANGARS

Executive Summary of Item:

Update on the progress on the construction of the new E-row t-hangars.

Airport Projects Update

As of January 7, 2021

T-Hangar Row E Construction

Construction of the eleven-unit hangar continues. Site grading has been completed. For building, the foundation has been placed and is awaiting delivery of the building structural parts. Work has been ongoing with apron pavement foundation work in advance of the placement of the concrete surfacing. Concrete placement on about half the apron is planned for the week of January 11. The building is scheduled to begin erection the week of January 18.

Photos of the work



Figure 1- Reinforcing steel in building foundation



Figure 2 – Concrete placement of the foundation



Figure 3- Finish work on the foundation slab



Figure 4 – Layout for the apron pavement