



# CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, January 24, 2023 at 6:00 PM  
COUNCIL CHAMBERS | 1901 5th Street

## COUNCIL MEMBERS

**Mayor:** Robert K Nelson

**Mayor Pro Tem:** Jim Folse

**Council Members:** Floyce Brown, Bradley Westmoreland, Becca Sitz, Blayne Finlay

### Vision Statement

*Through a united and collaborative effort, we seek to grow the City of Bay City with a diverse culture that is proud to call Bay City home. We envision a thriving family-centered community where citizens are involved in the future development of our city. We desire our citizens to work, play, worship and shop in the community in which we live. Visitors are welcomed and encouraged to enjoy the friendly environment and amenities the citizens and business owners have created together.*

## 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 AND CERTIFICATION OF QUORUM

#### INVOCATION & PLEDGE

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

*Councilman Brad Westmoreland*

#### MISSION STATEMENT

*The City of Bay City is committed to fostering future economic growth by collaborating with our citizens, employers, current and future businesses, as well as the Community and Economic Development Centers. We strive to deliver superior municipal services and to invest in quality-of-life initiatives such as housing, businesses, jobs and activities for all citizens. We make a concerted effort to respond to resident's concerns in a timely and professional manner in order to achieve customer satisfaction.*

*Councilman Brad Westmoreland*

**APPROVAL OF AGENDA****PUBLIC COMMENTS**

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

**ACKNOWLEDGEMENT FROM CITY MANAGER****CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL**

- 1. Easement ~ Discuss, consider, and approve and amendment to Easement Agreement dated July 9, 1993.**

**DEPARTMENT REPORTS**

- 2. Public Works reports.**

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

- 3. Appointment ~ Discuss, consider, and/or approve the appointments of Lyn R. McCalister and Robert D. Howard to the Public Housing Authority Commission.**  
Robert K. Nelson, Mayor
- 4. Resolution ~ Discuss, consider, and/or approve a Resolution in support of the submission of an application to the 2023 competitive Housing Tax Credit (HTC) program through the Texas Department of Housing and Community Affairs (TDHCA) by Fieser Development, Inc., for the rehabilitation of Golden Manor Apartments.** Mark Meyer, Fieser Development
- 5. Grant ~ Discuss and accept a donation of a Scanpro 3500 All-in-one Microfilm scanner valued at \$11,787.00 from the Bay City Library Association.** Samantha Denbow, Library Director
- 6. Resolution ~ Discuss, consider, and/or approve a Resolution approving the submission of the "Project Justice" project grant application under the Criminal Justice Grant with the Office of the Governor, Criminal Justice Division.**  
Christella Rodriguez, Captain
- 7. Ordinance ~ Discuss, consider, and/or approve an ordinance authorizing the issuance of the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF); authorizing execution and delivery of a paying agent/registrar agreement and an escrow agreement relating to such certificates; prescribing the form and said certificates; levying a tax and pledging surplus revenues of the Water and Sewer System in payment thereof; and enacting other provisions relating thereto.** Barry Calhoun, Public Works Director

- 8. Ordinance ~ Discuss, consider, and/or approve an ordinance authorizing the issuance of the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023B (DWSRF); authorizing execution and delivery of a paying agent/registrar agreement and an escrow agreement relating to such certificates; prescribing the form and said certificates; levying a tax and pledging surplus revenues of the Water and Sewer System in payment thereof; and enacting other provisions relating thereto. Barry Calhoun, Public Works Director**
- 9. Budget ~ Discuss, Consider, and/or Approve Budget Amendments for the Bay City Community Development Corporation (BCCDC) for Fiscal Year End 2022. Jessica Russell, BCCDC Executive Director**
- 10. Agreement ~ Discuss, consider, and/or approve an agreement between the City of Bay City, Bay City Lions Club, Bay City Soccer Association, and Bay City Community Development Corporation for use of Hardeman Park Teen Center. Shawna Burkhart, City Manager**
- 11. Ordinance ~ Discuss, consider, and/or approve an Ordinance amending Section 998-123 of Chapter 98, Article III of the City Code of Ordinances, repealing conflicting ordinances, providing for publication, codification, enforcement, and savings, and providing an effective date. Barry Calhoun, Public Works Director**
- 12. Contract ~ Discuss, consider, and/or approve a contract with Matagorda County to administer the General Election for May 6, 2023. Jeanna Thompson, City Secretary**
- 13. Ordinance ~ An Ordinance of the City Council of the City of Bay City, Texas, ordering a General Municipal Election to be held on the 6th day of May 2023; authorizing the Mayor, or designee, to enter into an agreement with Matagorda County to conduct the General Municipal Election on behalf of the City of Bay City; designating the places and manner holding the election; providing for the posting and publication of notice; providing a savings clause; providing an open meetings clause; and providing an effective date. Jeanna Thompson, City Secretary**
- 14. Contract ~ Discuss payments to Quiddity concerning Hammond Road Drainage Project. Robert K. Nelson, Mayor**
- 15. Utilities ~ Discussion regarding water billing issues. Jim Folse, Mayor Pro Tem**

**CLOSED / EXECUTIVE SESSION**

- 16. Legal ~ Executive Session pursuant to Section 551.071 of the Texas Government code (Consultation with Counsel on legal matters).**
- 17. Executive Session pursuant to Texas Government Code Section 551.072 (Deliberation regarding Real Property).**

- 18. Pursuant to the Texas Government Code Section 551.074 (To discuss appointment, employment, evaluation, responsibilities and duties, reassignment, discipline or dismissal of an officer or employee, or to hear a complaint or charge against an officer or employee: City Manager.**

**RECONVENE AND ACTION**

**ITEMS / COMMENTS FROM THE MAYOR, COUNCIL MEMBERS AND CITY MANAGER**

**ADJOURNMENT**

**AGENDA NOTICES:**

**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.

**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 20, 2023 before 6:00 p.m.** Any questions concerning the above items, please contact the Mayor and City Manager’s office at (979) 245-2137.

## AMENDMENT TO EASEMENT AGREEMENT

This Amendment to Easement Agreement (“**Amendment**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2023, by the CITY OF BAY CITY, TEXAS (hereinafter, the “**City**”).

WITNESSETH

WHEREAS, the City is the holder of certain easement rights conveyed to it pursuant to an Easement Agreement granted by Maurice Ashcroft dated July 9, 1993, and recorded April 26, 1994 under Clerk’s File No. 1994-2556, Volume 377, Page 949, of the Official Public Records of Matagorda County, Texas (the “**Easement**”);

WHEREAS, the Easement included a temporary construction easement, which has expired; and

WHEREAS, the City desires to amend the Easement to confirm the release of the temporary easement and to make certain other revisions to the terms thereof, as set forth herein;

NOW THEREFORE, the City hereby agrees as follows:

1. The foregoing recitals are incorporated herein by reference.
2. The 20 foot wide temporary construction easement as set forth in Section 1 of the Easement and as described Section 2 of the Easement and shown Exhibit B to the Easement, is hereby released and the City confirms such temporary construction easement is no longer in force or effect.
3. The following new Section 11 is hereby added to the Easement:

“11. RESTORATION

In connection with the exercise of any rights under the Easement, the Grantee shall diligently and continuously complete all repairs, relocation and maintenance as quickly as reasonably possible and shall not unreasonably interfere with the operations of Grantor or any tenants or licensees on Grantor’s property (this shall include requiring performance of any activities that restrict access to the Grantor’s property or causes excessively loud noises [e.g. saw cutting] during non-business hours [10:00 p.m. to 6:00 a.m.]). Upon completion of any such activities within or upon the easement and right-of-way, the Grantee shall restore the affected portions of Grantor’s property to the condition that existed immediately prior to the exercise of any such easement rights.”

4. Notwithstanding anything contained in the Easement to the contrary, Grantee hereby confirms, agrees and acknowledges that the Grantor and any owner or occupant of that certain parcel of land known as 5512 7<sup>th</sup> Street, being more particularly described on Exhibit A attached hereto and incorporated herein (the “**5512 Parcel**”), shall each have the right, jointly and severally, at any time and from time to time, to (i) construct private drainage facilities within the Easement area, and (ii) to construct/reconstruct a driveway apron within the Easement area to provide access between the 5512 Parcel and Texas Highway 35, a/k/a 7<sup>th</sup> Street. The rights of Grantor and any such owner or occupant shall include, without limitation, any construction, reconstruction, maintenance, alteration, repair or replacement of any such improvements.
5. Except as herein amended, the Easement and all covenants, agreements, terms and conditions thereof remain in full force and effect.
6. The covenants, agreements, terms and conditions of this Amendment shall bind and inure to the benefit of the parties to the Easement and their respective heirs and assigns.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned has executed this instrument under seal as of the date first above written.

CITY OF BAY CITY, TEXAS

By: \_\_\_\_\_

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

\_\_\_\_\_  
STATE OF TEXAS                    §  
  §  
COUNTY OF MATAGORDA       §

This instrument was ACKNOWLEDGED before me, on the \_\_\_ day of \_\_\_\_\_, 2023,  
by \_\_\_\_\_, the \_\_\_\_\_ of the City of Bay City, on behalf of  
said City of Bay City.

\_\_\_\_\_  
Notary Public, State of Texas

## EXHIBIT A

Description of 5512 7<sup>th</sup> Street, Bay City, TX

Being the 2.00 acre remnant of that called 4.00 acre tract (Volume 97, Page 157, Deed Records) out of Lot 6 of the O'CONNELL SUBDIVISION (Volume 19, Page 179, Deed Records), said 4.00 acre tract of land being also out of the I. & G.N. RR Company Survey 4, Block 3, Abstract No. 274, and being that certain tract of land conveyed to San Juana Trevino by Warranty Deed recorded under Clerk's File No. 2003-034215, Official Public Records of Matagorda County, Texas, SAVE AND EXCEPT that certain 2.00 acre tract conveyed to Bay City Group, LLC by Warranty Deed recorded under Clerk's File No. 2007-073143, Official Public Records of Matagorda County, Texas and being more particularly described by metes and bounds as follows;

BEGINNING at a 1 1/4-inch Iron Pipe found at the Northwest corner of the aforementioned 4.00 Acre Tract for the Northwest corner and Place of Beginning hereof, being in the southeast right of way State Highway 35, (Seventh Street) (100 feet wide), same being the Northwest corner of an adjoining 3.00 Acre Tract, to WASHINGTON INVESTMENTS, INC. recorded under Clerk's File No. 2009-096826, Official Public Records of Matagorda County, Texas;

THENCE South 17 degrees 04 minutes 42 seconds East along the common line hereof and the aforementioned adjoining Called 3.00 Acre Tract, 429.21 feet to an iron rod set, from which a found 1/2-inch Iron Rod with an unreadable red cap bears, North 18 degrees 49 minutes 30 seconds West, a distance of 6.59 feet for the southeast corner hereof and the north line of Turner Lane (40 feet wide);

THENCE with the common line hereof and Turner Lane, South 72 degrees 41 minutes 55 seconds West, a distance of 197.46 feet to an iron rod found for the southwest corner hereof, the southeast corner of said 2.00 acre tract to Bay City Group, LLC, the southeast corner of that certain 0.598 acre tract to Robert Allison recorded in Volume 654, Page 789 Official Records of Matagorda County, Texas;

THENCE depart the right of way of Turner Lane and with the west line hereof and the east line of the 0.598 acre and 2.00 acre tracts, North 23 degrees 31 minutes 25 seconds West, a distance of 367.57 feet to an iron rod found in the southeast right of way of State Highway 35, (Seventh Street) (100 feet wide), for the northwest corner hereof;

THENCE with the southeast right of way of State Highway 35, (Seventh Street)(100 feet wide), (BEARING BASIS HEREOF) North 57 degrees 45 minutes 01 seconds East, a distance of 247.34 feet to the place of beginning containing 87,306 square feet, or 2.00 acres of land more or less.



2556

EASEMENT AGREEMENT

377 / 949

2556

THE STATE OF TEXAS §

COUNTY OF MATAGORDA §

1. GRANT OF EASEMENT

That Maurice Ashcraft, hereinafter called Grantor, for and in consideration of TEN DOLLARS (\$10) and other good and valuable consideration paid by the CITY OF BAY CITY, hereinafter called Grantee, does hereby GRANT, SELL, and CONVEY to Grantee an easement and right-of-way across the tract of land/s described in the attached Exhibits "A" and "B", attached hereto and incorporated herein by reference for all intents and purposes. It is also granted to grantee herein a temporary construction easement across the tract of land/s described in the attached Exhibits "A" and "B".

2. LOCATION OF EASEMENT

The easement and right-of-way hereby conveyed shall be a 10-foot easement upon and across the tract listed above, and said easement is more particularly described in the attached exhibits "A" and "B". The temporary construction easement hereby conveyed is upon and across the tract listed above, and said temporary construction easement is more particularly described in the attached exhibit "B".

377/ 950

3. *PURPOSE OF EASEMENT*

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

4. *DURATION OF EASEMENT*

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

5. *EXCLUSIVENESS OF EASEMENT*

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

6. *ENCROACHMENTS*

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

7. *EXCEPTIONS*

This conveyance is made and accepted subject to the following matters, to the extent same are in effect at this time: Any and all restrictions, covenants, conditions and easements,

if any, relating to the property described in the attached Exhibits "A" and "B", but only to the extent they are still in effect, shown of record in the County and State mentioned in Exhibits "A" and "B", and to all zoning laws, regulations and ordinances of municipal and/or other governmental authorities, if any, but only to the extent that they are still in effect, relating to the property described in Exhibits "A" and "B".

8. ENTIRE AGREEMENT

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

9. ATTORNEY FEES

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

10. BINDING EFFECT

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

IN WITNESS WHEREOF, this instrument is executed this 9<sup>th</sup> day of July, 1993.

Maurice Ashcraft  
(signature)

Maurice Ashcraft  
(typed or printed name)

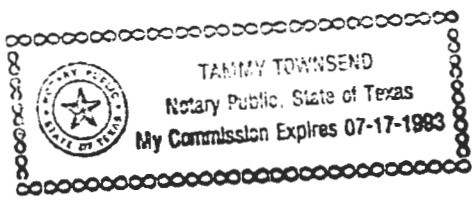
THE STATE OF Texas

§ 3771 952

COUNTY OF Matagorda

§  
§  
§

This instrument was acknowledged before me on the 9<sup>th</sup> day of July, 1993, by Maurice Ashcraft.



Tammy Townsend  
Notary Public, State of Texas

Typed or Printed Name of Notary

Tammy <sup>TJ</sup> Townsend  
Commission Expires: 7-17-93

## CHARLIE KALKOMEY SURVEYING, INC.

1815 MONS AVENUE  
ROSENBERG, TEXAS 77471  
(713) 342-2033

CHARLIE KALKOMEY  
REGISTERED PROFESSIONAL LAND SURVEYOR

377/ 953

CHARLES A. KALKOMEY  
REGISTERED PROFESSIONAL LAND SURVEYOR

(8)

FIELD NOTES FOR A 10-FOOT WIDE PARCEL OF LAND OVER THROUGH AND ACROSS THE E.J. ASHCRAFT CALLED 4.00 ACRE TRACT (VOLUME 97, PAGE 157, DEED RECORDS) OUT OF LOT 6 OF THE O'CONNELL SUBDIVISION (VOLUME 19, PAGE 179, DEED RECORDS) IN THE I. & G.N. RAILROAD COMPANY SURVEY, NUMBER 4, BLOCK 3, ABSTRACT 274, CITY OF BAY CITY, MATAGORDA COUNTY, TEXAS.

BEGINNING at a 1/2-inch Iron Pipe set at the Northwest corner of the aforementioned 4.00 Acre Tract for the Northwest corner and Place of Beginning of the herein described parcel of land, same being the Northeast corner of an adjoining 0.598 Acre Tract, being of record in Volume 654, Page 789, Deed Records, Matagorda County, Texas;

THENCE North 57 degrees 27 minutes 20 seconds East along the South right-of-way line of State Highway 35, 496.15 feet to a 1/2-inch Iron Pipe set on said line at the Northeast corner of said Called 4.00 Acre Tract for the Northeast corner of the herein described parcel of land, same being the Northwest corner of the adjoining Called 2.00 Acre Tract, being of record in Volume 443, Page 17, Deed Records, Matagorda County, Texas;

THENCE South 17 degrees 20 minutes 05 seconds East along the common line of the herein described parcel of land and the aforementioned adjoining Called 2.00 Acre Tract, 10.36 feet to a 1/2-inch Iron Pipe set on said line for the Southeast corner of the herein described parcel of land;

THENCE South 57 degrees 27 minutes 20 seconds West, 10.00 foot from and parallel to the South right-of-way line of State Highway 35, 496.10 feet to a 1/2-inch Iron Pipe set on the West line of the said Called 4.00 Acre Tract for the Southwest corner of the herein described parcel of land, same being on the East line of the aforementioned adjoining 0.598 Acre Tract;

THENCE North 17 degrees 36 minutes 13 seconds West along the common line of the herein described parcel of land and the aforementioned adjoining 0.598 Acre Tract, 10.35 feet to the Place of BEGINNING and containing 0.01138 acres of land, more or less.

*Charlie Kalkomey*

Charlie Kalkomey, RPLS  
Texas Registration No. 1399  
June 14, 1993

Job No. 0332-02-MA



0332-02-MA/46

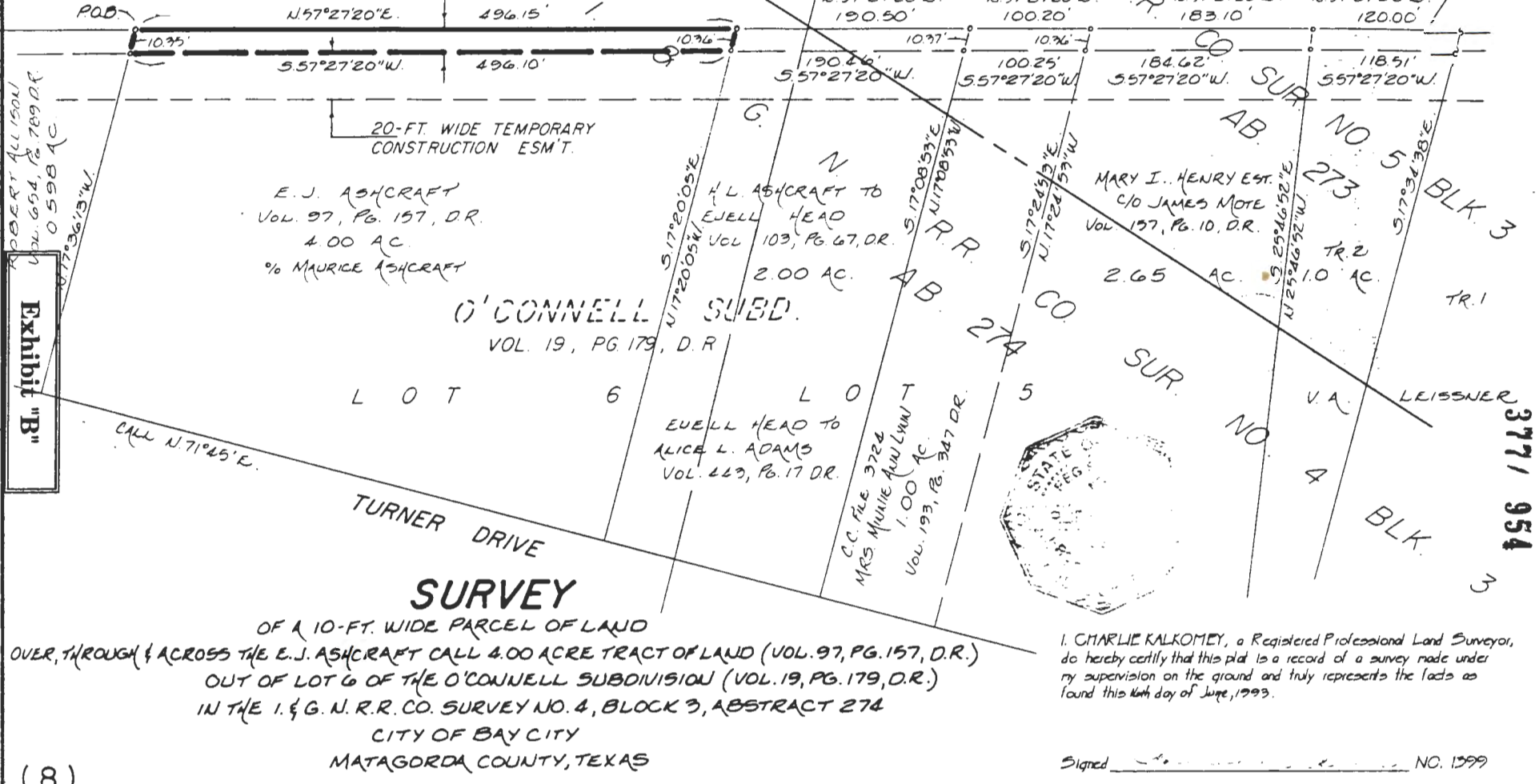
• DENOTES SET 1/2" IRON PIPE UNLESS OTHERWISE NOTED

10-FT. WIDE PARCEL OF LAND (0.1138 AC.)

STATE HIGHWAY 35

ITEM #1.

Exhibit "B"



**SURVEY**  
 OF A 10-FT. WIDE PARCEL OF LAND  
 OVER, THROUGH & ACROSS THE E. J. ASHCRAFT CALL 4.00 ACRE TRACT OF LAND (VOL. 97, PG. 157, D.R.)  
 OUT OF LOT 6 OF THE O'CONNELL SUBDIVISION (VOL. 19, PG. 179, D.R.)  
 IN THE I & G. N. R. R. CO. SURVEY NO. 4, BLOCK 3, ABSTRACT 274  
 CITY OF BAY CITY  
 MATAGORDA COUNTY, TEXAS

I, CHARLIE KALKOMEY, a Registered Professional Land Surveyor, do hereby certify that this plat is a record of a survey made under my supervision on the ground and truly represents the facts as found this 16th day of June, 1993.

Signed \_\_\_\_\_ NO. 1399  
 CHARLIE KALKOMEY  
 ROSENBERG, TEXAS

SCALE: 1"=100'

REVISED 6-18-93

(8)

377/ 955

FILED

'94 APR 26 10:05

*Laura Vaughn*  
COUNTY CLERK  
MATAGORDA COUNTY, TEXAS

STATE OF TEXAS COUNTY OF MATAGORDA  
I hereby certify that this instrument was FILED in File Number  
Sequence on the date and at the time stamped hereon by me,  
and was duly RECORDED in the OFFICIAL RECORDS of  
Matagorda County, Texas on



APR 26 1994

*Laura Vaughn*

COUNTY CLERK, Matagorda County, Texas

*City of Bay City*

**RELEASE OF CLAIM**

THE STATE OF TEXAS           §

COUNTY OF MATAGORDA   §

The undersigned, in consideration of the payment by the City of Bay City of TEN DOLLARS (\$10), and in further consideration of the execution by Maurice Ashcraft releasor, of an easement to the City of Bay City, said easement being attached hereto and incorporated herein by reference for all intents and purposes, voluntarily and knowingly execute this release with the express intention of affecting the extinguishment of obligations designated in this release.

The undersigned with the intention of binding the undersigned, the undersigned's heirs, executives, administrators, and assigns, expressly releases and discharges the City of Bay City and the City of Bay City's successors and assigns, from all claims, demands, actions, judgments, and executions, which the undersigned ever had, or now has or may have, which the undersigned's heirs, executors, administrators, or assigns may have or may claim to have against the City of Bay City, its employees, agents, and/or representatives, or the City of Bay City's successors or assigns, created by or arising out of the use, development, and/or construction within the easement, attached hereto and incorporated herein by reference for all intents and purposes, which the Releasor has executed in favor of the City of Bay City. This Release expressly covers any and all damages known or unknown, to real or personal property, caused or arising out of the City of Bay City's use and construction over that property owned by Releasor and which is more particularly described in the easement attached hereto and incorporated herein by reference for all intents and purposes.



I acknowledge that no additional consideration will be paid by the City of Bay City to the undersigned for the easement granted except for the one (1) four inch sewer tap, provided by the City of Bay City at no charge, to the tract of land described in Exhibits "A" and "B", attached hereto and incorporated herein by reference for all intents and purposes.

I further acknowledge that no additional considerations will be paid by the City of Bay City to the undersigned for the easement granted for any and all damages which may result from the use of the City of Bay City of the easement property for the purposes intended.

This Release covers damages to any real and/or personal property, including trees and structures, which may be affected by the easement hereby granted to the City of Bay City by Releasor.

I, the undersigned, have read this release and understand all its terms. I execute it voluntarily and with full knowledge of its significance.

Dated this 9 day of JULY, 1993.

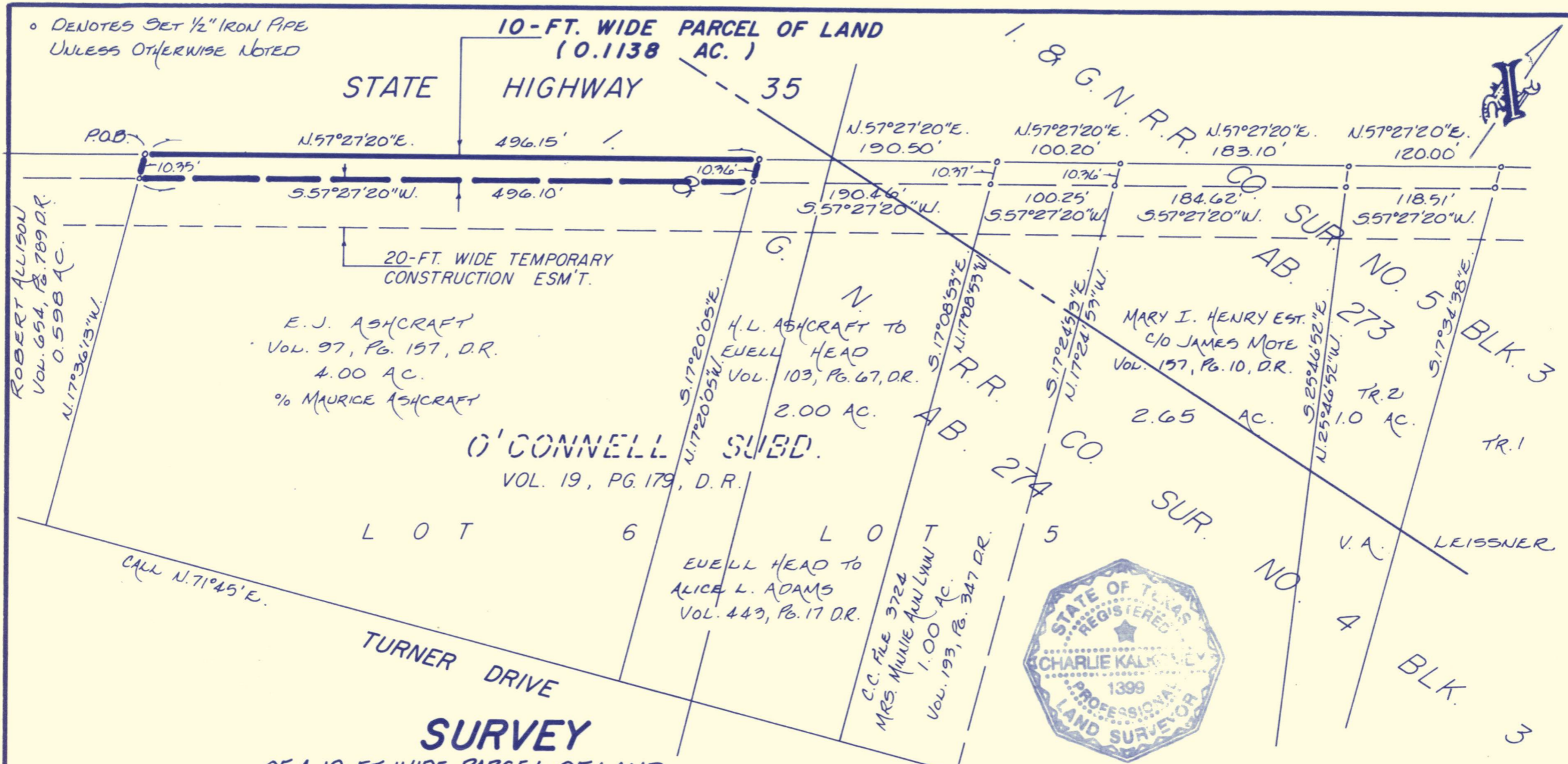
Maurice Ashcraft  
(signature)

Maurice Ashcraft  
(typed or printed name)

APPROVED AS TO  
SUBSTANCE AND FORM

B. Allen Cumbie  
B. Allen Cumbie, City Attorney

o DENOTES SET 1/2" IRON PIPE UNLESS OTHERWISE NOTED



ROBERT ALLISON  
VOL. 654, PG. 789 D.R.  
0.598 AC.  
N.17°36'13\"W.

E. J. ASHCRAFT  
VOL. 97, PG. 157, D.R.  
4.00 AC.  
% MAURICE ASHCRAFT

O'CONNELL SUBD.  
VOL. 19, PG. 179, D.R.

H. L. ASHCRAFT TO  
EVELL HEAD  
VOL. 103, PG. 67, D.R.  
2.00 AC.

MARY I. HENRY EST.  
C/O JAMES NOTE  
VOL. 157, PG. 10, D.R.  
2.65 AC.

EVELL HEAD TO  
ALICE L. ADAMS  
VOL. 443, PG. 17 D.R.

C.C. FILE 3724  
MRS. MUNNIE ANN LYNN  
1.00 AC.  
VOL. 193, PG. 347 D.R.



**SURVEY**  
 OF A 10-FT. WIDE PARCEL OF LAND  
 OVER, THROUGH & ACROSS THE E. J. ASHCRAFT CALL 4.00 ACRE TRACT OF LAND (VOL. 97, PG. 157, D.R.)  
 OUT OF LOT 6 OF THE O'CONNELL SUBDIVISION (VOL. 19, PG. 179, D.R.)  
 IN THE I. & G. N. R.R. CO. SURVEY NO. 4, BLOCK 3, ABSTRACT 274  
 CITY OF BAY CITY  
 MATAGORDA COUNTY, TEXAS

I, CHARLIE KALKOMEY, a Registered Professional Land Surveyor, do hereby certify that this plat is a record of a survey made under my supervision on the ground and truly represents the facts as found this 6th day of June, 1993.

Signed Charlie Kalkomey NO. 1399

CHARLIE KALKOMEY  
ROSENBERG, TEXAS

(8)

# VOLUNTEER INTEREST FORM

ITEM #3.

Dear Resident:

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

PLEASE TYPE OR PRINT:

Date: 12/02/2022 \*

Name: Lyn R. McCalister

\* Home Address: Street Address X\*

City: Bay City \* State TX \* Zip 77414\*

Home Phone: 9 [REDACTED] \* Business Phone: [REDACTED]

Employer: Sailors Moon Honey Farm \* Occupation: Retired/beekeeper \*

E-mail: [REDACTED] \*

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

Resident of City for 2 \* years

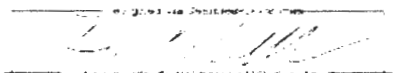
I am interested in serving on the following boards:

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

- |  |                                  |
|--|----------------------------------|
| 1.) <u>Bay City Community Development Co</u> v | 3.) <u>Planning Commission</u> v |
| 2.) <u>Main Street</u> v                       | 4.) <u>Variance Committee</u> v  |

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

~~I am a current member of the American Legion and past member of the Veterans of Foreign Wars. My grandfather was a Bay City police officer here in the 70's and I spent many summers here in my youth. After graduating from West Columbia I joined the Navy and saw the world. I could have chosen any place to retire into civilian life and I chose Bay City. I've set up~~

  
Signature



# CITY OF BAY CITY VOLUNTEER INTEREST FORM

**Dear Resident:**

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

PLEASE TYPE OR PRINT:

Date: 08242022  
Name: (Bob) Robert D Howard Home Address: 2825 Lavista  
City: Bay City State Texas Zip 77414  
Home Phone: [redacted] Business Phone: [redacted]  
Employer: Howard Investment Corp Occupation: President  
E-mail: [redacted]  
Resident of the Bay City Corporate City Limits: (circle one)  Yes  No  
Resident of City for 1 years

I am interested in serving on the following boards:

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

1.) Tourism Board	3.) Planning Commission
2.) Bay City Community Development Corp (BCCDC)	4.) Main Street

Please list any involvement in civic groups or clubs, current or past service on city boards, or other information qualifying you for service:  
Multiple business owner 855bugs.com, Brazos Security, Fish Tail Inn, Howard Investment Corp.  
Served 6 years Park and Rec Commission City of Woodway. Served 9 years City Council City of Woodway, Served 2 years Mayor City of Woodway. Past president Optimist Club of Waco. My wife is the new principal of Cherry Elementary and I am excited to get plugged in to Bay City wherever the Mayor and Council see fit. I will loyally serve at their direction.

eSigned via SealStreetDoc.com  
*Robert D Howard*  
Key: b700a713e8f6bca00e123207171b7692

Signature

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



**CITY OF BAY CITY**  
1901 FIFTH STREET  
BAY CITY, TEXAS 77414  
(979) 245-2137  
FAX: (979) 323-1681

### AGENDA ITEM REQUEST FORM

**Complete Submissions Required:**

Any item, to be considered for action by the City Council, must be presented on this form, along with any unprivileged documentation and must be filed and complete to have an item placed on the City Council Agenda for consideration (This process is not required for members of the governing body, but it is encouraged). Before being considered filed for placement on the agenda, a summary of the item, all supporting documentation and review of the item from each City Department must be performed for the request to be complete. If the request is from a citizen, the City shall expedite review through internal means. Request forms must be complete and received by the City Secretary's office no later than 5:00 p.m. on the Monday of the week prior to the Regular Council meeting to be placed on that meeting's agenda. The item may be placed on workshop or special council meeting agenda if deemed appropriate by the City. Only completed request forms are considered for placement on the agenda.

Regular Council meetings are held on the second and fourth Tuesday of the month at 6:00 p.m. in the Council Chambers at City Hall. Agenda items shall be set for consideration pursuant to City Code Section 2-47, as amended.

Requestor: Robbye Meyer / Arx Advantage  
PRINTED NAME and/or CITY DEPARTMENT

Date Submitted: 12/19/2022

Citizen

City Department

Council Member

Address: 1305 Dusky Thrush Tr  
Austin, TX 78746

Preferred contact:  Cell 512-963-2555  
 E-mail Robbye@ArxAdvantage.net

Work phone \_\_\_\_\_  
 Fax \_\_\_\_\_

I respectfully request the below item be placed on the 01/24/2023 Agenda for City Council consideration.

1) Describe Item to be considered and area of City involved, if any: Presentation and possible action regarding the proposed renovation of the Golden Manor Apartments located at 800 Avenue H, Bay City, TX 77414 for its 2023 housing tax credit application.

2) Executive Summary of Item and action by council sought: Resolution of support for the Golden Manor Apartments for their application to the Texas Department of Housing and Community Affairs for a potential renovation of the property for its current residents and a waiver of fees not to exceed two hundred and fifty dollars(\$250.00).

3) Do you need time to present this item?  **Page 21** No

If so, how much? 5-10 minutes

ADMIN / OFFICIAL USE ONLY:

Consent Item:  Yes  No

Any Prior City Council Action:  Yes  No

Deadline for City Council Action: \_\_\_\_\_

Projected Future City Council Action: \_\_\_\_\_

Fiscal Impact: \_\_\_\_\_  
\_\_\_\_\_

Staff Recommendation on this requested item:

Mayor's Office  Yes  No \_\_\_\_\_  Na  
City Attorney's Office  Yes  No \_\_\_\_\_  Na  
City Secretary Department  Yes  No \_\_\_\_\_  Na  
Finance Department  Yes  No \_\_\_\_\_  Na  
Police Department  Yes  No \_\_\_\_\_  Na

Public Works  Yes  No \_\_\_\_\_  Na  
Community Service  Yes  No \_\_\_\_\_  Na  
(AP, PR, MS, and LB)  
Utility Department  Yes  No \_\_\_\_\_  Na

Staff Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Anticipated Time necessary for Item: \_\_\_\_\_

**TRACKING:**

**Received by City Secretary:** \_\_\_\_\_ **Staff Initial** \_\_\_\_\_

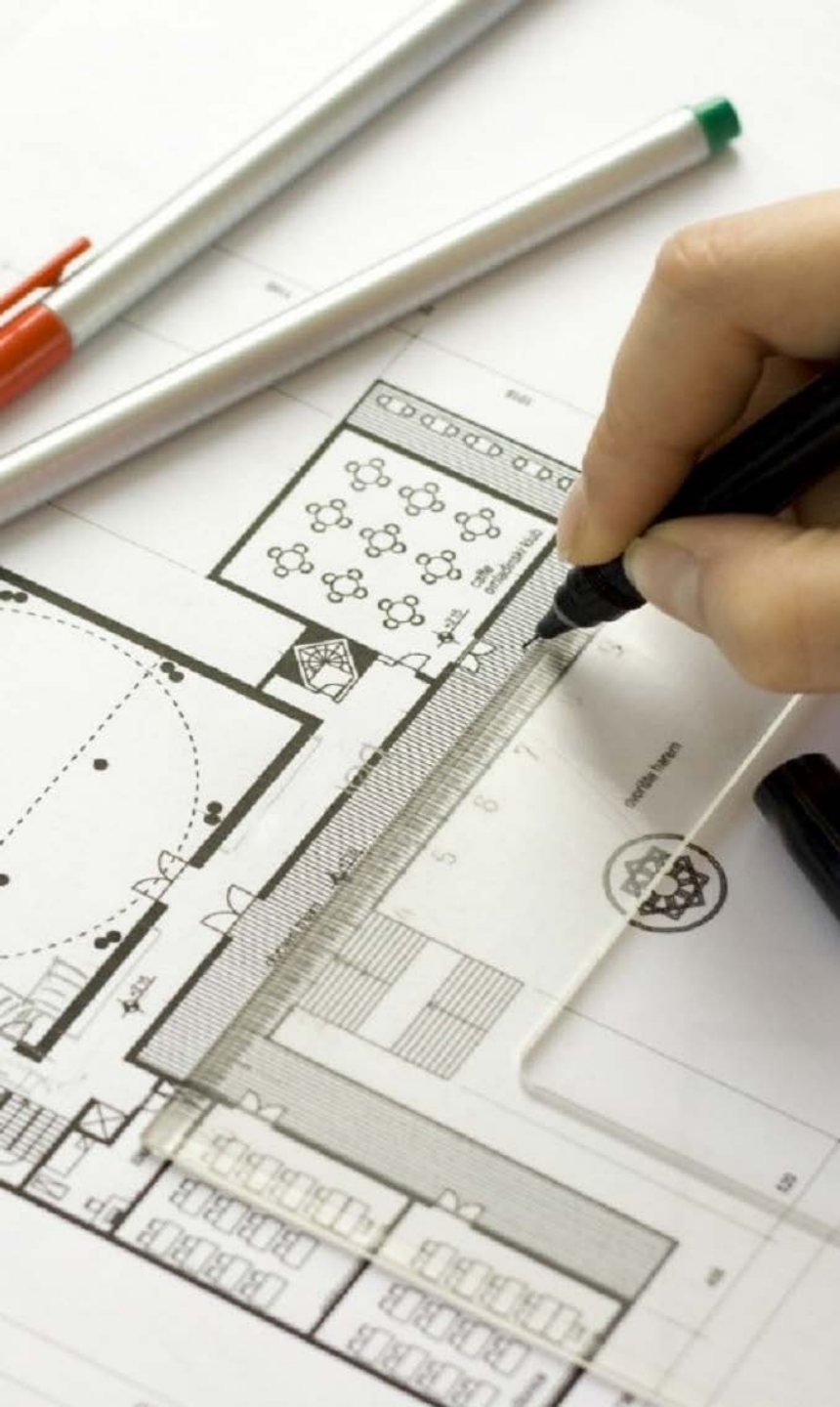
**Administratively Complete:** \_\_\_\_\_ **Staff Initial** \_\_\_\_\_

**Date of Agenda placed for consideration:** \_\_\_\_\_ **Staff Initial** \_\_\_\_\_

**Council action taken:** \_\_\_\_\_ on \_\_\_\_\_  
 Yes  No  Na

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE – City Secretary's Office**



# Arx Advantage Presents Fieser Development and Golden Manor Apartments

Robbye Meyer, Principal

Justin Meyer, Principal, Development Specialist

Mark Meyer, Principal, Development Analyst



# FIESER DEVELOPMENT OVERVIEW

Fieser Development was founded by James W. Fieser in 1997, The company has twenty-seven developments consisting of over 1740 units. Seven developments for seniors with 302 units and twenty developments for families consisting of 1440 units. The company is fully integrated in development, ownership and management of their properties.



# ARX ADVANTAGE OVERVIEW

ITEM #4.

Arx Advantage Consulting, the development consulting group, has over thirty years of finance, real estate, housing programs and asset management experience. Robbye Meyer, principal and owner, is the former director of multifamily finance for the Texas Department of Housing and Community Affairs. Justin Meyer, principal, directs development logistics and planning. Mark Meyer, principal, oversees development strategic analysis.

Arx Advantage is a comprehensive real estate development consulting firm. The vision of Arx is to assist in the development of affordable housing through the use of public and private funding resources and to assist in providing opportunities for the people who eventually live in the homes created by helping provide them with the resources they need to better their lives.

# TAX CREDIT PROGRAM OVERVIEW

- IRS Program originated through 1986 tax plan
- Program administered through State agencies – TDHCA
- Investor receives dollar-for-dollar income tax reduction
- Investor dollars contribute equity in the financing structure to reduce the amount of mortgage debt on the property
- Lower debt allows owner to charge below market rents

# GOLDEN MANOR APARTMENTS

ITEM #4.

40 Units of Affordable Rental Housing for seniors

- 7 residential buildings
  - 36 single bedroom units
  - 4 two bedroom units
- 1 office/maintenance building

All units are reserved for seniors making 60% and below the area's median income.

# GOLDEN MANOR APARTMENTS

ITEM #4.

800 Avenue H, Bay City, TX 77414



# PROPOSED REHABILITATION

- Retrofitting parking areas for accessibility
- Kitchen cabinets/vanities/countertops
- Replace kitchen sinks
- New mailbox pad
- Metal fascia wrap
- New gutters
- Roofing replacements
- Additional framing and drywall
- Doors and windows replacement
- VCT Tile floors
- Parking lot upgrades
- Landscaping upgrades
- Energy Star refrigerators
- Energy Star rated electric ranges
- Energy Star rated water heaters
- Tub/shower upgrades
- Energy Star HVAC units
- Energy Star ceiling fans



(Complete scope of rehabilitation may change during development process)

# TIMELINE

January 6, 2023 – Submission of Pre-Application

March 1, 2023 – Submission of Full Application

July 2023 – Awards Announced

April 2024 – Close on Development

June 2024 – Begin Construction on the rehabilitation.

(Proposed timeline may change during development process)

# ASSISTANCE NEEDED FROM THE CITY

1. Resolution of Support from the City Council (needs to be submitted with application on March 1, 2023)
2. A waiver or reduction of fees for the Development in an amount of at least \$250.00 (also needs to be submitted with application on March 1, 2023)

**RESOLUTION R-2023-\_\_\_**

**RESOLUTION FROM THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS IN SUPPORT OF THE SUBMISSION OF AN APPLICATION TO THE 2023 COMPETITIVE HOUSING TAX CREDIT (HTC) PROGRAM THROUGH THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) BY FIESER DEVELOPMENT, INC., FOR THE REHABILITATION OF GOLDEN MANOR APARTMENTS.**

**WHEREAS**, FIESER DEVELOPMENT, INC. has proposed the rehabilitation of affordable rental housing at 800 Avenue H, Bay City, TX 77414, named the Golden Manor Apartments in the city of Bay City, Matagorda County, Texas; and

**WHEREAS**, FIESER DEVELOPMENT, INC. has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2023 Competitive 9% Housing Tax Credits for the Golden Manor Apartments; and

**WHEREAS**, FIESER DEVELOPMENT, INC. has requested a waiver of development/permit fees in the amount of \$250.00 for the Golden Manor Apartments development as a commitment of development funding from the city of Bay City, Texas; and

**WHEREAS**, the city of Bay City, Texas has the authority to defer development fees on the property located at 800 Avenue H, Bay City, TX 77414;

**IT IS HEREBY RESOLVED, THAT**

The governing body of the city of Bay City, Texas, hereby adopts this resolution as evidence to its commitment of funds in the amount of \$250.00 to be provided to the development in the form of a waiver of development/permit fees; and

The governing body of the city of Bay City, Texas, hereby confirms that it supports the rehabilitation of the Golden Manor Apartments located at 800 Avenue H, Bay City, TX 77414, and that this formal action has been taken to put on record the opinion expressed by the City in Matagorda County, and

**FURTHER RESOLVED**, that for and on behalf of the Governing Body, **Robert K. Nelson, Mayor** is hereby authorized, empowered, and directed to certify these resolutions to the Texas Department of Housing and Community Affairs.

This resolution shall take effect immediately and upon passage.

**PASSED, APPROVED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2023 at a regular meeting of the City Council of Bay City.

\_\_\_\_\_  
Robert K. Nelson, Mayor

Seal

\_\_\_\_\_  
City Secretary





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

## AGENDA ITEM SUBMISSION FORM

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**Requestor Name:** Denbow, Samantha **Date Submitted:** 1/17/2023  
*Last, First* *MM/DD/YYYY*

**Requestor Type :** City Staff **Meeting Date:** 1/24/2022  
*Citizen/City Staff/Council Member* *MM/DD/YYYY*

**Position Title** Library Director  
*For City Staff Only*

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

### Agenda Content:

**GRANT: DISCUSS AND ACCEPT A DONATION OF A SCANPRO 3500 ALL-IN-ONE MICROFILM SCANNER VALUED AT \$11,787.00 FROM THE BAY CITY LIBRARY ASSOCIATION.**

### Executive Summary of Item:

The Library's microfilm reader acquired in the early 1990's with the Matagorda Genealogical Society is no longer repairable. The Bay City Library Association approved the purchase of a ScanPro 3500 All-in-One scanner at their December 14, 2022 meeting. The item was purchased by the Library Association and installed on January 11, 2023.

Microfilm is utilized frequently in genealogy and other research requests. The library serves as the main site in the county with microfilm of previous editions of the Bay City Tribune. The new machine provides reading and scanning capabilities.

Staff recommends the acceptance of the microfilm scanner to be added as a City asset.

# ScanPro All-In-One Models

## The award-winning microfilm scanner solution

ITEM #5.

### Intuitive. Brilliant. Exclusive.

**The microfilm revolution continues.** Whether you need a low-cost option or the top-of-the-line microfilm scanner, we have the universal solution that's just right for you. See the difference with our award-winning scanners that offer exclusive features and innovative technology only available through e-ImageData. Our latest ScanPro® product line has been specifically designed to meet not only your current application needs but your future needs as well – making it the only microfilm scanner you will ever have to buy.

#### MEET THE SCANPRO ALL-IN-ONE MODELS

Select the ScanPro All-In-One model that has the features and solutions to meet your expectations for **on-demand research** or any **conversion project**.

#### ScanPro 2500 All-In-One

The most popular replacement for old reader/printers. Not only is the ScanPro 2500 All-In-One™ the most budget-friendly scanner on the market, the 2500 All-In-One has all the necessary features needed to read, scan, print and convert your film collections. If budget is a concern, the 2500 All-In-One is the affordable solution.

#### ScanPro 3500 All-In-One

This top-of-the-line solution encompasses all of our exclusive features including the 26 megapixel camera\* that provides the clearest images in the industry. If you're looking for the most precise images available, the ScanPro 3500 All-In-One is for you.

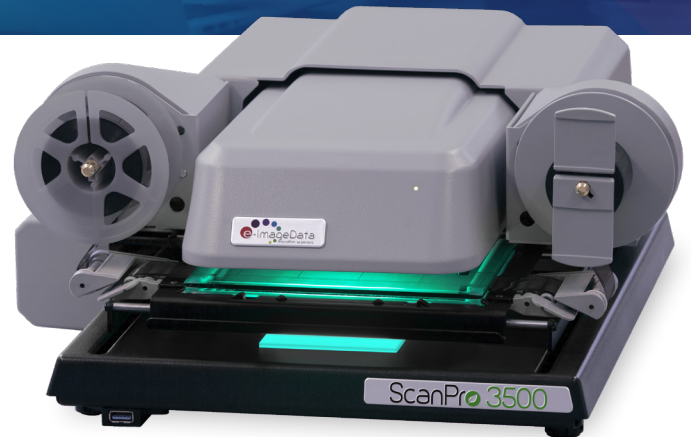
ScanPro 3500† **"TURANDOT." Beth Greenberg has entirely redirected the New York City Opera's 1971**

Other microfilm scanners† **"TURANDOT." Beth Greenberg has entirely redirected the New York City Opera's 1971**

† Actual scanned image segments

#### ScanPro i9500 All-In-One

**Got Blips?** The ScanPro i9500 All-In-One is the best, and only, solution to handle your entire "blipped" film collection for indexed searching. Including Kodak, Canon, Minolta, 3M, AGFA or custom formatted film, using single, two or three level blips with simplex, duplex and duo film.



## Innovative tech for all your film collection needs.

#### ALL-IN-ONE FEATURE HIGHLIGHTS:

Offered with *ScanPro Advantage Membership*. Features vary per model.

- **Superior image quality**  
26 megapixel camera\* with 6.6 MP image sensor x 4
- **Powerful 5x-105x optical zoom magnification** | Always in focus
- **Brilliant automatic high-speed scanning including larger-size formats**  
100 images per minute for film and fiche and 70 ipm for jackets
- **Exclusive single-click image adjust and live image editing tools**
- **Easy single-click save and print to multiple file formats**
- **Fastest word-searchable OCR software**

#### HANDLES ALL MEDIA

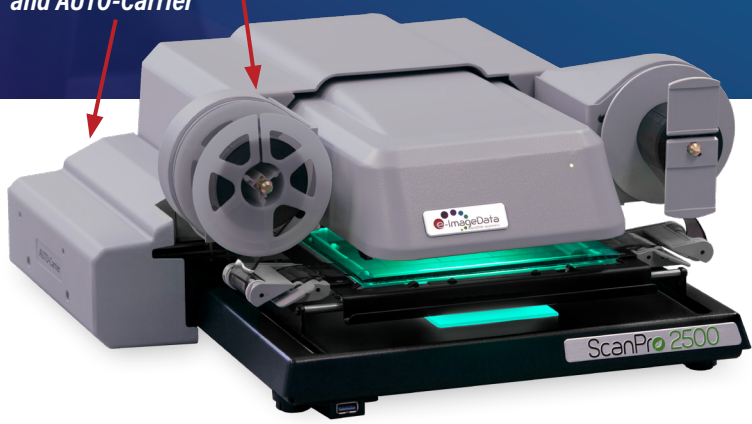
- ✓ 16/35mm/cartridge(M) Roll Film ✓ Fiche ✓ Jackets
- ✓ Micro-opaques ✓ Aperture cards ✓ Blipped film

\*The 26 megapixel high performance camera uses advanced pixel-shifting technology to capture higher megapixel images. e-ImageData starts with its 6.6 megapixel image sensor, largest in the industry, to capture and integrate 4 unique optical images into a single 26 megapixel camera image, the clearest image in the industry.



# DISCOVER the Difference with the ScanPro All-In-One

ScanPro 2500 All-In-One shown with roll film carrier and AUTO-Carrier



*"The All-In-One makes it so easy to quickly digitize microfilm and microfiche. We love the AUTO-Scan feature!"*  
- Charlotte Kirkby, Educational Testing Service, NJ

*"The copies are so crisp and clear. Images are very easy to edit. Our searchers love how simple it is to operate."*  
- Ruth Nutty, Fayette County Recorder, IN

*"Our All-In-One is a complete game-changer for reading, scanning, and digitizing micro images. The quality is unreal. Ease of use is a 10/10."*  
- Stuart Baker, City of St. Louis, MO

*"Our ScanPro All-In-One works fast, it does the scanning job without flaw, and done without a hiccup. It can scan to multiple locations with one click."*  
- Elizabeth Chan, Tamarac Branch Library, FL

The ScanPro All-In-One microfilm scanners provide all the capabilities you need to get your work done quickly and efficiently. With an intuitive super speed USB 3.1 interface, users can easily adjust live images, save and print to multiple file formats and automatically scan any film type for conversion. The All-In-Ones are the award-winning choice for any job.

### SCANPRO ALL-IN-ONE INCLUDES:

- **Base Model with Fiche Carrier** – Choose the model that best fits your application needs (2500, 3500 or i9500)
- **Motorized Roll Film Carrier** –
  - 16/35 Combination roll film and fiche/aperture cards
  - 16/35/35M Cartridge combination roll film and fiche/aperture
- **AUTO-Carrier™** – Automatic scanning of fiche and jackets
- **ScanPro® Advantage Membership** – Experience exclusive **software** features and **hardware** warranty. Enjoy the first 6 months of your membership for free! To retain these benefits, an active \$249 yearly membership is required.



### SCANPRO GIVES YOU MORE

- ✓ **Small footprint** | Desktop in size
- ✓ **Intuitive interface** | User-friendly including multiple language options
- ✓ **Energy efficient** | Built with the environment in mind
- ✓ **Lifetime Value** | 3-year product warranty, upgradeable

**DISCOVER the ScanPro Difference!**  
Schedule a free virtual or in-person demo today.  
**1-800-251-2261**



**CITY OF BAY CITY**

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

**AGENDA ITEM SUBMISSION FORM**

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 Citizen

 City Staff

 Council Member

 Requestor Name: Christella Rodriguez

 Date Submitted: 01/11/2023

 Position Title (If City Staff): Chief

 Council Meeting Date: 01/24/2023

Type of Agenda Item:

 Consent Agenda

 Presentation

 Regular Item for Discussion

 Public Hearing

 Executive Session

Agenda Wording:

Resolution to apply for "Project Justice Grant" – third and final year

Executive Summary of Item:

The third and final year for the Project Justice Grant (Detective Grant) will start October 2023. The update application for FY 2023-24 with updated resolution for year three is due mid-February. I have completed the agenda submission request and resolution. Can you please submit them to be added to the next city council meeting on the 24<sup>th</sup>. Year three starting October 2023 will be the final year of the grant. It will provide 60% of the original grant amount which is \$52,724.47. As a reminder this was the grant that pays 100% year 1, 80% year 2 and now 60% for year 3. After year three the PD will fully take over the pay for the added detective spot. The Ford F-150 was only tracked and reported for year 1 so it is already fully ours to do with as we please.



**BAY CITY POLICE DEPARTMENT**  
2201 AVENUE H  
BAY CITY, TX 77414  
Office: (979) 245-8500 Fax: Fax (979) 245-5758



ITEM #6.

## **Project Justice Grant**

The following equipment will be fully covered by the grant in year 1:

Unmarked CID Truck - \$28,315

Misc. equipment (laptop, binoculars etc.) - \$2,500 (approximate)

The following personnel will be covered by the grant on a decreasing scale over three years:

Detective Salary - \$51,064 (minimum pay)

Employee benefits package - \$7095.12

Total - \$58,159.12

The grant will cover 100% year 1 @ \$58,159.12

80% year 2 @ \$46,527.30

60% year 3 @ \$34,895.47

At the end of year 3 the Police Department will assume full responsibility for salary and benefits.

## Resolution R-2023-\_\_\_\_\_

**Whereas**, the City of Bay City finds it in the best interest of the citizens of Bay City, that the Criminal Justice Program Grant application for the third and final year of “Project Justice” be submitted for the FY 2023-2024 year; and

**Whereas**, the City of Bay City had approved the submission of “Project Justice” for the first and second year of this three year grant which fully funded an additional detective position and unmarked vehicle; and the addition of another detective resulted in an increase in the quality of investigations being done as well as improved clearance rates; and the continuaton of this grant is necessary to keep the additional Detective to further increase the attention and time Detectives are able to devote to each case; and

**Whereas**, the City of Bay City agrees this project will continue to promote public safety, improve the quality of investigations conducted, reduce crime, and improve the communities confidence in the Bay City Police Department by providing thorough, evidence-based investigations in reponse to violent crime; and

**Whereas**, the City of Bay City agrees that in the event of loss or misuse of the Criminal Justice Division funds, the City of Bay City assures that the funds will be returned to the Criminal Justice Division in full; and

**Whereas**, the City of Bay City designates Sgt. Chris Hadash as the designated Project Director as well as the Designated Grant Writer of the project.; and

**Whereas**, the City of Bay City designates the Chief of Police, Christella Rodriguez as the grantee’s authorized official with the power to apply for, accept, reject, adjust or terminate the grant on behalf of the applicant agency; and

**Now Therefore, Be it Resolved** that The City of Bay City approves the submission of the “Project Justice” project, third and final year grant application under the Criminal Justice Grant with the Office of the Governor, Criminal Justice Division.

Passed and approved on this 24<sup>th</sup> day of January, 2023 by the Bay City Council.

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

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
City Attorney

Grant application: \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO**



## **EXECUTIVE SUMMARY**

### **Authorization to Issue- CO SERIES 2023A (CWSRF)**

**BACKGROUND:** 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. The City was approved by the Texas Water Development Board (TWDB) for financial assistance 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 ordinance attached serves as the authorization to issue debt. The maximum principal amount will not exceed \$13,427,000. This is the 3rd of 4 issues that will occur during the project period. This bond will fund the following:

- Completion of engineering design and bidding services for the **Wastewater Treatment Plant Improvements and Cottonwood Lift Station Rehabilitation**
- Initial payments to the construction contractor, including mobilization and initial construction work for the projects listed above
- Initial construction management services (Resident Project Representative or “RPR”) for the projects listed above

**RECOMMENDATION:** Staff recommends City Council approve the ordinance as presented.

**ATTACHMENTS:** Ordinance authorizing issue of CO.

ORDINANCE NO. 1702

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO

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

WHEREAS, the City Council of the City of Bay City, Texas (the “City”), authorized the publication of a notice of intention to issue certificates of obligation to the effect that the City Council would meet on January 24, 2023 to adopt an ordinance and take such other action as may be deemed necessary to authorize the issuance of certificates of obligation payable from City ad valorem taxes and from a pledge of and lien on the surplus revenues of the City’s water and sewer system, for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the improvements to the City’s sanitary sewer system, including the planning, acquisition, 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; and

WHEREAS, such notice was published at the times and in the manner required by the Constitution and laws of the State of Texas, particularly Subchapter C, Chapter 271, Texas Local Government Code, as amended; and

WHEREAS, no petition or other request has been filed with or presented to any official of the City requesting that any of the proceedings authorizing such Certificates (as defined herein) be submitted to a referendum or other election; and

WHEREAS, the City is authorized to make the pledge of Surplus Revenues (as defined herein) pursuant to Chapter 1502, Texas Government Code; and

WHEREAS, the City is now authorized and empowered to proceed with the issuance and sale of the Certificates, and has found and determined that it is necessary and in the best interests of the City and its citizens that it issue the Certificates in accordance with the terms and provisions of this Ordinance; and

WHEREAS, the meeting at which this Ordinance is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; Now, Therefore

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



1. Recitals. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct and incorporated herein for all purposes.

2. Definitions. Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the same meanings specified below:

“Act” means Chapter 271, Texas Local Government Code, as amended.

“Attorney General” means the Attorney General of the State of Texas.

“Blanket Issuer Letter of Representations” means the Blanket Issuer Letter of Representations between the City, the Paying Agent/Registrar and DTC.

“Bond Counsel” means Bracewell LLP.

“Business Day” means any day which is not a Saturday, Sunday, or a day on which the Paying Agent/Registrar is authorized by law or executive order to close, or a legal holiday.

“Certificate” or “Certificates” means the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) authorized in this Ordinance, unless the context clearly indicates otherwise.

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

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Escrow Agent” means Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, and its successors and assigns, or such other escrow agent as may be approved by the Mayor or Mayor Pro Tem and acceptable to the TWDB.

“Escrow Agreement” means the escrow agreement by and between the City and the Escrow Agent pertaining to the deposit of the proceeds of the Certificates.

“Financial Obligation” means a (i) debt obligation, (ii) derivative instrument entered into

in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Certificate” means the Initial Certificate authorized by Section 6(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund for payment of the Certificates established by the City in Section 17 of this Ordinance.

“Interest Payment Date” when used in connection with any Certificate, means September 1, 2023, and each March 1 and September 1 thereafter until maturity.

“Issuance Date,” with respect to the Certificates initially delivered to the TWDB, shall mean the date on which each such Certificate is authenticated by the Paying Agent/Registrar and delivered to and paid for by the TWDB. Certificates delivered on transfer of or in exchange for other Certificates shall bear the same Issuance Date as the Certificate or Certificates in lieu of or in exchange for which the new Certificate is delivered.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” as used herein and in the Certificates means this ordinance authorizing the Certificates.

“Owner” means any person who shall be the registered owner of any outstanding Certificate.

“Paying Agent/Registrar” means Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, and its successors in that capacity.

“Project” means the improvements to the City’s sanitary sewer system, including the planning, acquisition, 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.

“Project Fund” shall mean the project fund established by the City pursuant to Section 27 of this Ordinance.

“Record Date” means, for any Interest Payment Date, the fifteenth day of the month next preceding such Interest Payment Date.

“Register” means the books of registration kept by the Paying Agent/Registrar in which the names and addresses of and the principal amounts registered to each Owner are maintained.

“Regulations” means the applicable, proposed, temporary or final Treasury Regulations promulgated under the Code, or, to the extent applicable to the Code, under the Internal Revenue

Code of 1954, as such regulations may be amended or supplemented from time to time.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“State” means the State of Texas.

“Surplus Revenues” means the revenues available after the payment of operation and maintenance expenses of the System and the debt service payable from gross revenues or net revenues of the System, if any, as well as any other payments, costs or expenses designated in an ordinance authorizing the issuance of System revenue obligations.

“System” means the City’s water and sewer system.

“TWDB” means the Texas Water Development Board.

3. Authorization. The Certificates shall be issued pursuant to the Act in fully registered form, without coupons, in the total authorized principal amount of \$13,427,000 for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the Project.

4. Designation and Date. The Certificates shall be designated as the “CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF),” and shall be dated February 1, 2023. The Certificates shall bear interest at the rates set out in Section 5 of this Ordinance, from the later of the Issuance Date or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months.

5. Initial Certificates; Numbers and Denominations. The Certificates shall be issued in the principal amounts and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on September 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered on transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$1,000 or integral multiples thereof, and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2024	\$357,000	1.290%	2039	\$449,000	2.570%
2025	362,000	1.170	2040	460,000	2.640
2026	366,000	1.110	2041	472,000	2.700
2027	370,000	1.110	2042	485,000	2.760
2028	374,000	1.120	2043	498,000	2.820
2029	379,000	1.210	2044	512,000	2.880
2030	383,000	1.250	2045	527,000	2.910
2031	388,000	1.260	2046	542,000	2.950
2032	393,000	1.360	2047	558,000	2.990
2033	398,000	1.390	2048	575,000	3.020
2034	404,000	1.680	2049	593,000	3.040
2035	410,000	1.930	2050	610,000	3.060
2036	418,000	2.200	2051	629,000	3.080
2037	428,000	2.360	2052	649,000	3.090
2038	438,000	2.490			

6. Execution and Registration of Certificates. (a) The Certificates shall be signed on behalf of the City by the Mayor or Mayor Pro Tem and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until the Paying Agent/Registrar's Authentication Certificate, substantially in the form provided herein, has been duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Issuance Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the Issuance Date, the Initial Certificate, being a single certificate representing the entire principal amount of the Certificates, payable in stated installments to the TWDB or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Secretary, approved by the Attorney General, and registered and manually signed by the

Comptroller, shall be delivered to the TWDB or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver definitive Certificates to DTC.

7. Payment of Principal and Interest. The Paying Agent/Registrar is hereby appointed as the initial paying agent for the Certificates. The principal of the Certificates shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they become due and payable at the principal payment office of the Paying Agent/Registrar in Houston, Texas. The interest on each Certificate shall be payable by check mailed by the Paying Agent/Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register; provided, however, that for so long as the TWDB is the Owner of the Certificates, all payments of principal and interest will be made in wire transfer form at no cost to the TWDB.

If the date for payment of the principal of any Certificate is not a Business Day, then the date for such payment shall be the next succeeding Business Day, with the same force and effect as if made on the original date payment was due.

8. Special Record Date. If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for 30 days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Owner of record as of the close of business on the day prior to the mailing of such notice.

9. Ownership; Unclaimed Principal. The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute Owner of such Certificate for the purpose of making payment of principal on such Certificate, and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Certificate in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Amounts held by the Paying Agent/Registrar which represent principal of the Certificates remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Paying Agent/Registrar in accordance with the applicable provisions of State law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

10. Registration, Transfer, and Exchange. So long as any Certificates remain outstanding, the Paying Agent/Registrar shall keep the Register at its principal payment office in Houston, Texas and, subject to such reasonable regulations as it may prescribe, the Paying

Agent/Registrar shall provide for the registration and transfer of Certificates in accordance with the terms of this Ordinance. The Issuance Date of each Certificate originally delivered to and paid for by TWDB shall be recorded in the Register.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal payment office of the Paying Agent/Registrar in Houston, Texas, duly endorsed for transfer, or accompanied by an assignment duly executed by the registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Certificate for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within three (3) Business Days after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity, aggregate principal amount, and Issuance Date, bearing interest at the same rate as the Certificate or Certificates so presented.

All Certificates shall be exchangeable upon presentation and surrender thereof at the principal payment office of the Paying Agent/Registrar in Houston, Texas, for a Certificate or Certificates of the same maturity, Issuance Date, and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

The City or the Paying Agent/Registrar may require the Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

11. Mutilated, Lost, or Stolen Certificates. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like maturity, Issuance Date, interest rate and principal amount, bearing a number not contemporaneously outstanding. If any Certificate is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authorize and the Paying Agent/Registrar shall authenticate and deliver a replacement Certificate of like maturity, Issuance Date, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Paying Agent/Registrar may require the Owner of a mutilated Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar.

The City or the Paying Agent/Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Certificate, before any replacement Certificate is issued, to:

- (1) furnish to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;
- (2) furnish such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;
- (3) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and
- (4) meet any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Paying Agent/Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

12. Cancellation of Certificates. All Certificates paid in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Paying Agent/Registrar shall furnish the City with appropriate certificates of destruction of such Certificates.

13. Book-Entry System. The Initial Certificates shall be delivered against payment to the TWDB. The TWDB shall be required to promptly surrender the Initial Certificates to the Paying Agent/Registrar for exchange. Certificates issued in exchange shall be registered in the name of Cede & Co., as nominee of DTC, as registered owner of the Certificates, and held in the custody of DTC. Unless otherwise requested by DTC, a single certificate will be issued and delivered to DTC for each maturity of the Certificates. Beneficial owners of Certificates will not receive physical delivery of Certificates except as provided hereinafter. For so long as DTC shall continue to serve as securities depository for the certificates as provided herein, all transfers of beneficial ownership interest will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Certificates is to receive, hold or deliver any Certificate.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC participant or any person on whose behalf a DTC participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC participant or any other person, other than a registered owner of the Certificates, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, and (iii) the payment of any DTC participant or any other person, other than a registered owner of the Certificates, as shown on the Register, of any amount with respect to principal of or premium, if any, or interest on the Certificates.

Replacement Certificates may be issued directly to beneficial owners of Certificates other than DTC, or its nominee, but only in the event that (i) DTC determines not to continue to act as securities depository for the Certificates (which determination shall become effective no less than 90 days after written notice to such effect to the City and the Paying Agent/Registrar); or (ii) the City has advised DTC of its determination (which determination is conclusive as to DTC and the beneficial owners of the Certificates) that the interests of the beneficial owners of the Certificates might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the City shall use its best efforts to attempt to locate another qualified securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City shall cause to be authenticated and delivered replacement Certificates, in certificate form, to the beneficial owners of the Certificates. In the event that the City makes the determination noted in (ii) above (provided that the City undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the City to make any such determination), and has made provisions to notify the beneficial owners of Certificates of such determination by mailing an appropriate notice to DTC, it shall cause to be issued replacement Certificates in certificate form to beneficial owners of the Certificates as shown on the records of DTC provided to the City.

Whenever, during the term of the Certificates, the beneficial ownership thereof is determined by a book entry at DTC, the requirements in this Ordinance of holding, delivering or transferring Certificates shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC as to registering or transferring the book entry to produce the same effect.

If at any time, DTC ceases to hold the Certificates as securities depository, all references herein to DTC shall be of no further force or effect.

Before the City can discontinue the book-entry-only system of registration through DTC, notice must be given to the TWDB and prior written consent of the TWDB must be received by the City.

14. Optional Redemption; Defeasance. (a) The Certificates are subject to optional redemption as set forth in the Form of Certificate in this Ordinance.



Principal amounts may be redeemed only in integral multiples of \$1,000. If a Certificate subject to redemption is in a denomination larger than \$1,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$1,000. Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity, Issuance Date, and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

Notice of any redemption identifying the Certificates to be redeemed in whole or in part shall be given by the Paying Agent/Registrar at least 30 days prior to the date fixed for redemption by sending written notice by United States mail, first class, postage prepaid, to the Owner of each Certificate to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price, the place at which Certificates are to be surrendered for payment and, if less than all Certificates outstanding of a particular maturity are to be redeemed, the numbers of the Certificates or portions thereof of such maturity to be redeemed. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for payment of the redemption price of the Certificates or portions thereof to be redeemed. When Certificates have been called for redemption in whole or in part and due provision has been made to redeem the same as herein provided, the Certificates or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Certificate or portion thereof called for redemption shall terminate on the date fixed for redemption.

The City reserves the right, in the case of a redemption, to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificate subject to conditional redemption and such redemption has been rescinded shall remain outstanding.

(b) The Certificates may be discharged, defeased, redeemed or refunded in any manner now or hereafter permitted by law.

15. Forms. The form of the Certificates, including the form of the Paying Agent/Registrar's Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance:

(a) Form of Certificate.

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF MATAGORDA

REGISTERED  
NUMBER

\_\_\_\_\_

REGISTERED  
DENOMINATION

\$ \_\_\_\_\_

CITY OF BAY CITY, TEXAS  
TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION  
SERIES 2023A (CWSRF)

INTEREST RATE:	MATURITY DATE:	DATED DATE:	ISSUANCE DATE:	CUSIP NO.:
_____ %	September 1, 20__	February 1, 2023	February 23, 2023	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

THE CITY OF BAY CITY, TEXAS (the "City") promises to pay to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender of this Certificate at Zions Bancorporation, National Association, Amegy Bank Division (the "Paying Agent/Registrar"), at its principal payment office in Houston, Texas, the principal amount identified above, payable in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Issuance Date identified above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on March 1 and September 1, beginning on September 1, 2023, mailed to the registered owner as shown on the books of registration kept by the Paying Agent/Registrar as of the fifteenth day of the month next preceding each interest payment date; provided, however, that for so long as the Texas Water Development Board ("TWDB") is the Owner of the Certificates, all payments of principal and interest will be made in wire transfer form at no cost to the TWDB.

THIS CERTIFICATE is dated February 1, 2023 and is one of a series of fully registered certificates specified in the title hereof issued in the aggregate principal amount of \$13,427,000 (herein referred to as the "Certificates"), for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the improvements to the City's sanitary sewer system, including the planning, acquisition, 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, issued in accordance with the Constitution and laws of the State of Texas,

particularly Subchapter C, Chapter 271, Texas Local Government Code, as amended, pursuant to an ordinance duly adopted by the City Council of the City (the “Ordinance”), which Ordinance is of record in the official minutes of the City Council.

THE CITY RESERVES THE RIGHT to redeem Certificates maturing on and after September 1, 2034, prior to their scheduled maturities, in whole or from time to time in part, in inverse order of maturity, in integral multiples of \$1,000, on September 1, 2033, or any date thereafter at par. Reference is made to the Ordinance for complete details concerning the manner of redeeming the Certificates.

NOTICE OF ANY REDEMPTION shall be given at least 30 days prior to the date fixed for redemption by United States mail, first class, postage prepaid, addressed to the registered owner of each Certificate to be redeemed in whole or in part at the address shown on the books of registration kept by the Paying Agent/Registrar. When Certificates or portions thereof have been called for redemption, and due provision has been made to redeem the same, the principal amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the amounts called for redemption shall terminate on the date fixed for redemption, if any.

THE CITY RESERVES THE RIGHT, in the case of a redemption, to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificates subject to conditional redemption and such redemption has been rescinded shall remain outstanding.

THIS CERTIFICATE is transferable only upon presentation and surrender at the principal payment office of the Paying Agent/Registrar in Houston, Texas, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE is exchangeable at the principal payment office of the Paying Agent/Registrar in Houston, Texas, for certificates in the principal amount of \$1,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Certificate, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified paying agent/registrar for the Certificates and will cause notice of any change of paying agent/registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest, if any, on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City.

IT IS FURTHER certified, recited and represented that the Surplus Revenues (as defined in the Ordinance) to be derived from the operation of the City's System (as defined in the Ordinance), are pledged to the payment of the Certificates. The City reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Surplus Revenues, secured by a pledge of the Surplus Revenues that may be on a parity with, or junior and subordinate to the pledge of Surplus Revenues securing the Certificates.

IN WITNESS WHEREOF, this Certificate has been signed with the manual or facsimile signature of the Mayor or Mayor Pro Tem of the City and countersigned with the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed, or placed in facsimile, on this Certificate.

\_\_\_\_\_  
City Secretary  
City of Bay City, Texas

\_\_\_\_\_  
Mayor [Pro Tem]<sup>1</sup>  
City of Bay City, Texas

[SEAL]

(b) Form of Registration Certificate of Comptroller.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_

I hereby certify that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

\_\_\_\_\_  
<sup>1</sup> Delete if the Mayor executes the Initial Certificate.

WITNESS MY SIGNATURE AND SEAL this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts of  
the State of Texas

(SEAL)

(c) Form of Paying Agent/Registrar's Authentication Certificate.

**AUTHENTICATION CERTIFICATE**

It is hereby certified that this Certificate has been delivered pursuant to the Ordinance described in the text of this Certificate.

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, AMEGY BANK DIVISION,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Signature

Date of Authentication: \_\_\_\_\_

(d) Form of Assignment.

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns, and transfers unto

\_\_\_\_\_  
\_\_\_\_\_  
(Please print or type name, address, and zip code of Transferee)

\_\_\_\_\_  
(Please insert Social Security or Taxpayer Identification Number of Transferee)  
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_  
attorney to transfer said Certificate on the books kept for registration thereof, with full power of  
substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
Registered Owner

NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this Certificate in every particular, without any alteration, enlargement or change whatsoever.

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

(e) The Initial Certificate shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate, the headings “INTEREST RATE” and “MATURITY DATE” shall be completed with the words “As Shown Below” and the words “CUSIP NO.” deleted;

(ii) in the first paragraph of the Certificate, the words “on the Maturity Date specified above” and “at the rate shown above” shall be deleted and the following shall be inserted after the last sentence in the first paragraph, “The principal shall be paid in installments on September 1 in each of the years and in the principal amounts identified in the following schedule:”

[Information to be inserted from schedule in Section 5]

(iii) the Initial Certificate shall be numbered I-1.

16. CUSIP Numbers. CUSIP Numbers may be printed on the Certificates, but errors or omissions in the printing of such numbers shall have no effect on the validity of the Certificates.

17. Interest and Sinking Fund; Tax Levy. The proceeds from all taxes levied, assessed and collected for and on account of the Certificates authorized by this Ordinance shall be deposited, as collected, in a special fund to be designated “City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) Interest and Sinking Fund”. While the Certificates or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually levied, assessed and collected in due time, form and manner, and at the same time other City taxes are levied, assessed and collected, in each year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City sufficient to pay the current interest on the Certificates as the same becomes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures, but never less than two percent (2%) of the original principal amount of the Certificates each year, full allowance being made for delinquencies and costs of collection, and such taxes when collected shall be applied to the payment of the interest on and principal of the Certificates and to no other purpose.

To pay the debt service coming due on the Certificates prior to the receipt of the taxes levied to pay such debt serviced, there is hereby appropriated from current funds on hand, which

are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

18. Pledge of Revenues.

(a) The Surplus Revenues to be derived from the operation of the System are hereby pledged to the payment of the principal of and interest on the Certificates as the same come due. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Surplus Revenues, secured by a pledge of the Surplus Revenues that may be senior to, on a parity with, or junior and subordinate to the pledge of Surplus Revenues securing the Certificates.

(b) While the Certificates are outstanding, the City will at all times maintain sufficient rates and charges for the payment of the maintenance and operation expenses of the System and, to the extent that ad valorem taxes are not available for such purpose, the City will at all times maintain sufficient rates and charges to produce revenues not less than 1.10 times the annual debt service obligations of all outstanding obligations of the City secured in whole or in part by the Surplus Revenues of the System for which the City is budgeting to make payments from Surplus Revenues, for the payment of debt service on the Certificates. Upon the written request of the TWDB, the City shall provide documentation that evidences the levy of ad valorem taxes for the payment of debt service on the Certificates or information demonstrating that the City has budgeted Surplus Revenues of the System or other lawfully available revenues sufficient for the payment of debt service on the Certificates.

(c) If System revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, the amount of taxes that otherwise would have been required to be levied may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund.

(d) If the City does not levy taxes in any year as provided in Section 17 and Section 18(c) above, the City shall transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Certificates until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Certificates and the City shall not transfer Surplus Revenues from the System to any fund other than the Interest and Sinking Fund until such times as an amount equal to the annual debt service on the Certificates for the then current fiscal year has been deposited in the Interest and Sinking Fund.

(e) Each year that the Certificates are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for the monthly deposit of sufficient Surplus Revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, the deposit of tax revenues, or a combination thereof, into the Interest and Sinking Fund for the payment of debt service on the Certificates.

19. Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and revenues granted by the City under Sections 18 and 19 of this Ordinance, and such pledge is therefore valid, effective and perfected. If State law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the taxes and revenues granted by the City under Sections 18 and 19 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

20. Further Proceedings. After the Initial Certificate has been executed, it shall be the duty of the Mayor or Mayor Pro Tem of the City to deliver the Initial Certificate and all pertinent records and proceedings to the Attorney General, for examination and approval. After the Initial Certificate has been approved by the Attorney General, it shall be delivered to the Comptroller for registration. Upon registration of the Initial Certificate, the Comptroller (or a deputy lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein to be affixed or attached to the Certificates to be initially issued, and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

21. Sale. The Certificates are hereby sold and shall be delivered to the TWDB, as soon as practicable after adoption of this Ordinance, at a price of par, subject to the approval of the Attorney General and Bond Counsel. At the time the Certificates are delivered to the TWDB, the City shall pay an origination fee to the TWDB equal to 1.75% (\$230,931) of the Project costs, in accordance with the rules of the TWDB. The Mayor or Mayor Pro Tem and other appropriate officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to provide for the issuance and delivery of the Certificates.

22. Books and Records. So long as any of the Certificates are outstanding the City covenants and agrees that it will keep proper books of record and account in which full, true and correct entries will be made of all transactions relating to the Certificates and the funds created pursuant to this Ordinance, and all books, documents and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any Owner.

23. Provisions Concerning Federal Income Tax Matters.

(a) General. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the interest on the Certificates to be includable in gross income for federal income tax purposes. In furtherance thereof, the City covenants to comply with sections 103 and 141 through 150 of the Code and the provisions set forth in the Federal Tax Certificate executed by the City in connection with the Certificates.

(b) No Private Activity Bonds. The City covenants that it will use the proceeds of the Certificates (including investment income) and the property financed, directly or indirectly, with such proceeds so that the Certificates will not be "private activity bonds" within the meaning of section 141 of the Code. Furthermore, the City will not take a deliberate action (as defined in



section 1.141-2(d)(3) of the Regulations) that causes the Certificates to be a “private activity bond” unless it takes a remedial action permitted by section 1.141-12 of the Regulations.

(c) No Federal Guarantee. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the Certificates to be “federally guaranteed” within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

(d) No Hedge Bonds. The City covenants not to take any action or omit to take action that, if taken or omitted, would cause the Certificates to be “hedge bonds” within the meaning of section 149(g) of the Code.

(e) No Arbitrage Bonds. The City covenants that it will make such use of the proceeds of the Certificates (including investment income) and regulate the investment of such proceeds of the Certificates so that the Certificates will not be “arbitrage bonds” within the meaning of section 148(a) of the Code.

(f) Required Rebate. The City covenants that, if the City does not qualify for an exception to the requirements of section 148(f) of the Code, the City will comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, be rebated to the United States.

(g) Information Reporting. The City covenants to file or cause to be filed with the Secretary of the Treasury an information statement concerning the Certificates in accordance with section 149(e) of the Code.

(h) Record Retention. The City covenants to retain all material records relating to the expenditure of the proceeds (including investment income) of the Certificates and the use of the property financed, directly or indirectly, thereby until six years after the last Certificate is redeemed or paid at maturity (or such other period as provided by subsequent guidance issued by the Department of the Treasury) in a manner that ensures their complete access throughout such retention period.

(i) Registration. If the Certificates are “registration-required bonds” under section 149(a)(2) of the Code, the Certificates will be issued in registered form.

(j) Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, the City will not be required to comply with any of the federal tax covenants set forth above if the City has received an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the excludability of interest on the Certificates from gross income for federal income tax purposes.

(k) Continuing Compliance. Notwithstanding any other provision of this Ordinance, the City’s obligations under the federal tax covenants set forth above will survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the excludability of interest on the Certificates from gross income for federal income tax purposes.

(l) Official Intent. For purposes of section 1.150-2(d) of the Regulations, to the extent that an official intent to reimburse by the City has not been adopted for a particular project, this Ordinance serves as the City's official declaration of intent to use proceeds of the Certificates to reimburse itself from proceeds of the Certificates issued in the maximum amount for certain expenditures paid in connection with the projects set forth herein. 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 of which the project to which such expenditure relates is placed in service or abandoned, but in no event more than three years after the original expenditure is paid.

(m) Source Series Bonds. The City covenants that neither the City nor a related party thereto will acquire any of the TWDB's Source Series Bonds in an amount related to the amount of the Certificates to be acquired from the City by the TWDB.

(n) Advanced Refunding. The City covenants to refrain from using the proceeds of the Certificates to pay debt service on another issue more than ninety (90) days after the date of issue of the Certificates in contravention of the requirements of section 149(d) of the Code.

24. TWDB Resolution. The City agrees to comply with the applicable provisions of TWDB Resolution No. 21-032, which authorized the financial assistance evidenced by the Certificates.

25. Escrow Agreement. To facilitate the delivery of and payment for the Certificates pending completion of review of plans and specifications, the City Council hereby authorizes an Escrow Agreement to be entered into by and between the City and the Escrow Agent, the terms and conditions of which are hereby approved, subject to such insertions, additions, and modifications as shall be necessary to comply with all applicable laws, regulations, and procedures and to carry out the intent and purposes of this Ordinance. The Mayor or Mayor Pro Tem and the City Secretary are authorized to execute and deliver such Escrow Agreement in multiple counterparts on behalf of the City.

26. Project Fund. There is hereby created and established a special fund of the City, to be known as the "City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) Project Fund," which shall be established at an official depository of the City and kept separate and apart from other funds of the City. The proceeds of the Certificates, shall be deposited in the escrow account for the Certificates that is maintained by the Escrow Agent for the benefit of the City and TWDB under and as more specifically provided in the Escrow Agreement. Upon release from the escrow account, such proceeds shall be deposited and held in the Project Fund until used for authorized purposes. The proceeds of the Certificates, as received, shall be deposited in the Project Fund. Money on deposit in the Project Fund and all interest, and income derived therefrom shall be used only for the purposes set forth in Section 3 of this Ordinance and to pay costs of issuance. Money on deposit in the Project Fund, may, at the option of the City, be invested as permitted by State law including, particularly, the Public Funds Investment Act, Texas Government Code, Chapter 2256, and the Public Funds Collateral Act, Texas Government Code, Chapter 2257; provided that all such deposits and investments shall be made in such manner that the money required to be expended from the Project Fund will be available at the proper time or times. Certificate proceeds deposited in the Project Fund shall be

timely and expeditiously used, in accordance with the schedule for the Project approved by the TWDB, as may be amended from time to time. The City will maintain project accounts in accordance with generally accepted government accounting standards, including standards related to the reporting of infrastructure assets.

27. TWDB Rules. In compliance with the published rules and regulations of the TWDB, the City covenants and agrees that upon final completion of the Project to be financed with the proceeds of the Certificates, and if all or any portion of the Certificates shall be held by or on account of the TWDB or the State, the proper officials of the City shall render due and final accounting of the total cost of the Project and provide a copy of as-built plans for the Project to the TWDB. If, following completion of the Project, funds remain on hand in the Project Fund, or if the TWDB Executive Administrator (the “Executive Administrator”) disapproves construction of any portion of the Project as not being in accordance with the plans and specifications, the City shall use any remaining funds for enhancements to the Project that are approved by the Executive Administrator, or, if no enhancements are authorized by the Executive Administrator, the City shall submit to the TWDB a final accounting and describe the proposed disposition of the any unused funds. If any funds are determined to be surplus funds remaining after the completion of the Project and the completion of a final accounting, such surplus funds shall be used for purposes approved by the Executive Administrator. Unless otherwise stated in the loan commitment of the TWDB with respect to the purchase of the Certificates, in determining the amount of available funds for constructing the Project to be financed, the City shall account for all monies in the Project Fund, including all loan funds extended by the TWDB, all other funds available from the Project as described in the Project engineer’s sufficiency of funds statement required for closing the TWDB’s loan and all interest, earned by the City on money in the Project Fund. This requirement shall not be interpreted as prohibiting the TWDB from enforcing such other rights as it may have under law.

28. Outlay Reports. The City agrees to submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.

29. Environmental Indemnification. The City shall not use proceeds from the sale of the Certificates for sampling, testing, removing or disposing of contaminated soils and/or media at the Project site. To the extent permitted by law, the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project.

30. Insurance. The City covenants that the Project will be kept continually insured against such perils in an amount sufficient to protect the TWDB’s interest in the Project, to the extent that insurance is customarily carried by cities operating similar facilities in similar locations; provided, however, that the City shall not be required to maintain such insurance so long as builders risk insurance covering such facilities during the period of construction is in effect.

31. Compliance with Rules and Statutes. The City covenants that it will comply with TWDB's rules and relevant state statutes in connection with the sale of the Certificates to TWDB and the use of the proceeds in connection with the Project approved by TWDB.

32. Compliance with Environmental Findings of Executive Administrator. The City covenants that it will comply with the conditions specified in the final environmental finding of the Executive Administrator when issued, including the standing emergency discovery conditions for threatened and endangered species and cultural resources.

33. Audited Financial Statements. The City shall annually submit to the TWDB a copy of its audited financial statements, which shall be prepared by a certified public accountant in accordance with the accounting principles the City may be required to employ from time to time pursuant to State law or regulation.

34. Compliance with Davis-Bacon and Federal Disadvantaged Business Enterprises Program. Laborers and mechanics employed by contractors and subcontractors for the Project shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all Project contracts mandate compliance with the Davis-Bacon Act. All contracts and subcontracts for the construction of the Project carried out in whole or in part with Certificate proceeds shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB. The City covenants to comply with all applicable State and federal procurement requirements, including the federal procurement requirements under the Disadvantaged Business Enterprises program.

35. Federal Funding Accountability and Transparency Act. The City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Certificates are outstanding.

36. Use of Iron and Steel Products. The City covenants that it will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines.

37. Maintenance of Project Fund. The City covenants that it will maintain the Project Fund in accordance with generally accepted government accounting principles.

38. Continuing Disclosure Undertaking.

(a) Annual Reports. The City agrees to provide to the MSRB, in electronic format, accompanied by identifying information as prescribed by the MSRB, within six months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the City's annual financial statements. The information will also include

the audited financial statements of the City, if the City commissions an audit and it is completed within the required time. If the audit of such financial statements is not complete within such period, then the City will provide unaudited financial statements within such six month period to the MSRB, and audited financial statements if and when the audit report on such statements becomes available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles the City may be required to employ from time to time pursuant to State law or regulation. All such information and operating data shall be provided to the MSRB, in an electronic format, accompanied by identifying information, as prescribed by the MSRB, and will be available via the Electronic Municipal Market Access (“EMMA”) System at [www.emma.msrb.org](http://www.emma.msrb.org).

If the City changes its fiscal year, the City will notify the MSRB of any such change (and of the date of the new fiscal year end) prior to the next date by which the City would otherwise be required to provide financial information and operating data pursuant to this Section.

All such information and operating data may be provided to the MSRB in full in one or more documents, or may be included by specific reference to documents available to the public (including an Official Statement or other offering document, if it is available from the MSRB).

(b) Event Notices. The City shall provide the following to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of any of the following events with respect to the Certificates:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of the holders of the Certificates, if material;
- (8) Certificate calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;

- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;

Note to paragraph 12: For the purposes of the event identified in paragraph 12 of this section, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
- (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

Note to paragraphs (15) and (16): For purposes of the events identified in paragraphs (15) and (16) of this section and in the definition of Financial Obligation in Section 2, the City intends the words used in such paragraphs to have the meanings ascribed to them in SEC Release No. 34-83885 dated August 20, 2018 (the “2018 Release”) and any further amendments or written guidance provided by the SEC or its staff with respect with respect to the amendments to the Rule effected by the 2018 Release.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 38(a). All documents provided to the MSRB pursuant to this section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any redemption calls and any defeasances that cause the City to be no longer an “obligated person.”

The provisions of this Section are for the sole benefit of the Owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provisions of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (B) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with Section 34(a) an

explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

39. Private Placement Memorandum. The form and substance of the Private Placement Memorandum for the Certificates dated January 24, 2023, and any addenda, supplement or amendment thereto (the “Private Placement Memorandum”), presented to and considered at this meeting, are hereby in all respects approved and adopted. The proper officials of the City are hereby authorized to execute such Private Placement Memorandum as prescribed therein.

40. Appointment of Initial Paying Agent/Registrar; Paying Agent Registrar Agreement.

(a) Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, is hereby appointed as the initial Paying Agent/Registrar for the Certificates.

(b) The Paying Agent/Registrar shall keep such books or records and make such transfers and registrations under such reasonable regulations as the City and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such transfer and registrations as herein provided. It shall be the duty of the Paying Agent/Registrar to obtain from the Owners and record in the Register the address of such Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as provided herein. The City or its designee shall have the right to inspect the Register during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Register confidential and, unless otherwise required by law, shall not permit their inspection by any other entity.

(c) The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest, on the Certificates. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions, exchanges and replacements of such Certificates, as provided in the Ordinance.

(d) The form of Paying Agent/Registrar Agreement setting forth the duties of the Paying Agent/Registrar is hereby approved, and the appropriate officials of the City are hereby authorized to execute such agreement for and on behalf of the City.

41. Maintenance, Termination and Replacement of Paying Agent/Registrar.

(a) At all times while any Certificates are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under this Section 41 of the Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement, provided no such resignation shall be effective until a successor Paying Agent/Registrar has accepted the duties of Paying Agent/Registrar for the Certificates.



(c) Each Paying Agent/Registrar shall be a commercial bank or trust company organized under the laws of the State, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Certificates.

(d) The City reserves the right to terminate the appointment of any Paying Agent/Registrar by (i) delivering to the entity whose appointment is to be terminated forty-five (45) days written notice of the termination of the appointment and of the Paying Agent/Registrar Agreement, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar; provided, that, no such termination shall be effective until a successor Paying Agent/Registrar has assumed the duties of Paying Agent/Registrar for the Certificates.

(e) Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

(f) By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby and under the Paying Agent/Registrar Agreement.

(g) If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Certificates to the successor Paying Agent/Registrar.

42. Remedies. TWDB shall have all remedies available at law or in equity with respect to the Certificates, and any provision of the Certificates that restricts or limits TWDB’s exercise of such remedies shall be of no force and effect.

43. Changes to Ordinance. Bond Counsel is hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Certificates by the Attorney General.

44. Related Matters. To satisfy in a timely manner all of the City’s obligations under this Ordinance, the Mayor or Mayor Pro Tem, the City Secretary and all other appropriate officers and agents of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms and purposes of this Ordinance.

45. Individuals Not Liable. No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of City Council or agent or employee of City Council or of the City in his or her individual capacity and neither the members of City Council nor any officer thereof, nor any agent or employee of City Council or of the City, shall be liable personally on the Certificates, or be subject to any personal liability or accountability by reason of the issuance thereof.

46. Severability and Savings. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or

unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

47. Repealer. All ordinances or resolutions, or parts thereof, heretofore adopted by the City and inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

48. Force and Effect. This Ordinance shall be in full force and effect from and after its final passage, and it is so ordered.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED this 24<sup>th</sup> day of January, 2023, by the City Council of the City of Bay City, Texas.

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Robert K. Nelson	_____	_____	_____
Floyce Brown	_____	_____	_____
James Folse	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Becca Sitz	_____	_____	_____
Blayne Finlay	_____	_____	_____

\_\_\_\_\_  
Robert K. Nelson, Mayor  
City of Bay City

ATTEST:

[SEAL]

\_\_\_\_\_  
Jeanna Thompson, City Secretary  
City of Bay City

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney  
City of Bay City

**CERTIFICATE FOR ORDINANCE**

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 24<sup>th</sup> day of January, 2023, 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                   |
| James Folse       | Mayor Pro Tem and Council Member, Position No. 2 |
| Brad Westmoreland | Council Member, Position No. 3                   |
| Becca Sitz        | Council Member, Position No. 4                   |
| Blayne Finlay     | 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

ORDINANCE NO. 1702

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said ordinance, 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."

\_\_\_\_\_ Member(s) of City Council shown present abstained from voting.

2. A true, full and correct copy of the aforesaid ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said ordinance 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 ordinance; 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 ordinance 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 24<sup>th</sup> day of January, 2023.

[SEAL]

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City Secretary  
City of Bay City, Texas

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023B (DWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO**



## **EXECUTIVE SUMMARY**

### **Authorization to Issue- CO SERIES 2023B (DWSRF)**

**BACKGROUND:** 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. The City of Bay City was approved by the Texas Water Development Board (TWDB) for financial assistance 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 ordinance attached serves as the authorization to issue debt. The maximum principal amount will not exceed \$6,175,000. This is the 3rd of 5 issues that will occur during the project period. This bond will fund the following:

- Construction phase services and construction of the **AMI Water Meter Replacement** project throughout the City’s drinking water distribution system
- Detailed design and bidding services for the new **North Water Plant** (along Hwy 60 on the parcel previously owned by Dunn Heat Exchangers) and **East Water Plant** (along Hwy 35 on a parcel deeded to the City by Tenaris)
- Initial construction contractor payments for the construction of the **North Water Plant and East Water Plant** (one contract)
- Initial construction management services (Resident Project Representative or “RPR”) for the **North Water Plant and East Water Plant**

**RECOMMENDATION:** Staff recommends City Council approve the ordinance as presented.

**ATTACHMENTS:** Ordinance authorizing issue of CO.

ORDINANCE NO. 1702

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO

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

WHEREAS, the City Council of the City of Bay City, Texas (the “City”), authorized the publication of a notice of intention to issue certificates of obligation to the effect that the City Council would meet on January 24, 2023 to adopt an ordinance and take such other action as may be deemed necessary to authorize the issuance of certificates of obligation payable from City ad valorem taxes and from a pledge of and lien on the surplus revenues of the City’s water and sewer system, for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the improvements to the City’s sanitary sewer system, including the planning, acquisition, 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; and

WHEREAS, such notice was published at the times and in the manner required by the Constitution and laws of the State of Texas, particularly Subchapter C, Chapter 271, Texas Local Government Code, as amended; and

WHEREAS, no petition or other request has been filed with or presented to any official of the City requesting that any of the proceedings authorizing such Certificates (as defined herein) be submitted to a referendum or other election; and

WHEREAS, the City is authorized to make the pledge of Surplus Revenues (as defined herein) pursuant to Chapter 1502, Texas Government Code; and

WHEREAS, the City is now authorized and empowered to proceed with the issuance and sale of the Certificates, and has found and determined that it is necessary and in the best interests of the City and its citizens that it issue the Certificates in accordance with the terms and provisions of this Ordinance; and

WHEREAS, the meeting at which this Ordinance is being considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code; Now, Therefore

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

1. Recitals. It is hereby found and determined that the matters and facts set out in the preamble to this Ordinance are true and correct and incorporated herein for all purposes.

2. Definitions. Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the same meanings specified below:

“Act” means Chapter 271, Texas Local Government Code, as amended.

“Attorney General” means the Attorney General of the State of Texas.

“Blanket Issuer Letter of Representations” means the Blanket Issuer Letter of Representations between the City, the Paying Agent/Registrar and DTC.

“Bond Counsel” means Bracewell LLP.

“Business Day” means any day which is not a Saturday, Sunday, or a day on which the Paying Agent/Registrar is authorized by law or executive order to close, or a legal holiday.

“Certificate” or “Certificates” means the City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) authorized in this Ordinance, unless the context clearly indicates otherwise.

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

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Comptroller” means the Comptroller of Public Accounts of the State of Texas.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Escrow Agent” means Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, and its successors and assigns, or such other escrow agent as may be approved by the Mayor or Mayor Pro Tem and acceptable to the TWDB.

“Escrow Agreement” means the escrow agreement by and between the City and the Escrow Agent pertaining to the deposit of the proceeds of the Certificates.

“Financial Obligation” means a (i) debt obligation, (ii) derivative instrument entered into



in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Certificate” means the Initial Certificate authorized by Section 6(d) of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund for payment of the Certificates established by the City in Section 17 of this Ordinance.

“Interest Payment Date” when used in connection with any Certificate, means September 1, 2023, and each March 1 and September 1 thereafter until maturity.

“Issuance Date,” with respect to the Certificates initially delivered to the TWDB, shall mean the date on which each such Certificate is authenticated by the Paying Agent/Registrar and delivered to and paid for by the TWDB. Certificates delivered on transfer of or in exchange for other Certificates shall bear the same Issuance Date as the Certificate or Certificates in lieu of or in exchange for which the new Certificate is delivered.

“MSRB” means the Municipal Securities Rulemaking Board.

“Ordinance” as used herein and in the Certificates means this ordinance authorizing the Certificates.

“Owner” means any person who shall be the registered owner of any outstanding Certificate.

“Paying Agent/Registrar” means Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, and its successors in that capacity.

“Project” means the improvements to the City’s sanitary sewer system, including the planning, acquisition, 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.

“Project Fund” shall mean the project fund established by the City pursuant to Section 27 of this Ordinance.

“Record Date” means, for any Interest Payment Date, the fifteenth day of the month next preceding such Interest Payment Date.

“Register” means the books of registration kept by the Paying Agent/Registrar in which the names and addresses of and the principal amounts registered to each Owner are maintained.

“Regulations” means the applicable, proposed, temporary or final Treasury Regulations promulgated under the Code, or, to the extent applicable to the Code, under the Internal Revenue

Code of 1954, as such regulations may be amended or supplemented from time to time.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“State” means the State of Texas.

“Surplus Revenues” means the revenues available after the payment of operation and maintenance expenses of the System and the debt service payable from gross revenues or net revenues of the System, if any, as well as any other payments, costs or expenses designated in an ordinance authorizing the issuance of System revenue obligations.

“System” means the City’s water and sewer system.

“TWDB” means the Texas Water Development Board.

3. Authorization. The Certificates shall be issued pursuant to the Act in fully registered form, without coupons, in the total authorized principal amount of \$13,427,000 for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the Project.

4. Designation and Date. The Certificates shall be designated as the “CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF),” and shall be dated February 1, 2023. The Certificates shall bear interest at the rates set out in Section 5 of this Ordinance, from the later of the Issuance Date or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months.

5. Initial Certificates; Numbers and Denominations. The Certificates shall be issued in the principal amounts and bearing interest at the rates set forth in the following schedule, and may be transferred and exchanged as set out in this Ordinance. The Certificates shall mature on September 1 in each of the years and in the amounts set out in such schedule. The Initial Certificate shall be numbered I-1 and all other Certificates shall be numbered in sequence beginning with R-1. Certificates delivered on transfer of or in exchange for other Certificates shall be numbered in order of their authentication by the Paying Agent/Registrar, shall be in the denomination of \$1,000 or integral multiples thereof, and shall mature on the same date and bear interest at the same rate as the Certificate or Certificates in lieu of which they are delivered.

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2024	\$357,000	1.290%	2039	\$449,000	2.570%
2025	362,000	1.170	2040	460,000	2.640
2026	366,000	1.110	2041	472,000	2.700
2027	370,000	1.110	2042	485,000	2.760
2028	374,000	1.120	2043	498,000	2.820
2029	379,000	1.210	2044	512,000	2.880
2030	383,000	1.250	2045	527,000	2.910
2031	388,000	1.260	2046	542,000	2.950
2032	393,000	1.360	2047	558,000	2.990
2033	398,000	1.390	2048	575,000	3.020
2034	404,000	1.680	2049	593,000	3.040
2035	410,000	1.930	2050	610,000	3.060
2036	418,000	2.200	2051	629,000	3.080
2037	428,000	2.360	2052	649,000	3.090
2038	438,000	2.490			

6. Execution and Registration of Certificates. (a) The Certificates shall be signed on behalf of the City by the Mayor or Mayor Pro Tem and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Certificates shall cease to be such officer before the authentication of such Certificates or before the delivery of such Certificates, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until the Paying Agent/Registrar's Authentication Certificate, substantially in the form provided herein, has been duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Certificate delivered at the Issuance Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) On the Issuance Date, the Initial Certificate, being a single certificate representing the entire principal amount of the Certificates, payable in stated installments to the TWDB or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Secretary, approved by the Attorney General, and registered and manually signed by the

Comptroller, shall be delivered to the TWDB or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver definitive Certificates to DTC.

7. Payment of Principal and Interest. The Paying Agent/Registrar is hereby appointed as the initial paying agent for the Certificates. The principal of the Certificates shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they become due and payable at the principal payment office of the Paying Agent/Registrar in Houston, Texas. The interest on each Certificate shall be payable by check mailed by the Paying Agent/Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register; provided, however, that for so long as the TWDB is the Owner of the Certificates, all payments of principal and interest will be made in wire transfer form at no cost to the TWDB.

If the date for payment of the principal of any Certificate is not a Business Day, then the date for such payment shall be the next succeeding Business Day, with the same force and effect as if made on the original date payment was due.

8. Special Record Date. If interest on any Certificate is not paid on any Interest Payment Date and continues unpaid for 30 days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a Special Record Date. The Paying Agent/Registrar shall establish a Special Record Date when funds to make such interest payment are received from or on behalf of the City. Such Special Record Date shall be fifteen (15) days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five (5) days prior to the Special Record Date, to each affected Owner of record as of the close of business on the day prior to the mailing of such notice.

9. Ownership; Unclaimed Principal. The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute Owner of such Certificate for the purpose of making payment of principal on such Certificate, and for all other purposes, whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Certificate in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Amounts held by the Paying Agent/Registrar which represent principal of the Certificates remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be reported and disposed of by the Paying Agent/Registrar in accordance with the applicable provisions of State law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

10. Registration, Transfer, and Exchange. So long as any Certificates remain outstanding, the Paying Agent/Registrar shall keep the Register at its principal payment office in Houston, Texas and, subject to such reasonable regulations as it may prescribe, the Paying

Agent/Registrar shall provide for the registration and transfer of Certificates in accordance with the terms of this Ordinance. The Issuance Date of each Certificate originally delivered to and paid for by TWDB shall be recorded in the Register.

Each Certificate shall be transferable only upon the presentation and surrender thereof at the principal payment office of the Paying Agent/Registrar in Houston, Texas, duly endorsed for transfer, or accompanied by an assignment duly executed by the registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Certificate for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, within three (3) Business Days after such presentation, a new Certificate or Certificates, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity, aggregate principal amount, and Issuance Date, bearing interest at the same rate as the Certificate or Certificates so presented.

All Certificates shall be exchangeable upon presentation and surrender thereof at the principal payment office of the Paying Agent/Registrar in Houston, Texas, for a Certificate or Certificates of the same maturity, Issuance Date, and interest rate and in any authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of the Certificate or Certificates presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Certificates in accordance with the provisions of this Section. Each Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such Certificate is delivered.

The City or the Paying Agent/Registrar may require the Owner of any Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Certificate. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

11. Mutilated, Lost, or Stolen Certificates. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like maturity, Issuance Date, interest rate and principal amount, bearing a number not contemporaneously outstanding. If any Certificate is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authorize and the Paying Agent/Registrar shall authenticate and deliver a replacement Certificate of like maturity, Issuance Date, interest rate and principal amount, bearing a number not contemporaneously outstanding.

The City or the Paying Agent/Registrar may require the Owner of a mutilated Certificate to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar.

The City or the Paying Agent/Registrar may require the Owner of a lost, apparently destroyed or wrongfully taken Certificate, before any replacement Certificate is issued, to:

- (1) furnish to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Certificate;
- (2) furnish such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;
- (3) pay all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and
- (4) meet any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Certificate, authorize the Paying Agent/Registrar to pay such Certificate.

Each replacement Certificate delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

12. Cancellation of Certificates. All Certificates paid in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance herewith, shall be canceled and destroyed upon the making of proper records regarding such payment. The Paying Agent/Registrar shall furnish the City with appropriate certificates of destruction of such Certificates.

13. Book-Entry System. The Initial Certificates shall be delivered against payment to the TWDB. The TWDB shall be required to promptly surrender the Initial Certificates to the Paying Agent/Registrar for exchange. Certificates issued in exchange shall be registered in the name of Cede & Co., as nominee of DTC, as registered owner of the Certificates, and held in the custody of DTC. Unless otherwise requested by DTC, a single certificate will be issued and delivered to DTC for each maturity of the Certificates. Beneficial owners of Certificates will not receive physical delivery of Certificates except as provided hereinafter. For so long as DTC shall continue to serve as securities depository for the certificates as provided herein, all transfers of beneficial ownership interest will be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring beneficial ownership of Certificates is to receive, hold or deliver any Certificate.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC participant or any person on whose behalf a DTC participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co., or any DTC participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC participant or any other person, other than a registered owner of the Certificates, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, and (iii) the payment of any DTC participant or any other person, other than a registered owner of the Certificates, as shown on the Register, of any amount with respect to principal of or premium, if any, or interest on the Certificates.

Replacement Certificates may be issued directly to beneficial owners of Certificates other than DTC, or its nominee, but only in the event that (i) DTC determines not to continue to act as securities depository for the Certificates (which determination shall become effective no less than 90 days after written notice to such effect to the City and the Paying Agent/Registrar); or (ii) the City has advised DTC of its determination (which determination is conclusive as to DTC and the beneficial owners of the Certificates) that the interests of the beneficial owners of the Certificates might be adversely affected if such book-entry only system of transfer is continued. Upon occurrence of any of the foregoing events, the City shall use its best efforts to attempt to locate another qualified securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City shall cause to be authenticated and delivered replacement Certificates, in certificate form, to the beneficial owners of the Certificates. In the event that the City makes the determination noted in (ii) above (provided that the City undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the City to make any such determination), and has made provisions to notify the beneficial owners of Certificates of such determination by mailing an appropriate notice to DTC, it shall cause to be issued replacement Certificates in certificate form to beneficial owners of the Certificates as shown on the records of DTC provided to the City.

Whenever, during the term of the Certificates, the beneficial ownership thereof is determined by a book entry at DTC, the requirements in this Ordinance of holding, delivering or transferring Certificates shall be deemed modified to require the appropriate person or entity to meet the requirements of DTC as to registering or transferring the book entry to produce the same effect.

If at any time, DTC ceases to hold the Certificates as securities depository, all references herein to DTC shall be of no further force or effect.

Before the City can discontinue the book-entry-only system of registration through DTC, notice must be given to the TWDB and prior written consent of the TWDB must be received by the City.

14. Optional Redemption; Defeasance. (a) The Certificates are subject to optional redemption as set forth in the Form of Certificate in this Ordinance.

Principal amounts may be redeemed only in integral multiples of \$1,000. If a Certificate subject to redemption is in a denomination larger than \$1,000, a portion of such Certificate may be redeemed, but only in integral multiples of \$1,000. Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a Certificate or Certificates of like maturity, Issuance Date, and interest rate in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered.

Notice of any redemption identifying the Certificates to be redeemed in whole or in part shall be given by the Paying Agent/Registrar at least 30 days prior to the date fixed for redemption by sending written notice by United States mail, first class, postage prepaid, to the Owner of each Certificate to be redeemed in whole or in part at the address shown on the Register. Such notices shall state the redemption date, the redemption price, the place at which Certificates are to be surrendered for payment and, if less than all Certificates outstanding of a particular maturity are to be redeemed, the numbers of the Certificates or portions thereof of such maturity to be redeemed. Any notice given as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner receives such notice. By the date fixed for redemption, due provision shall be made with the Paying Agent/Registrar for payment of the redemption price of the Certificates or portions thereof to be redeemed. When Certificates have been called for redemption in whole or in part and due provision has been made to redeem the same as herein provided, the Certificates or portions thereof so redeemed shall no longer be regarded as outstanding except for the purpose of receiving payment solely from the funds so provided for redemption, and the rights of the Owners to collect interest which would otherwise accrue after the redemption date on any Certificate or portion thereof called for redemption shall terminate on the date fixed for redemption.

The City reserves the right, in the case of a redemption, to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificate subject to conditional redemption and such redemption has been rescinded shall remain outstanding.

(b) The Certificates may be discharged, defeased, redeemed or refunded in any manner now or hereafter permitted by law.

15. Forms. The form of the Certificates, including the form of the Paying Agent/Registrar's Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller shall be, respectively, substantially as follows, with such additions, deletions and variations as may be necessary or desirable and not prohibited by this Ordinance:



(a) Form of Certificate.

UNITED STATES OF AMERICA  
STATE OF TEXAS  
COUNTY OF MATAGORDA

REGISTERED  
NUMBER

\_\_\_\_\_

REGISTERED  
DENOMINATION

\$ \_\_\_\_\_

CITY OF BAY CITY, TEXAS  
TAX AND SURPLUS REVENUE CERTIFICATE OF OBLIGATION  
SERIES 2023A (CWSRF)

INTEREST RATE:	MATURITY DATE:	DATED DATE:	ISSUANCE DATE:	CUSIP NO.:
_____ %	September 1, 20__	February 1, 2023	February 23, 2023	_____

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

THE CITY OF BAY CITY, TEXAS (the "City") promises to pay to the registered owner identified above, or registered assigns, on the maturity date specified above, upon presentation and surrender of this Certificate at Zions Bancorporation, National Association, Amegy Bank Division (the "Paying Agent/Registrar"), at its principal payment office in Houston, Texas, the principal amount identified above, payable in any coin or currency of the United States of America which on the date of payment of such principal is legal tender for the payment of debts due the United States of America, and to pay interest thereon at the rate shown above, calculated on the basis of a 360-day year of twelve 30-day months, from the later of the Issuance Date identified above, or the most recent interest payment date to which interest has been paid or duly provided for. Interest on this Certificate is payable by check on March 1 and September 1, beginning on September 1, 2023, mailed to the registered owner as shown on the books of registration kept by the Paying Agent/Registrar as of the fifteenth day of the month next preceding each interest payment date; provided, however, that for so long as the Texas Water Development Board ("TWDB") is the Owner of the Certificates, all payments of principal and interest will be made in wire transfer form at no cost to the TWDB.

THIS CERTIFICATE is dated February 1, 2023 and is one of a series of fully registered certificates specified in the title hereof issued in the aggregate principal amount of \$13,427,000 (herein referred to as the "Certificates"), for the purpose of evidencing the indebtedness of the City for all or any part of the costs associated with the improvements to the City's sanitary sewer system, including the planning, acquisition, 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, issued in accordance with the Constitution and laws of the State of Texas,

particularly Subchapter C, Chapter 271, Texas Local Government Code, as amended, pursuant to an ordinance duly adopted by the City Council of the City (the “Ordinance”), which Ordinance is of record in the official minutes of the City Council.

THE CITY RESERVES THE RIGHT to redeem Certificates maturing on and after September 1, 2034, prior to their scheduled maturities, in whole or from time to time in part, in inverse order of maturity, in integral multiples of \$1,000, on September 1, 2033, or any date thereafter at par. Reference is made to the Ordinance for complete details concerning the manner of redeeming the Certificates.

NOTICE OF ANY REDEMPTION shall be given at least 30 days prior to the date fixed for redemption by United States mail, first class, postage prepaid, addressed to the registered owner of each Certificate to be redeemed in whole or in part at the address shown on the books of registration kept by the Paying Agent/Registrar. When Certificates or portions thereof have been called for redemption, and due provision has been made to redeem the same, the principal amounts so redeemed shall be payable solely from the funds provided for redemption, and interest which would otherwise accrue on the amounts called for redemption shall terminate on the date fixed for redemption, if any.

THE CITY RESERVES THE RIGHT, in the case of a redemption, to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificates subject to conditional redemption and such redemption has been rescinded shall remain outstanding.

THIS CERTIFICATE is transferable only upon presentation and surrender at the principal payment office of the Paying Agent/Registrar in Houston, Texas, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his authorized representative, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE is exchangeable at the principal payment office of the Paying Agent/Registrar in Houston, Texas, for certificates in the principal amount of \$1,000 or any integral multiple thereof, subject to the terms and conditions of the Ordinance.

THIS CERTIFICATE shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Certificate is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

THE REGISTERED OWNER of this Certificate, by acceptance hereof, acknowledges and agrees to be bound by all the terms and conditions of the Ordinance.

THE CITY has covenanted in the Ordinance that it will at all times provide a legally qualified paying agent/registrar for the Certificates and will cause notice of any change of paying agent/registrar to be mailed to each registered owner.

IT IS HEREBY certified, recited and covenanted that this Certificate has been duly and validly issued and delivered; that all acts, conditions and things required or proper to be performed, to exist and to be done precedent to or in the issuance and delivery of this Certificate have been performed, exist and have been done in accordance with law; and that annual ad valorem taxes, within the limits prescribed by law, sufficient to provide for the payment of the interest, if any, on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in the City.

IT IS FURTHER certified, recited and represented that the Surplus Revenues (as defined in the Ordinance) to be derived from the operation of the City's System (as defined in the Ordinance), are pledged to the payment of the Certificates. The City reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Surplus Revenues, secured by a pledge of the Surplus Revenues that may be on a parity with, or junior and subordinate to the pledge of Surplus Revenues securing the Certificates.

IN WITNESS WHEREOF, this Certificate has been signed with the manual or facsimile signature of the Mayor or Mayor Pro Tem of the City and countersigned with the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed, or placed in facsimile, on this Certificate.

\_\_\_\_\_  
City Secretary  
City of Bay City, Texas

\_\_\_\_\_  
Mayor [Pro Tem] <sup>1</sup>  
City of Bay City, Texas

[SEAL]

(b) Form of Registration Certificate of Comptroller.

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_

I hereby certify that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

<sup>1</sup> Delete if the Mayor executes the Initial Certificate.

WITNESS MY SIGNATURE AND SEAL this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts of  
the State of Texas

(SEAL)

(c) Form of Paying Agent/Registrar's Authentication Certificate.

**AUTHENTICATION CERTIFICATE**

It is hereby certified that this Certificate has been delivered pursuant to the Ordinance described in the text of this Certificate.

ZIONS BANCORPORATION, NATIONAL  
ASSOCIATION, AMEGY BANK DIVISION,  
as Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Signature

Date of Authentication: \_\_\_\_\_

(d) Form of Assignment.

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns, and transfers unto

\_\_\_\_\_  
\_\_\_\_\_  
(Please print or type name, address, and zip code of Transferee)

\_\_\_\_\_  
(Please insert Social Security or Taxpayer Identification Number of Transferee)  
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints  
\_\_\_\_\_  
attorney to transfer said Certificate on the books kept for registration thereof, with full power of  
substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
Registered Owner

NOTICE: The signature above must correspond to the name of the registered owner as shown on the face of this Certificate in every particular, without any alteration, enlargement or change whatsoever.

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

(e) The Initial Certificate shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate, the headings "INTEREST RATE" and "MATURITY DATE" shall be completed with the words "As Shown Below" and the words "CUSIP NO." deleted;

(ii) in the first paragraph of the Certificate, the words "on the Maturity Date specified above" and "at the rate shown above" shall be deleted and the following shall be inserted after the last sentence in the first paragraph, "The principal shall be paid in installments on September 1 in each of the years and in the principal amounts identified in the following schedule:"

[Information to be inserted from schedule in Section 5]

(iii) the Initial Certificate shall be numbered I-1.

16. CUSIP Numbers. CUSIP Numbers may be printed on the Certificates, but errors or omissions in the printing of such numbers shall have no effect on the validity of the Certificates.

17. Interest and Sinking Fund; Tax Levy. The proceeds from all taxes levied, assessed and collected for and on account of the Certificates authorized by this Ordinance shall be deposited, as collected, in a special fund to be designated "City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) Interest and Sinking Fund". While the Certificates or any part of the principal thereof or interest thereon remain outstanding and unpaid, there is hereby levied and there shall be annually levied, assessed and collected in due time, form and manner, and at the same time other City taxes are levied, assessed and collected, in each year, a continuing direct annual ad valorem tax, within the limits prescribed by law, upon all taxable property in the City sufficient to pay the current interest on the Certificates as the same becomes due, and to provide and maintain a sinking fund adequate to pay the principal of the Certificates as such principal matures, but never less than two percent (2%) of the original principal amount of the Certificates each year, full allowance being made for delinquencies and costs of collection, and such taxes when collected shall be applied to the payment of the interest on and principal of the Certificates and to no other purpose.

To pay the debt service coming due on the Certificates prior to the receipt of the taxes levied to pay such debt serviced, there is hereby appropriated from current funds on hand, which

are hereby certified to be on hand and available for such purpose, an amount sufficient to pay such debt service, and such amount shall be used for no other purpose.

18. Pledge of Revenues.

(a) The Surplus Revenues to be derived from the operation of the System are hereby pledged to the payment of the principal of and interest on the Certificates as the same come due. The City also reserves the right to issue, for any lawful purpose at any time, in one or more installments, bonds, certificates of obligation and other obligations of any kind payable in whole or in part from the Surplus Revenues, secured by a pledge of the Surplus Revenues that may be senior to, on a parity with, or junior and subordinate to the pledge of Surplus Revenues securing the Certificates.

(b) While the Certificates are outstanding, the City will at all times maintain sufficient rates and charges for the payment of the maintenance and operation expenses of the System and, to the extent that ad valorem taxes are not available for such purpose, the City will at all times maintain sufficient rates and charges to produce revenues not less than 1.10 times the annual debt service obligations of all outstanding obligations of the City secured in whole or in part by the Surplus Revenues of the System for which the City is budgeting to make payments from Surplus Revenues, for the payment of debt service on the Certificates. Upon the written request of the TWDB, the City shall provide documentation that evidences the levy of ad valorem taxes for the payment of debt service on the Certificates or information demonstrating that the City has budgeted Surplus Revenues of the System or other lawfully available revenues sufficient for the payment of debt service on the Certificates.

(c) If System revenues are actually on deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, the amount of taxes that otherwise would have been required to be levied may be reduced to the extent and by the amount of revenues then on deposit in the Interest and Sinking Fund.

(d) If the City does not levy taxes in any year as provided in Section 17 and Section 18(c) above, the City shall transfer and deposit in the Interest and Sinking Fund each month an amount of not less than 1/12th of the annual debt service on the Certificates until the amount on deposit in the Interest and Sinking Fund equals the amount required for annual debt service on the Certificates and the City shall not transfer Surplus Revenues from the System to any fund other than the Interest and Sinking Fund until such times as an amount equal to the annual debt service on the Certificates for the then current fiscal year has been deposited in the Interest and Sinking Fund.

(e) Each year that the Certificates are outstanding, and prior to the time taxes are to be levied for such year, the City shall establish, adopt, and maintain an annual budget that provides for the monthly deposit of sufficient Surplus Revenues, the monthly deposit of any other legally available funds on hand at the time of the adoption of the annual budget, the deposit of tax revenues, or a combination thereof, into the Interest and Sinking Fund for the payment of debt service on the Certificates.

19. Application of Chapter 1208, Government Code. Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of the taxes and revenues granted by the City under Sections 18 and 19 of this Ordinance, and such pledge is therefore valid, effective and perfected. If State law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of the taxes and revenues granted by the City under Sections 18 and 19 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under State law to comply with the applicable provisions of Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

20. Further Proceedings. After the Initial Certificate has been executed, it shall be the duty of the Mayor or Mayor Pro Tem of the City to deliver the Initial Certificate and all pertinent records and proceedings to the Attorney General, for examination and approval. After the Initial Certificate has been approved by the Attorney General, it shall be delivered to the Comptroller for registration. Upon registration of the Initial Certificate, the Comptroller (or a deputy lawfully designated in writing to act for the Comptroller) shall manually sign the Comptroller's Registration Certificate prescribed herein to be affixed or attached to the Certificates to be initially issued, and the seal of said Comptroller shall be impressed, or placed in facsimile, thereon.

21. Sale. The Certificates are hereby sold and shall be delivered to the TWDB, as soon as practicable after adoption of this Ordinance, at a price of par, subject to the approval of the Attorney General and Bond Counsel. At the time the Certificates are delivered to the TWDB, the City shall pay an origination fee to the TWDB equal to 1.75% (\$230,931) of the Project costs, in accordance with the rules of the TWDB. The Mayor or Mayor Pro Tem and other appropriate officers, agents and representatives of the City are hereby authorized to do any and all things necessary or desirable to provide for the issuance and delivery of the Certificates.

22. Books and Records. So long as any of the Certificates are outstanding the City covenants and agrees that it will keep proper books of record and account in which full, true and correct entries will be made of all transactions relating to the Certificates and the funds created pursuant to this Ordinance, and all books, documents and vouchers relating thereto shall at all reasonable times be made available for inspection upon request of any Owner.

23. Provisions Concerning Federal Income Tax Matters.

(a) General. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the interest on the Certificates to be includable in gross income for federal income tax purposes. In furtherance thereof, the City covenants to comply with sections 103 and 141 through 150 of the Code and the provisions set forth in the Federal Tax Certificate executed by the City in connection with the Certificates.

(b) No Private Activity Bonds. The City covenants that it will use the proceeds of the Certificates (including investment income) and the property financed, directly or indirectly, with such proceeds so that the Certificates will not be "private activity bonds" within the meaning of section 141 of the Code. Furthermore, the City will not take a deliberate action (as defined in

section 1.141-2(d)(3) of the Regulations) that causes the Certificates to be a “private activity bond” unless it takes a remedial action permitted by section 1.141-12 of the Regulations.

(c) No Federal Guarantee. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the Certificates to be “federally guaranteed” within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

(d) No Hedge Bonds. The City covenants not to take any action or omit to take action that, if taken or omitted, would cause the Certificates to be “hedge bonds” within the meaning of section 149(g) of the Code.

(e) No Arbitrage Bonds. The City covenants that it will make such use of the proceeds of the Certificates (including investment income) and regulate the investment of such proceeds of the Certificates so that the Certificates will not be “arbitrage bonds” within the meaning of section 148(a) of the Code.

(f) Required Rebate. The City covenants that, if the City does not qualify for an exception to the requirements of section 148(f) of the Code, the City will comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, be rebated to the United States.

(g) Information Reporting. The City covenants to file or cause to be filed with the Secretary of the Treasury an information statement concerning the Certificates in accordance with section 149(e) of the Code.

(h) Record Retention. The City covenants to retain all material records relating to the expenditure of the proceeds (including investment income) of the Certificates and the use of the property financed, directly or indirectly, thereby until six years after the last Certificate is redeemed or paid at maturity (or such other period as provided by subsequent guidance issued by the Department of the Treasury) in a manner that ensures their complete access throughout such retention period.

(i) Registration. If the Certificates are “registration-required bonds” under section 149(a)(2) of the Code, the Certificates will be issued in registered form.

(j) Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, the City will not be required to comply with any of the federal tax covenants set forth above if the City has received an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the excludability of interest on the Certificates from gross income for federal income tax purposes.

(k) Continuing Compliance. Notwithstanding any other provision of this Ordinance, the City’s obligations under the federal tax covenants set forth above will survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the excludability of interest on the Certificates from gross income for federal income tax purposes.



(l) Official Intent. For purposes of section 1.150-2(d) of the Regulations, to the extent that an official intent to reimburse by the City has not been adopted for a particular project, this Ordinance serves as the City’s official declaration of intent to use proceeds of the Certificates to reimburse itself from proceeds of the Certificates issued in the maximum amount for certain expenditures paid in connection with the projects set forth herein. 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 of which 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.

(m) Source Series Bonds. The City covenants that neither the City nor a related party thereto will acquire any of the TWDB’s Source Series Bonds in an amount related to the amount of the Certificates to be acquired from the City by the TWDB.

(n) Advanced Refunding. The City covenants to refrain from using the proceeds of the Certificates to pay debt service on another issue more than ninety (90) days after the date of issue of the Certificates in contravention of the requirements of section 149(d) of the Code.

24. TWDB Resolution. The City agrees to comply with the applicable provisions of TWDB Resolution No. 21-032, which authorized the financial assistance evidenced by the Certificates.

25. Escrow Agreement. To facilitate the delivery of and payment for the Certificates pending completion of review of plans and specifications, the City Council hereby authorizes an Escrow Agreement to be entered into by and between the City and the Escrow Agent, the terms and conditions of which are hereby approved, subject to such insertions, additions, and modifications as shall be necessary to comply with all applicable laws, regulations, and procedures and to carry out the intent and purposes of this Ordinance. The Mayor or Mayor Pro Tem and the City Secretary are authorized to execute and deliver such Escrow Agreement in multiple counterparts on behalf of the City.

26. Project Fund. There is hereby created and established a special fund of the City, to be known as the “City of Bay City, Texas, Tax and Surplus Revenue Certificates of Obligation, Series 2023A (CWSRF) Project Fund,” which shall be established at an official depository of the City and kept separate and apart from other funds of the City. The proceeds of the Certificates, shall be deposited in the escrow account for the Certificates that is maintained by the Escrow Agent for the benefit of the City and TWDB under and as more specifically provided in the Escrow Agreement. Upon release from the escrow account, such proceeds shall be deposited and held in the Project Fund until used for authorized purposes. The proceeds of the Certificates, as received, shall be deposited in the Project Fund. Money on deposit in the Project Fund and all interest, and income derived therefrom shall be used only for the purposes set forth in Section 3 of this Ordinance and to pay costs of issuance. Money on deposit in the Project Fund, may, at the option of the City, be invested as permitted by State law including, particularly, the Public Funds Investment Act, Texas Government Code, Chapter 2256, and the Public Funds Collateral Act, Texas Government Code, Chapter 2257; provided that all such deposits and investments shall be made in such manner that the money required to be expended from the Project Fund will be available at the proper time or times. Certificate proceeds deposited in the Project Fund shall be

timely and expeditiously used, in accordance with the schedule for the Project approved by the TWDB, as may be amended from time to time. The City will maintain project accounts in accordance with generally accepted government accounting standards, including standards related to the reporting of infrastructure assets.

27. TWDB Rules. In compliance with the published rules and regulations of the TWDB, the City covenants and agrees that upon final completion of the Project to be financed with the proceeds of the Certificates, and if all or any portion of the Certificates shall be held by or on account of the TWDB or the State, the proper officials of the City shall render due and final accounting of the total cost of the Project and provide a copy of as-built plans for the Project to the TWDB. If, following completion of the Project, funds remain on hand in the Project Fund, or if the TWDB Executive Administrator (the “Executive Administrator”) disapproves construction of any portion of the Project as not being in accordance with the plans and specifications, the City shall use any remaining funds for enhancements to the Project that are approved by the Executive Administrator, or, if no enhancements are authorized by the Executive Administrator, the City shall submit to the TWDB a final accounting and describe the proposed disposition of the any unused funds. If any funds are determined to be surplus funds remaining after the completion of the Project and the completion of a final accounting, such surplus funds shall be used for purposes approved by the Executive Administrator. Unless otherwise stated in the loan commitment of the TWDB with respect to the purchase of the Certificates, in determining the amount of available funds for constructing the Project to be financed, the City shall account for all monies in the Project Fund, including all loan funds extended by the TWDB, all other funds available from the Project as described in the Project engineer’s sufficiency of funds statement required for closing the TWDB’s loan and all interest, earned by the City on money in the Project Fund. This requirement shall not be interpreted as prohibiting the TWDB from enforcing such other rights as it may have under law.

28. Outlay Reports. The City agrees to submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines.

29. Environmental Indemnification. The City shall not use proceeds from the sale of the Certificates for sampling, testing, removing or disposing of contaminated soils and/or media at the Project site. To the extent permitted by law, the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the Project.

30. Insurance. The City covenants that the Project will be kept continually insured against such perils in an amount sufficient to protect the TWDB’s interest in the Project, to the extent that insurance is customarily carried by cities operating similar facilities in similar locations; provided, however, that the City shall not be required to maintain such insurance so long as builders risk insurance covering such facilities during the period of construction is in effect.

31. Compliance with Rules and Statutes. The City covenants that it will comply with TWDB's rules and relevant state statutes in connection with the sale of the Certificates to TWDB and the use of the proceeds in connection with the Project approved by TWDB.

32. Compliance with Environmental Findings of Executive Administrator. The City covenants that it will comply with the conditions specified in the final environmental finding of the Executive Administrator when issued, including the standing emergency discovery conditions for threatened and endangered species and cultural resources.

33. Audited Financial Statements. The City shall annually submit to the TWDB a copy of its audited financial statements, which shall be prepared by a certified public accountant in accordance with the accounting principles the City may be required to employ from time to time pursuant to State law or regulation.

34. Compliance with Davis-Bacon and Federal Disadvantaged Business Enterprises Program. Laborers and mechanics employed by contractors and subcontractors for the Project shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all Project contracts mandate compliance with the Davis-Bacon Act. All contracts and subcontracts for the construction of the Project carried out in whole or in part with Certificate proceeds shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB. The City covenants to comply with all applicable State and federal procurement requirements, including the federal procurement requirements under the Disadvantaged Business Enterprises program.

35. Federal Funding Accountability and Transparency Act. The City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during which the Certificates are outstanding.

36. Use of Iron and Steel Products. The City covenants that it will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines.

37. Maintenance of Project Fund. The City covenants that it will maintain the Project Fund in accordance with generally accepted government accounting principles.

38. Continuing Disclosure Undertaking.

(a) Annual Reports. The City agrees to provide to the MSRB, in electronic format, accompanied by identifying information as prescribed by the MSRB, within six months after the end of each fiscal year, financial information and operating data with respect to the City of the general type included in the City's annual financial statements. The information will also include

the audited financial statements of the City, if the City commissions an audit and it is completed within the required time. If the audit of such financial statements is not complete within such period, then the City will provide unaudited financial statements within such six month period to the MSRB, and audited financial statements if and when the audit report on such statements becomes available. Any financial statements so to be provided shall be prepared in accordance with the accounting principles the City may be required to employ from time to time pursuant to State law or regulation. All such information and operating data shall be provided to the MSRB, in an electronic format, accompanied by identifying information, as prescribed by the MSRB, and will be available via the Electronic Municipal Market Access (“EMMA”) System at [www.emma.msrb.org](http://www.emma.msrb.org).

If the City changes its fiscal year, the City will notify the MSRB of any such change (and of the date of the new fiscal year end) prior to the next date by which the City would otherwise be required to provide financial information and operating data pursuant to this Section.

All such information and operating data may be provided to the MSRB in full in one or more documents, or may be included by specific reference to documents available to the public (including an Official Statement or other offering document, if it is available from the MSRB).

(b) Event Notices. The City shall provide the following to the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten (10) business days after the occurrence of the event, notice of any of the following events with respect to the Certificates:

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults, if material;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of Certificates, or other material events affecting the tax status of the Certificates;
- (7) Modifications to rights of the holders of the Certificates, if material;
- (8) Certificate calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the Certificates, if material;

- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;

Note to paragraph 12: For the purposes of the event identified in paragraph 12 of this section, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the City in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

- (13) The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (14) Appointment of successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
- (15) Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

Note to paragraphs (15) and (16): For purposes of the events identified in paragraphs (15) and (16) of this section and in the definition of Financial Obligation in Section 2, the City intends the words used in such paragraphs to have the meanings ascribed to them in SEC Release No. 34-83885 dated August 20, 2018 (the “2018 Release”) and any further amendments or written guidance provided by the SEC or its staff with respect with respect to the amendments to the Rule effected by the 2018 Release.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 38(a). All documents provided to the MSRB pursuant to this section shall be accompanied by identifying information as prescribed by the MSRB.

(c) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any redemption calls and any defeasances that cause the City to be no longer an “obligated person.”

The provisions of this Section are for the sole benefit of the Owners and beneficial owners of the Certificates, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITH OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provisions of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the outstanding Certificates consent to such amendment or (B) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with Section 34(a) an

explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

39. Private Placement Memorandum. The form and substance of the Private Placement Memorandum for the Certificates dated January 24, 2023, and any addenda, supplement or amendment thereto (the “Private Placement Memorandum”), presented to and considered at this meeting, are hereby in all respects approved and adopted. The proper officials of the City are hereby authorized to execute such Private Placement Memorandum as prescribed therein.

40. Appointment of Initial Paying Agent/Registrar; Paying Agent Registrar Agreement.

(a) Zions Bancorporation, National Association, Amegy Bank Division, Houston, Texas, is hereby appointed as the initial Paying Agent/Registrar for the Certificates.

(b) The Paying Agent/Registrar shall keep such books or records and make such transfers and registrations under such reasonable regulations as the City and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such transfer and registrations as herein provided. It shall be the duty of the Paying Agent/Registrar to obtain from the Owners and record in the Register the address of such Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as provided herein. The City or its designee shall have the right to inspect the Register during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Register confidential and, unless otherwise required by law, shall not permit their inspection by any other entity.

(c) The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest, on the Certificates. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions, exchanges and replacements of such Certificates, as provided in the Ordinance.

(d) The form of Paying Agent/Registrar Agreement setting forth the duties of the Paying Agent/Registrar is hereby approved, and the appropriate officials of the City are hereby authorized to execute such agreement for and on behalf of the City.

41. Maintenance, Termination and Replacement of Paying Agent/Registrar.

(a) At all times while any Certificates are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under this Section 41 of the Ordinance.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement, provided no such resignation shall be effective until a successor Paying Agent/Registrar has accepted the duties of Paying Agent/Registrar for the Certificates.

(c) Each Paying Agent/Registrar shall be a commercial bank or trust company organized under the laws of the State, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Certificates.

(d) The City reserves the right to terminate the appointment of any Paying Agent/Registrar by (i) delivering to the entity whose appointment is to be terminated forty-five (45) days written notice of the termination of the appointment and of the Paying Agent/Registrar Agreement, stating the effective date of such termination, and (ii) appointing a successor Paying Agent/Registrar; provided, that, no such termination shall be effective until a successor Paying Agent/Registrar has assumed the duties of Paying Agent/Registrar for the Certificates.

(e) Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by United States mail, first class, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

(f) By accepting the appointment as Paying Agent/Registrar, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed hereby and under the Paying Agent/Registrar Agreement.

(g) If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Certificates to the successor Paying Agent/Registrar.

42. Remedies. TWDB shall have all remedies available at law or in equity with respect to the Certificates, and any provision of the Certificates that restricts or limits TWDB's exercise of such remedies shall be of no force and effect.

43. Changes to Ordinance. Bond Counsel is hereby authorized to make changes to the terms of this Ordinance if necessary or desirable to carry out the purposes hereof or in connection with the approval of the issuance of the Certificates by the Attorney General.

44. Related Matters. To satisfy in a timely manner all of the City's obligations under this Ordinance, the Mayor or Mayor Pro Tem, the City Secretary and all other appropriate officers and agents of the City are hereby authorized and directed to do any and all things necessary and/or convenient to carry out the terms and purposes of this Ordinance.

45. Individuals Not Liable. No covenant, stipulation, obligation or agreement herein contained shall be deemed to be a covenant, stipulation, obligation or agreement of any member of City Council or agent or employee of City Council or of the City in his or her individual capacity and neither the members of City Council nor any officer thereof, nor any agent or employee of City Council or of the City, shall be liable personally on the Certificates, or be subject to any personal liability or accountability by reason of the issuance thereof.

46. Severability and Savings. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or



unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

47. Repealer. All ordinances or resolutions, or parts thereof, heretofore adopted by the City and inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

48. Force and Effect. This Ordinance shall be in full force and effect from and after its final passage, and it is so ordered.

*[Remainder of Page Intentionally Left Blank]*

PASSED AND APPROVED this 24<sup>th</sup> day of January, 2023, by the City Council of the City of Bay City, Texas.

<u>Council Member:</u>	<u>Voted Aye</u>	<u>Voted No</u>	<u>Absent</u>
Robert K. Nelson	_____	_____	_____
Floyce Brown	_____	_____	_____
James Folse	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Becca Sitz	_____	_____	_____
Blayne Finlay	_____	_____	_____

\_\_\_\_\_  
Robert K. Nelson, Mayor  
City of Bay City

ATTEST:

[SEAL]

\_\_\_\_\_  
Jeanna Thompson, City Secretary  
City of Bay City

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney  
City of Bay City

**CERTIFICATE FOR ORDINANCE**

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 24<sup>th</sup> day of January, 2023, 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                   |
| James Folse       | Mayor Pro Tem and Council Member, Position No. 2 |
| Brad Westmoreland | Council Member, Position No. 3                   |
| Becca Sitz        | Council Member, Position No. 4                   |
| Blayne Finlay     | 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

ORDINANCE NO. 1702

AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF BAY CITY, TEXAS, TAX AND SURPLUS REVENUE CERTIFICATES OF OBLIGATION, SERIES 2023A (CWSRF); AUTHORIZING EXECUTION AND DELIVERY OF A PAYING AGENT/REGISTRAR AGREEMENT AND AN ESCROW AGREEMENT RELATING TO SUCH CERTIFICATES; PRESCRIBING THE FORM OF SAID CERTIFICATES; LEVYING A TAX AND PLEDGING SURPLUS REVENUES OF THE WATER AND SEWER SYSTEM IN PAYMENT THEREOF; AND ENACTING OTHER PROVISIONS RELATING THERETO

was duly introduced for the consideration of said City Council. It was then duly moved and seconded that said ordinance be adopted; and, after due discussion, said motion, carrying with it the adoption of said ordinance, 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."
- \_\_\_\_\_ Member(s) of City Council shown present abstained from voting.

2. A true, full and correct copy of the aforesaid ordinance adopted at the meeting described in the above and foregoing paragraph is attached to and follows this certificate; that said ordinance 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 ordinance; 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 ordinance 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 24<sup>th</sup> day of January, 2023.

[SEAL]

---

City Secretary  
City of Bay City, Texas

**BUDGET AMENDMENT**

ITEM #9.

**DEPARTMENT:** Bay City Community Development Corp.

Effective:

Date: **9/30/2022**

Reason for Budget Amendment: (Please indicate)

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**X**

Account Description	Fund #	Account #	Expenditure	Exp. Decrease	Notes
			Increase	or Rev. Increase	
			Debit	Credit	
Salaries and Wages	415	4105	\$ 17,935		
Payroll Taxes	415	4205	\$ 1,335		
Employee Health Insurance	415	4225		\$5,800	
Dues and Subscriptions	415	4315	\$ 5,000		
General Insurance	415	4405		\$42,100	Decrease in insurance budgeted
Legal and Professional	415	4420	\$ 5,035		
Business Meals	415	4497	\$ 3,582		
Misc. Furniture & Equipment	415	4498	\$ 1,000		
Contract Services	420	4425		\$1,000	
Website Maintenance	420	4461	\$ 1,435		
Business Meals	420	4497	\$ 1,345		
Website Grant	485	4003		\$36,000	Timing of website grants
Family Entertainment Center	485	4008	\$ 302,290		Drainage Work
Downtown Parking Lot	485	4010	\$ 2,695		
CED Insurance & Maint.	485	4021	\$ 40,000		Increase in insurance budgeted
Vision 2040	485	4447	\$ 5,500		
Main Street	485	4012		\$4,900	
Business Retention & Expansion	485	4002		\$75,000	
Interest Expense	485	XXXX	\$ 15,310		
Reserves (Operational Savings)	XXX	XXXX		\$237,662	Reserves used to balance

The amendments above relate to

<b>TOTAL</b>			<b>\$ 402,462</b>	<b>\$ 402,462</b>	
			\$	-	

**BCCDC Executive Director** \_\_\_\_\_

\_\_\_\_\_ Date

**BCCDC Board** \_\_\_\_\_

12/14/2022

\_\_\_\_\_ Date

**Authorized by:** \_\_\_\_\_

Council Authorized Signature

\_\_\_\_\_ Date

**AGREEMENT FOR USE OF HARDEMAN PARK TEEN CENTER  
BETWEEN THE CITY OF BAY CITY,  
BAY CITY SOCCER ASSOCIATION, BAY CITY LIONS CLUB AND  
BAY CITY COMMUNITY DEVELOPMENT CORPORATION**

STATE OF TEXAS §

COUNTY OF MATAGORDA §

**WHEREAS**, the City of Bay City (the "City") owns real property located in the city limits of the City commonly known as "Hardeman Park", which consists of approximately 6 acres in the R.P.T. Stone Survey, Abstract No. 92. Within Hardeman Park is located an approximately 4000 sq. ft. multi-use building, (the "Center") which is the topic of this Agreement; and

**WHEREAS**, the Center was constructed in May of 2005 in cooperation between the City, the Bay City Lions Club ("Lions"), and the Bay City Community Development Corporation ("BCCDC"), collectively (the "Creating Parties"); and

**WHEREAS**, the Bay City Lions Club contributed the sum of \$75,000.00 for capital improvements for the construction of the Center and has been granted by a prior agreement the right to name the Center with the consent of the City and the right to use the Center for an indefinite period without charge; and

**WHEREAS**, the City recently spent \$40,000.00 to remodel the interior of the facility and purchase new kitchen appliances, tables, and other appurtenances for the facility; and

**WHEREAS**, The Bay City Soccer Association has expressed an interest in moving its headquarters and facilities to the Center, has made significant improvements to the Center and the Center's grounds and playing fields, and is interested in managing the Center as an agent for the City; and

**WHEREAS**, the initial intended use of the Center has changed since its construction in 2005, and the Creating Parties have agreed to enter into this Agreement to replace and clarify the prior agreement;

NOW THEREFORE, the City, the Lions, the BCCDC, and the Bay City Soccer Association, (the "Parties"), hereby enter into the following agreement:

1. The City, the Lions, BCCDC, and Bay City Soccer Association agree that because of the Lions Club's contribution of \$75,000.00 to construct the facility, the Lions shall have priority in the selection of dates that the Lions Club desires to use the facility in any and all reasonable ways the Lions may choose at no cost to the Lions. Additionally, the City, Lions, BCCDC, and Bay City Soccer Association agree that the City shall manage, operate, and serve as administrative agent for the Center and will schedule all activity at the Center with the consent and approval of the Lions, BCCDC and Bay City Soccer Association. No other activities will be scheduled that conflict with the Lions Club and Bay City Soccer Association's use of the Center and facilities. All scheduled activity at the center shall have at least one or more adult sponsors present during any use of the Center.
2. Any user of the Center shall abide by the rules and regulations of the City's Parks & Recreation Department, including, but not limited to the Facility Use Policy and Agreement (the "Policy"). Any abuse of the Policy shall be handled pursuant to the terms of the Policy.
3. Any major repairs, including but not limited to, sewer, water, bathrooms, roof, heating and air conditioning shall be made by the City. Any damages to the Center's furnishings and appurtenances shall be the responsibility of the Party causing the damage.
4. This Agreement replaces any and all prior agreements between the Parties and shall be binding upon the Parties, their successors and assigns, and cannot be modified, except by agreement in writing approved by all signatory Parties.

CITY OF BAY CITY

By: \_\_\_\_\_  
Robert K. Nelson, Mayor

BAY CITY SOCCER ASSOCIATION

By: \_\_\_\_\_  
Joshua Fortenberry, President

need charter board Ken  
GAM



MATAGORDA COUNTY TEEN COURT  
CONSTRUCTION FUNDING AGREEMENT

STATE OF TEXAS §

COUNTY OF MATAGORDA §

WHEREAS, the Matagorda County Teen Court has existed in Bay City, Matagorda County for approximately 12 years, and offers an alternative disposition and rehabilitation for minor misdemeanor offense; and

WHEREAS, the Matagorda County Teen Court program has continued to grow and increase in numbers of young people throughout the years, and has outgrown its current facilities and location; and

WHEREAS, a determination has been made that the Matagorda County Teen Court should continue its exemplary program in aiding young people who have committed minor misdemeanor offenses and/or moving vehicular violation offenses with a program that, among other purposes, teaches said young people respect for the law, citizenship, and an appreciation for the American judicial system; and

WHEREAS, currently the Matagorda County Teen Court program does not have a permanent office or headquarters building, and such a building and facility would greatly enhance the Teen Court program in its efforts to assist and outreach to young people in the Matagorda County community; and

WHEREAS, the City of Bay City has title to certain real property located in the city limits of the City of Bay City, more particularly described as follows, to wit:

**Being 6.0 acres of land out of the R. P. T. STONE SURVEY, Abstract No. 92, Matagorda County, Texas, being the same land described in Deed dated November 19, 1917 from Robert T. Burgess and wife, Martha A. Burgess, to Gus Hardeman, recorded in Vol. 71, Page 13, Deed Records, Matagorda County, Texas.**

WHEREAS, the Bay City Lions Club has for many years sought out a funding project for the local Bay City community, and as a result, has agreed to assist in the construction of the Teen Court headquarter building facility; and

WHEREAS, the Bay City Community Development Corporation, an economic development corporation, established by the City of Bay City, currently has sales tax funds and revenues available which it can use for recreational and municipal purposes, and the construction of a public facility to

teen court funding.wpd



be used by the Matagorda County Teen Court meets the criteria for funding by the Bay City Community Development Corporation; Additionally, the Bay City Community Development Corporation has agreed to advance the Bay City Lions Club the sum of \$75,000.00, interest free, for a period of up to five (5) years to allow the Lions Club to contribute a lump sum amount of \$75,000.00 to the Matagorda County Teen Court construction project; and

WHEREAS, the Bay City Lions Club has requested that it have the right to name the facility to be used by Matagorda County Teen Court, and additionally that it receive the right to use and to meet in the facility once completed without charge for an indefinite time in the future.

NOW THEREFORE, the Bay City Lions Club, the City of Bay City, Texas, and the Bay City Community Development Corporation hereby enter into the following agreement and contract:

(1) The City of Bay City will set aside such portions of the following real property as it deems necessary for the construction location for the Matagorda County Teen Court headquarter facility, "the Project". The real property used for the construction site is hereby identified as "the Property", and is described as being out of and a part of that certain 6.0 acres of land described as follows:

**Being 6.0 acres of land out of the R. P. T. STONE SURVEY, Abstract No. 92, Matagorda County, Texas, being the same land described in Deed dated November 19, 1917 from Robert T. Burgess and wife, Martha A. Burgess, to Gus Hardeman, recorded in Vol. 71, Page 13, Deed Records, Matagorda County, Texas.**

(2) The Bay City Lions Club will donate and contribute the sum of \$75,000.00 to the capital construction costs of the Project;

(3) The Bay City Community Development Corporation will advance to the Bay City Lions Club the sum of \$75,000.00, interest free for a period of five (5) years, to allow the Lions Club to make the above contribution and donation prior to the beginning date of construction of the facility. The Bay City Lions Club will, beginning in on the 1<sup>st</sup> day of July, 2005 and annually each year thereafter, reimburse the Bay City Community Development Corporation the loan advancement in yearly payments of \$15,000.00 until the total of \$75,000.00 has been repaid;

(4) The Bay City Community Development Corporation will additionally match dollar for dollar the sum of \$75,000.00 donated by the Bay City Lions Club.

(5) The City of Bay City, the Bay City Lions Club, the Teen Court administrative staff, and the Bay City Community Development Corporation will meet to determine the exact building footprint, location, size, structure, and amenities and appurtenances to be constructed on the Property;

teen court funding.wpd

(6) The Bay City Lions Club will have the right to name the building and facility upon its completion, subject to the approval of the City of Bay City, and additionally have the right to use the facility in any and all reasonable ways the Lions Club may choose, without fee requirement, in cooperation with the Matagorda County Teen Court and the City of Bay City, for as long as the Bay City Lions Club determines that such use would be beneficial to the Bay City Lions Club and to the citizens of the City of Bay City;

(7) In the event that the Matagorda County Teen Court program disbands, ceases to exist, or no longer desires to use the facility and Project, the Bay City Lions Club will participate with the City of Bay City and the Bay City Community Development Corporation in the determination of the future use of the Project and facility;

(8) The building to be constructed will consist of a structure of approximately 4,000 square feet. The City of Bay City will provide city personnel and equipment to assist and participate in the construction of the facility and Project in order to reduce cost and expenses of construction;

(9) The Matagorda Teen Court participants and staff will be responsible to keep the facility and Project clean and useable;

(10) The Bay City Lions Club will require signature authorization on all construction funds to certify the \$75,000.00 donation is used exclusively for capital improvements for the Project and facility, and hereby designates Nate McDonald as its agent for such purposes.

This agreement shall be binding upon the Parties, their successors and assigns, and cannot be modified, except by agreement in writing approved by all parties.

Signed this 27 day of May, 2005.

**PARTIES:**

**BAY CITY LIONS CLUB**

BY: Nate McDonald  
**Nate McDonald**

CITY OF BAY CITY

BY:

Richard Knapik  
Richard Knapik, Mayor  
BAY CITY COMMUNITY AND ECONOMIC  
DEVELOPMENT CORPORATION

Mayor

BY:

Anthony Hawkins  
Anthony Hawkins, President

BCCDC

MATAGORDA COUNTY TEEN COURT

BY:

Dennis Bensfield  
Dennis Bensfield, President

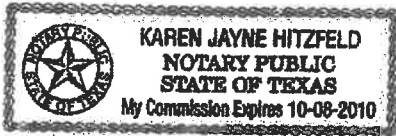
Lions Club

Matagorda  
County

STATE OF TEXAS §

COUNTY OF MATAGORDA §

This instrument was acknowledged before me on this the 27 day of May, 2005 by Nate McDonald, President, Bay City Lions Club.

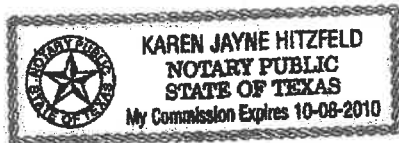


Karen Jayne Hitzfeld  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF MATAGORDA §

This instrument was acknowledged before me on this the 27 day of May, 2005 by Richard Knapik, Mayor, City of Bay City.



Karen Jayne Hitzfeld  
Notary Public, State of Texas

teen court funding.wpd



Box 867  
BAY CITY, TEXAS 77404-0867

May 31, 2005

RE: Matagorda County Teen Court Headquarters Building Proposal

Bay City Lions Club on May 27, 2005, has voted to fund a MCTC building for \$75,000.00, contingent on the following tenets:

1. Bay City Community Development Corporation to match \$75,000.00 BCLC donation dollar for dollar per April 25, 2005, BCCDC BOD action.
2. BCCDC to finance BCLC \$75,000.00, donation for up to 5 years at 0% interest.
3. BCCDC to advance funds for construction so that construction may begin as early as is practical.
4. BCCDC or the City of Bay City wishes to construct bathrooms and a concession stand onto one end of MCTC building. Funds necessary to construct these improvements are to be advanced over and above the \$150,000.00, already spoken to above.
5. These improvements to be added on to the net 4000 SF building proposed for MCTC, over and above said 4000 SF building.
6. As the MCTC shall staff the concession stand and keep restrooms cleaned, we feel that it is in order to ask the City of Bay City to waive sewer, water and garbage bills and pay for MCTC's electric bill at this facility in exchange for their labor.
7. City of Bay City to furnish building site on west 12th Street at the new Hardeman Park complete with asphalt paving or better.
8. BCLC shall have naming and signage rights as deemed appropriate by BCLC BOD and MCTC BOD.
9. BCLC shall have fee-less use of building as deemed appropriate by MCTC.
10. BCLC shall maintain fee-less use of building if MCTC ever should vacate building and would request BCLC input into deciding which youth oriented organization shall inhabit said building next.
11. BCCDC and MCTC understand that this donation is a one time gift to MCTC for capital expenditures only and that the question of additional funds for this project from the BCLC shall never come up. Furthermore, BCLC would request a signator (sitting BCLC President) on construction account to assure that funds are used for capital expenditures only, and by no means operating or administrative use.

Respectfully submitted,

*Nate McDonald*

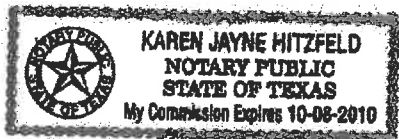
Nate McDonald  
President  
Bay City Lions Club

*Sponsors -- Bay City Rice Festival*

STATE OF TEXAS §

COUNTY OF MATAGORDA §

This instrument was acknowledged before me on this the 27 day of May, 2005 by **Anthony Hawkins**, President, Bay City Community and Economic Development Corporation.

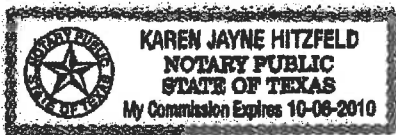


*Karen Jayne Hitzfeld*  
Notary Public, State of Texas

STATE OF TEXAS §

COUNTY OF MATAGORDA §

This instrument was acknowledged before me on this the 27 day of May, 2005 by **Dennis Bensfield**, President, Matagorda County Teen Court.



*Karen Jayne Hitzfeld*  
Notary Public, State of Texas

ORDINANCE \_\_\_\_\_

**ORDINANCE AMENDING SECTION 98-123 OF CHAPTER 98, ARTICLE III OF THE CITY CODE OF ORDINANCES; REPEALING CONFLICTING ORDINANCES, PROVIDING FOR PUBLICATION, CODIFICATION, ENFORCEMENT, AND SAVINGS, AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Chapter 98 of the Bay City Code of Ordinances regulates subdivision of real estate and orderly development of the City; and

WHEREAS, this ordinance amends Article III of Chapter 98 to allow the use of High Density Polyethylene Pipe in the City of Bay City;

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

1. That Section 98-123(e), Chapter 98, Article III of the City Code of Ordinances is hereby amended to read as follows, by adding the **bold and underlined text** to and deleting the ~~struckthrough text~~ from the current City code:

Sec. 98-123. Drainage and storm sewers.

...

(e) The design of storm sewers, outfalls, culverts and drainage ditches will conform to the following requirements:

(1) Manholes (inlets or junction boxes) shall be provided at all changes in grade or alignment, sewer intersections, street intersections and at a minimum of 1,000 feet on straight lines. Design of manholes shall follow acceptable engineering practice and shall be constructed of reinforced concrete sections in accordance with latest revisions to ASTM C-478 and/or clay brick conforming to the latest revision of ASTM C-432, Grade NA.

(2) Pipe for storm sewers shall be **reinforced concrete pipe (RCP) when installed under any roadway pavement or may alternatively be high density polyethylene (HPDE) pipe when installed in a location not under any roadway pavement. All pipe for storm sewers shall be** in sizes as shown on the approved plans. All ~~RCP pipe shall be reinforced concrete pipe (RCP) conforming~~ **conform** to the latest revision of ASTM C-76, class III. **All HPDE Pipe shall conform to the latest revision of ASTM F2619/F2619M-13.** Where, in the opinion of the director of public works, added strength of pipe is needed for traffic loads over minimum cover or for excessive height of backfill, concrete pipe shall be ASTM C-76, class IV or V. Pipe shall have a minimum cover of not less than one foot over the top of the pipe.

(3) Drainage ditches may be used for outfalls to natural or major drainage channels. Ditches shall have a minimum grade of not less than 0.10 percent, side slopes not steeper than 3:1 with a maximum velocity of three feet per second.

(4) Outfalls from sewers and ditches into major drainageways shall enter at a grade of the major drainage channel. Connection to major drainage channel shall be made with pipe to preserve integrity of channel bank. If necessary, drop-type outfall structures shall be used to prevent erosion.

(5) The design of major drainageways shall be coordinated and approved by Matagorda County Drainage District No. 1 and the city's director of public works. Outfalls, culverts and drainage ditches will conform to the specifications of the director of public works.

2. That all ordinances or parts of ordinances in conflict with this ordinance are repealed to the extent of such conflict.

3. That the City Secretary shall publish the caption or a descriptive title of this ordinance one time within 10 days after final passage of the ordinance in a newspaper of general circulation in the City of Bay City.

4. That it is the intention of the City Council that this ordinance shall become a part of the Code of the City of Bay City, Texas, and it may be renumbered and codified therein accordingly, in the manner approved by the City Attorney. The Code of the City of Bay City, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

5. That any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor. In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this ordinance by injunction or civil remedy issued by a court of competent jurisdiction.

6. That if any provision of this ordinance, or the application thereof to any person or circumstances, shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the other provisions, or application thereof, of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

7. That the provisions of this ordinance shall become effective 10 days after final passage and approval by the City Council of the City of Bay City, Texas.

[SIGNATURE PAGE FOLLOWS.]

**PASSED AND APPROVED** on this 24th day of January, 2023.

\_\_\_\_\_  
Robert Nelson, Mayor  
City of Bay City, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Jeanna Thompson, City Secretary  
City of Bay City Texas

\_\_\_\_\_  
Anne Marie Odefey, City Attorney

<b>COUNCIL MEMBER</b>	<b>VOTED AYE</b>	<b>VOTED NO</b>	<b>ABSENT</b>
James Folse	_____	_____	_____
Mayor Pro Tem			
Floyce Brown	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Becca Sitz	_____	_____	_____
Blayne Finlay	_____	_____	_____
Robert K. Nelson	_____	_____	_____
Mayor			

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



**2023 GENERAL ELECTION SERVICES  
CONTRACT WITH THE COUNTY ELECTIONS OFFICER  
STATE OF TEXAS, COUNTY OF MATAGORDA**

**THIS CONTRACT** made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between **City of Bay City** acting by and through **Robert Nelson, Mayor**, address: 1901 5<sup>th</sup> Street, Bay City, Texas 77414, hereinafter referred to as “City of Bay City”, and **Stephanie Wurtz, County Election Officer of Matagorda County, Texas** hereinafter referred to as “Contracting Officer”, and by authority of Section 31.092(b), Texas Election Code, for the conduct and supervision of the 2023 General Election.

**THIS AGREEMENT** is entered into in consideration of the mutual covenants and promises hereinafter set out:

**DUTIES AND SERVICES OF CONTRACTING OFFICER.** The Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment (*strike out any duties not being performed by the Contracting Officer*):

- (a) Procure and distribute all necessary election supplies.
- (b) Procure all necessary voting machines and equipment, transport machines and equipment to and from the polling places, and prepare the voting machines and equipment for use at the polling places.
- (c) Work with HART to program ballot on behalf of City of Bay City.
- (d) Arrange for the use of a central counting station and for the tabulating personnel and equipment needed at the counting station and assist in the preparation of programs and the test materials for the tabulation of the ballots to be used with electronic voting equipment.
- (e) Publish the legal notice of the date, time and place of the test of the electronic tabulating equipment and conduct such test.
- (f) Be responsible for accumulating votes cast at each of the polling place in accordance with Texas Election Code, Chapter 127.151. The Contracting Officer will prepare the unofficial canvass reports after all precincts have been counted and will deliver a copy of the unofficial canvass to City of Palacios as soon as possible after all returns have been tabulated. **All participating authorities shall be responsible for the official canvass of their respective elections.**
- (g) Assist in the general overall supervision of the election and provide advisory services in connection with the decisions to be made and the actions to be taken by the parties responsible for holding the election.

**FEEES AND GENERAL CONDITIONS**

- (a) Nothing contained in this contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the election is to be filed, the place at which any function is to be carried out, the officers who conduct the official canvass of the election returns, the officer to serve as custodian of the voted ballots or other election records, or any other nontransferable functions specified by Section 31.096 of the Texas Election Code.
- (b) The Contracting Officer is the agent of City of Bay City for the purposes of contracting with the third parties with respect to the election expenses within the scope of the Contracting Officers duties, and the Contracting Officer is not liable for City of Bay City’s failure to pay a claim.

- (c) The Contracting Officer shall get approval of this Contract from the Commissioners Court and file a copy in the County’s records.
- (d) The Contracting Officer will be responsible to pay the Early Voting judges/clerks, Election Day judges/clerks and the ballot board. City of Bay City will receive a statement for the costs, as applicable.
- (e) An administrative fee of ten percent (10%) of the total cost of the elections will be charged for overall supervision by the Contracting Officer.
- (f) Only the actual expenses directly attributable to the Contract may be charged including administrative fees (Section 31.100(b), Texas Election Code). The County Elections Officer must submit the actual costs incurred pursuant to this Contract to City of Bay City no later than 30 days after the election.

WITNESS the following signatures and seal:

**CITY OF BAY CITY**

**Date Signed:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Robert Nelson, Mayor**

**COUNTY ELECTIONS OFFICER/  
COUNTY CLERK**

**Date Signed:** \_\_\_\_\_

**By:** \_\_\_\_\_  
**Stephanie Wurtz, County Clerk**

The State of Texas  
County of Matagorda

Before me, the undersigned authority, on this day personally appeared ROBERT NELSON, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purpose and consideration therein expressed. Given under my hand and seal of office on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, State of Texas

SEAL

The State of Texas  
County of Matagorda

Before me, the undersigned authority, on this day personally appeared STEPHANIE WURTZ, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he or she executed the same for the purpose and consideration therein expressed. Given under my hand and seal of office on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Notary Public, State of Texas

SEAL

**ORDINANCE**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BAY CITY, TEXAS, ORDERING A GENERAL MUNICIPAL ELECTION TO BE HELD ON MAY 6, 2023; AUTHORIZING THE MAYOR, OR DESIGNEE, TO ENTER INTO AN AGREEMENT WITH MATAGORDA COUNTY TO CONDUCT THE GENERAL MUNICIPAL ELECTION ON BEHALF OF THE CITY OF BAY CITY; DESIGNATING THE PLACES AND MANNER OF HOLDING THE ELECTION; PROVIDING FOR THE POSTING AND PUBLICATION OF NOTICE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND, PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** The City of Bay City (the “City”) will hold a General Municipal Election for the election of City Councilmember positions designated as Councilmember Position 1 and Councilmember Position 2, on May 6, 2023 (the “General Election”); and

**WHEREAS,** The City Council of the City (the “Council”) finds that it is in the public interest that the City enter into an election services contract with Matagorda County in order to provide the most efficient and convenient voting opportunities for the City’s General Election, with voting available in all Matagorda County polling locations and the potential for extended hours for early voting; **NOW THEREFORE,**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BAY CITY:**

**SECTION 1. THAT** the recitals to this Ordinance are true and correct and are hereby incorporated into this Ordinance for all intents and purposes.

**SECTION 2. THAT** the general municipal election (the “General Election”) of the City of Bay City, Texas (the “City”), for election of members of the City Council of the City (the “Council”) as prescribed by the City Charter, shall be held between seven o’clock (7:00) a.m. and seven o’clock (7:00) p.m. on the 6<sup>th</sup> day of May 2023, in the corporate limits of the City, for the purpose of electing Councilmember Position 1 and Councilmember Position 2 as established with Matagorda County and in accordance with the election laws of the State of Texas, all such arrangements for which are authorized by the adoption of this Ordinance and the election services contract with Matagorda County.

**SECTION 3. THAT** the present boundaries of the City constitute one (1) election precinct. The polling places for this election precinct shall be as designated by Matagorda County.

**SECTION 4. THAT** the General Election shall be held in accordance with, and shall be governed by, the election laws of the State of Texas. The Council, pursuant to Chapter 271 of the Texas Election Code, authorizes the City Manager to enter into an election agreement with Matagorda for this election. The City Secretary, the Mayor, and the City Manager are hereby authorized to perform all duties and take all actions as required by any election services contracts related to the General Election.

**SECTION 5. THAT** any eligible and qualified person may have his or her name placed upon the official ballot of the General Election as a candidate by submitting an application in accordance with

Section 141.031 of the Texas Election Code (the “Application”). The Application must be in writing, signed, and sworn to by the candidate and it must indicate that the candidate swears to the Application. The Application may be filed with the City Secretary beginning on January 18, 2023, but not later than 5:00 p.m. on February 17, 2023. Candidate filings will be accepted in person from 8 a.m. to 5 p.m. Monday through Friday at the Office of the City Secretary, 1901 5<sup>th</sup> Street, Bay City, Texas 77414; by mail at the Office of the City Secretary, 1901 5<sup>th</sup> Street, Bay City, Texas 77414; by fax at 979-323-1681; or, by email at [citysecretary@cityofbaycity.org](mailto:citysecretary@cityofbaycity.org)

**SECTION 6. THAT** Matagorda County shall designate the Main Early Voting Location for early voting for the General Election and shall appoint the Early Voting Clerk and Deputy Early Voting Clerk for early voting in person and voting by mail, who shall, upon approval of an application for ballot by mail related to the General Election, provide balloting materials to the voter in accordance with the election laws of the State of Texas. Applications for ballot by mail (the “ABBM”) shall be mailed, faxed, emailed, or delivered by common or contract carrier to:

**By Regular Mail:**

**Stephanie Wurtz**

**1700 7<sup>th</sup> St., Room 202**

**Bay City, Texas 77414**

**Phone (979) 244-7680**

**Email: coclerk@co.matagorda.tx.ur**

**SECTION 7. THAT** the deadline to hand-deliver an ABBM is Tuesday, April 25, 2023. The last day for the early voting clerk to receive applications for a ballot to be voted by mail via mail (regardless of postmarked date), fax, common or contract carrier, or email, is Tuesday, April 25, 2023, in accordance with Section 84.007(c) of the Texas Election Code. If a voter submits an ABBM via fax or email, the Early Voting Clerk must receive an original or a copy with a wet signature via mail within four (4) business days of the submission of the fax or email, in accordance with Section 84.007(b-1) of the Texas Election Code.

**SECTION 8. THAT** the places at which Early Voting by personal appearance shall be conducted shall be designated by Matagorda County. During the lawful early voting period, the Early Voting Clerk shall keep such locations for early voting open for early voting as required by the Texas Election Code, at a minimum.

**SECTION 9. THAT** voting at the General Election, including early voting, shall be by the use of voting machines; and the ballots of the General Election shall conform to the election laws of the State of Texas, as amended. Matagorda County, via an election services contract with the City shall obtain, or cause to be obtained, the necessary electronic tabulating equipment, to arrange for the testing thereof as provided by law and to employ a duly qualified manager and a duly qualified tabulation supervisor to perform the duties respectively imposed on them by law with respect to the processing and tabulation of ballots at the Central Counting Station.

**SECTION 10.** The City Secretary shall issue notice of the General Election to be published in a newspaper of general circulation in the City of Bay City at least one (1) time, not more than thirty (30) days nor less than ten (10) days before the election, and that the said City Secretary is hereby directed to post or cause to be posted in a public place within the City of Bay City limits, said proclamation at least twenty-one (21) days before said election.

**SECTION 11. THAT** the City Secretary are hereby authorized to execute and issue, for and on behalf of the City, such orders, documents, and forms as may, from time to time, be promulgated by the Secretary of State of the State of Texas in conjunction with the General Election.

**SECTION 12. THAT** each and every provision, paragraph, sentence, and clause of this Ordinance has been separately considered and passed by the Council, and each provision would have been separately passed without any other provision; and, if any provision hereof shall be ineffective, invalid, or unconstitutional, for any cause, it shall not impair or affect the remaining portion, or any part thereof, but the valid portion shall be in force just as if it had been passed alone.

**SECTION 13. THAT** the Council officially finds, determines, recites, and declares that a sufficient written notice of the date, hour, place, and subject of the meeting of the Council during which it considered this Ordinance was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by Chapter 551 of the Texas Government Code; and, that said meeting was open to the public as required by law at all times during which this Ordinance and the subject matter thereof was discussed, considered, and formally acted upon. The Council further ratifies, approves, and confirms the contents and posting of such written notice.

**SECTION 14. THAT** this Ordinance shall be in effect immediately upon its passage and approval.

**PASSED, APPROVED, AND ADOPTED this 24th day of January 2023.**

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

ATTEST:

\_\_\_\_\_  
Jeanna Thompson, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Anne Marie Odefey, City Attorney.

<b>COUNCIL MEMBER</b>	<b>VOTED AYE</b>	<b>VOTED NO</b>	<b>ABSENT</b>
James Folsie Mayor Pro Tem	_____	_____	_____
Floyce Brown	_____	_____	_____
Brad Westmoreland	_____	_____	_____
Becca Sitz	_____	_____	_____
Blayne Finlay	_____	_____	_____
Robert K. Nelson Mayor	_____	_____	_____

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