



CITY COUNCIL REGULAR MEETING CITY OF BAY CITY

Tuesday, December 19, 2023 at 5:00 PM
COUNCIL CHAMBERS | 1901 5th Street

COUNCIL MEMBERS

Mayor: Robert K Nelson

Mayor Pro Tem: Blayne Finlay

Council Members: Benjamin Flores, Bradley Westmoreland, Becca Sitz, Jim Folse

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."*

Councilwoman Becca Sitz

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.

Councilwoman Becca Sitz

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**ITEMS / COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS****CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL**

- [1.](#) City Council Workshop meeting minutes of November 14, 2023.
- [2.](#) City Council Regular meeting minutes of November 14, 2023.
- [3.](#) City Council Regular meeting minutes of November 28, 2023.

DEPARTMENT REPORTS

4. **Presentation ~ Public Works report and presentation.** Herb Blomquist, Public Works Director

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

- [5.](#) **Agreement ~ Discuss, consider, and/or approve an Interlocal Agreement between the City of Bay City and Matagorda County for library services for the 2023 year.** Samantha Denbow, Library Director
- [6.](#) **Resolution ~ Discuss, consider, and/or approve a Resolution of the City Council of the City of Bay City authorizing the City Manager to enter into a contract agreement with Flock Safety, Inc. for the acquisition, installation, maintenance, and monitoring of twelve (12) automated license plate recognition (ALPR) cameras.** Lieutenant Clayton Ryman, Police Department
- [7.](#) **Parks ~ Discuss, consider, and/or take action to approve use of \$150,000 Reimbursed funds from insurance claims, remaining ARPA Funds, and General Funds to complete lighting project at Hardeman Park.** Shawna Burkhart, City Manager
- [8.](#) **Contract ~ Discuss, consider, and/or approve an Engineering Contract for the Quiet Zone.** Shawna Burkhart, City Manager

CLOSED / EXECUTIVE SESSION

9. **Executive Session pursuant to Texas Government Code Section 551.072 (Deliberation regarding Real Property).**

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, December 15, 2023 before 5:00 p.m.** Any questions concerning the above items, please contact the Mayor and City Manager's office at (979) 245-2137.

CITY OF BAY CITY

MINUTES • NOVEMBER 14, 2023

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Workshop

5:00 PM

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



Mayor

Robert K. Nelson

Mayor Pro Tem

Blayne Finlay

Councilman

Jim Folse

Councilman

Bradley Westmoreland

Councilwoman

Becca Sitz

Councilman

Benjamin Flores

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.

CALL TO ORDER

The Workshop was called to order by Mayor Robert K. Nelson at 5:03 p.m.

CERTIFICATION OF QUORUM

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PRESENT

Mayor Robert K. Nelson
Mayor Pro Tem Blayne Finlay
Councilman Benjamin Flores
Councilman Jim Folse
Councilman Brad Westmoreland
Councilwoman Becca Sitz

PUBLIC COMMENTS

There were no public comments.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND / OR APPROVAL

1. **Discuss well siting study and findings including 6th Street and Avenue I well arsenic sampling and take any action deemed necessary.**

Dan Olsen, Garver LLC, presented recommendations starting with system challenges and the new focus on the East Side. Mr. Garver listed items that impacted the projects. Mr. Olsen proved options and costs estimates, recommending Arsenic removal, waterline replacements, and Mockingbird electrical.

Mike Fernand of Matagorda EDC added that there is a De-Sal company building and possible development growth.

ADJOURNMENT

Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Council adjourned the workshop at 5:49 p.m.

PASSED AND APPROVED, this 12th day of December 2023.

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

JEANNA THOMPSON
CITY SECRETARY

CITY OF BAY CITY

MINUTES • NOVEMBER 14, 2023

COUNCIL
CHAMBERS | 1901
5th Street

City Council Regular Meeting

6:00 PM

1901 5TH STREET
BAY CITY TX, 77414



Mayor

Robert K. Nelson

Mayor Pro Tem

Blayne Finlay

Councilman

Jim Folse

Councilman

Bradley Westmoreland

Councilwoman

Becca Sitz

Councilman

Benjamin Flores

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.

CALL TO ORDER AND CERTIFICATION OF QUORUM

The meeting was called to order by Mayor Robert K. Nelson at 6:00 p.m.

PRESENT

Mayor Robert K. Nelson
Mayor Pro Tem Blayne Finlay
Councilman Benjamin Flores
Councilman Jim Folse
Councilman Brad Westmoreland
Councilwoman Becca Sitz

INVOCATION & PLEDGE

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

Mayor Pro Tem Blayne Finlay

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.

Mayor Pro Tem Blayne Finlay

APPROVAL OF AGENDA

Motion made by Councilman Folse to approve the agenda with Items from Council moved up to under Acknowledgements from City Manager, Seconded by Mayor Pro Tem Finlay. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

PUBLIC COMMENTS

Terri Rafter, Chaparral Drive, stated that she believes the law is being broken by having swine. Anne Marie Odefey, City Attorney, responded as to next steps City will need to do as result of new legislation. Bill Morris, Chaparral Drive, also spoke about swine in vicinity to his property.

ACKNOWLEDGEMENT FROM CITY MANAGER

There were no acknowledgements from the City Manager.

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

Councilman Folse requested a report from Parks & Recreation regarding Youth Organizations to ensure equality.

Councilman Folse also addressed pig farm and stated he is against but waiting on attorney. Councilwoman Sitz stated that she is against a pig farm. Councilman Flores stated that he had asked for any complaints against his cows and there were none. Councilman Westmoreland stated that he is completely opposed to pigs in the city. Mayor Pro Tem Finlay stated that he is also opposed to pigs but added that Councilman Flores is a good councilmember and asked that we get good legal and professional advice before moving forward.

Councilman Westmoreland ask if there were any updates on the railroad tracks and the Mayor responded that there were not. Mayor Pro Tem Finlay stated that the ditch at Norvell and Sparks is overgrown with trash and not draining. Councilman Flores asked to address 35/Nichols regarding trucks turning and Shawna Burkhart replied that she believes that is a TxDOT issue.

CONSENT AGENDA ITEMS FOR CONSIDERATION AND/OR APPROVAL

1. **Accounts Payable, Direct Payable and Utility Refunds for July, August and September 2023.**
2. **Consider and/or approve invoices recommended by the TIRZ #1 Board to pay out of TIRZ #1 Funds.**
3. **Consider and/or approve invoices recommended by the TIRZ #2 Board to pay out of TIRZ #2 Funds.**
4. **City Council Regular meeting minutes of October 31, 2023.**

Motion made by Councilman Folse to approve the consent items, Seconded by Councilwoman Sitz. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

5. **Municipal Court 3rd Quarter and Fiscal Year End Report.**

Katy Plunkett, Court Administrator, presented 3rd Quarter and Fiscal Year end statistics for Municipal Court. Ms. Plunket stated that they will be changing Court Technology software November 30th.

6. **Library Quarterly Report and Updates.**

Samantha Denbow, Library Director, presented the quarterly reports for the Library to include volunteer hours. Ms. Denbow added that they are a host site for WorkSource and teen participation has increased.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

7. **Planning ~ Discuss, consider, and/or approve a recreation program in conjunction with Bay City Gas Company.** Kevin Hecht, Bay City Gas Co. & Shawna Burkhardt, City Manager

Kevin Hecht, Bay City Gas Co., presented the proposal of a BMX Bike Park, adding that he can get the Gas board trustees are on board. Anne Marie Odefey, City Attorney, suggested an interlocal agreement with the Gas Company.

Motion made by Councilwoman Sitz to approve a recreation program in conjunction with Bay City Gas Company, Seconded by Councilman Folsie. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

8. **Ordinance ~ Discuss, consider, and/or approve and Ordinance regulating the use of Golf Carts, Neighborhood Vehicles, and other types of recreational Off-Highway Vehicles by adding a new Article VII to Chapter 110 of the City of Bay City Code of Ordinances; Providing for codification; fixing a penalty for failure to comply with such ordinance; repealing any conflicting ordinances; and setting an effective date.** Councilman Benjamin Flores

Motion made by Councilman Flores to approve and Ordinance regulating the use of Golf Carts, Neighborhood Vehicles, and other types of recreational Off-Highway Vehicles, Seconded by Councilwoman Sitz. Voting Yea: Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz. Voting Nay: Mayor Nelson. Motion carried.

9. **Bid ~ Discuss and consider the selection of the best value proposer, LEM Construction, using Competitive Sealed Proposals process for the North and East Water Treatment Plant Project under the Texas Water Development Board Funding for the Drinking Water SRF Projects under the Texas Water Development Board funding and begin the negotiation process to include value engineering to reduce costs to the City so that project would be economically feasible.** Herb Blomquist, Public Works Director

Motion made by Mayor Pro Tem Finlay to approve selection of the best value proposer, LEM Construction and begin the negotiation process to include value engineering to reduce costs to the City, Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folsie, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 10. Grants ~ Discuss, consider, and or approve various equipment to be funded by the American Rescue Plan Funds and authorize staff to proceed with procurement.** Krystal Mason, Assistant Public Works Director

Motion made by Councilman Westmoreland to approve various equipment to be funded by the American Rescue Plan Funds , Seconded by Councilwoman Sitz. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 11. TIRZ ~ Discuss and/or approve agreement between City of Bay City and Vista Planning and Design (landscape architect) for landscaping in TIRZ #1 green space as recommended by TIRZ #1 Board and to be reimbursed with TIRZ #1 funds.** Scotty Jones, Assistant City Manager

Motion made by Councilman Flores to approve agreement between City of Bay City and Vista Planning and Design (landscape architect) for landscaping in TIRZ #1 green space, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 12. Resolution ~ A Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024A (CWSRF) in connection with the receipt of financial assistance from the Texas Water Development Board through the Clean Water State Revolving Fund, and approving other matters incidental thereto.** Scotty Jones, Assistant City Manager

Motion made by Mayor Nelson to approve a Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024A (CWSRF), Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 13. Resolution ~ A Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024B (DWSRF) in connection with the receipt of financial assistance from the Texas Water Development Board through the Drinking Water State Revolving Fund, and approving other matters incidental thereto.** Scotty Jones, Assistant City Manager

Motion made by Councilwoman Sitz to approve a Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024B (DWSRF), Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion

carried.

- 14. Resolution ~ A Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024C (DWSRF) in connection with the receipt of financial assistance from the Texas Water Development Board through the Drinking Water State Revolving Fund for Arsenic Mitigation Projects, and approving other matters incidental thereto.** Scotty Jones, Assistant City Manager

Motion made by Mayor Pro Tem Finlay to approve a Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024C (DWSRF), Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 15. Resolution ~ A Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024D (DWSRF) in connection with the receipt of financial assistance from the Texas Water Development Board through the Drinking Water State Revolving Fund for Arsenic Mitigation Projects, and approving other matters incidental thereto.** Scotty Jones, Assistant City Manager

Motion made by Councilman Flores to approve a Resolution by the City Council of the City of Bay City, Texas, authorizing publication of notice of intention to issue its Tax and Surplus Revenue Certificates of Obligation, Series 2024D (DWSRF), Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 16. Report ~ Discuss, consider, and/or approve the City's Quarterly Investment Report for the quarter ending September 30, 2023.** Scotty Jones, Assistant City Manager

Motion made by Councilman Folse to approve the City's Quarterly Investment Report for the quarter ending September 30, 2023, Seconded by Councilman Flores. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

- 17. Resolution ~ Discuss, consider, and/or adopt a Resolution restricting all oversized/overweight vehicles from the roadways near any schools during the hours of 7:00 a.m. and 8:30 a.m.**

Minutes

City Council Regular Meeting

November 14, 2023

Motion made by Councilwoman Sitz to adopt a Resolution restricting all oversized/overweight vehicles, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

CLOSED / EXECUTIVE SESSION

Council adjourned and went into Executive Session at 7:40 p.m.

- 18. Executive Session pursuant to the Texas Government Code Section 551.087 to discuss economic development negotiations.**
- 19. Executive Session pursuant to Section 551.071 of the Texas Government Code (Consultation with Counsel on Legal Matters)**

RECONVENE AND ACTION

Council reconvened at 8:58 p.m. and took no action on Item #18.

Councilman Jim Folse made a motion on Item #19 to authorize an expenditure up to \$10,000 to hire a consultant to address the concerns from citizens so the City can pursue actions as supported per the report. Second by Councilman Brad Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Councilman Flores abstained. Motion carried.

ADJOURNMENT

Motion made by Councilman Westmoreland to adjourn, Seconded by Mayor Pro Tem Finlay. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried and the meeting adjourned at 9:00 p.m.

PASSED AND APPROVED, this 12th day of December 2023.

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

JEANNA THOMPSON
CITY SECRETARY

CITY OF BAY CITY

MINUTES • NOVEMBER 28, 2023

**COUNCIL
CHAMBERS | 1901
5th Street**

City Council Regular Meeting

6:00 PM

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



Mayor

Robert K. Nelson

Mayor Pro Tem

Blayne Finlay

Councilman

Jim Folse

Councilman

Bradley Westmoreland

Councilwoman

Becca Sitz

Councilman

Benjamin Flores

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.

CALL TO ORDER AND CERTIFICATION OF QUORUM

The Meeting was called to order by Mayor Robert K. Nelson at 6:00 p.m.

PRESENT

Mayor Robert K. Nelson
Mayor Pro Tem Blayne Finlay
Councilman Benjamin Flores
Councilman Jim Folse
Councilman Brad Westmoreland
Councilwoman Becca Sitz

INVOCATION & PLEDGE

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

Councilman Benjamin Flores

MISSION STATEMENT

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Councilman Benjamin Flores

APPROVAL OF AGENDA

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

PUBLIC COMMENTS

There were no public comments.

ACKNOWLEDGEMENT FROM CITY MANAGER

There were no acknowledgements from the City Manager.

ITEMS / COMMENTS FROM THE MAYOR AND COUNCIL MEMBERS

Councilman Folse stated that he has received feedback the people running traffic lights are getting ticketed and thanked the Police Department for their efforts. Councilwoman Sitz

requested a street sweeper on Hwy 35 and a little monitoring on Hwy 35 regarding noise from vehicles. Mayor Pro Tem Finlay reminded Council of the parade Friday.

Mayor Nelson provided an update from BNSF regarding tracks on 7th, they have ordered the concrete panels and secured a contractor. Mayor Nelson also provided an update from TxDOT who will be upgrading seven (7) traffic lights on Hwy 35 and 60. Mayor Nelson added that the parking on all 4 corners of the 35/60 intersection will be eliminated.

REGULAR ITEMS FOR DISCUSSION, CONSIDERATION AND/OR APPROVAL

1. Report ~ Parks & Recreation overview of city Expenses regarding Youth Sports Associations.

Kelly Penewitt, Parks & Rec Supervisor, presented the report regarding youth sports using city facilities, participation of each, utility use of each, and city provided duties.

2. Contract ~ Discuss, consider, and/or approve contract Amendment No. 2 Work Authorization No. 5 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering services for the Design, Bid, and Construction of the North Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects.

Herbert Blomquist, Public Works Director, stated that the North Water Plant has been removed from the project.

Motion made by Mayor Pro Tem Finlay to approve contract Amendment No. 2 Work Authorization No. 5 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC, Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

3. Contract ~ Discuss, consider, and/or approve contract Amendment No. 2 Work Authorization No. 7 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC for Professional Engineering Services for the Design, Bid, and Construction of the East Water Plant under the Texas Water Development Board funding for Drinking Water SRF Projects.

Herbert Blomquist, Public Works Director, stated that the East Water Plant has been modified in the project.

Motion made by Councilman Flores to approve contract Amendment No. 2 Work Authorization No. 7 to the standard contract agreement between the City of Bay City, Texas and Garver, LLC, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

4. **Contract ~ Discuss, consider, and/or award the construction for the East Water Treatment Plant (WTP) project under the Texas Water Development Board funding for the Drinking Water SRF projects to LEM Construction and authorize the Mayor and/or City Manager to execute a contract approved to form by the City Attorney between the City of Bay City and LEM Construction in the amount of \$11,022,500.00.** Herbert Blomquist, Public Works Director

Motion made by Councilwoman Sitz to award the construction for the East Water Treatment Plant (WTP) project under the Texas Water Development Board funding for the Drinking Water SRF projects to LEM Construction, Seconded by Councilman Westmoreland. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried.

5. **Contract ~ Discuss, consider, and/or approve an Engineering Contract for the Quiet Zone.** Shawna Burkhart, City Manager

Shawna Burkhart, City Manager, presented and stated that this is for both lines and is waiting an update for just the one line. Item tabled until December 19th.

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

There were no additional items from Council.

ADJOURNMENT

Motion made by Councilman Westmoreland to adjourn, Seconded by Councilman Folse. Voting Yea: Mayor Nelson, Mayor Pro Tem Finlay, Councilman Flores, Councilman Folse, Councilman Westmoreland, Councilwoman Sitz. Motion carried and Council adjourned at 6:54 p.m.

PASSED AND APPROVED, this 12th day of December 2023.

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

JEANNA THOMPSON
CITY SECRETARY



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

AGENDA ITEM SUBMISSION FORM

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

Requestor Name: Denbow, Samantha **Date Submitted:** 12/12/2023
Last, First *MM/DD/YYYY*

Requestor Type : City Staff **Meeting Date:** 12/19/2023
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:

Agreement ~ Discuss, consider, and/or approve an Interlocal Agreement between the City of Bay City and Matagorda County for library services for the 2023 year.

Executive Summary of Item:

BACKGROUND: The City assumed the Management & Operation of the Bay City Public Library and the Sargent Library. Both locations benefit the County residents. In return, the County provides funding each year. The agreement is effective January 1, 2024 through December 31, 2024

FINANCIAL IMPLICATIONS: County contributes \$200,000.

IMPACT ON COMMUNITY SUSTAINABILITY: The Bay City Library is an active and responsive part of the community by supporting citizens, local businesses & institutions through its numerous events and programs. The Library leads as a Civic Educator, Conversation Starter, Community Bridge, & Visionary.

RECOMMENDATION: Staff recommends City Council approve the Interlocal Agreement

ATTACHMENTS: Interlocal Agreement.

INTERLOCAL AGREEMENT BETWEEN
MATAGORDA COUNTY AND CITY OF BAY CITY
REGARDING THE BAY CITY PUBLIC LIBRARY

THIS INTERLOCAL AGREEMENT (“Agreement”) is made between MATAGORDA COUNTY, having its principal place of business at 1700 7th Street, Bay City, Matagorda County, Texas 77414, referred to as “County,” and CITY OF BAY CITY, having its principal place of business at 1901 5th Street, Bay City, Matagorda County, Texas, 77414, referred to as “City.”

WITNESSETH:

WHEREAS, Chapter 791, entitled the Interlocal Cooperation Act of the Texas Government Code provides that local governments may contract with one another to increase the efficiency and effectiveness of their governmental services and functions; and

WHEREAS, County and City are separate governmental entities; and

WHEREAS, County and City find it mutually beneficial and in the public interest for County to participate with an established library to provide library services; and

WHEREAS, City has the necessary personnel and is willing to assume the management and operation of the Bay City Public Library; and

WHEREAS, the parties desire to undertake a governmental function or service in which the parties do not have any pecuniary purpose, and there is no profit motive; and the only purpose of the contract is to further the public good; and

WHEREAS, County has authority under Section 323.011 of the Texas Local Government Code to contract with an established library to provide library services within the county.

NOW, THEREFORE, County and City, in consideration of the mutual promises and covenants contained in this Agreement, do agree as follows with respect to County’s contribution to the operation of the Bay City Public Library:

ARTICLE 1. LEGAL AUTHORITY

Each party warrants that it possesses adequate legal authority to enter into this Agreement. The governing body of each party has authorized its respective signatory officials to enter into this Agreement and bind each party to the terms of this Agreement and any subsequent amendments thereto.

ARTICLE 2. APPLICABLE LAW

County and City agree to conduct all activities under this Agreement in accordance with all applicable rules, regulations, ordinances and laws in effect or promulgated during the term of this Agreement.

ARTICLE 3. WHOLE AGREEMENT

This Agreement, as provided herein, constitutes the complete agreement between the parties hereto, and supersedes any and all oral and written agreements between the parties relating to matters herein. Except as otherwise provided herein, this Agreement cannot be modified without written consent of the parties.

ARTICLE 4. TERM OF AGREEMENT

This Agreement is effective for the term beginning January 1, 2024, through December 31, 2024. The term may be extended for an additional term or terms upon the Agreement of the parties which agreement shall be in writing signed by the parties on or before the last day of the term or any extensions thereof.

ARTICLE 5. SCOPE OF AGREEMENT

This Agreement covers the annual amount that County will pay to the City out of the general fund of the county to provide library services at the Bay City Public Library.

ARTICLE 6. PAYMENTS FROM CURRENT REVENUES

County shall make all payments pursuant to this agreement from current revenues available to County in accordance with § 791.011 of the Texas Government Code.

ARTICLE 7. CONTROL, DIRECTION AND MANAGEMENT

By entering into this Agreement, the parties do not intend to form a joint enterprise.

At no time will the parties have an equal or mutual right of control. At all times City reserves its superior right to control the direction and management of the enterprise solely for liability purposes under this Agreement and/or solely by virtue of the City's undertaking the responsibility of managing the Bay City Public Library.

ARTICLE 8. GENERAL DUTIES OF COUNTY AND CITY

County shall provide funding in the amount of \$200,000.00 in 2024, subject to budget approval of the Matagorda County Commissioners Court. County's involvement in the library is

limited to providing funding. County shall have no responsibility for performing any other duties or providing any other resources.

Payment will be made by County in equal quarterly payments made on or before January 31st, April 30th, July 31st and October 31st, and mailed to City at the address provided below.

This obligation is contingent on the City managing and operating the library. In the event the City does not manage and operate the library, then County will cease contributions immediately.

ARTICLE 9. DUTIES OF COUNTY AND CITY FOR SARGENT BRANCH

County shall provide space for the Sargent Library within the VFW building, 20305 FM 457 Hwy, Bay City, TX 77414, owned by County. The space allocated to the Sargent Library is reflected in the diagram attached as Exhibit.

County shall be responsible for the maintenance and repairs of the building.

County will provide property coverage for the building and County contents. The County will not be liable for any loss, damage or theft of any property of the City or others kept or stored in the library space.

City shall be responsible for the cost of any repairs to the premises or damages caused by misuse or negligence of the library employees or their guests or invitees.

City shall be responsible for maintaining their area neat and orderly. City shall be responsible for the electricity on the library space.

ARTICLE 10. CHANGES AND AMENDMENTS

Any alterations, additions, or deletions to the terms of this Agreement which are required by changes in federal and state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulations.

The parties hereto may alter or amend this Agreement. Such amendments that are mutually agreed upon by City and County in writing shall be incorporated into this Agreement.

ARTICLE 11. SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

ARTICLE 12. TITLES NOT RESTRICTIVE

The titles assigned to the various sections of this Agreement are for convenience only and are generally descriptive of the matters following. Titles shall not be considered restrictive of the subject matter of any section or part of this Agreement.

ARTICLE 13. VENUE

Venue and jurisdiction of any suit, or cause of action arising under or in connection with this Agreement shall lie exclusively in Matagorda County, Texas.

ARTICLE 14. NOTICES

All notices required by this Agreement shall be delivered in person or by United States mail, postage prepaid, and shall be addressed:

To Matagorda County:

Matagorda County
Attn: County Judge
1700 7th Street, Room 301
Bay City, Texas 77414

To Bay City:

City of Bay City
Attn: Robert K. Nelson
1901 5th Street
Bay City, Texas 77414

[SIGNATURE PAGE FOLLOWS]

AGREED to and ADOPTED by the Commissioners Court of Matagorda Texas on the _____ day of _____, 20____.

ATTEST:

MATAGORDA COUNTY

STEPHANIE WURTZ
COUNTY CLERK

By: BOBBY SEIFERMAN
COUNTY JUDGE

AGREED to and ADOPTED by governing body of the City of Bay City on the _____ day of _____, 20____.

ATTEST:

CITY OF BAY CITY

JEANNA THOMPSON
CITY SECRETARY

By: ROBERT K. NELSON
MAYOR

R-2023-_____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF BAY CITY APPROVING AND AUTHORIZING THE
CITY MANAGER TO ENTER INTO A CONTRACT
AGREEMENT WITH FLOCK SAFETY, INC. FOR THE
ACQUISITION, INSTALLATION, MAINTENANCE, AND
MONITORING OF TWELVE (12) AUTOMATED
LICENSE PLATE RECOGNITION (ALPR) CAMERAS.**

WHEREAS, the City of Bay City, Texas City Council (the "City Council") has determined the addition of Automatic License Plate Recognition (ALPR) cameras will increase public safety and aid the police department in its crime prevention efforts and strategies; and

WHEREAS, the City Council desires to engage the services of Flock Safety, Inc. for acquisition, installation, maintenance, and monitoring of twelve (12) fixed, pole-mounted ALPR cameras; and

WHEREAS, funding for this project will be shared between grant funds and Bay City Community Development Corporation ("BCCDC"); and

WHEREAS, the City Council desires to authorize the City Manager to execute a 24 month contract, with a 24 month renewal option (the "Agreement") attached hereto as EXHIBIT "A" and EXHIBIT "B" respectively, with Flock Safety, Inc.;

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

Section 1. Recitals Incorporated

The recitals set forth above are incorporated herein for all purposes as if set forth in full.

Section 2. Approval of Agreement

The City Council hereby authorizes the expenditure and approves the Agreement for the acquisition, Installation, maintenance, and monitoring of twelve (12) ALPR cameras from Flock Safety, Inc. The City Council further authorizes the City Manager to execute any associated documents necessary to consummate the business relationship.

Passed and approved on this ____ day of _____, 2023 by the City Council.

Robert K. Nelson, Mayor
City of Bay City

ATTEST:

Jeanna Thompson, City Secretary

APPROVED AS TO FORM:

Anne Marie Odefey, City Attorney

Flock Safety + TX - Bay City PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Cait Ruske
caitlin.ruske@flocksafety.com
2104004222



EXHIBIT A ORDER FORM

Customer: TX - Bay City PD
 Legal Entity Name: TX - Bay City PD
 Accounts Payable Email: cryman@cityofbaycity.org
 Address: 1901 5th St Bay City, Texas 77404

Initial Term: 24 Months
 Renewal Term: 24 Months
 Payment Terms: Net 30
 Billing Frequency: Annual Plan - First Year Invoiced at Signing.
 Retention Period: 30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			\$36,000.00
Flock Safety LPR Products			
Flock Safety Falcon ®	Included	12	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Standard Implementation Fee	\$650.00	2	\$1,300.00
Professional Services - Advanced Implementation Fee	\$1,900.00	8	\$15,200.00
Professional Services - Existing Infrastructure Implementation Fee	\$150.00	2	\$300.00
Subtotal Year 1:			\$52,800.00
Annual Recurring Subtotal:			\$36,000.00
Estimated Tax:			\$0.00
Contract Total:			\$88,800.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

Billing Schedule

ITEM #6.

Billing Schedule	Amount (USD)
Year 1	
At Contract Signing	\$52,800.00
Annual Recurring after Year 1	\$36,000.00
Contract Total	\$88,800.00

*Tax not included

Product and Services Description

ITEM #6.

Flock Safety Platform Items	Product Description	Terms
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached. The Parties have executed this Agreement as of the dates set forth below.

ITEM #6.

FLOCK GROUP, INC.

Customer: TX - Bay City PD

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PO Number: _____

This Master Services Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the entity identified in the signature block (“**Customer**”) (each a “**Party**,” and together, the “**Parties**”) on this the 20 day of September 2023. This Agreement is effective on the date of mutual execution (“**Effective Date**”). Parties will sign an Order Form (“**Order Form**”) which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock’s technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer (“**Notifications**”);

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock’s standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the **Order Form**. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, (“**Permitted Purpose**”).

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Anonymized Data**” means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 “**Authorized End User(s)**” means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 “**Customer Data**” means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. “**Customer Hardware**” means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 “**Embedded Software**” means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 “**Flock Hardware**” means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

1.7 “**Flock IP**” means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 “**Flock Network End User(s)**” means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 “**Flock Services**” means the provision of Flock’s software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 “**Footage**” means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 “**Hotlist(s)**” means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 “**Installation Services**” means the services provided by Flock for installation of Flock Services.

1.13 “**Retention Period**” means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 “**Vehicle Fingerprint™**” means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 “**Web Interface**” means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

2.1 Provision of Access. Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form (“*Retention Period*”). Authorized End Users will be required to sign up for an account and select a password and username (“*User ID*”). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 Embedded Software License. Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 Support Services. Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as “*Support Services*”).

2.4 Upgrades to Platform. Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock’s products or services to its agencies, the competitive strength of, or market for, Flock’s products or services, such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

2.5 Service Interruption. Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("**Service Interruption**"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 Service Suspension. Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("**Service Suspension**"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer, the Term will be tolled by the duration of the Service Suspension.

2.7 Hazardous Conditions. Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

3.1 Customer Obligations. Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as “*Customer Obligations*”).

3.2 Customer Representations and Warranties. Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 Customer Data. As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 Customer Generated Data. Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages,

text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (“**Customer Generated Data**”). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer’s intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 Anonymized Data. Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 Confidentiality. To the extent required by any applicable public records requests, each Party (the “**Receiving Party**”) understands that the other Party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any

such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 Usage Restrictions on Flock IP. Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

5.3 Disclosure of Footage. Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 Billing and Payment of Fees. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than thirty (30) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. Customer acknowledges and agrees that a failure to contact Flock within this period will serve as a waiver of any claim. If any undisputed fee is more than thirty (30) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 Notice of Changes to Fees. Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 Late Fees. If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 Taxes. Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or

withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 Term. The initial term of this Agreement shall be for the period of time set forth on the Order Form (the “**Term**”). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a “**Renewal Term**”) unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

7.2 Termination. Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period (“**Cure Period**”). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the **Cure Period**, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.

7.3 Survival. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

8.1 Manufacturer Defect. Upon a malfunction or failure of Flock Hardware or Embedded Software (a “**Defect**”), Customer must notify Flock’s technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 Replacements. In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware.

8.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock’s reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER’S SOLE REMEDY, AND FLOCK’S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A

PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

ITEM #6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF

LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 10.6.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 Responsibility. Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 Flock Indemnity. Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 Ownership of Hardware. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at

Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 Deployment Plan. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 Changes to Deployment Plan. After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (<https://www.flocksafety.com/reinstall-fee-schedule>). Customer will receive prior notice and confirm approval of any such fees.

10.4 Customer Installation Obligations. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 Flock's Obligations. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 Compliance With Laws. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 Assignment. This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 Entire Agreement. This Agreement, together with the Order Form(s), the reinstall fee schedule (<https://www.flocksafety.com/reinstall-fee-schedule>), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

11.5 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 Governing Law; Venue. This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 Special Terms. Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("*Special Terms*"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 Publicity. Flock has the right to reference and use Customer's name and trademarks and disclose the nature of the Services in business and development and marketing efforts.

11.9 Feedback. If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 Export. Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation, Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESS:

ADDRESS:

ATTN:

EMAIL:

EXHIBIT B
INSURANCE

ITEM #6.

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than “A” and “VII”. Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

- (i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;
- (ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars (\$10,000,000) per occurrence and Ten Million Dollars (\$10,000,000) in the aggregate;
- (iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars (\$5,000,000) per occurrence and Five Million Dollars (\$5,000,000) in the aggregate;
- (iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars (\$5,000,000).

ITEM #6.



December 12, 2023

City of Bay City
Attn: Scotty Jones
1901 5th St.
Bay City, TX 77414

Re: Change Order 2 Justification
City of Bay City - Hardeman Park Soccer Field Lights Project

Dear Ms. Jones:

MUSCO has indicated that the "Buy Board" cost to the City for the fixtures material, unloading of the material, and setting the fixture assemblies and wiring harnesses on the six (6) poles at the south soccer field will be \$270,000. KB Electric has prepared a quote for the appurtenant work of conduit and wiring installation, mounting the control cabinet, etc. of \$60,000.

It is my recommendation that the City approve a change order to the existing contract with KB Electric for the amount of \$60,000 for completion of the lighting of the south soccer field. The addition of \$60,000 to their contract will not exceed a 25% total increase in the original contract amount.

Let me know if this is acceptable to the City and I will prepare the Change Order document for execution.

Sincerely,

John D. Mercer, PE
john.mercer@lynngroup.com

JDM/lm

N:\Civil\ENGINEER\E2500s\E2589 BAY CITY Soccer Field Lights\Construction\Change Order\CO2\CO2 Justification.docx

City of Bay City

ARP COUNCIL APPROVED & PROPOSED PROJECTS

4,353,513.57 City of Bay City ARPA Award
 225,900.00 Grant Works Administration Costs
 4,127,613.57 Amount Available for Projects

Proposed FY 24

Amount	2022	2023	2024
Airport			
1 Self Service Fuel System- Jet A- Engineering	\$ 42,600	42,600	
2 Self Service Fuel System- Jet A- Construction	\$ 271,731	271,731	
Totals for Airport Projects:	\$ 314,331	\$ -	\$ 314,331

Amount	2022	2023	2024
Equipment			
1 Encryption Public Safety Radios	\$ 100,000	100,000	
2 Backhoe	\$ 116,409	116,409	
3 Skid Steer	\$ 65,735	65,735	
4 Mini Excavator	\$ 52,311	52,311	
5 Asphalt Patcher Truck	\$ 253,693	253,693	
6 Police Units (4)	\$ 284,000		284,000
7 Public Works - Smooth Drum Roller Replacement	\$ 57,033		57,033
8 Public Works - Sheep Foot Roller Replacement	\$ 132,226		132,226
9 Public Works - Pneumatic Roller	\$ 133,958		133,958
9 Public Works - Paver	\$ 162,020		162,020
10 Public Works - Flat Bed Truck	\$ 83,476		83,476
Totals for Equipment:	\$ 1,440,861	\$ 100,000	\$ 488,148

Amount	2022	2023	2024
Streets and Drainage			
1 Hamman Road Drainage Improvements- Engineering	\$ 117,000	117,000	
2 Hamman Road Drainage Improvements- Construction	\$ 768,231	768,231	
3 Drainage Improvements- United Rentals	\$ 746,902	746,902	
4 Drainage Improvement- Tenie Holms (1/3 cost)	\$ -		
5 Drainage Contingency	\$ -		
Totals for Streets and Drainage:	\$ 1,632,133	\$ 117,000	\$ 1,515,133

Amount	2022	2023	2024
Park Improvements			
1 Ball Field Lighting - Hardeman Park Soccer Field- Eng	\$ 26,721	26,721	
2 Ball Field Lighting - Hardeman Park Soccer Field- Construction	\$ 452,200	452,200	
3 Ball Field Lighting - Hardeman Park- 6 Poles- Construction	\$ -		
4 Pools- Hillard Pool Rehab (Moved to Bond)	\$ -		
5	\$ -		
Totals for Park Improvements:	\$ 478,921	\$ -	\$ 478,921

Total ARP Proposed Projects:	\$ 3,866,246	\$ 217,000	\$ 2,796,533	\$ 852,713
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Balance of ARP Funding

261,367.73

133,958.00 Public Works - Pneumatic Roller

127,409.73 Balance

From: [Shawna Burkhart](#)
To: [Jeanna Thompson](#)
Subject: FW: Bay City - City Wide Quiet Zone Proposal - UP Only.pdf
Date: Wednesday, December 13, 2023 2:36:10 PM
Attachments: [Bay City City Wide Quiet Zone Proposal - UP Only.pdf](#)
[Bay City City Wide Quiet Zone Proposal.pdf](#)

From: Peterson, John <John.Peterson@hdrinc.com>
Sent: Monday, December 11, 2023 9:26 AM
To: Shawna Burkhart <sburkhart@cityofbaycity.org>
Cc: McNaught, Russell S. <russell.mcnaught@hdrinc.com>; Ryan, Chris <chris.ryan@hdrinc.com>; Weston, David <david.weston@hdrinc.com>; Neshyba, Keith <keith.neshyba@hdrinc.com>; Vail, Timothy <Timothy.Vail@hdrinc.com>
Subject: FW: Bay City - City Wide Quiet Zone Proposal - UP Only.pdf

Ms. Burkhart,

Please find the two attached requested proposals. I have added clarification to each one per our previous conversation. Please note that these contracts will be only up to the approval of the Notice of Intent (NOI). Once the proposed improvements are identified and approved in the NOI, we will be able to provide another proposal to implement the improvements and submit a Notice of Establishment (NOE) for approval to all stakeholders. At this time there is not sufficient information to accurately provide fees for the implementation of the quiet zone until the improvements are established as part of the NOI and accepted. Also per our conversation, updated traffic counts will not be included in this contract due to the time limit requirements associated with them. We have sufficient information for the NOI but will need updated traffic count information as part of NOE effort.

Please let me know if you have any questions or would like to discuss this in more detail.

Thanks,

John Peterson, P.E.; CFM
Associate Vice President; Municipal Practice Lead

HDR
4828 Loop Central Drive, Suite 800
Houston, TX 77081-2220
D 713-576-3529 M 409-682-3083
john.peterson@hdrinc.com

hdrinc.com/follow-us



December 7, 2023

Ms. Shawna Burkhart
City Manager
City of Bay City
1901 Fifth Street
Bay City, Texas 77414

**RE: Proposal for Professional Engineering Services: City Wide Quiet Zone
UPRR East West Track Only**

Dear Ms. Burkhart:

HDR Engineering, Inc. (HDR) is pleased to submit this proposal for the for the above referenced project. This proposal provides a general overview of the project, proposed scope of services, and a fee summary.

GENERAL OVERVIEW:

The City of Bay City currently has two independent railroad companies that traverse through the City's jurisdiction. The Burlington Northern Sante Fe Railway (BNSF) runs north/south and Union Pacific Railroad (UPRR) runs west/east. The following are the two identified rail Routes:

UPRR's Angleton Subdivision (INCLUDED IN SCOPE)

This main line between Avenue A and TxDOT's FM 457 traverses through the City from east to west. Lane and North Industrial Road. The CP/DME Railroad also maintains trackage rights on this segment. This rail segment includes eleven (11) public rail crossings and no other types of rail crossings. Based on this information gathered, all of the public crossings on the UP Angleton Subdivision meet the minimum warning device requirements for a quiet zone.

BNSF's Bay City Subdivision (NOT INCLUDED IN SCOPE)

This main line between Grace Street and Nichols Avenue traverses through the City from north to south and intersects with UP's Angleton Subdivision. Just south of this intersection, the mainline turns east towards Nichols Avenue. This rail segment has fifteen (15) grade crossings, thirteen (13) public and two (2) private. Only one public crossing on the BNSF Bay City Subdivision (4th Street, 023380Y) is currently equipped with the minimum warning devices requirements.

The City has requested HDR to provide a proposal to coordinate with ONLY UPRR for a quite zone on their Angleton Subdivision, identify improvement required to meet the identified supplementary safety measures (SSM) required to establish the quiet zone along UNION PACIFIC's Angleton Subdivision and provide the necessary documentation

to the Federal Railroad administration (FRA) to establish a quiet zone along UPRR's Angleton Subdivision. HDR ("Consultant") proposes to complete the study using the tasks described in the following scope of work. Quiet zone requirements as well as the review and implementation process are outlined in the FRA's Quiet Zone Rule.

SCOPE OF SERVICES:

HDR will perform the following Scope of Services on this Project for UPRR's Angleton Subdivision only (east/west track):

Task 1: Initiate Study

- **Online Kick-off Meeting:** Consultant will hold a kickoff meeting with the City and other interested stakeholders to discuss the overall study process, key deliverables, and study timeline. Consultant will prepare an MS PowerPoint summary including a base map of the proposed crossing locations, a summary of the relevant FRA grade crossing inventory information, and a summary of the FRA accident/incident reports for the past five years (accidents within this time frame are included in the FRA's quiet zone risk calculations).
- **Project Management Plan (PMP):** Consultant will develop a PMP to summarize the scope of work, key deliverable due dates, public engagement timelines, and review/revision periods.
- **Project Management Team (PMT):** Consultant will work with the city to establish a PMT consisting of stakeholders from the City of Bay City and other agencies. The PMT will guide the overall development of the study. Monthly PMT check-in meetings will be held via teleconference to provide updates on study progress and to receive comments on draft materials.
- **Contact Stakeholders:** Early communication with relevant stakeholders will be critical to study success. Consultant will establish contact with representatives from the FRA, UPRR, TxDOT, and other partner agencies to inform them of the study and request information needed to complete the study.

Task 2: Preliminary Investigation/Risk Index Update and Review

- **Data Collection:** Consultant will collect grade crossing inventory forms and accident/incident reports for each grade crossing along the UPRR railroad corridor. Data in the inventory will be compared and confirmed against the TxDOT grade crossing database and or the railroad's internal records. Confirm inventory traffic counts with City and collect updated traffic counts from the City if available. Traffic counts should be within one to three years for the FRA risk calculations. Grade crossing information will be summarized to highlight which crossings will need to be upgraded to meet the minimum requirements for quiet zone implementation.

- **Map/Layout Development:** Consultant will prepare base map showing crossing locations and type. Prepare individual crossing aeriels to highlight layout and characteristics of each crossing.
- **Initial Risk Calculations:** Consultant will conduct preliminary risk calculation using FRA's online risk calculator. The inputs for each crossing will be updated based on the collected data. This calculation of the current risk levels will highlight the relative risk from crossing to crossing. Safety improvements at high-risk crossings will be more effective than improvements at low-risk crossings.

Task 3: Preliminary Design Stage and Agency Input

- **Field Diagnostic Meetings:** Consultant will coordinate and facilitate an on-site meeting with representatives from FRA, TxDOT, UPRR, the City, and other partner stakeholders. The purpose of the meeting is to conduct a crossing-by-crossing walkthrough to determine existing conditions and identify relevant safety issues that should be addressed. Appropriate supplementary safety measures (SSMs) and alternative safety measures (ASMs) will be identified by the diagnostic team. Consultant will prepare diagnostic meeting packets for the participants including:
 - a. Evaluation form and aerial image of each crossing to record findings and discussion
 - b. Overview map of the corridor
 - c. FRA grade crossing inventory forms for each crossing
 - d. Accident/incident reports for each crossing (within past five years).

Consultant will prepare and distribute meeting minutes documenting the discussion and recommendations of the group. Draft minutes will be submitted to attendees for review and comment prior to being finalized.

Task 4: Concept Development and Evaluation

- **Improvement Scenario Development:** Consultant will develop up to five quiet zone implementation scenarios based on the SSM and ASM improvements recommended during the diagnostic meeting. Consultant will work with the City to develop a range of scenarios with specific focuses including: 1) providing the greatest reduction in risk level, 2) identifying the lowest cost option that allows for implementation, and 3) identifying the scenario with the smallest impact to access to properties adjacent to the crossings. For this task, consultant will use a custom spreadsheet tool to mix and match improvement options at each crossing. This will allow the consultant to quickly develop improvement scenarios and immediately see their impact on estimated risk levels and their relation to the risk thresholds required for quiet zone implementation.

Consultant will work to create improvement scenarios that result in a quiet zone risk level below the Risk Index With Horns (RIWH) threshold as calculated by the FRA quiet zone calculator. Meeting this threshold will allow

for easier implementation and substantially reduce the potential that the quiet zone would be revoked in the future. Improvement scenarios that result in a quiet zone risk level below the Nationwide Significant Risk Threshold (NSRT) will also be considered.

- **Open House:** Coordinate and facilitate a public open house to present the findings of the study, outline the various improvement scenarios developed for the corridor, and describe the benefits and costs of each. The open house will also provide an overview of the quiet zone review and implementation process.

Task 5: Final Report and Presentation to City Council

- **Draft and Final Report:** Consultant will prepare draft final report summarizing the quiet zone evaluation process including the diagnostic review recommendations, the proposed improvement scenarios (with planning-level layouts and cost estimates), and a discussion of the next steps required for quiet zone implementation. The final report will include detailed implementation plan and the following information:
 - a. Recommended prioritization of crossing safety improvements.
 - b. Planning-level layouts and cost estimates for proposed improvements.
 - c. Estimated timeline for implementation including construction, document review time by the FRA and railroad, and a final date for quiet zone establishment.
 - d. Summary of quiet zone risk levels used to establish quiet zone designation.
 - e. Identification of potential funding sources. Potential sources of funding include TxDOT Section 130 funds and Federal Consolidated Rail Infrastructure and Safety improvements (CRISI) program funding. In some cases, railroads may also provide incentive funding in exchange for crossing closure, consolidation, or other similar efforts.

The report will be finalized after incorporating feedback from City staff and the Bay City Council

- **Presentation to City Council:** Consultant will develop and present a PowerPoint presentation summarizing the findings of the draft report to the City Council to discuss the proposed improvement options and the benefits and costs of each. It is assumed that this meeting will be held in person.

Task 6: Quiet Zone Implementation

- **Documents for Quiet Zone Implementation:** Consultant will prepare and submit documents to establish a Quiet Zone Notice of Intent (NOI) approval from the FRA, Railroads, and other stakeholders as required by the FRA Quiet Zone Rule (UPRR Railroad Only).

- Once the notice the NOI is approved by all governing bodies this contract will be completed.

Other Additional Services

Other Additional Services are those services that are beyond the Scope of Services section of this proposal. Additional Services shall only be performed when directed by the City to HDR. These services are following phases, not considered normal or customary engineering services and may include, but not be limited to, the following:

- No fees are included in this proposal to implement the identified improvements in the approved NOI, CWT Waiver Request, and Notice of Establishment (NOE). The specific documentation required will not be known until the preferred implementation scenario is selected by the City and approved by all governing bodies. Services for developing and submitting these documents and any additional quiet zone implementation services will be negotiated under a separate agreement.
- Services resulting from significant changes in the extent of the project or its design including but not limited to changes in size, complexity, schedule, or character of construction or method of financing; and revising previously accepted studies, reports design documents or Contract Documents when such revisions are due to causes beyond HDR's control.
- Preparing documents for alternate bids outside of the original scope requested by the City or documents for out of sequence work.
- Preparing to serve, or serving as a consultant, or witness for the City in any litigation, public hearing or other legal or administrative proceedings involving the Project.

HDR will endeavor to appraise the City of any potential additional or extended services that may result from the above listed items, prior to HDR's expenditure of time on such services. As previously noted, any such extended or additional services shall only be performed when directed by the City to HDR. Any appropriate engineering fee for these additional services will be negotiated with the City as an amendment to HDR's contract, as required.

FEES:

Task 1 (Lump Sum):	\$ 8,800.00
Task 2 (Lump Sum):	\$ 7,750.00
Task 3 (lump Sum):	\$ 15,300.00
Task 4 (Lump Sum):	\$ 16,000.00
Task 5 (Lump Sum):	\$ 9,850.00
Certified Mailing (Lump Sum):	\$ 100.00
Total Fee:	\$ 57,800.00

SCHEDULE:

The anticipated project schedule will take 7 Months to complete.

TERMS AND CONDITIONS:

The terms and conditions between the City and the HDR for this proposed project are attached as Attachment "A".

HDR will invoice monthly. The invoice package will include the percentage of the project complete.

We appreciate the opportunity to be of service on this project. If you have any questions, please do not hesitate to contact me at (713)-622-9264.

Sincerely,

HDR ENGINEERING, INC.



David Weston
Vice President/ Area Manager

ACCEPTANCE: City of Bay City

City of Bay City

Date

Attachments

- Terms and Conditions



December 7, 2023

Ms. Shawna Burkhart
City Manager
City of Bay City
1901 Fifth Street
Bay City, Texas 77414

RE: Proposal for Professional Engineering Services: City Wide Quiet Zone

Dear Ms. Burkhart:

HDR Engineering, Inc. (HDR) is pleased to submit this proposal for the for the above referenced project. This proposal provides a general overview of the project, proposed scope of services, and a fee summary.

GENERAL OVERVIEW:

The City of Bay City currently has two independent railroad companies that traverse through the City's jurisdiction. The Burlington Northern Sante Fe Railway (BNSF) runs north/south and Union Pacific Railroad (UPRR) runs west/east. The following are the two identified rail Routes:

UPRR's Angleton Subdivision

This main line between Avenue A and TxDOT's FM 457 traverses through the City from east to west. Lane and North Industrial Road. The CP/DME Railroad also maintains trackage rights on this segment. This rail segment includes eleven (11) public rail crossings and no other types of rail crossings. Based on this information gathered, all of the public crossings on the UP Angleton Subdivision meet the minimum warning device requirements for a quiet zone.

BNSF's Bay City Subdivision

This main line between Grace Street and Nichols Avenue traverses through the City from north to south and intersects with UP's Angleton Subdivision. Just south of this intersection, the mainline turns east towards Nichols Avenue. This rail segment has fifteen (15) grade crossings, thirteen (13) public and two (2) private. Only one public crossing on the BNSF Bay City Subdivision (4th Street, 023380Y) is currently equipped with the minimum warning devices requirements. The other crossings in the corridor will need to be updated accordingly.

The City has request HDR to provide a proposal to coordinate with both railroad companies, identify improvement required to meet the identified supplementary safety measures (SSM) required to establish the city wide quiet zone and provide the necessary documentation to the Federal Railroad administration (FRA) to establish a City wide quiet

zone in the City limits. HDR ("Consultant") proposes to complete the study using the tasks described in the following scope of work. Quiet zone requirements as well as the review and implementation process are outlined in the FRA's Quiet Zone Rule.

SCOPE OF SERVICES:

HDR will perform the following Scope of Services on this Project:

Task 1: Initiate Study

- **Online Kick-off Meeting:** Consultant will hold a kickoff meeting with the City and other interested stakeholders to discuss the overall study process, key deliverables, and study timeline. Consultant will prepare an MS PowerPoint summary including a base map of the proposed crossing locations, a summary of the relevant FRA grade crossing inventory information, and a summary of the FRA accident/incident reports for the past five years (accidents within this time frame are included in the FRA's quiet zone risk calculations).
- **Project Management Plan (PMP):** Consultant will develop a PMP to summarize the scope of work, key deliverable due dates, public engagement timelines, and review/revision periods.
- **Project Management Team (PMT):** Consultant will work with the city to establish a PMT consisting of stakeholders from the City of Bay City and other agencies. The PMT will guide the overall development of the study. Monthly PMT check-in meetings will be held via teleconference to provide updates on study progress and to receive comments on draft materials.
- **Contact Stakeholders:** Early communication with relevant stakeholders will be critical to study success. Consultant will establish contact with representatives from the FRA, UP, BNSF, TxDOT, and other partner agencies to inform them of the study and request information needed to complete the study.

Task 2: Preliminary Investigation/Risk Index Update and Review

- **Data Collection:** Consultant will collect grade crossing inventory forms and accident/incident reports for each grade crossing in the study corridor. Data in the inventory will be compared and confirmed against the TxDOT grade crossing database and or the railroad's internal records. Confirm inventory traffic counts with City and collect updated traffic counts from the City if available. Traffic counts should be within one to three years for the FRA risk calculations. Grade crossing information will be summarized to highlight which crossings will need to be upgraded to meet the minimum requirements for quiet zone implementation.
- **Map/Layout Development:** Consultant will prepare base map showing crossing locations and type. Prepare individual crossing aerials to highlight layout and characteristics of each crossing.

- **Initial Risk Calculations:** Consultant will conduct preliminary risk calculation using FRA's online risk calculator. The inputs for each crossing will be updated based on the collected data. This calculation of the current risk levels will highlight the relative risk from crossing to crossing. Safety improvements at high-risk crossings will be more effective than improvements at low-risk crossings.

Task 3: Preliminary Design Stage and Agency Input

- **Field Diagnostic Meetings:** Consultant will coordinate and facilitate an on-site meeting with representatives from FRA, TxDOT, UPRR, BNSF, the City, and other partner stakeholders. The purpose of the meeting is to conduct a crossing-by-crossing walkthrough to determine existing conditions and identify relevant safety issues that should be addressed. Appropriate supplementary safety measures (SSMs) and alternative safety measures (ASMs) will be identified by the diagnostic team. Consultant will prepare diagnostic meeting packets for the participants including:
 - a. Evaluation form and aerial image of each crossing to record findings and discussion
 - b. Overview map of the corridor
 - c. FRA grade crossing inventory forms for each crossing
 - d. Accident/incident reports for each crossing (within past five years).

Consultant will prepare and distribute meeting minutes documenting the discussion and recommendations of the group. Draft minutes will be submitted to attendees for review and comment prior to being finalized.

Task 4: Concept Development and Evaluation

- **Improvement Scenario Development:** Consultant will develop up to five quiet zone implementation scenarios based on the SSM and ASM improvements recommended during the diagnostic meeting. Consultant will work with the City to develop a range of scenarios with specific focuses including: 1) providing the greatest reduction in risk level, 2) identifying the lowest cost option that allows for implementation, and 3) identifying the scenario with the smallest impact to access to properties adjacent to the crossings. For this task, consultant will use a custom spreadsheet tool to mix and match improvement options at each crossing. This will allow the consultant to quickly develop improvement scenarios and immediately see their impact on estimated risk levels and their relation to the risk thresholds required for quiet zone implementation.

Consultant will work to create improvement scenarios that result in a quiet zone risk level below the Risk Index With Horns (RIWH) threshold as calculated by the FRA quiet zone calculator. Meeting this threshold will allow for easier implementation and substantially reduce the potential that the quiet zone would be revoked in the future. Improvement scenarios that result in a

quiet zone risk level below the Nationwide Significant Risk Threshold (NSRT) will also be considered.

- **Open House:** Coordinate and facilitate a public open house to present the findings of the study, outline the various improvement scenarios developed for the corridor, and describe the benefits and costs of each. The open house will also provide an overview of the quiet zone review and implementation process.

Task 5: Final Report and Presentation to City Council

- **Draft and Final Report:** Consultant will prepare draft final report summarizing the quiet zone evaluation process including the diagnostic review recommendations, the proposed improvement scenarios (with planning-level layouts and cost estimates), and a discussion of the next steps required for quiet zone implementation. The final report will include detailed implementation plan and the following information:
 - a. Recommended prioritization of crossing safety improvements.
 - b. Planning-level layouts and cost estimates for proposed improvements.
 - c. Estimated timeline for implementation including construction, document review time by the FRA and railroad, and a final date for quiet zone establishment.
 - d. Summary of quiet zone risk levels used to establish quiet zone designation.
 - e. Identification of potential funding sources. Potential sources of funding include TxDOT Section 130 funds and Federal Consolidated Rail Infrastructure and Safety improvements (CRISI) program funding. In some cases, railroads may also provide incentive funding in exchange for crossing closure, consolidation, or other similar efforts.

The report will be finalized after incorporating feedback from City staff and the Bay City Council

- **Presentation to City Council:** Consultant will develop and present a PowerPoint presentation summarizing the findings of the draft report to the City Council to discuss the proposed improvement options and the benefits and costs of each. It is assumed that this meeting will be held in person.

Task 6: Quiet Zone Implementation

- **Documents for Quiet Zone Implementation:** Consultant will prepare and submit documents to establish a Quiet Zone Notice of Intent (NOI) approval from the FRA, Railroads, and other stakeholders as required by the FRA Quiet Zone Rule.
- Once the notice the NOI is approved by all governing bodies this contract will be completed.

Other Additional Services

Other Additional Services are those services that are beyond the Scope of Services section of this proposal. Additional Services shall only be performed when directed by the City to HDR. These services are following phases, not considered normal or customary engineering services and may include, but not be limited to, the following:

- No fees are included in this proposal to implement the identified improvements in the approved NOI, CWT Waiver Request, and Notice of Establishment (NOE). The specific documentation required will not be known until the preferred implementation scenario is selected by the City and approved by all governing bodies. Services for developing and submitting these documents and any additional quiet zone implementation services will be negotiated under a separate agreement.
- Services resulting from significant changes in the extent of the project or its design including but not limited to changes in size, complexity, schedule, or character of construction or method of financing; and revising previously accepted studies, reports design documents or Contract Documents when such revisions are due to causes beyond HDR's control.
- Preparing documents for alternate bids outside of the original scope requested by the City or documents for out of sequence work.
- Preparing to serve, or serving as a consultant, or witness for the City in any litigation, public hearing or other legal or administrative proceedings involving the Project.

HDR will endeavor to appraise the City of any potential additional or extended services that may result from the above listed items, prior to HDR's expenditure of time on such services. As previously noted, any such extended or additional services shall only be performed when directed by the City to HDR. Any appropriate engineering fee for these additional services will be negotiated with the City as an amendment to HDR's contract, as required.

FEES:

Task 1 (Lump Sum):	\$ 8,800.00
Task 2 (Lump Sum):	\$ 11,500.00
Task 3 (lump Sum):	\$ 18,200.00
Task 4 (Lump Sum):	\$ 25,700.00
Task 5 (Lump Sum):	\$ 14,200.00
Certified Mailing (Lump Sum):	\$ 100.00
Total Fee:	\$ 78,500.00

SCHEDULE:

The anticipated project schedule will take 7 Months to complete.

TERMS AND CONDITIONS:

The terms and conditions between the City and the HDR for this proposed project are attached as Attachment "A".

HDR will invoice monthly. The invoice package will include the percentage of the project complete.

We appreciate the opportunity to be of service on this project. If you have any questions, please do not hesitate to contact me at (713)-622-9264.

Sincerely,

HDR ENGINEERING, INC.



David Weston
Vice President/ Area Manager

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