



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 5, 2016 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Williams**
- 3. Service Recognition**
 - **Wanda Kramer, Utility Department - 40 Years**
- 4. a. Special Recognition**
 - **GFOA Distinguished Budget Presentation Award**
b. Proclamation
 - **Motorcycle Awareness Month**
 - **National Preservation Month & Local History Days**
- 5. Citizens Comments**

Pages 1-2

CONSENT AGENDA

6. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

- 6-a. Ordinance No. O-16-009 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District From a Single Family Residential Use (R-1) District to a Mixed Residential Use (R-2) District on a Tract of Land Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas**

Pages 3-5

- 6-b. Ordinance No. O-16-010 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow a Multifamily Development on a Site of Two (2) or More Acres of Land Being Described as 4.293 Acres Out of the Phillip Coe Survey, A-31, Located on the North Side of Old Mill Creek Road in Brenham, Washington County, Texas **Pages 6-9**
- 6-c. Ordinance No. O-16-011 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as 2.119 Acres Out of the Phillip Coe Survey, Located on the Northwest Corner of the Intersection of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas **Pages 10-12**
- 6-d. Ordinance No. O-16-012 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District From a Single Family Residential Use (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as Lot 7A and Lot 11A, Block 9, Washington Terrace Addition, Out of the A. Harrington Survey, A-55, Located at the Southeast Intersection of Ewing Street and Rucker Street in Brenham, Washington County, Texas **Pages 13-15**

WORK SESSION

7. Presentation and Discussion Regarding Digital Billboards within the City of Brenham’s City Limits and Extra Territorial Jurisdiction (ETJ) **Pages 16-40**

REGULAR SESSION

8. Discuss and Possibly Act Upon Bid No. 16-007 Related to Concrete for the Library Parking Lot Project and Authorize the Mayor to Execute Any Necessary Documentation **Pages 41-45**
9. Discuss and Possibly Act Upon a Contract with Ricoh USA, Inc. for Leased Office Automation Equipment and Authorize the Mayor to Execute Any Necessary Documentation **Pages 46-50**
10. Discuss and Possibly Act Upon Resolution No. R-16-016 Authorizing the Acceptance of Public Improvements in the Ralston Creek Subdivision, Phases 2 and 3, and Authorize the Mayor to Execute Any Necessary Documentation **Pages 51-74**

11. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Residential Lot Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 95, 19.94 Acres, Out of the Phillip Coe Survey, A-31, Located at 940 Farmers Road, in Brenham, Washington County, Texas** **Pages 75-87**
12. **Discuss and Possibly Act Upon a Ground Space Lease Agreement with David Loendorf for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 88-97**
13. **Discuss and Possibly Act Upon a Request for a Noise Variance from Washington County Historical Juneteenth Association for a Juneteenth Celebration at Fireman's Park to be Held on June 17, 2016 from 7:00 p.m. – 11:00 p.m. and June 18, 2016 from 12:00 p.m. – 4:00 p.m. and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 98-99**
14. **Administrative/Elected Officials Report**

EXECUTIVE SESSION

15. **Section 551.074 - Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Contract for City Prosecutor** **Page 100**

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutory recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

Executive Sessions: The City Council for the City of Brenham reserves the right to convene into executive session at any time during the course of this meeting to discuss any of the matters listed, as authorized by Texas Government Code, Chapter 551, including but not limited to §551.071 – Consultation with Attorney, §551.072 – Real Property, §551.073 – Prospective Gifts, §551.074 - Personnel Matters, §551.076 – Security Devices, §551.086 - Utility Competitive Matters, and §551.087 – Economic Development Negotiation

CERTIFICATION

I certify that a copy of the May 5, 2016 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on May 2, 2016 at 12:30 PM.

Kacey A. Weiss

Deputy City Secretary

Disability Access Statement: This meeting is wheelchair accessible. The accessible entrance is located at the Vulcan Street entrance to the City Administration Building. Accessible parking spaces are located adjoining the entrance. Auxiliary aids and services are available upon request (interpreters for the deaf must be requested twenty-four (24) hours before the meeting) by calling (979) 337-7567 for assistance.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2016 at _____ AM PM.

Signature

Title

Proclamation

WHEREAS, The month of May marks the traditional start of riding season; motorcycles become more prevalent on our streets; the need to be aware of their presence is of the utmost urgency; and

WHEREAS, Motorcycle Awareness Month is designed to increase public awareness about motorcycles; encourage their safe and proper use among motorcycle riders; is worth special recognition; and

WHEREAS, Motorcycles occupy a very important position in the history of our State and Nation; and

WHEREAS, The motorcycle is an efficient vehicle which reduces fuel consumption, has little impact on our overworked roads and highway system, is an important mode of transportation for commuting, touring and recreation; and

WHEREAS, Over two-thirds of car-motorcycle crashes and nearly one-half of all motorcycle crashes are caused by car drivers, not by motorcyclists; and

WHEREAS, Several organizations are committed to increasing the safe operation of motorcycles by promoting rider safety education programs and by providing safety instruction at local chapter meetings; and

WHEREAS, Citizens should recognize the fact that motorcycle operators have the same rights and privileges as operators of other vehicles on all roads and highways; and

WHEREAS, It is in the best interest of our community and citizens to note the increase in the amount of motorcycle traffic, as we enter the warm weather months, to enable the reduction of accidents and injuries involving motorcyclists.

NOW, THEREFORE, I, Milton Y. Tate, Jr., Mayor of the City of Brenham, Texas do Hereby Proclaim May, 2016 as

MOTORCYCLE AWARENESS MONTH

In Witness, Whereof, I have set my hand and affixed the Seal of Brenham.

Milton Y. Tate Jr., Mayor
City of Brenham

PROCLAMATION

- WHEREAS,** Historic preservation is an effective tool for managing growth and sustainable development, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and
- WHEREAS,** It is important to celebrate the role of history in our lives and the contributions made by dedicated individuals helping to preserve the tangible aspects of the heritage that has shaped us as a people; and
- WHEREAS,** May 2016 is recognized as National Preservation Month, with the theme *This Place Matters*; and
- WHEREAS,** The stories of our community, our people, our land, and our legendary past are all around us, and are built into the very bricks of our city; and
- WHEREAS,** Children exposed to community history in a creative and memorable way will come to read more, do better in school, and will grow up to support historic preservation programs as adults; and
- WHEREAS,** Today's students will someday be in a position to preserve the history of Brenham and will become the donors, the benefactors, the volunteers, the teachers and the supporters of museums, historic conservation, public art and more; and
- WHEREAS,** Main Street Brenham, Brenham Heritage Museum, Heritage Society of Washington County and the Brenham Fire Department are partnering with the Brenham Independent School District to present our fascinating and unique local history to our school children;

NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham, Texas do hereby Proclaim Tuesday, May 17, and Friday, May 20, 2016 as

LOCAL HISTORY DAYS

In Witness, Whereof, I have set my hand and affixed the Seal of Brenham.

Milton Y. Tate Jr., Mayor
City of Brenham

ORDINANCE NO. O-16-009

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, CHANGING THE OFFICIAL ZONING MAP FROM A RESIDENTIAL (R-1) DISTRICT TO A MIXED RESIDENTIAL (R-2) DISTRICT ON 4.293 ACRES OF LAND LOCATED ON THE NORTH SIDE OF OLD MILL CREEK ROAD OUT OF THE PHILLIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning amendments within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on March 7, 2016; and

WHEREAS, this amendment is in compliance with the City of Brenham’s “Envision 2020” Comprehensive Plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended by changing the zoning from a Residential (R-1) District to Mixed Residential (R-2) District on 4.293 acres of land on the north side of Old Mill Creek Road out of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, said 4.239 acres of land being more particularly described on Exhibit “A” attached hereto and incorporated herein for all purposes.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

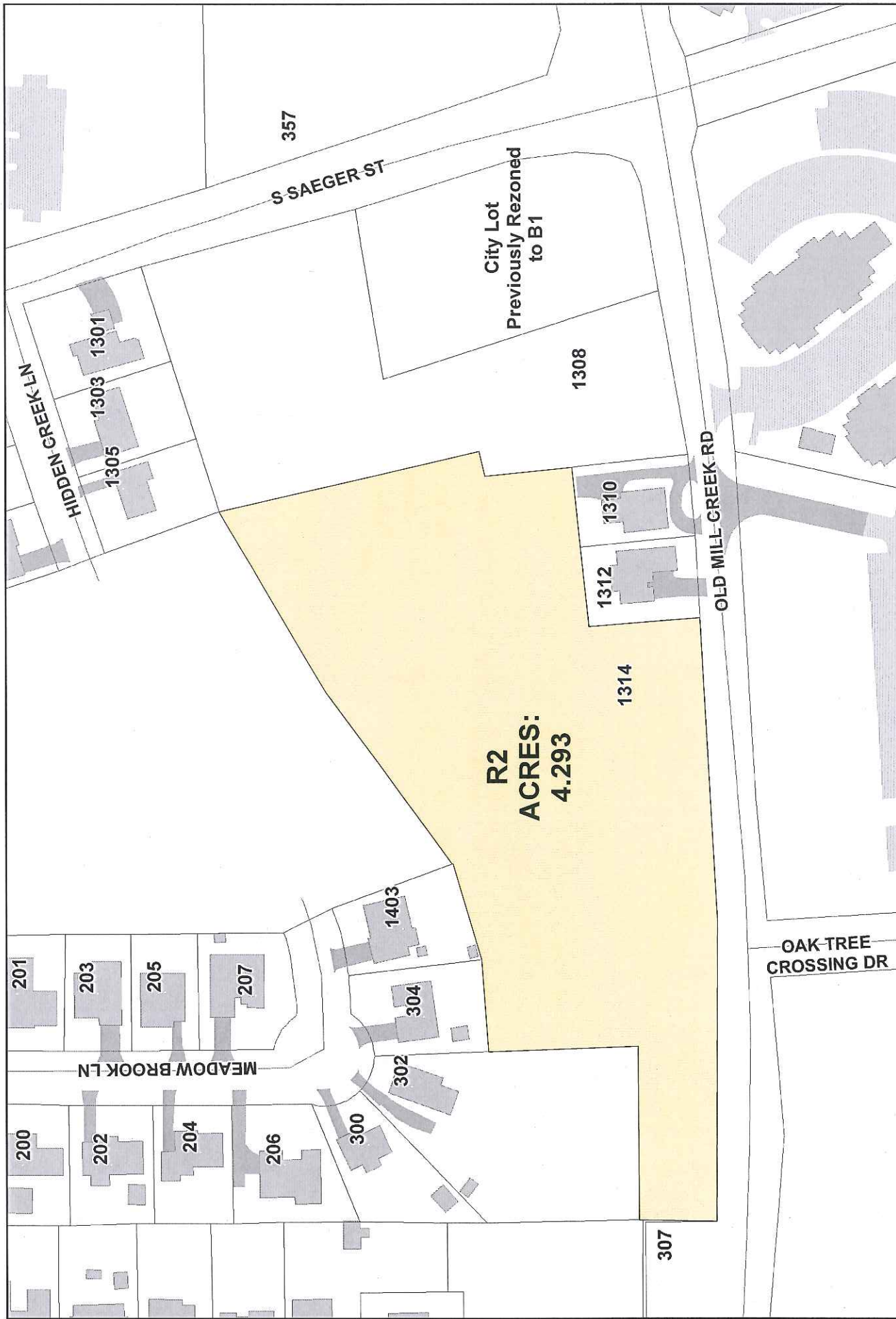
PASSED and APPROVED on its first reading this the 21st April, 2016.

PASSED and APPROVED on its second reading this the 5th day of May, 2016.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



1 inch = 125 feet



Blinn Mill Creek Subdivision "Zoning Exhibit R2"



ORDINANCE NO. O-16-010

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT TO MILL CREEK SAEGER LLC ON BEHALF OF L&E BOETTCHER FAMILY PARTNERSHIP, LTD, BOETTCHER BUILDING CENTER OF BRENHAM, LAND OWNER, FOR A MULTIFAMILY DEVELOPMENT THAT MEETS THE STANDARD DENSITY REQUIREMENTS FOR THE R-2 DISTRICT, AND THAT IS PROPOSED FOR A DEVELOPMENT SITE OF TWO (2) ACRES OR MORE IN AN R-2 (MIXED RESIDENTIAL) ZONING DISTRICT, BEING LOCATED ON THE NORTH SIDE OF OLD MILL CREEK ROAD, AND BEING FURTHER DESCRIBED AS 4.293 ACRES OUT OF THE PHILIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on March 7, 2016 with a condition requiring trees to remain or be replaced in the 20’ buffer yard requirement between the 4.293 acre tract and any abutting property zoned as R-1 Single Family Residential; and

WHEREAS, this amendment will include a condition to require a .33 acre open space area be preserved in the southwestern-most corner of the 4.293 acre tract of land, and mandating that the open space area will remain as a vegetative area to be left as an undeveloped and undisturbed open space area; and

WHEREAS, the City Council desires to approve this Ordinance granting the specific use permit, with conditions, as described herein below;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to grant a specific use permit to Mill Creek Saeger, LLC on behalf of L&E Boettcher Family Partnership, LTD, Boettcher Building Center of Brenham, land owner, its successors and assigns, for a Multifamily development that meets the standard density requirements for the R-2 District, and that is proposed for a development site of two (2) acres or more in an R-2 (Mixed Residential) zoning district, being located on the north side of Old Mill Creek Road and being further described as 4.293 acres out of the Philip Coe Survey, A-31, in Brenham, Washington County, Texas (the "Property"), said 4.293 acres of land being more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes.

SECTION 2. The development of the Property shall be in accordance with the following special conditions, restrictions and regulations:

1. Mill Creek Saeger, LLC shall prepare a tree survey and submit said tree survey to the City of Brenham Development Services Manager prior to removal of any trees on site showing the tree caliper size, locations of the trees, and the type of tree. Tree survey shall only be required for the twenty foot (20') buffer yard adjacent to property zoned as R-1 Single Family Residential.
2. Replacement trees shall be required if existing trees are removed during construction, unless the tree caliper size is less than 3.00 inches. Trees with a caliper size of less than 3.00 inches will not be required to be replaced.
3. A tree with a caliper size of 3.00 inches to 8.00 inches shall remain in place or be replaced with a tree having a caliper size within the same size range if removed during construction.
4. A tree with a caliper size of more than 8.00 inches to 12.00 inches shall remain in place, or if removed: 1) be replaced with a tree having a caliper size within the same size range; or 2) be replaced with two (2) trees having a caliper size of 3.00 inches to 8.00 inches.
5. A tree with a caliper size of more than 12.00 inches and above shall remain in place, or if removed: 1) be replaced with a tree having a caliper size within the same size range; 2) be replaced with two (2) trees having a caliper size of more than 8.00 inches to 12.00 inches; or 3) be replaced with three (3) trees having a caliper size of 3.00 inches to 8.00 inches.
6. Penalties and fines shall be assessed in accordance with those set forth in the City of Brenham Appendix – A, Zoning Ordinance.

7. City staff will do an inspection of the Property prior to a Certificate of Occupancy being issued in order to verify the trees have remained in place, or have been replaced, in accordance with this Ordinance. The City will not issue a Certificate of Occupancy for any improvement on the Property unless and until Mill Creek Saeger, LLC is able to demonstrate its full compliance with this Ordinance.
8. A .33 acre open space area is required to be preserved in the southwestern-most corner of the 4.293 acre tract of land, and the open space area will remain as a vegetative area to be left as an undeveloped and undisturbed open space area.

SECTION 3. This Ordinance shall take effect immediately upon the occurrence of all of the following: 1) compliance with the requirements of the Charter of the City of Brenham, Texas; and 2) the City of Brenham Planning and Zoning Commission's approval of a final plat of this property into (1) single lot, and the recording of said final plat in the official records of Washington County, Texas.

SECTION 4. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind the Specific Use Permit granted by this Ordinance if:

- a. There is a violation and conviction of any of the provisions of this Ordinance, or any ordinance of the City of Brenham, that occurs on the Property;
- b. The premises, or Property, used pursuant to the Specific Use Permit granted by this Ordinance are enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;
- c. As otherwise permitted by law and/or Brenham's Zoning Ordinance, as it exists or may be amended.

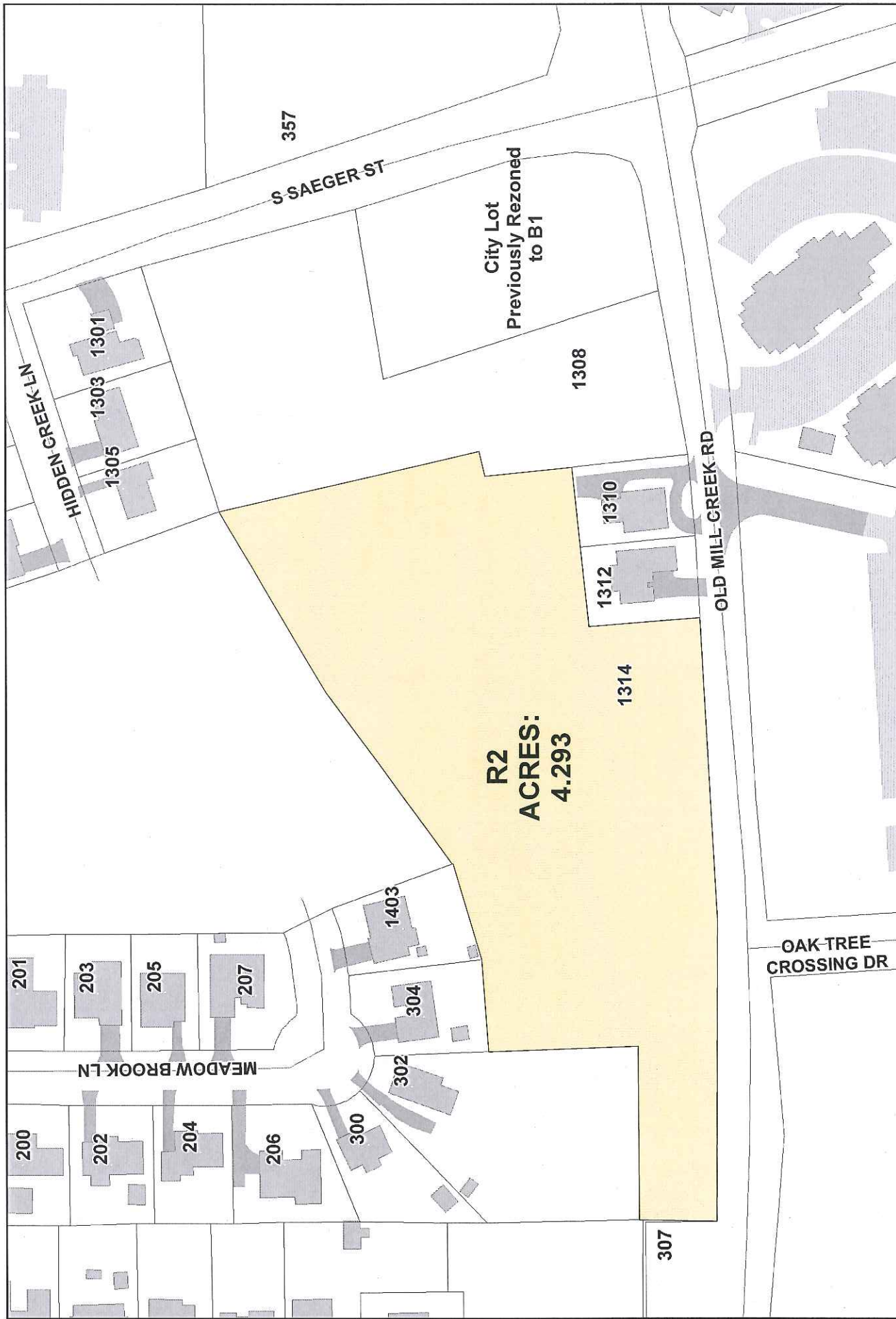
PASSED and APPROVED on its first reading this the 21st day of April, 2016.

PASSED and APPROVED on its second reading this the 5th day of May, 2016.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



Blinn Mill Creek Subdivision "Zoning Exhibit R2"



ORDINANCE NO. O-16-011

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, CHANGING THE OFFICIAL ZONING MAP FROM A RESIDENTIAL (R-1) DISTRICT TO A LOCAL BUSINESS/RESIDENTIAL MIXED USE (B-1) DISTRICT ON 2.119 ACRES OF LAND LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF OLD MILL CREEK ROAD AND SOUTH SAEGER STREET OUT OF THE PHILLIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning amendments within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on March 7, 2016; and

WHEREAS, this amendment is in compliance with the City of Brenham’s “Envision 2020” Comprehensive Plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended by changing the zoning from a Residential (R-1) District Local/Residential Mixed Use (B-1) District on 2.119 acres of land on the northwest corner of the intersection of Old Mill Creek Road and Saeger Street out of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, said 2.119 acres of land being more particularly described on Exhibit “A” attached hereto and incorporated herein for all purposes.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

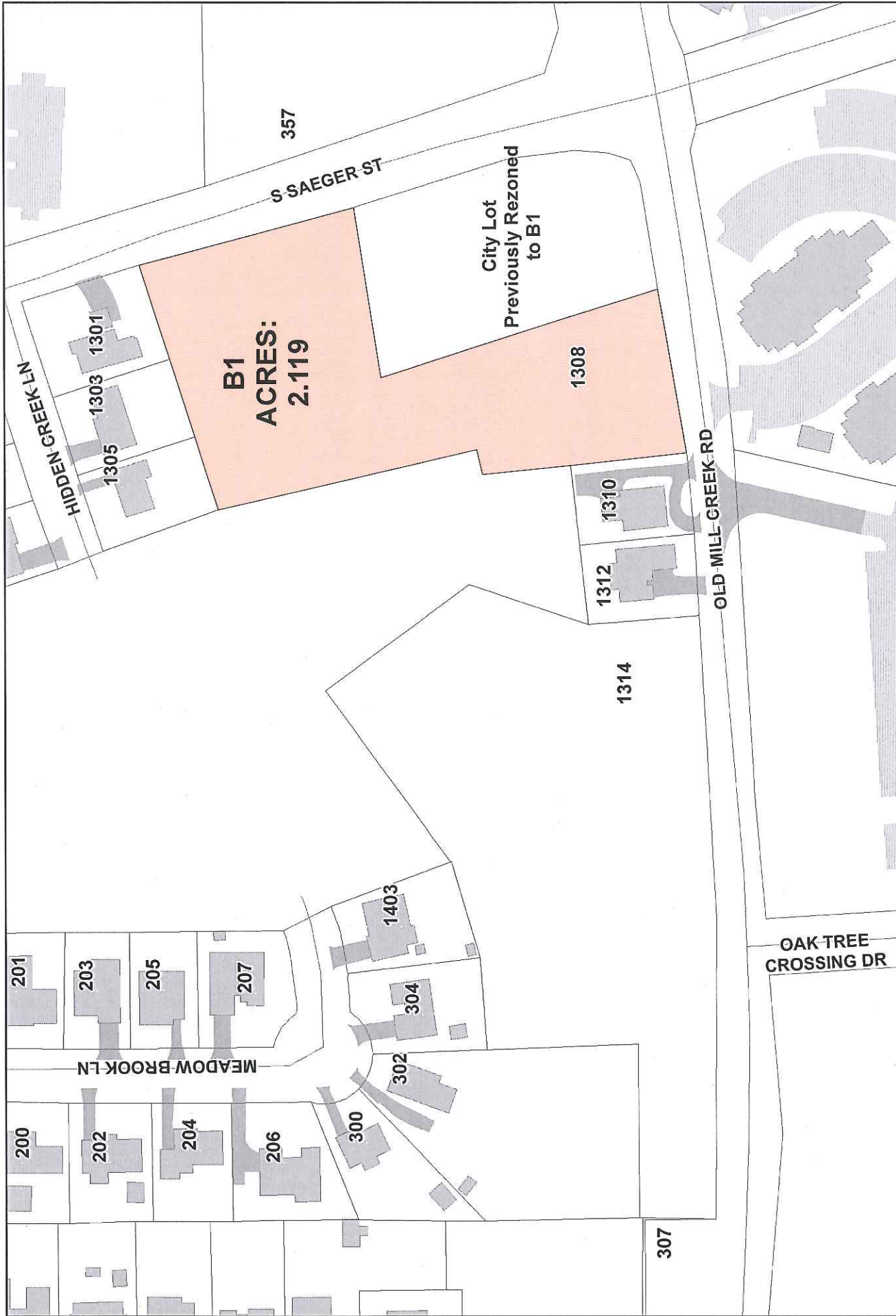
PASSED and APPROVED on its first reading this the 21st day of April, 2016.

PASSED and APPROVED on its second reading this the 5th day of May, 2016.

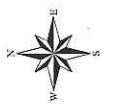
Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



1 inch = 125 feet



Blinn Mill Creek Subdivision "Zoning Exhibit B1"



ORDINANCE NO. O-16-012

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, CHANGING THE OFFICIAL ZONING MAP FROM A RESIDENTIAL (R-1) DISTRICT TO A LOCAL BUSINESS/RESIDENTIAL MIXED USE (B-1) DISTRICT FOR LOT 7A AND LOT 11A, BLOCK 9, WASHINGTON TERRACE ADDITION REPLAT OF LOTS 3, 5, 7, 9, & 11, OUT OF THE A. HARRINGTON SURVEY, A-55, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning amendments within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on March 28, 2016; and

WHEREAS, this amendment is in compliance with the City of Brenham’s “Envision 2020” Comprehensive Plan; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended by changing the zoning from a Residential (R-1) District to a Local/Residential Mixed Use (B-1) District for Lot 7A and Lot 11A, Block 9, Washington Terrance Addition Replat of Lots 3, 5, 7, 9 & 11, out of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas, said land being more particularly described on Exhibit “A” attached hereto and incorporated herein for all purposes.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the 21st day of April, 2016.

PASSED and APPROVED on its second reading this the 5th day of May, 2016.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 7

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 28, 2016
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Erik Smith

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	☐ PUBLIC HEARING ☐ CONSENT ☐ REGULAR ☒ WORK SESSION	☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION

AGENDA ITEM DESCRIPTION: Presentation and Discussion Regarding Digital Billboards within the City of Brenham’s City Limits and Extra Territorial Jurisdiction (ETJ)

SUMMARY STATEMENT: City staff was approached by Thomas Whisnant who works for SignAD Outdoor a few months back about installing digital billboards within the City of Brenham city limits and the City’s extra territorial jurisdiction “ETJ”. Staff at that time explained to this individual that currently there are three sections of ordinance which would prohibit staff from permitting these types of signs. Those three items are 1) Billboards are prohibited 2) Off premise signs are prohibited 3) Spectacular signs are prohibited. Mr. Whisnant inquired as to what he might need to do to request an amendment to the City’s ordinances to allow digital billboards. I explained to Mr. Whisnant this would be a policy direction that would need to come from our City Council. I have also explained to Mr. Whisnant that I have not had any complaints of note regarding our regulation on digital billboards within the City limits and ETJ. I also explained to Mr. Whisnant there is no reason for me to believe, as a staff member, I should explore amending this specific ordinance without City Councils direction.

Mr. Whisnant would still like to have an opportunity to express his desire to have the ordinance amended. He has brought up a couple things he has done in the past to be allowed to install digital billboards in cities that have historically not allowed digital billboards or billboards in general. One of those things is removing a certain number of face plates on a pole and replacing a digital billboard at a ratio that will reduce the overall number of billboard faces inside the city limits. Keep in mind that some billboards have one face and some have up to four so if a billboard with four faces is removed one face being a digital billboard could be installed in its place, for example. Another thing SignAD Outdoor has done is allow the city 40 hours of free advertising space each year. These are items I expect he will offer up to Council in his presentation.

After the workshop staff will be looking for direction from City Council on how to proceed with this request. This item did go to the April 11th Board of Adjustments for discussion only. The comments staff received at this meeting were generally negative toward digital *signs* in general. The general public believed the discussion was more for individual on premise business signs that are typically LED as opposed to the actual request of a digital billboard ordinance amendment. If City Council informs staff they are happy with the current ordinance we will let Mr. Whisnant know we will not spend any further time with discussions to amend this particular ordinance.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Information from Thomas Whisnant with SignAd Outdoor Advertising
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: No action required – discussion only
APPROVALS: Terry K. Roberts



City Council Brenham, TX

Thomas Whisnant
Digital Billboard Representative
SignAd Outdoor Advertising

Good Afternoon, esteemed members of the City Council for Brenham, TX. My name is Thomas Whisnant; I am employed by SignAd Outdoor Advertising. My home address is 2301 S. Mopac Expy, Austin, Texas. I'd like to thank you for this opportunity to share with you, SignAd's desire to convert our existing sign located on Highway 290 in Brenham Texas, to a Digital/LED billboard. I have taken the liberty to prepare a document packet for your review which includes various aerals, photos, studies and informational pieces.

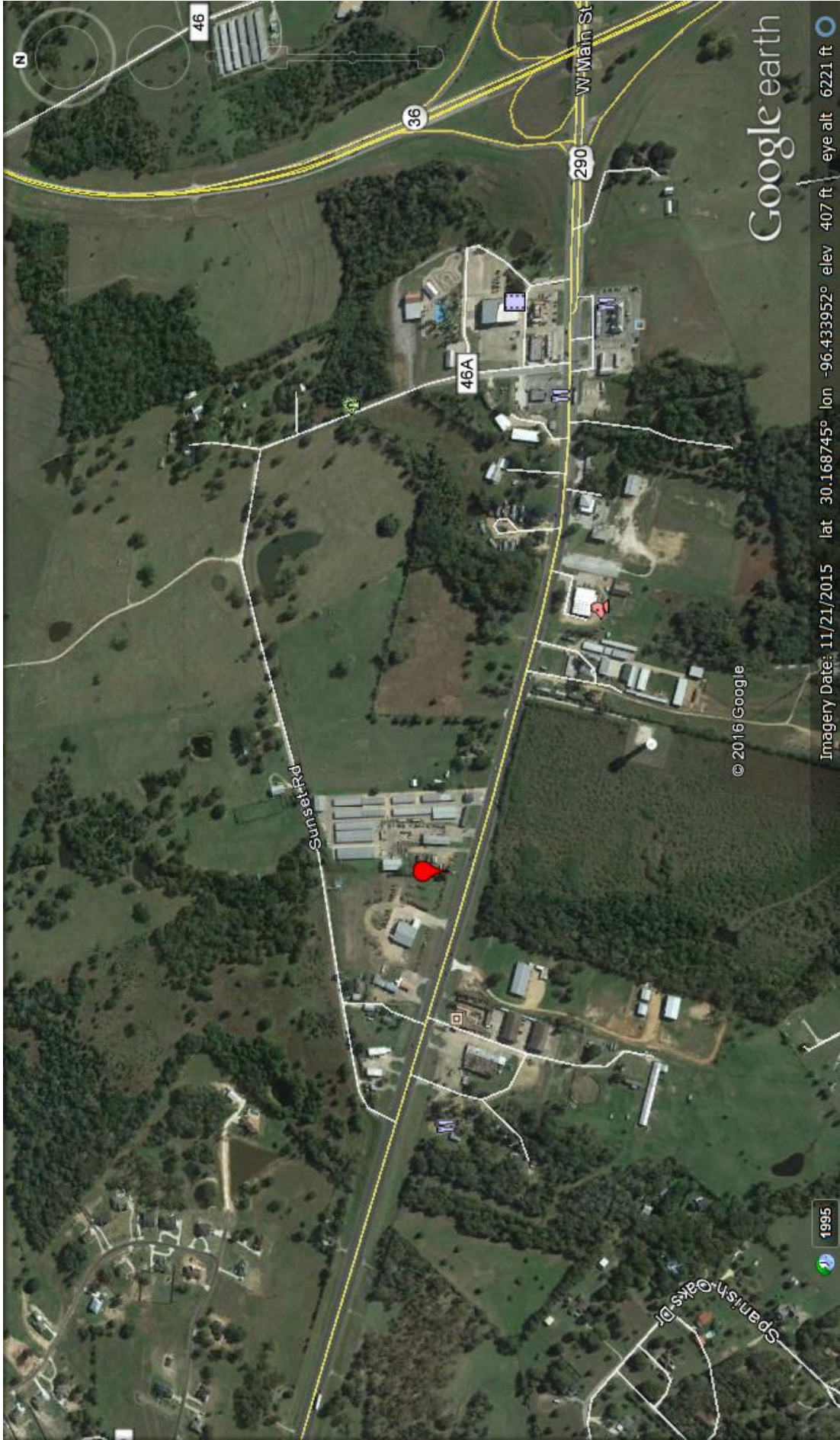
1. SignAd Outdoor Advertising is a family owned small business created in 1964 with just a handful of billboard signs. Our Current inventory consists of approximately 2,000 signs throughout Texas and Louisiana. Our company's success has been built on maintaining unmatched family values coupled with a strong work ethic.
2. The all steel sign is located on the north side of Highway 290, .75 miles west of Highway 36 (See Aerial and Site Photos, page 3 and 4). The proposed LED sign will be facing the eastbound traffic and will have a static board on the opposite side facing westbound traffic coming into and exiting the City of Brenham respectively. (See Rendition 1- Pg.5). Per guidance issued by the Federal Highway Administration allowing Electronic signs to be permitted; the State must exercise regulatory controls for Off-Premise Changeable Electronic Signs by regulating the size, spacing, light intensity, movement and animation, message duration, height, maintenance and placement of Electronic Signs. (See Texas Administrative Code Page 6-7). The proposed sign would definitively meet all of TxDot's requirements for obtaining a permit should the City approve and grant our request.
3. **Benefits** - Outdoor advertising is the most effective low-cost means of reaching customers for small businesses when compared to TV or Radio which makes it the best choice for many small businesses interested in affordable, high-impact advertising. Well placed ads help drive sales and support the local economy.

Additionally, the City of Brenham and Washington County will experience increased tax revenues based on a higher valuation placed on the sign itself as a real estate fixture.

And lastly, state regulations require LED Sign operators to provide emergency messages important to the travelling public such as Amber Alerts and information regarding natural or man-made disasters. Additionally, we would want to extend the scope of these messages to include 40 hours worth of PSA's that promote city sponsored events important to the City on a space available basis.

It is our hope that you see the merits in granting our request for the LED permit as we ask for your approval. I sincerely thank you for your time and if there are any questions I will do my best to provide you with an answer.

This page notes the location(2710 Highway 290) of the current stack unit we would like to convert to a back to back Digital billboard. It would have a digital face facing west for east bound traffic and a static face facing east for west bound traffic.



SIGNAD^{OUTDOOR}

Here you can see the current sign design that sits at 2710 Highway 290 just west of Interstate 36 in Brenham TX.



SIGNAD

OUTDOOR

This is a rendering of what the proposed sign would look like once complete.



There are rules which govern implementation of a converting a static billboard to a digital billboard as well as operating a digital billboard. This one speaks to requirements for operation of a digital billboard. We will be in compliance with all state regulations.

Texas Administrative Code

[<<Prev Rule](#)
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Texas Administrative Code

TITLE 43 PART 1 CHAPTER 21 SUBCHAPTER I DIVISION 2 RULE §21.257	TRANSPORTATION TEXAS DEPARTMENT OF TRANSPORTATION RIGHT OF WAY REGULATION OF SIGNS ALONG INTERSTATE AND PRIMARY HIGHWAYS ELECTRONIC SIGNS Requirements
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(a) Each message on an electronic sign must be displayed for at least eight seconds. A change of message must be accomplished within two seconds and must occur simultaneously on the entire sign face.

(b) An electronic sign must:

- (1) contain a default mechanism that freezes the sign in one position if a malfunction occurs; and
- (2) automatically adjust the intensity of its display according to natural ambient light conditions.

(c) If the department finds that an electronic sign causes glare or otherwise impairs the vision of the driver of a motor vehicle or otherwise interferes with the operation of a motor vehicle, the owner of the sign, within 12 hours of a request by the department, shall reduce the intensity of the sign to a level acceptable to the department.

Source Note: The provisions of this §21.257 adopted to be effective July 1, 2011, 36 TexReg 2418

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[http://texreg.sos.state.tx.us/ext.TacPage?si=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=43&pt=1&ch=21&ri=257\[1/25/2016 10:57:42 AM\]](http://texreg.sos.state.tx.us/ext.TacPage?si=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=43&pt=1&ch=21&ri=257[1/25/2016 10:57:42 AM])

Here is the TXDot rule for spacing of digital boards. We will be in compliance with all state regulations.

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Texas Administrative Code

[TITLE 43](#)

TRANSPORTATION

[PART 1](#)

TEXAS DEPARTMENT OF TRANSPORTATION

[CHAPTER 21](#)

RIGHT OF WAY

[SUBCHAPTER I](#)

REGULATION OF SIGNS ALONG INTERSTATE AND PRIMARY HIGHWAYS

[DIVISION 2](#)

ELECTRONIC SIGNS

[RULE §21.255](#)

Location

(a) An electronic sign may be located, relocated, or upgraded only along a regulated highway and within:

(1) the corporate limits of a municipality that allows electronic signs under its sign or zoning ordinance; or

(2) within the extraterritorial jurisdiction of a municipality described by paragraph (1) of this subsection that under state law has extended its municipal regulation to include that area.

(b) Two electronic signs may be located on the same sign structure if each sign face is visible only from a different direction of travel. An electronic sign may not be located within 1,500 feet of another electronic sign on the same highway if facing the same direction of travel or if the sign will be located in a political subdivision that is authorized to exercise control under §21.200 of this subchapter (relating to Local Control), the sign spacing may not violate the minimum spacing requirements of the applicable Texas federal and state agreement.

Source Note: The provisions of this §21.255 adopted to be effective July 1, 2011, 36 TexReg 3509; amended to be effective June 19, 2014, 39 TexReg 4668

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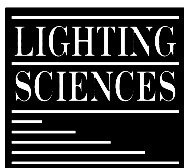
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This is a current list of Texas Cities with Permitted Digital Billboards

Abilene	Grand Prarie	Mercedes
Alvin	Greenville	Midland
Amarillo	Groves	Nederland
Andrews	Haltom City	New Deal
Arcola	Harker Heights	New Summerfield
Arlington	Harlingen	Noonday
Austin	Henderson	North Richland Hills
Balcones Heights	Hollywood Park	Northlake
Beaumont	Humble	Odessa
Brenham	Irving	Orange
Brownsville	Jacinto City	Palmview
Burleson	Jarrell	Paris
Carrizo Springs	Kenedy	Pasadena
Carrollton	Kilgore	Pharr
Conroe	Killeen	Pinehurst
Converse	Kyle	Pleasanton
Copperas Cove	LaMarque	Rose City
Corpus Christi	LaPorte	Round Rock
Corral City	Lake Dallas	San Angelo
Corsicana	Laredo	San Antonio
Dallas	League City	San Felipe
Del Rio	Levelland	Sherman
Devine	Lewisville	Stamford
Dilley	Liberty Hill	Sulfur Springs
Duncanville	Lindale	Temple
Eagle Pass	Little Elm	Texarkana
Edinburg	Longview	Texas City
Edna	Lubbock	Victoria
El Paso	Lufkin	Waco
Eules	Lumberton	Waskom
Floresville	Lytle	Weslaco
Gainesville	Marshall	White Settlement
Graham	McAllen	Windcrest
Granbury	McGregor	Wolfforth



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February 21, 2008

Report to: Outdoor Advertising Association of America

Subject: Digital Billboard Recommendations

Abstract

Lighting Sciences, Inc., has undertaken research to develop a method for specification of luminance (brightness) limits for digital billboards based on accepted practice by the Illuminating Engineering Society of North America (IESNA). The recommendation is extremely simple to implement and requires only a footcandle (fc) meter to be used.

The research establishes criteria for billboard luminance limits based on billboard-to-viewer measurements for standardized billboard categories. For example, research supports using a standard sign-to-viewer distance of 250 feet to establish the sign luminance limits for a 14' x 48' foot (672 sq.ft.) bulletin.

The recommended technique is based on accepted IESNA practice for "light trespass." Previous outdoor lighting research has documented an established limit on the amount of light arriving at a person's eyes to ensure that the source of the light is not offensive, or worse, potentially dangerous. The technique is simple: the light level at the eye is measured in footcandles and has an upper limit. The limit is low for areas that are generally quite dark, but considerably higher in well lit urban areas.

A recommended specification for digital billboards is to use a limit of 0.3 fc over ambient light conditions. To check if the level is acceptable, a footcandle meter would be held at a height of 5 ft. (which is approximately eye height) and aimed towards the sign consistent with the sign-to-viewer distance. A reading of 0.3 fc above ambient light conditions would indicate compliance.

The standards set forth in the report are based on the worst-case scenario of a driver or pedestrian viewing the display head-on (directly at a 90-degree angle), while most displays are viewed at an angle. Since displays are generally viewed at an angle, the luminance (glare) is substantially reduced.

Furthermore, the report provides values for billboard luminance of different color images and notes that brightness levels are based on a worst-case scenario of an all-white display, which is

unlikely to happen, save for a malfunction. Knowing these values, and having established a billboard luminance limit for a particular billboard, the allowable percentage of dimming setting is also easily calculated and can be programmed to produce the same average luminance as a conventional billboard.

1. Introduction

This report has been prepared for OAAA under the contract issued to Lighting Sciences Inc. for the development of luminance (brightness) recommendations for digital billboards under nighttime conditions. Extensive investigations have been conducted into methodologies that could be used to develop such recommendations, specifically addressing environmental impact and possible visibility effects on drivers.

The following approaches can be used:

1. Develop billboard recommendations based on the control of possible glare to which drivers may be subjected.
- or
2. Produce recommendations founded on environmental impact, addressing the subject known as light trespass.

Either of these methods can be used as a viable approach to providing an acceptable practice for the control of digital billboard appearance, though the first method has disadvantages. In analyzing these methods, strict attention has been paid to satisfying the following:

1. The needs of the general public, including drivers.
2. The requirements of local government personnel, who may wish to incorporate language into ordinances related to the use of digital billboards. For this, the procedures must be straight forward and enforceable.
3. The needs of OAAA members, who require effective use of digital billboards, which in turn requires adequate brightness for clear visibility.

The two approaches are addressed below.

2. Method 1, Specifications Based on Driver Glare

Drivers on roadways at night where virtually any form of lighting is provided are inevitably subjected to glare. Glare may be, for example, from oncoming headlights, street lights, or commercial lighting, including billboards. There are recommended limits to the amount of glare

that can be produced by vehicle headlights (from the U.S. Department of Transportation) and by roadway lighting (from the American National Standards Institute and the Illuminating Engineering Society of North America –IESNA.) In particular, the extensive procedures that have been developed by IESNA can, in theory, be used to produce limitations on digital billboard luminance that will ensure that any glare problems created for drivers will be relatively minor, in the order of glare often produced by a street lighting installation.

Lighting Sciences has conducted detailed investigations into this approach, based upon publication ANSI IESNA RP-8-00, “American National Standard Practice for Roadway Lighting.” The basic procedures for such a method would be to specify an allowable average billboard luminance level that would ensure that the glare it produces does not exceed certain limits. These limits would be based on the level of highway lighting that is present. For example, higher billboard luminances would be allowed where a high level of street lighting is provided. Publication RP-8-00 classifies highways into many different types, and there is a set of recommendations for the lighting of each type. Thus using these principles for digital billboard specifications, there would be many different recommended billboard luminance limits, dependent upon the form of roadway lighting provided in the area.

After much consideration, Lighting Sciences does not recommend this approach for establishing digital billboard luminance limits. The reasons include the following:

1. Publication RP-8-00 describes 14 different roadway classifications. These are based on different roadway types (for example, freeways, major roadways, local roadways). There is a further breakdown based on the level of pedestrian activity, which may be high, medium or low. Basing billboard luminances on this wide range would produce a complex system of specifications that would lack the simplicity and clarity that is our goal.
2. Digital billboards are frequently visible from numerous vantage points. This creates an issue of deciding which of the 14 different categories would be applicable if different levels of roadway lighting exist in a general area.
3. There is further complexity in determining the amount of glare produced by a digital billboard using the methodology of publication RP-8-00. The amount of glare is affected not only by luminance of a digital billboard, but by its distance from the driver. What distance would be selected to perform the necessary calculations when the driver might view the billboard from a wide range of distances?
4. The amount of glare is affected also by the location of the billboard with respect to the driver’s line of sight. This changes as the driver looks in different directions and as his location changes. What billboard position would be used?

5. The extent of any glare produced is dependent upon the billboard size. Recommended limits of luminance, if based on glare control, would be different for each billboard size.

Thus it can be seen that, because of all the variables involved, the establishing of realistic billboard luminance limits based on the RP-8-00 methodology would be exceedingly complex. Even if simplifications were introduced, there would be problems in deciding which luminance limit would be applicable to a given billboard. Checking and enforcement similarly would be highly problematic. For these reasons, Lighting Sciences Inc. is not recommending a billboard luminance specification system based upon glare limitations. However, in conducting the detailed study of this method and the second method that follows below, it has been determined that if the method provided below is adopted, billboard luminances will be such that producing a billboard significant amount of glare to drivers from a single digital billboard is unlikely, (although a multiplicity of such billboards appearing in the driver's field of view simultaneously may possibly create a problem.)

3. Method 2, Specification Based on Light Trespass

3.1 Method Overview

“Light trespass” is a term used in the outdoor lighting industry to describe light that falls outside of an area that is primarily intended to be lighted. For example, if the lighting system for a shopping center parking lot causes light to spill over into an adjacent residential neighborhood, this would be considered to be light trespass. High levels of light trespass, as well as being wasteful of energy, may have an appearance that is objectionable. Publication TM-11-00 of the IESNA provides a table of limits of light trespass for various “lighting zones.” These zones range from “no ambient electric light” (dark rural areas) to “high ambient electric light” (typically high use urban areas.) The limits are expressed in terms of the illuminance in footcandles that the light source in question can produce at a person's eyes, measured above the ambient lighting that is produced by all other sources of light. The limitation values were determined from an extensive human factors research project into the levels of light trespass that may or may not be considered objectionable in the various zones. Application of the limits keep light trespass to a low level that is unlikely to be considered objectionable to most persons.

Digital billboards are not the form of lighting that TM-11-00 was developed to limit. In fact, digital billboards are specifically intended to be seen over a wide area, much of which may be remote from the billboard itself. Nevertheless, the principles of TM-11-00, in terms of the calculation method and the limits it provides, can be examined to determine whether the methodology can form a useful method of specifying billboard luminance limits.

Numerous calculations have been performed to evaluate billboard luminance in terms of the TM-11-00 procedures. The calculations involved are simpler than those discussed above for RP-8-00

procedures, as they simply involve determining the illuminance in footcandles (fc) at the location of the eyes of a viewer. (Referred to as “eye illuminance.”) TM-11-00 provides four different eye illuminance limits depending on the lighting zone, E1 to E4, ranging from very low ambient electric light to high ambient electric light. See table 1. (A description of each type of ambient electric light zone is included in Appendix A.)

Table 1 Eye Illuminance Limits (Light Produced by Billboard, above Ambient)		
Zone		Eye Illuminance Limit (fc)
E1	Very low ambient electric light	0.1
E2	Low ambient electric light	0.3
E3	Medium ambient electric light	0.8
E4	High ambient electric light	1.5

To simplify billboard luminance specifications, it is proposed that all billboard luminance limits, no matter where a billboard is located, are governed by the values given in the above table for zone E2. This will then produce a uniform method that does not require the lighting zone to be known. The logic for choosing zone E2 is based on two considerations. Firstly, it is highly unlikely that digital billboards will ever be used in areas described as zone E1. E1 applies to inherently very dark rural areas where there is almost no electric lighting, such as national parks. Digital billboards are likely to be used in zones E2 through E4. By using the limitations specified by IESNA for zone E2, the specifications are very stringent; any billboard meeting the E2 limits will be satisfactory for the higher ambient light conditions of zones E3 and E4. On this basis, while this report allows any eye illuminance value to be used, it recommends using only that provided for zone E2.

Providing that a method is available to calculate the billboard luminance that will generate a certain illuminance at the eye of a viewer, the illuminance limits of TM-11-00 can be converted to billboard luminance limits. The conversion formula is provided below. It must be noted, however, that this method is not totally straightforward, for there are variables that must be considered for any given billboard, also discussed below.

3.2 Determining the Maximum Allowable Billboard Luminance.

Billboard luminance (which refers to the *average* luminance or brightness of billboard) is expressed in candelas per square meter, cd/sq.m., sometimes termed “nits.” The illuminance produced at the eye, considered as landing on a vertical plane at the eye, is designated E_v and is measured in footcandles.

To determine the maximum billboard average luminance, L , that can be allowed so as to meet a given illuminance limit at the viewer's eye, E_v , the following must be known:

- Area of billboard = S sq. ft.
- Distance from billboard center to observation point = D feet (as measured from a plan view. Differences in height of the billboard and viewer normally can be disregarded, as can lateral angle effects from the billboard face.)

$$\text{Allowable maximum billboard average luminance, } L = \frac{10.76 D^2 E_v}{S} \quad \text{cd./sq.m.}$$

----- 1

For example, to determine whether a billboard meets a particular limit for the IESNA publication TM-11-00, the following steps are taken:

1. Select the applicable lighting zone. It is proposed that E2, an area with a low level of electric lighting, be selected as a standard.
2. Find the applicable eye illuminance limit from table 1. If zone E2 is assumed, this will be 0.3 fc.
3. Determine the billboard size. Assume for example a billboard measuring 10 ft. 6 ins. x 36 ft., giving an area of 378 sq. ft.
4. Assume a distance to the viewer. Use 200 ft. (See discussion below).

These values are entered into formula 1 above.

$$\begin{aligned} \text{Allowable maximum billboard average luminance} &= \frac{10.76 \cdot 200^2 \cdot 0.3}{378} \\ &= 342 \text{ cd/sq.m.} \end{aligned}$$

Viewer Distance

The distance from the billboard to the viewer, D in the above formula, has a significant effect on the calculated allowable maximum billboard luminance. Billboards are typically viewed over a range of distances, and so the choice of the value of D will be somewhat arbitrary. A short

distance such as 100 ft. is probably too small for normal situations, and can produce a very low luminance limit. On the other hand, a very large distance such as 1000 ft. will rarely be applicable because viewers will normally be closer when reading the billboard.

It may be questioned whether a short distance should be used as a standard to guard against glare effects produced at the eyes of a person driving past a digital billboard. Considering this, as a driver moves closer to a billboard that is positioned to the side of the roadway and the driver is viewing the road ahead, the lateral angle from the driver's line of sight to the billboard increases. This angular effect causes any glare that the billboard may produce to reduce significantly. (Reference: American National Standard for Roadway Lighting, publication ANSI/IESNA RP-8-00, section A7. Glare reduces as the square of the angle from the line of sight.) Further, as this angle increases, the light intensity (candelas) directed toward the driver's eye decreases, as shown by photometric testing of a sample billboard. (Lighting Sciences Inc. test report no. LSI 21628). This effect also contributes to the reduction in glare as the driver approaches and then passes the billboard. These two effects more than offset other factors in determining the glare produced at the driver's changing location: that is, glare actually reduces as the driver's distance to a billboard that is off the side of the road becomes smaller, assuming attention is on the road ahead.

In discussions with members of the advertising industry, it is apparent that billboard size and viewing distance are related. Larger billboards are used to attract viewers at a greater distance, while small billboards are provided where the observer is fairly close. On this basis, the viewing distances, D, provided below are suggested for use with the formula, based on four prevalent standard billboard sizes:

Table 2 Proposed Viewer Distance Values, D		
Billboard Size	Billboard Dimensions (ft)	D ft.
Small	11 x 22	150
Medium	10.5 x 36	200
Large	14 x 48	250
Very large	20 x 60	350

If there is a specific reason why a value of D other than as given above should be applied for a particular billboard installation, this different value may be substituted accordingly in the formula. It should be noted, however, that use of the above distances for the various billboard sizes, and the billboard luminance values so produced, have been field evaluated and appear to be reasonable.

3.3 Determining the Allowable Dimmer Setting

If a billboard luminance limit has been established by the above methodology, this can also provide the dimming setting to be used.

In previous work evaluating digital billboard luminances, it was determined that currently manufactured billboards (Young Electric Billboard Co., November 2006) produce a maximum average luminance of approximately 7000 cd/sq.m. when displaying a completely white image at full power. In the above example, to limit the luminance to 342 cd/sq.m., the dimmer setting can be computed as follows:

$$\begin{aligned}\% \text{ dimmer setting} &= \frac{\text{Allowable luminance}}{7000} \times 100 \\ &= \frac{342}{7000} \times 100 \\ &= 4.9\%\end{aligned}$$

This example is for a medium billboard size measuring 10.5 x 36'. The dimmer setting will be different for other billboard sizes.

3.4 Non-white Billboards

If the digital image will never be totally white, higher % dimming settings can be used while still meeting the luminance limit. The actual measured luminances for the sample billboard measured in 2006 for a 100% luminance setting for different colors are:

White	7000 cd/sq.m.
Red	1500 cd/sq.m.
Green	5100 cd/sq.m.
Blue	700 cd/sq.m.

For a normal image that includes multiple colors, the average luminance for a 100% setting will depend on the proportion of colors in the mix. Software and instrumentation is available to analyze billboard luminance when the billboard is being programmed.

3.5 Adoption of the Method

This method uses the established and recommended procedures of IESNA to develop billboard luminance limits. The procedure can be adopted by referring to the limits of IESNA publication

TM-11-00 as provided in table 1 above, with the suggestion that lighting zone E2 values be used as a standard. Billboard to viewer distances are proposed to be as provided in table 2 above.

Table 3 summarizes the recommended maximum billboard luminance values based on tables 1 and 2. These can be adopted directly into an ordinance or set of guidelines.

The limitations of TM-11-00 were established through research conducted by Lighting Sciences Inc. under a contract from the Lighting Research Office of EPRI (Electrical Producers' Research Institute). The basis of TM-11-00 was subsequently provided to IESNA to form the publication. Field use of the values for various forms of outdoor lighting confirm that the values are realistic and prevent undue annoyance to a majority of viewers, and thus appear to have formed a satisfactory basis for specifying such lighting limits.

The procedures outlined in this section of this report, method 2, specifications based on light trespass, are recommended by Lighting Sciences Inc. for evaluation and possible subsequent adoption by OAAA.

3.6 Enforcement

After a billboard is installed, there will be cases where it is desired to evaluate the billboard luminance to ensure that it does not exceed the specified value. This procedure is extremely simple and requires only a footcandle meter.

The billboard luminance specification is based on ensuring that a certain footcandle level created by the billboard is not exceeded at a chosen distance. Thus all that is needed to check compliance is the measurement of the footcandles level at that distance with the billboard on and off. The footcandle meter would be held at a height of 5 ft. (which is approximately eye height) and aimed towards the billboard, from a distance as selected from table 2. If the difference in illuminance between the billboard-on and billboard-off conditions is 0.3 fc, then the billboard luminance is in compliance. When conducting this check, the meter should be at a location perpendicular to the billboard center (as seen in plan view) as this angle has the highest luminance.

This check should include the measurement of an all white image displayed by the billboard to evaluate the worst case condition.

5. Summary of Proposed Method

Specification based on the light trespass limits adopted by IESNA in publication TM-11-00 appears to provide a manageable and technically viable technique.

It is proposed to use the IESNA recommended limits for environmental lighting zone E2, low level electric lighting, as a standard. This limits the maximum illuminance produced by the billboard and measured at the eye of a viewer to 0.3 footcandles over ambient. It is further proposed that the viewer be positioned from the billboard at ground level and facing in a direction perpendicular to the billboard. The distance will be dependent upon the billboard size.

Under these conditions, to meet the 0.3 fc limitations, the maximum allowable billboard average luminance will be as given in table 3 for various standard billboard sizes. The percentage dimmer setting, expressed as a percentage of the billboard maximum luminance, can be calculated from the table 3 luminance value, based on the maximum luminance of a billboard being 7000 cd/sq.m. or some other known value.

Because these values have been derived from IESNA publication TM-11-00, which in turn is based on an extensive human factors research project, adoption of such values should satisfy the requirement that most persons will not find these billboard luminances to be objectionable.

Ian Lewin Ph.D., FIES, L.C.
February 21, 2008

Table 3

Maximum Level of Digital Billboard Average Luminance
Candelas per Sq.M. (Nits)

Proposed Standard
(Based on IESNA Lighting Zone E2)

Billboard Dimensions (ft.)	D** ft.	Luminance (Cd./sq.m.)
11 x 22	150	300
10.5 x 36	200	342
14 x 48	250	300
20 x 60	350	330

*Based on an illuminance produced at the viewer's eye of 0.3 footcandles.

** Distance measured at ground level to observer facing the billboard perpendicularly.

**DRIVER VISUAL BEHAVIOR IN THE PRESENCE OF COMMERCIAL
ELECTRONIC VARIABLE MESSAGE SIGNS (CEVMS)**

SEPTEMBER 2012

EXECUTIVE SUMMARY

This study examines where drivers look when driving past commercial electronic variable message signs (CEVMS), standard billboards, or no off-premise advertising. The results and conclusions are presented in response to the three research questions listed below:

1. Do CEVMS attract drivers' attention away from the forward roadway and other driving-relevant stimuli?
2. Do glances to CEVMS occur that would suggest a decrease in safety?
3. Do drivers look at CEVMS more than at standard billboards?

This study follows a Federal Highway Administration (FHWA) review of the literature on the possible distracting and safety effects of off-premise advertising and CEVMS in particular. The review considered laboratory studies, driving simulator studies, field research vehicle studies, and crash studies. The published literature indicated that there was no consistent evidence showing a safety or distraction effect due to off-premise advertising. However, the review also enumerated potential limitations in the previous research that may have resulted in the finding of no distraction effects for off-premise advertising. The study team recommended that additional research be conducted using instrumented vehicle research methods with eye tracking technology.

The eyes are constantly moving and they fixate (focus on a specific object or area), perform saccades (eye movements to change the point of fixation), and engage in pursuit movements (track moving objects). It is during fixations that we take in detailed information about the environment. Eye tracking allows one to determine to what degree off-premise advertising may divert attention away from the forward roadway. A finding that areas containing CEVMS result in significantly more gazes to the billboards at a cost of not gazing toward the forward roadway would suggest a potential safety risk. In addition to measuring the degree to which CEVMS may distract from the forward roadway, an eye tracking device would allow an examination of the duration of fixations and dwell times (multiple sequential fixations) to CEVMS and standard billboards. Previous research conducted by the National Highway Traffic Safety Administration (NHTSA) led to the conclusion that taking your eyes off the road for 2 seconds or more presents a safety risk. Measuring fixations and dwell times to CEVMS and standard billboards would also allow a determination as to the degree to which these advertising signs lead to potentially unsafe gaze behavior.

Most of the literature concerning eye gaze behavior in dynamic environments suggests that task demands tend to override visual salience (an object that stands out because of its physical properties) in determining attention allocation. When extended to driving, it would be expected that visual attention will be directed toward task-relevant areas and objects (e.g., the roadway, other vehicles, speed limit signs) and that other salient objects, such as billboards, would not necessarily capture attention. However, driving is a somewhat automatic process and conditions generally do not require constant, undivided attention. As a result, salient stimuli, such as CEVMS, might capture driver attention and produce an unwanted increase in driver distraction. The present study addresses this concern.

This study used an instrumented vehicle with an eye tracking system to measure where drivers were looking when driving past CEVMS and standard billboards. The CEVMS and standard billboards were measured with respect to luminance, location, size, and other relevant variables to characterize these visual stimuli extensively. Unlike previous studies on digital billboards, the present study examined CEVMS as deployed in two United States cities. These billboards did not contain dynamic video or other dynamic elements, but changed content approximately every 8 to 10 seconds. The eye tracking system had nearly a 2-degree level of resolution that provided significantly more accuracy in determining what objects the drivers were looking at compared to an earlier naturalistic driving study. This study assessed two data collection efforts that employed the same methodology in two cities.

In each city, the study examined eye glance behavior to four CEVMS, two on arterials and two on freeways. There were an equal number of signs on the left and right side of the road for arterials and freeways. The standard billboards were selected for comparison with CEVMS such that one standard billboard environment matched as closely as possible that of each of the CEVMS. Two control locations were selected that did not contain off-premise advertising, one on an arterial and the other on a freeway. This resulted in 10 data collection zones in each city that were approximately 1,000 feet in length (the distance from the start of the data collection zone to the point that the CEVMS or standard billboard disappeared from the data collection video).

In Reading, Pennsylvania, 14 participants drove at night and 17 drove during the day. In Richmond, Virginia, 10 participants drove at night and 14 drove during the day. Calibration of the eye tracking system, practice drive, and the data collection drive took approximately 2 hours per participant to accomplish.

The following is a summary of the study results and conclusions presented in reference to the three research questions the study aimed to address.

Do CEVMS attract drivers' attention away from the forward roadway and other driving relevant stimuli?

- On average, the drivers in this study devoted between 73 and 85 percent of their visual attention to the road ahead for both CEVMS and standard billboards. This range is consistent with earlier field research studies. In the present study, the presence of CEVMS did not appear to be related to a decrease in looking toward the road ahead.

Do glances to CEVMS occur that would suggest a decrease in safety?

- The average fixation duration to CEVMS was 379 ms and to standard billboards it was 335 ms across the two cities. The average fixation durations to CEVMS and standard billboards were similar to the average fixation duration to the road ahead.
- The longest fixation to a CEVMS was 1,335 ms and to a standard billboard it was 1,284 ms. The current widely accepted threshold for durations of glances away from the road ahead that result in higher crash risk is 2,000 ms. This value comes from a NHTSA

naturalistic driving study that showed a significant increase in crash odds when glances away from the road ahead were 2,000 ms or longer.

- Four dwell times (aggregate of consecutive fixations to the same object) greater than 2,000 ms were observed across the two studies. Three were to standard billboards and one was to a CEVMS. The long dwell time to the CEVMS occurred in the daytime to a billboard viewable from a freeway. Review of the video data for these four long dwell times showed that the signs were not far from the forward view while participant's gaze dwelled on them. Therefore, the drivers still had access to information about what was in front of them through peripheral vision.
- The results did not provide evidence indicating that CEVMS, as deployed and tested in the two selected cities, were associated with unacceptably long glances away from the road. When dwell times longer than the currently accepted threshold of 2,000 ms occurred, the road ahead was still in the driver's field of view. This was the case for both CEVMS and standard billboards.

Do drivers look at CEVMS more than at standard billboards?

- When comparing the probability of a gaze at a CEVMS versus a standard billboard, the drivers in this study were generally more likely to gaze at CEVMS than at standard billboards. However, some variability occurred between the two locations and between the types of roadway (arterial or freeway).
- In Reading, when considering the proportion of time spent looking at billboards, the participants looked more often at CEVMS than at standard billboards when on arterials (63 percent to CEVMS and 37 percent to a standard billboard), whereas they looked more often at standard billboards when on freeways (33 percent to CEVMS and 67 percent to a standard billboard). In Richmond, the drivers looked at CEVMS more than standard billboards no matter the type of road they were on, but as in Reading, the preference for gazing at CEVMS was greater on arterials (68 percent to CEVMS and 32 percent to standard billboards) than on freeways (55 percent to CEVMS and 45 percent to standard billboards). When a gaze was to an off-premise advertising sign, the drivers were generally more likely to gaze at a CEVMS than at a standard billboard.
- In Richmond, the drivers showed a preference for gazing at CEVMS versus standard billboards at night, but in Reading the time of day did not affect gaze behavior. In Richmond, drivers gazed at CEVMS 71 percent and at standard billboards 29 percent at night. On the other hand, in the day the drivers gazed at CEVMS 52 percent and at standard billboards 48 percent.
- In Reading, the average gaze dwell time for CEVMS was 981 ms and for standard billboards it was 1,386 ms. The difference in these average dwell times was not statistically significant. In contrast, the average dwell times to CEVMS and standard billboards were significantly different in Richmond (1,096 ms and 674 ms, respectively).



AGENDA ITEM 8

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 29, 2016
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Bid # 16-007 Related to Concrete for the Library Parking Lot Project and Authorize the Mayor to Execute any Necessary Documentation

SUMMARY STATEMENT: On March 31, 2016 the Purchasing Dept. opened bids related to the Library parking lot concrete work. There were 3 bid packets sent out with 2 bids received.

The work bid out consisted of concrete curb and gutter, concrete flat work, and a sidewalk. Based off of the bids, Collier Construction submitted the lowest bid for the proposed work.

The bid was broken out in a base bid and had an alternate option as well. The plans originally called for concrete on both parking areas but early in the project it was estimated that asphalt would be used on the main parking lot and installed by city forces in order to save on construction costs. Therefore, we had a base bid and alternate bid which provided staff with the options of concrete versus asphalt on the main parking lot.

Since the bid, there were minor adjustments made to the elevation and size of the library parking lot that helped on the elevations leading to the Owsley Playground area which ultimately changed the quantities of the main parking lot slightly. With these adjustments and Collier Construction honoring the unit price bids it was determined that there would be a difference of \$34,007.08 to go with concrete on the main parking lot versus asphalt. The employee parking lot has never deviated from concrete since this was where the dumpster pad would be.

After evaluating our options we feel that this option of going with concrete on the main parking area rather than asphalt will be justified. The old library parking lot was concrete, the current parking lots of the Animal Shelter, PD Facility, Aquatic Center and City Hall all have concrete parking areas and we would like to stay consistent with that approach on new facilities. This will also provide less maintenance for the life of the parking lot and will not buckle, crack or shift as asphalt will.

Based off of the bids, staff recommends awarding the bid to Collier Construction for the base bid Section I and the Alternate Bid Section III based off the unit prices. Due to the quantities changing, Collier has agreed to honor the unit prices which will remain the same.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):
A. PROS: Very good price on concrete versus asphalt which will provide less maintenance and make the new modernization project look complete.
B. CONS: \$34,007.08 difference
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Bid Information Sheet; and (2) Library Parking Lot Comparison
FUNDING SOURCE (Where Applicable): 218-5-100-816.46
RECOMMENDED ACTION: Award Bid No. 16-007 for concrete for the Library Parking Lot Project to Collier Construction for the Base Bid Section I and Alternate Bid Section III for a total of \$167,951.
APPROVALS: Terry K. Roberts



Bid Information Sheet

March 31, 2016

IFB #16-007

For: Concrete Work Nancy Carol Roberts Memorial Library

Purchase not to exceed budgeted funds.

Number of completed bids returned to Purchasing: 2

CONCRETE WORK FOR NANCY CAROL ROBERTS MEMORIAL LIBRARY IFB #16-007						
		DESCRIPTION	COLLIER CONSTRUCTION		LEGACY CONCRETE WORKS LLC	
ESTIMATED QUANTITY	UNIT OF MEASURE		UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE
Section I: Employee Parking Log-Pavement and Curb						
513	Sq. Yards	Furnish labor & materials and construct 6" minimum thickness reinforced concrete pavement, complete in place for the unit price of:	\$46.00	\$23,598.00	\$83.65	\$42,912.45
376	Linear Ft.	Furnish labor & materials and construct reinforced concrete curb on concrete pavement as detailed, complete in place for the unit price of:	\$5.00	\$1,880.00	\$28.75	\$10,810.00
89	Sq. Yards	Furnish labor & materials and construct reinforced 7" minimum thickness reinforced concrete pavement, complete in place, (dumpster area 20' x 40') for the unit price of:	\$45.00	\$4,005.00	\$69.58	\$6,192.62
Section II: Main Parking Lot-Sidewalk, Curb, and Gutter Only						
1,257	Linear Ft.	Furnish labor & materials and construct standard concrete curb and gutter, complete in place for the unit price of:	\$20.00	\$25,140.00	\$23.46	\$29,489.22
109	Sq. Yards	Furnish Labor & materials and construct 4" minimum thickness reinforced sidewalk complete in place for the unit price of:	\$44.00	\$4,796.00	\$62.62	\$6,825.58
		Total of Section I and II		\$59,419.00		\$96,229.87
		Days to Complete		60		14
Section III: Main Parking Lot -- Alternate "A" -- Pavement, Curb, and Sidewalk						
3,107	Sq. Yards	Furnish labor and materials and construct 6" minimum thickness reinforced concrete pavement, complete in place for the unit price of:	\$41.00	\$127,387.00	\$64.89	\$201,613.23
1,257	Linear Ft.	Furnish labor & materials and construct standard concrete curb and gutter, complete in place for the unit price of:	\$5.00	\$6,285.00	\$23.00	\$28,911.00
109	Sq. Yards	Furnish Labor & materials and construct 4" minimum thickness reinforced sidewalk complete in place for the unit price of:	\$44.00	\$4,796.00	\$62.62	\$6,825.58
		Total of Section I and III		\$167,951.00		\$297,264.88
		Days to Complete		30		21

Age Group	Percentage
18-24	35%
25-34	25%
35-44	15%
45-54	10%
55-64	5%
65-74	3%
75-84	2%
85+	1%

100



AGENDA ITEM 9

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 28, 2016
DEPT. OF ORIGIN: Purchasing	SUBMITTED BY: Sara Parker

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Contract with Ricoh USA, Inc. for Leased Automation Equipment and Authorize the Mayor to Execute Any Necessary Documentation

SUMMARY STATEMENT: In 2013, the City leased fifteen photocopiers from Ricoh USA, Inc. That lease expires in 2016 and provides a \$1.00 Buyout option for City ownership of the copiers; therefore, a survey was performed concerning condition and fitness of the current fleet to determine feasibility of keeping these machines in service. It was found that:

- 12 are in good condition and suitable for their current location.
- 1 (Library) is in good condition but was not suitable for ongoing needs.
- 1 (Communications) will be returned in good condition by the County to the City.
- 1 (Administration) is not in good condition and needs to be replaced.

Based on this data Staff arrived at the following plan:

- Exercise \$1.00 Buyout option on all current machines except Administration.
- Keep 12 machines in current location.
- Replace Library machine with new machine to meet ongoing needs. Move current machine to Fleet where there currently is no copier.
- Place Communications copier at the new Animal Shelter along with their current smaller model for ongoing needs.
- Replace Administration copier with a new model selected to meet ongoing needs.
- Obtain a one-year maintenance contract for City owned machines.

To accomplish this plan, Purchasing examined lease pricing and maintenance costs for copiers of various manufacturers and models. All pricing was provided under one of the co-operative purchasing programs available to the city. The best value was found to be a 3-year lease for two copiers from Ricoh USA, Inc. Pricing is from Buyboard Contract No 453-14. Ricoh will also provide a one-year maintenance contract for the remaining city-owned copiers from the expiring lease.

By retaining fourteen copiers from the expiring lease, the City will realize savings over the next twelve months of approximately \$23,385.00 based on information from 2015. Cost in ensuing years will increase as more machines are replaced but should stabilize in three to five years as leases expire and roll over to maintenance only for the remaining useful life of each machine.

Base costs for the new leased copiers are:

- Library \$240.00/mo 48,000 B/W yearly allowance Color .0504 ea B/W Overage .0084 ea
- Admin \$575.00/mo 96,000 B/W yearly allowance Color .0504 ea B/W Overage .0063 ea
- Total yearly base cost: \$9,780.00
- Total 3-Year Lease Base Cost: \$29,340.00

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Cost savings; best utilization of current and new machines

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Quotes from Ricoh USA, Inc.

FUNDING SOURCE (Where Applicable): Budget. Various departments

RECOMMENDED ACTION: Approve a 3 year lease contract with Ricoh USA, Inc. for office automation equipment in the amount of \$29,340.00 and authorize the Mayor to execute any necessary documentation

APPROVALS: Terry K. Roberts

Ricoh USA, Inc.

**Business Solutions Proposal
Prepared For:**

**City of Brenham
Replacement of
MPC7501SP & MP2852SP**

Prepared By:

Rebecca Cella

March 22, 2016

Quote from Ricoh USA, Inc. for City of Brenham

Black and White Option - Library

Ricoh MP3054SP

- ☐ Automatic Document Feeder
- ☐ 30 Pages per Minute Black&White
- ☐ Copy, Network Print, Color Scan to email or folder
- ☐ 4x 500 Sheet Drawers
- ☐ Internal Finisher/Stapler
- ☐ Color Network Scan to email
- ☐ Fax Board
- ☐ Post Script 3
- ☐ Power Filter
- ☐ Print from/Scan to USB/SD card



RENTAL AGREEMENT		
Term	Copies Included	Price
36 Months Dollar Out	12,000 B/W Copies Quarterly	\$200.00 / Month

*Includes Service, Parts, Labor, Drum, Toner & Staples
Black Overages billed at 0.0084/image*

Full Color Option - Library

Ricoh MPC4503SP



- ☐ Automatic Document Feeder 220 Sheet Single Pass Duplex
- ☐ 45 Pages per Minute Black&White
- ☐ 45 pages per Minute Full color
- ☐ 1200x1200 DPI Print
- ☐ 600x600 DPI Scanning
- ☐ 4x550 Sheet Drawers
- ☐ 100 Sheet Stack Bypass Tray
- ☐ DOSS (security)
- ☐ Internal Finisher/Stapler
- ☐ Color network Print
- ☐ Color network Scan to email
- ☐ Post Script 3 for MAC printing
- ☐ Fax Board
- ☐ Print from/Scan to USB/SD card



RENTAL AGREEMENT		
Term	Copies Included	Price
36 Months Dollar Out	12,000 B/W Copies Quarterly	\$240.00 / Month

*Includes Service, Parts, Labor, Drum, Toner & Staples
Color Billed 0 and up at \$.0504 Each Quarterly
Black Overages billed at 0.0084/image*

Quote from Ricoh USA, Inc. for City of Brenham

Full Color

Ricoh MPC8002SP



- ☐ Automatic Document Feeder
- ☐ 80 Pages per Minute Black & White
- ☐ 80 pages per Minute Full color
- ☐ 2x1250 Sheet Drawers
- ☐ 2x550 Sheet Adjustable Trays
- ☐ 250 Sheet Stack Bypass Tray
- ☐ DOSS (security)
- ☐ 3000 sheet Staple Finisher
- ☐ 2 & 3 Hole Punch
- ☐ Color network Print
- ☐ Color network Scan to email
- ☐ Post Script 3 for MAC printing
- ☐ Power Filter



RENTAL AGREEMENT		
Term	Copies Included	Price
36 Months Dollar Out	24,000 B/W Copies Quarterly	\$575.00 / Month

*Includes Service, Parts, Labor, Drum, Toner & Staples
Color Billed 0 and up at \$.0504 Each Quarterly
Black Overages billed at 0.0063/image*



AGENDA ITEM 10

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 15, 2016
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Lori Lakatos
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-16-016 Authorizing the Acceptance of Public Improvements in the Ralston Creek Subdivision, Phases 2 and 3, and Authorize the Mayor to Execute Any Necessary Documentation	
SUMMARY STATEMENT: BCS Development Company has completed infrastructure improvements (water, sanitary, storm, and streets) related to the development of Phase 2 & 3 of Ralston Creek Estates, a 99 lot residential subdivision bounded by Stone Street, Blue Bell Road (FM 577), and Gun and Rod Road. The infrastructure improvements have been constructed and inspected according to the City of Brenham ordinances and regulations and are ready to be accepted by the City of Brenham.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference): N/A	
ATTACHMENTS: (1) Resolution No. R-16-016; (2) Subdivision Agreement dated June 5, 2015; (3) Letter from Engineering Department for the Acceptance of Streets and Storm Sewer Lines – Ralston Creek Estates, Phase 2 & 3; (4) Letter from the Engineering Department for the Acceptance of Water and Wastewater Lines – Ralston Creek Estates, Phases 2 & 3; (5) Final Plat Ralston Creek Estates Phase 2; and (6) Letter of One Year Guarantee	
FUNDING SOURCE (Where Applicable): N/A	
RECOMMENDED ACTION: Approve Resolution No. R-16-106 authorizing the acceptance of public improvements in the Ralston Creek Estates, Phases 2 and 3, and authorize the Mayor to execute any necessary documentation	
APPROVALS: Terry K. Roberts	

RESOLUTION NO. R-16-016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AUTHORIZING THE ACCEPTANCE OF PUBLIC IMPROVEMENTS IN THE RALSTON CREEK ESTATES, PHASE 2 & 3; AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTATION

WHEREAS, Ralston Creek Estates, Phase 2 & 3, is an approximately 35.384 acres, 99 lot subdivision developed by BCS Development Company;

WHEREAS, water, sewer, street, drainage improvements, and public infrastructure improvements were constructed by the developer;

WHEREAS, these public infrastructure improvements have been inspected by the City and found to be constructed in accordance with the City's Standards and Specifications;

WHEREAS, the City of Brenham desires to formally accept the water, sewer, street, drainage improvements, and public infrastructure improvements within Ralston Creek Estates, Phase 2 & 3 Subdivision.

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

The City of Brenham hereby accepts the water, sewer, street and drainage improvements in Ralston Creek Estates, Phase 2 and 3, in the City of Brenham, Texas and authorizes the Mayor to execute any necessary documentation.

RESOLVED this 5th day of May, 2016.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

SUBDIVISION AGREEMENT

THIS SUBDIVISION AGREEMENT (the "Agreement"), made this 5th day of June, 2015, by and between BCS Development Company, a Texas S Corp., hereinafter referred to as the "Owner," the City of Brenham, Texas, a home rule municipal corporation, hereinafter referred to as the "City."

WHEREAS, the Owner is the fee simple owner of, and has caused to be subdivided into lots, a certain tract or parcel of land situated in the City of Brenham, Washington County, Texas shown on a certain plat entitled Ralston Creek Subdivision, Phase 2, dated March 2, 2015, and desires to have said plat filed and recorded in the Official Records of Washington County, Texas; and

WHEREAS, under the terms of existing subdivision regulations to regulate and insure the orderly subdivision and development of land in the City of Brenham, as set out in Chapter 23 of the City of Brenham Code of Ordinances ("Subdivision Regulations"), it is provided that before the final plat of subdivision is approved for recordation, all public improvements required by said Subdivision Regulations for the land so subdivided shall have been installed therein, except that in lieu of actual installation of said public improvements, the subdivider shall provide a performance bond or other authorized security in an amount equal to the total cost of such public improvements guaranteeing that the improvements will be installed within a designated length of time; and

WHEREAS, installation of said improvements has not been completed and the Owner desires to enter into this Agreement and furnish a performance bond to the City so that the aforesaid plat may be approved for recordation;

NOW THEREFORE, for and in consideration of the premises and the approval of said subdivision plat for recordation and the covenants and agreements herein contained, the parties hereto agree as follows:

1. The City does hereby authorize the necessary City officials to approve said plat of subdivision of Ralston Creek Subdivision, Phase 2 for recordation insofar as the requirements of said Subdivision Regulations are concerned. It is agreed and understood by the parties hereto that the Owner has employed an engineer licensed to practice in the State of Texas for the design and preparation of the plans and specifications for the construction of all public improvements covered by this Agreement. Such plans and specifications shall be in accordance with the City's applicable design standards, codes, ordinances, regulations and policies. The Owner's engineer has developed detailed plans and specifications for the construction of the required public improvements for approval by the City. These improvements include all facilities and improvements required by the Subdivision Regulations and this Agreement to be installed as part of the project in conformance with City, State and Federal approvals and permits. The Owner's engineer has prepared a detailed estimate in the total amount of One Million One Hundred Forty-Three Thousand Six Hundred Seventy-Five and 01/100 Dollars (\$1,143,675.01) for the cost of the public improvements described in this Agreement, and said estimated costs have been reviewed and approved by the City's engineer. The detailed cost estimates are attached hereto as Exhibit "A" and incorporated herein for

all purposes pertinent.

2. The Owner covenants and agrees that it will within Three Hundred and Sixty Five (365) days from the date of this Agreement construct and install the public improvements as required by the Subdivision Regulations and this Agreement, and will, upon the execution of this Agreement, provide the City with a valid performance bond or other authorized security in the amount of One Million One Hundred Forty-Three Thousand Six Hundred Seventy-Five and 01/100 Dollars (\$1,143,675.01) acceptable to the City Attorney, which is the estimated cost of installing the required public improvements, conditioned upon the satisfactory performance of all the covenants and provisions of this Agreement. The aforementioned performance bond or other security amount includes, but is not limited to, the estimated cost of streets, drainage, storm water facilities, water system, sewer system, and erosion control improvements, for which work and cost the Owner as principal and/or the surety will be responsible pursuant to this Agreement and performance bond or other authorized security. The Owner shall be responsible for any and all plan revisions and field changes required by the City or submitted by the Owner's consultants or agent. Owner further agrees that if any such revisions or changes require an increase in the required amount of performance bond or other security, the Owner will provide such increase in performance bond or other security upon demand by the City. The performance bond or other security will be released only upon the satisfactory completion of the improvements as determined by the City.

3. The Owner will award its own construction contract for the construction of all streets, drainage, storm water facilities, water system, sewer system, and erosion control improvements. The Owner shall furnish to the City the required performance bond prior to the commencement of any work hereunder.

4. Attached hereto as Exhibit "B" is a performance bond, with the City as the obligee, meeting the requirements of Chapter 2253, Texas Government Code, guaranteeing and agreeing to pay an amount equal to one hundred percent (100%) of the value of the construction costs of all the facilities and public improvements to be constructed by the Owner pursuant to this Agreement and the Subdivision Regulations. The performance bond shall also provide for payment to the City of such amounts to the total remaining amounts required for the completion of the public improvements if the Owner fails to complete the work as required by this Agreement and the City's Subdivision Regulations. Upon approval by the City, the value/amount of the performance bond may be reduced at a rate consistent with the amount of work that has been completed by the Owner and formally accepted by the City.

5. Upon approval and acceptance of final plat, engineering plans, and financial assurance, the City will record the final plat with the County Clerk of Washington County. No building permits will be issued until the final plat is recorded and all public improvements serving the address requesting a permit have been inspected and approved by the City Engineer. Any warranty periods will not begin until the public improvements officially have been accepted by the City of Brenham.

6. Any surety company through which a bond is written shall be a surety company duly authorized to do business in the State of Texas, provided that the City, through the City Manager,

shall retain the right to reject any surety company as a surety for any work under this Agreement within the City of Brenham regardless of such Company's authorization to do business in Texas. Approvals by the City shall not be unreasonably withheld or delayed.

7. It is further agreed and understood by the parties hereto that upon acceptance by the City, title to all facilities and public improvements mentioned hereinabove shall be vested in the City of Brenham and the Owner hereby relinquishes any right, title, or interest in and to said facilities and public improvements, or any part thereof. It is further understood and agreed that until the City accepts such facilities and improvements, the City shall have no liability or responsibility in connection with any such facilities and improvements. Acceptance of the facilities and improvements shall occur at such time as the City, by and through action of the City Council, provides the Owner with a written acknowledgment that all facilities and improvements are complete, have been inspected and approved and are being accepted by the City of Brenham.

8. The Owner shall keep the required performance bond in full force and effect until such time as the Owner has fully complied with the terms and conditions of this Agreement, and failure to keep same in force and effect shall constitute a breach of this Agreement.

9. **THE OWNER COVENANTS AND AGREES TO HEREBY FULLY INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, WHETHER REAL OR ASSERTED, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY INCLUDING DEATH, RESULTING FROM OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE CONSTRUCTION OF THE PUBLIC IMPROVEMENTS OR FACILITIES DESCRIBED HEREIN; AND IN ADDITION, THE OWNER COVENANTS TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, SUITS OR CAUSES OF ACTION OF ANY NATURE WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES TO PERSONS OR PROPERTY, INCLUDING DEATH, RESULTING FROM ANY FAILURE TO PROPERLY SAFEGUARD THE WORK, OR ON ACCOUNT OF ANY ACT, INTENTIONAL OR OTHERWISE, NEGLIGENCE OR MISCONDUCT OF THE OWNER, ITS CONTRACTORS, SUBCONTRACTORS, AGENTS OR EMPLOYEES.**

10. The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Exclusive venue will be in a court of appropriate jurisdiction in Washington County, Texas.

11. Approval by the City Engineer, Director of Development Services, or other City official or employee, of any plans, designs or specifications submitted by the Owner pursuant to this Agreement shall not constitute or be deemed to be release of the responsibility and liability of the Owner, its engineer, employees, officers or agents for the accuracy and competency of their design and specifications prepared by the Owner's consulting engineer, his officers, agents or employees, it being the intent of the parties that the approval by the City, through the City Engineer, Director of

Development Services, or other City official or employee, signifies the City's approval on only the general design concept of the improvements to be constructed. **THE OWNER SHALL INDEMNIFY AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM ANY LOSS, DAMAGE, LIABILITY OR EXPENSE ON ACCOUNT OF DAMAGE TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY AND ALL PERSONS WHICH MAY ARISE OUT OF ANY DEFECT, DEFICIENCY OR NEGLIGENCE OF THE OWNER'S ENGINEER'S DESIGNS AND SPECIFICATIONS INCORPORATED INTO ANY IMPROVEMENTS CONSTRUCTED IN ACCORDANCE THEREWITH, AND THE OWNER SHALL DEFEND AT HIS OWN EXPENSE ANY SUITS OR OTHER PROCEEDING BROUGHT AGAINST THE CITY, ITS OFFICERS, AGENTS OR EMPLOYEES, OR ANY OF THEM, ON ACCOUNT THEREOF, TO PAY ALL EXPENSES AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED OR RENDERED AGAINST THEM OR ANY OF THEM IN CONNECTION HEREWITH. ALL RESPONSIBILITY AND LIABILITY FOR DRAINAGE TO ADJACENT AND DOWNSTREAM PROPERTIES FROM DEVELOPMENT OF THIS PROJECT WILL ACCRUE TO THE OWNER.**

12. This Agreement or any part hereof or any interests herein, shall not be assigned by the Owner without the express written consent of the City.

13. All work performed under this Agreement shall be completed within Three Hundred and Sixty Five (365) days from the date hereof. In the event the work is not completed within said 365 day period, the City may, at its election, draw down on the performance bond or other security provided by the Owner and complete such work at Owner's expense; provided, however, that if the construction under this Agreement shall have started within the 365 day period, the City may, within its sole discretion, agree to renew the Agreement with such renewed agreement to be in compliance with the City policies in effect at that time.

14. If any provision of this Agreement is illegal, invalid, or unenforceable, under present or future laws, it is the intention of the Parties that the remainder of this Agreement not be affected, and, in lieu of each illegal, invalid, or unenforceable provision, that a provision be added to this Agreement which is legal, valid, and enforceable and is as similar in terms to the illegal, invalid or enforceable provision as is possible.

15. To the extent not inconsistent with this Agreement, each party reserves all rights, privileges, and immunities under applicable laws.

16. The prevailing party in any dispute under this Agreement will be entitled to recover from the non-prevailing party its reasonable attorney's fees, expenses and court costs in connection with any original action, any appeals, and any post-judgment proceedings to collect or enforce a judgment.

17. Any failure by a party to insist upon strict performance by the other party of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that party's right insist upon strict compliance with all terms of this Agreement.

In order to be effective as to a party, any waiver of default under this Agreement must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

18. This Agreement contains the entire agreement of the parties, and there are no other agreements or promises, oral or written, between the parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the parties.

19. Any notices under this Agreement may be sent by hand delivery, facsimile (with confirmation of delivery) or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

CITY OF BRENHAM:

Terry K. Roberts, City Manager
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059
Telephone: (979) 337-7390
Fax: (979) 337-7383

Copy to:

Cary L. Bovey, City Attorney
Law Office of Cary L. Bovey, PLLC
2251 Double Creek Dr., Suite 204
Round Rock, Texas 78664
Telephone: (512) 904-9441
Fax: (512) 904-9445

BCS DEVELOPMENT COMPANY:

Charles R. French, President
4090 ~~4112~~ State Highway 6 South
College Station, Texas 77845
Telephone: (979) 690-1222 (x135)
Fax: (979) 690-0348

Copy to:

Cully Lipsey
1021 University Drive East

College Station, TX, 77840

Telephone: (979) 314-1172

Fax: (979) 846-4725

IN WITNESS WHEREOF, the undersigned Parties have executed this Agreement on the dates indicated below, to be effective on the date the last party signs.

CITY OF BRENHAM

By: Terry K. Roberts
Terry K. Roberts, City Manager

6/8/15
Date

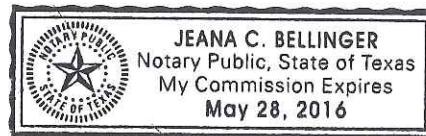
STATE OF TEXAS §

§

COUNTY OF WASHINGTON §

This Agreement was acknowledged before me on the 8th day of June, 2015, by Terry K. Roberts, Jr., the City Manager of the City of Brenham, a Texas home rule City, on behalf of the City.

Jeana C. Bellinger
Notary Public in and for the State of Texas



BCS DEVELOPMENT COMPANY

By: Charles R. French, President
Theresa Cervantez, Vice President

6/5/15
Date

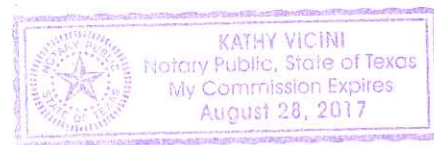
STATE OF TEXAS §

§

COUNTY OF Brazos §

This Agreement was acknowledged before me on the 5th day of June, 2015, by Charles R. French, President of BCS DEVELOPMENT COMPANY, a Texas S Corp on behalf of said Theresa Cervantez Vice President.

Kathy Vicini
Notary Public in and for the State of Texas



CERTIFICATE OF CORPORATE RESOLUTION

Date: December, 2012
Corporation: BCS DEVELOPMENT COMPANY
President: RANDY FRENCH
Date of Meeting of Directors: December 24, 2012

I, President of the Corporation certify the following facts:

1. The Corporation is organized and operating under the laws of Texas, is qualified to do business in Texas, and is in good standing.
2. No proceedings for forfeiture of the certificate of incorporation or for voluntary or involuntary dissolution of the Corporation are pending.
3. Neither the articles of incorporation nor bylaws of the Corporation limit the power of Directors to pass the resolution below.
4. The President is the person authorized to make and sign this resolution.
5. The resolution below was legally adopted by unanimous written consent of all Directors on the date of the meeting of the Directors, and the unanimous consent conforms with the law and the bylaws of the Corporation.
6. These resolutions have been adopted by the Directors:

RESOLVED, that the following individuals shall have authority to act and sign on behalf of the Corporation for the purpose of executing deeds, contracts, deeds of trust, promissory notes, mortgages, security agreements, loan agreements, applications, consents, permits, easements, licenses, plats, replats, settlement statements, affidavits, certificates and other related documents, are are required to effectuate such purchases, developments and sales of real properties as they may each deem appropriate, without the attestation or confirmation of any other officer, and to deliver any of such instruments as they may each deem appropriate or necessary on behalf of the Corporation:

Randy French, President

Doug French, Vice President

Jeffrey R. French, Vice President

Theresa Cervantes, Vice President

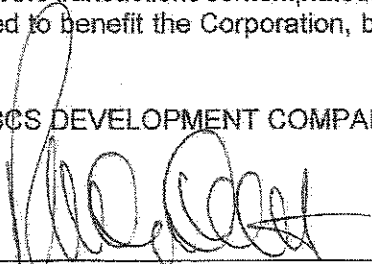
Edna Alford, Vice President

Randy French, Secretary;

"FURTHER RESOLVED, that the transactions contemplated by the foregoing resolutions are reasonably expected to benefit the Corporation, both directly and indirectly.

BCS DEVELOPMENT COMPANY

By:


Randy French, President

RALSTON CREEK PHASE 3

MBESI No. 10530035

Engineer's Opinion of Construction Costs Remaining

April 15, 2015

Item #	Description	Unit	Quantity	Unit Price	Total	Percent Complete	Total Remaining
Paving Construction							
1	Site Preparation (includes clearing & grubbing)	AC	22.70	\$2,000.00	\$45,400.00	45%	\$24,970.00
2	Remove Existing House north of Ralston Creek (includes demolition, hauling off, and grading of house, accessory buildings, and utility lines)	LS	1.00	\$25,700.00	\$25,700.00	0%	\$25,700.00
3	Remove Existing House south of Ralston Creek (includes demolition, hauling off, and grading of house, accessory buildings, and utility lines)	LS	1.00	\$25,000.00	\$25,000.00	100%	\$0.00
4	Earthwork (Excavation and Embankment for Public ROW, Common Area, and Lots)	CY	31,500	\$7.00	\$220,500.00	45%	\$121,275.00
5	Mailbox Cluster Boxes (Furnish and Install)	EA	2	\$2,750.00	\$5,500.00	0%	\$5,500.00
6	4" Reinforced Concrete Sidewalk	SF	11,430	\$4.00	\$45,720.00	100%	\$0.00
7a	36" Tall Concrete Retaining Wall	LF	265	\$125.00	\$33,125.00	100%	\$0.00
7b	36" Tall Pre-Cast Concrete Block Retaining Wall	LF	265	\$125.00	\$33,125.00	100%	\$0.00
8	Colored Sidewalk Ramps	EA	2	\$500.00	\$1,000.00	0%	\$1,000.00
9	6" Lime Stabilized Subgrade (6% by weight)	SY	18,668	\$4.25	\$79,339.00	0%	\$79,339.00
10	Concrete Curb and Gutter	LF	5,096	\$11.00	\$56,056.00	0%	\$56,056.00
11	6" Crushed Stone Base	SY	12,343	\$12.00	\$148,116.00	0%	\$148,116.00
12	2" HMAc Pavement	SY	12,343	\$13.00	\$160,459.00	0%	\$160,459.00
13	Driveways	EA	73	\$100.00	\$7,300.00	0%	\$7,300.00
14	6" Reinforced Concrete Pavement	SY	2,269	\$45.00	\$102,105.00	0%	\$102,105.00
Paving Subtotal					\$988,445.00		\$731,820.00
Drainage System Construction							
15	18" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	LF	402	\$65.00	\$26,130.00	40%	\$15,678.00
16	24" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	LF	727	\$75.00	\$54,525.00	40%	\$32,715.00
17	30" RCP Pipe, (ASTM C-76, CL III) (Structural Backfill)	LF	664	\$90.00	\$59,760.00	40%	\$35,856.00
18	TV Inspection	LF	1,376	\$3.00	\$4,128.00	40%	\$2,476.80
19	Junction Box	EA	3	\$2,500.00	\$7,500.00	40%	\$4,500.00
20	Rock Rip Rap	SY	125	\$55.00	\$6,875.00	40%	\$4,125.00
21	18" Safety End Treatment or Headwall	EA	3	\$1,200.00	\$3,600.00	40%	\$2,160.00
22	24" Safety End Treatment or Headwall	EA	2	\$1,400.00	\$2,800.00	40%	\$1,680.00
23	30" Safety End Treatment or Headwall	EA	1	\$1,500.00	\$1,500.00	40%	\$900.00
24	Standard 5' Recessed Inlet	EA	10	\$2,500.00	\$25,000.00	40%	\$15,000.00
25	Standard 10' Recessed Inlet	EA	1	\$3,200.00	\$3,200.00	40%	\$1,920.00
Drainage System Subtotal					\$168,888.00		\$117,010.80
Water System Construction							
26	8" PVC, C909 Cl 200, Water Line, Str. Backfill	LF	1,355	\$27.50	\$37,262.50	60%	\$14,905.00
27	6" PVC, C909 Cl 200, Water Line, Str. Backfill	LF	861	\$25.00	\$21,525.00	60%	\$8,610.00
28	4" PVC, C909 Cl 200, Water Line, Str. Backfill	LF	1,074	\$23.50	\$25,239.00	60%	\$10,095.60
29	2" PVC, ASTMD2241	LF	1,030	\$14.50	\$14,935.00	60%	\$5,974.00

RALSTON CREEK PHASE 3

MBESI No. 10530035

Engineer's Opinion of Construction Costs Remaining

April 15, 2015

Item #	Description	Unit	Quantity	Unit Price	Total	Percent Complete	Total Remaining
30	8" M.J. Gate Valve	EA	5	\$1,200.00	\$6,000.00	60%	\$2,400.00
31	6" M.J. Gate Valve	EA	1	\$950.00	\$950.00	60%	\$380.00
32	4" M.J. Gate Valve	EA	2	\$950.00	\$1,900.00	60%	\$760.00
33	2" M.J. Gate Valve	EA	2	\$750.00	\$1,500.00	60%	\$600.00
34	8"x45 Deg. M.J. Bend	EA	8	\$400.00	\$3,200.00	60%	\$1,280.00
35	6"x45 Deg. M.J. Bend	EA	4	\$350.00	\$1,400.00	60%	\$560.00
36	8"x11.25 Deg. M.J. Bend	EA	1	\$350.00	\$350.00	60%	\$140.00
37	4"x45 Deg. M.J. Bend	EA	4	\$350.00	\$1,400.00	60%	\$560.00
38	2"x45 Deg. M.J. Bend	EA	10	\$150.00	\$1,500.00	60%	\$600.00
39	8"x8" M.J. Tee	EA	3	\$500.00	\$1,500.00	60%	\$600.00
40	8"x4" M.J. Tee	EA	1	\$500.00	\$500.00	60%	\$200.00
41	6"x4" M.J. Tee	EA	2	\$350.00	\$700.00	60%	\$280.00
42	8"x6" Reducer	EA	1	\$150.00	\$150.00	60%	\$60.00
43	4"x2" Reducer	EA	4	\$100.00	\$400.00	60%	\$160.00
44	Blow-off Assembly	EA	1	\$1,000.00	\$1,000.00	60%	\$400.00
45	Fire Hydrant Assembly	EA	5	\$3,500.00	\$17,500.00	60%	\$7,000.00
46	Connect to Existing Waterline	EA	5	\$1,000.00	\$5,000.00	60%	\$2,000.00
47	Remove/Replace Existing Asphalt Street	SF	25	\$150.00	\$3,750.00	60%	\$1,500.00
48	Water Service, 1" poly pipe, short side (< 20') (includes all fittings and concrete meter box)	EA	38	\$1,200.00	\$45,600.00	60%	\$18,240.00
49	Water Service, 1" poly pipe, long side (> 20') (includes all fittings and concrete meter box)	EA	61	\$1,500.00	\$91,500.00	60%	\$36,600.00
Water System Subtotal					\$284,761.50		\$113,904.60
Sewer System Construction							
50	6" PVC, D-3034 SDR 26	LF	3,990	\$7.50	\$29,925.00	70%	\$8,977.50
51	Str. Backfill (5'- 8' Depth)	LF	1,181	\$15.00	\$17,715.00	70%	\$5,314.50
52	Non-Str. Backfill (5'- 8' Depth)	LF	1,294	\$29.00	\$37,526.00	70%	\$11,257.80
53	Str. Backfill (8'-10' Depth)	LF	379	\$20.00	\$7,580.00	70%	\$2,274.00
54	Non-Str. Backfill (8'-10' Depth)	LF	827	\$30.00	\$24,810.00	70%	\$7,443.00
55	Str. Backfill (10'-12' Depth)	LF	284	\$25.00	\$7,100.00	70%	\$2,130.00
56	Non-Str. Backfill (10'-12' Depth)	LF	25	\$35.00	\$875.00	70%	\$262.50
57	Connect to Existing MH	EA	2	\$1,000.00	\$2,000.00	70%	\$600.00
58	Standard Manhole, 0-6 ft. deep	EA	16	\$2,800.00	\$44,800.00	70%	\$13,440.00
59	Drop Connection	EA	1	\$750.00	\$750.00	70%	\$225.00
60	Extra Depth (>6)	VF	41	\$250.00	\$10,250.00	70%	\$3,075.00
61	TV Inspection	LF	3,990	\$4.00	\$15,960.00	70%	\$4,788.00
62	Short Side 4" Sewer Service (< 20')	EA	57	\$650.00	\$37,050.00	70%	\$11,115.00
63	Long Side 4" Sewer Service (>20')	EA	42	\$1,400.00	\$58,800.00	70%	\$17,640.00
64	Trench Safety (sewer)	LF	3,990	\$1.00	\$3,990.00	70%	\$1,197.00
Sewer System Subtotal					\$299,131.00		\$89,739.30

RALSTON CREEK PHASE 3
MBESI No. 10530035
Engineer's Opinion of Construction Costs Remaining
April 15, 2015

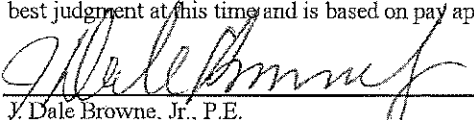
Item #	Description	Unit	Quantity	Unit Price	Total	Percent Complete	Total Remaining
Erosion Control Construction							
65	Erosion Control Plan & Sedimentation Control (per Item 106) (includes monitoring, record keeping, grass seeding, and cleanup)	LS	1	\$9,000.00	\$9,000.00	30%	\$6,300.00
66	Grass Seeding	SY	52,500	\$0.25	\$13,125.00	30%	\$9,187.50
67	Silt Fence (Type 1)	LF	1,463	\$2.50	\$3,657.50	30%	\$2,560.25
68	Inlet Protection	EA	10	\$100.00	\$1,000.00	30%	\$700.00
69	Headwall Protection	EA	5	\$200.00	\$1,000.00	30%	\$700.00
70	Entrance/Exit	EA	2	\$1,400.00	\$2,800.00	30%	\$1,960.00
Erosion Control Subtotal					\$30,582.50		\$21,407.75

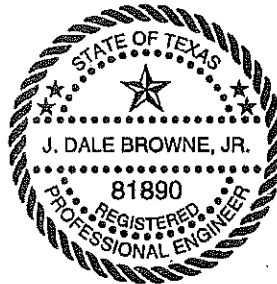
Subtotal Construction Remaining: **\$1,073,882.45**

Contingency (10%): **\$107,388.25**

Total Construction Remaining: **\$1,181,270.70**

The above estimate is based on the engineer's opinion of remaining construction costs for the above referenced project. This estimate constitutes our best judgment at this time and is based on pay applications submitted by the Contractor.

 4/15/15
 J. Dale Browne, Jr., P.E. Date
 McClure & Browne Engineering/Surveying, Inc.
 Firm Reg. No. F-458



**TEXAS STATUTORY PERFORMANCE BOND
(PUBLIC WORKS)**

Bond Number: CNB-19584-00

KNOW ALL MEN BY THESE PRESENTS:

THAT, BCS Development Company, (hereinafter called the Principal), as Principal, and INSURORS INDEMNITY COMPANY, a corporation organized and existing under the laws of the State of Texas, licensed to do business in the State of Texas and admitted to write bonds, as surety, (hereinafter called the Surety), with its principal place of business in the City of Waco, Texas, are held and firmly bound unto the City of Brenham (hereinafter called the Obligee), in the amount of One Million One Hundred Forty Three Thousand Six Hundred Seventy Five Dollars and One Cent (\$ 1,143,675.01) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain Contract with the Obligee, dated the 17th day of April, 2015, for the construction of Ralston Creek Phase 2; Paving, Drainage, Water System, Sewer System, and Erosion Control.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the Contract and the Contract Documents, including the plans and specifications, then this obligation shall be null and void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions, conditions and limitations of said Chapter to the same extent as if it were copied at length herein.

PROVIDED FURTHER, that this bond is conditioned upon the Obligee having fully and completely discharged its obligations under the Contract, and the Contract Documents, including, but not limited, to having paid the Principal in strict accordance with the Contract and the Contract Documents; and

PROVIDED FURTHER, that in order to invoke the Surety's obligations to the Obligee, the Obligee shall have defaulted and terminated the Principal in accordance with the Contract and the Contract Documents and shall have mailed notice to the Surety, within seven (7) days of the default and termination of the Principal, at:

Insurors Indemnity Company
P.O. Box 2683
Waco, TX 76702-2683

Or Insurors Indemnity Company
225 South Fifth Street
Waco, TX 76710

of said default and termination; and

PROVIDED FURTHER, that the Surety shall have Twenty (20) businesses days, not including the date of receipt, after the receipt of the notice of default and termination to review the default and termination of the Principal to decide whether it will:

- 1) Proceed to arrange for completion of the work by either:
 - A) Taking over the work; or
 - B) Financing the Principal; or

- C) Tendering a replacement contractor to the Obligee and paying the difference between the replacement contractor's contract price and the remaining contract funds to the Obligee; or
- D) Arranging for the completion of the work in some other manner; or

2) Deny liability and coverage under this bond; and

PROVIDED FURTHER, that the Obligee, in the event of a default and termination of the Principal, shall:

- 1) Fully cooperate in the Surety's review of the default and termination by providing a copy of all the Contract Documents and all other documents requested by the Surety;
- 2) Allow the Surety or the Surety's representatives full and complete access to the construction site; and
- 3) In the event the Surety takes over the work, finances the Principal, or arranges for the completion of the work by paying to the Surety, or as the Surety may designate, the unpaid Contract proceeds in accordance with the terms and conditions of the Contract; and

PROVIDED FURTHER, that any payments by the Surety shall reduce the penal sum of this bond to the extent that the Obligee does not reimburse the Surety by paying to the Surety the remaining Contract balances; and

PROVIDED FURTHER, that the Surety is NOT bound by any arbitration term, condition, clause or provision imposed by the underlying Contract or Contract Documents; and

PROVIDED FURTHER, that the Surety is NOT bound by any indemnification term, condition, clause or provision imposed by the underlying Contract or Contract Documents; and

PROVIDED FURTHER, that this bond is NOT a substitute for and is NOT meant to, or intended to, supplement the insurance required to be furnished by the Principal in accordance with the Contract and the Contract Documents; and

PROVIDED FURTHER, that this bond does not provide coverage for and the Surety shall not be liable for molds, living or dead fungi, bacteria, allergins, histamines, spores, hyphae, mycrotoxins, toxins, viruses, or their related parts, nor the remediation thereof, nor the consequences or the results of their occurrence, existence, or appearance, whether or not they were caused by Principal's actions or inactions; and

PROVIDED FURTHER, that this bond does not provide coverage for, and the surety shall not be liable for, losses caused by acts of terrorism, riot, civil insurrection, or acts of war; and

PROVIDED FURTHER, that in any lawsuit involving this bond the prevailing party shall be awarded its attorney fees.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 27th day of April, 2015.

APPROVED AS TO FORM:

By: _____ Obligee (Seal)

PRINCIPAL: BCS Development Company
(Seal)

By: [Signature]
(title) President

INSURORS INDEMNITY COMPANY
(Seal)

By: Carol A. Manuel
Carol A. Manuel, Attorney-in-Fact

POWER OF ATTORNEY of INSURORS INDEMNITY COMPANY Waco, Texas

KNOW ALL PERSONS BY THESE PRESENTS:

Number: CNB-19584-00

That INSURORS INDEMNITY COMPANY, Waco, Texas, organized and existing under the laws of the State of Texas, and authorized and licensed to do business in the State of Texas and the United States of America, does hereby make, constitute and appoint

Carol A. Manuel of the City of Bryan, State of TX

as Attorney in Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, all of the following classes of document, to-wit:

Indemnity, Surety and Undertakings that may be desired by contract, or may be given in any action or proceeding in any court of law or equity; Indemnity in all cases where indemnity may be lawfully given and with full power and authority to execute consents and waivers to modify or change or extend any bond or document executed for this Company.

INSURORS INDEMNITY COMPANY

Attest: Tammy Tieperman
Tammy Tieperman, Secretary

By: Dave E. Talbert
Dave E. Talbert, President

State of Texas
County of McLennan

On the 11th day of November, 2014, before me a Notary Public in the State of Texas, personally appeared Dave E. Talbert and Tammy Tieperman, who being by me duly sworn, acknowledged that they executed the above Power of Attorney in their capacities as President and Corporate Secretary, respectively, of Insurors Indemnity Company, and acknowledged said Power of Attorney to be the voluntary act and deed of the Company.

Sherri Whitehouse
Notary Public, State of Texas



Insurors Indemnity Company certifies that this Power of Attorney is granted under and by authority of the following resolutions of the Company adopted by the Board of Directors on November 11, 2014:

RESOLVED, that all bonds, undertakings, contracts or other obligations may be executed in the name of the Company by persons appointed as Attorney in Fact pursuant to a Power of Attorney issued in accordance with these Resolutions. Said Power of Attorney shall be executed in the name and on behalf of the Company either by the Chairman and CEO or the President, under their respective designation. The signature of such officer and the seal of the Company may be affixed by facsimile to any Power of Attorney, and, unless subsequently revoked and subject to any limitation set forth therein, any such Power of Attorney or certificate bearing such facsimile signature and seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signature and seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is validly attached.

RESOLVED, that Attorneys in Fact shall have the power and authority, subject to the terms and limitations of the Power of Attorney issued to them, to execute and deliver on behalf of the Company and to attach the seal of the Company to any and all bonds and undertakings, and any such instrument executed by such Attorneys in Fact shall be binding upon the Company as if signed by an Executive Officer and sealed and attested to by the Secretary or Assistant Secretary of the Company.

I, Tammy Tieperman, Secretary of Insurors Indemnity Company, do hereby certify that the foregoing is a true excerpt from the Resolutions of the said Company as adopted by its Board of Directors on November 11, 2014, and that this Resolution is in full force and effect. I certify that the foregoing Power of Attorney is in full force and effect and has not been revoked.

In Witness Whereof, I have set my hand and the seal of INSURORS INDEMNITY COMPANY on this 27th day of April, 2015.

Tammy Tieperman
Tammy Tieperman, Secretary

NOTE: IF YOU HAVE ANY QUESTION REGARDING THE VALIDITY OR WORDING OF THIS POWER OF ATTORNEY, PLEASE CALL 800 933 7444 OR WRITE TO US AT P. O. BOX 2683, WACO, TEXAS 76702-2683 OR EMAIL US AT CONFIRMATION@INSURORSINDEMNITY.COM.

IMPORTANT NOTICE - AVISO IMPORTANTE

To obtain information or make a complaint:

You may call Insurors Indemnity Company's toll-free telephone number for information or to make a complaint at:

1-800-933-7444

You may also write to Insurors Indemnity Company at:

P.O. Box 2683
Waco, TX 76702-2683
Or
225 South Fifth Street
Waco, TX 76701

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

1-800-252-3439

You may write the Texas Department of Insurance at:

P.O. Box 149104
Austin, TX 78714-9104
Fax: 512-475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim, you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis de Insurors Indemnity Company's para informacion o para someter una queja al

1-800-933-7444

Usted tambien puede escribir a Insurors Indemnity Company:

P.O. Box 2683
Waco, TX 76702-2683
O
225 South Fifth Street
Waco, TX 76701

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
Fax: 512-475-1771

Web: <http://www.tdi.state.tx.us>

E-mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concemiente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



200 W. Vulcan Street
P.O. Box 1059
Brenham, TX 77834-1059
Ph: 979.337.7200
www.cityofbrenham.org

Engineering Department

May 5, 2016

Legacy Concrete Works, LLC
P.O. Box 678
Brenham, Texas 77834

ATTN: Skylar Schultz

RE: ACCEPTANCE OF STREETS AND STORM SEWER LINES
Ralston Creek Estates, Phase 2 & 3

Dear Skylar Schultz:

Please be advised that the streets and storm sewer in Ralston Creek Estates, Phase 2 & 3 have been accepted by the City of Brenham as shown below:

Streets

Street	Traveling Direction	Beginning		Ending		Length (ft.)	Pavement Width (ft.)	Pavement SF	Dollar Value
		Lat.	Long.	Lat.	Long.				
Basin Trail	NE	N030.151362	W096.374878	N030.152795	W096.372526	912	27	24631	\$270,641.41
Basin Trail	SE	N030.152795	W096.372526	N030.152035	W096.371976	335	27	9038	\$99,308.07
Basin Trail	NE	N030.152035	W096.371976	N030.152180	W096.371074	294	27	7938	\$87,221.45
Basin Trail	NW	N030.151996	W096.371654	N030.153291	W096.371672	449	27	12123	\$133,205.55
Infield Court	SE	N030.152338	W096.373268	N030.151853	W096.372939	205	27	5535	\$60,817.68
Lodge Drive	SE	N030.152086	W096.371530	N030.151583	W096.371392	188	40	7520	\$82,628.53
Maize Court	NE	N030.155445	W096.373392	N030.155767	W096.371935	476	27	12852	\$141,215.68
Arable Court	SE	N030.155585	W096.372797	N030.154776	W096.372544	305	27	8235	\$90,484.84
Arable Court	NE	N030.154776	W096.372544	N030.154984	W096.371656	291	27	7857	\$86,331.44
Arable Court	W	N030.154984	W096.371656	N030.154636	W096.371548	132	27	3564	\$39,160.65

Storm Sewers

Associated Street	Side of Street (N/S/E/W)	Beginning		Ending		Length (ft.)	Pipe Size (in.)	Dollar Value
		Lat.	Long.	Lat.	Long.			
Gun & Rod Road	N	N030.151351	W096.372806	N030.151322	W096.373172	113	24	\$15,316.00
Basin Trail	S	N030.151322	W096.373172	N030.152039	W096.373659	301	24	\$40,797.49
Basin Trail	Across	N030.152039	W096.373659	N030.152103	W096.373758	37	24	\$5,014.97
Basin Trail	N	N030.152103	W096.373758	N030.152593	W096.374134	213	24	\$28,869.99
Basin Trail	Across	N030.152589	W096.372773	N030.152665	W096.372850	35	24	\$4,743.89
Basin Trail	N	N030.152665	W096.372850	N030.153233	W096.373278	246	24	\$33,342.80
Basin Trail	Across	N030.152979	W096.371399	N030.152928	W096.371500	35	24	\$4,743.89
Basin Trail	W	N030.152928	W096.371500	N030.153383	W096.371756	181	24	\$24,532.71
Basin Trail	N	N030.153383	W096.371756	N030.153709	W096.372081	155	24	\$21,008.68
Basin Trail	N	N030.153709	W096.372081	N030.153918	W096.372093	75	24	\$10,165.49
Arable Court	S	N030.154540	W096.371476	N030.154085	W096.371319	172	24	\$23,312.85
Arable Court	Across	N030.154888	W096.372509	N030.154762	W096.372613	54	18	\$7,319.15
Arable Court	SW	N030.154762	W096.372613	N030.154632	W096.372687	52	24	\$7,048.07

Date of Acceptance: May 5, 2016

One year warranty period begins on **May 5, 2016** and ends on **May 4, 2017** for the infrastructure listed above.
[One year surface correction warranty period begins on that end date and extends the warranty for surface corrections to streets one additional year.]

Sincerely,

Lori Lakatos, P.E. CFM
City Engineer

c: Matt Childers, Stylecraft Builders
J. Dale Browne, Jr., P.E., McClure & Browne Engineering/Surveying, Inc.



200 W. Vulcan Street
P.O. Box 1059
Brenham, TX 77834-1059
Ph: 979.337.7200
www.cityofbrenham.org

Engineering Department

May 5, 2016

Legacy Concrete Works, LLC
P.O. Box 678
Brenham, Texas 77834

ATTN: Skylar Schultz

RE: ACCEPTANCE OF WATER AND WASTEWATER LINES
Ralston Creek Estates, Phase 2 & 3

Dear Skylar Schultz:

Please be advised that the water and wastewater lines in Ralston Creek Estates, Phase 2 & 3 have been accepted by the City of Brenham as shown below:

Water Lines

Associated Street	Side of Street (N/S/E/W)	Beginning		Ending		Length (ft.)	Pipe Size (in.)	Dollar Value
		Lat.	Long.	Lat.	Long.			
Basin Trail	S	N030.151287	W096.374876	N030.152726	W096.372543	909	8	\$47,386.39
Basin Trail	W	N030.152726	W096.372543	N030.152000	W096.372000	329	8	\$17,150.85
Basin Trail	S	N030.152000	W096.372000	N030.151996	W096.371654	117	8	\$6,099.24
Basin Trail	S	N030.151996	W096.371654	N030.152150	W096.371006	216	6	\$9,383.44
Basin Trail	E	N030.152150	W096.371006	N030.152425	W096.371075	105	6	\$4,561.40
Basin Trail	E	N030.152425	W096.371075	N030.153429	W096.371681	414	4	\$14,387.95
Infield Court	W	N030.152232	W096.373318	N030.151716	W096.372928	230	4	\$7,993.30
Lodge Drive	W	N030.151996	W096.371654	N030.151515	W096.371487	188	8	\$9,800.49
Maize Court	S	N030.155385	W096.373374	N030.155760	W096.371778	523	6	\$22,720.10
Arable Court	E	N030.155546	W096.372692	N030.154889	W096.372467	255	4	\$8,862.14
Arable Court	N	N030.154889	W096.372467	N030.154991	W096.371895	189	4	\$6,568.41
Arable Court	W	N030.154991	W096.371895	N030.154512	W096.371542	217	4	\$7,541.51

Wastewater Lines

Associated Street	Side of Street (N/S/E/W)	Beginning		Ending		Length (ft.)	Pipe Size (in.)	Dollar Value
		Lat.	Long.	Lat.	Long.			
Basin Trail	N	N030.151591	W096.374641	N030.152431	W096.373256	534	6	\$30,417.28
Basin Trail	N	N030.152431	W096.373256	N030.152891	W096.372523	286	6	\$16,290.90
Basin Trail	E	N030.152891	W096.372523	N030.152775	W096.372355	68	6	\$3,873.36
Basin Trail	E	N030.152775	W096.372355	N030.151946	W096.371830	345	6	\$19,651.62
Infield Court	E	N030.152431	W096.373256	N030.151765	W096.372804	282	6	\$16,063.06
Basin Trail	W	N030.152053	W096.371136	N030.152548	W096.371264	185	6	\$10,537.82
Basin Trail	W	N030.152548	W096.371264	N030.153149	W096.371660	252	6	\$14,354.22
Basin Trail	W	N030.153149	W096.371660	N030.153255	W096.371730	45	6	\$2,563.25
None	N	N030.153255	W096.371730	N030.153585	W096.371384	163	6	\$9,284.68
None	N	N030.153585	W096.371384	N030.153726	W096.371384	51	6	\$2,905.02
None	N	N030.153726	W096.371384	N030.153806	W096.371118	90	6	\$5,126.51
Basin Trail	N	N030.152775	W096.372355	N030.153149	W096.371660	259	6	\$14,752.95
Arable Court	W	N030.155628	W096.372886	N030.154714	W096.372560	348	6	\$19,822.50
Arable Court	S	N030.154714	W096.372560	N030.154963	W096.371599	317	6	\$18,056.70
Arable Court	E	N030.154963	W096.371599	N030.154183	W096.371309	299	6	\$17,031.40
Maize Court	N	N030.155515	W096.373366	N030.155628	W096.372886	158	6	\$8,999.87
Maize Court	N	N030.155628	W096.372886	N030.155871	W096.371852	339	6	\$19,309.85

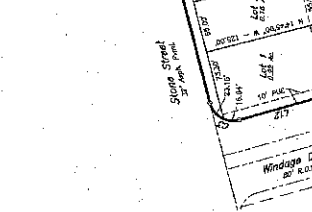
Date of Acceptance: May 5, 2016

One year warranty period begins on **May 5, 2016** and ends on **May 4, 2017** for the infrastructure listed above. [One year surface correction warranty period begins on that end date and extends the warranty for surface restoration of water and wastewater lines work one additional year.]

Sincerely,

Lori Lakatos, P.E., CFM
City Engineer

c: Matt Childers, Stylecraft Builders
J. Dale Browe, Jr., P.E., McClure & Browne Engineering/Surveying, Inc.

[illegible]



ONE YEAR GUARANTEE OF MATERIALS AND WORKMANSHIP

Date: April 27, 2016

To: City of Brenham

Re: Ralston Creek Estates, Phase 2 & 3

The Developer shall well, truly, and faithfully maintain and keep in good repair the work performed and all public improvements installed for a period of one (1) year from the date of acceptance in writing by the City of Brenham, and Developer shall do all necessary work and repair of any defective conditions, known or unknown, at any time during the period which the city engineer, whose judgment shall be final and conclusive, determines to be the result of defective work, materials or labor, including but not limited to streets, water lines, sewer lines, drainage improvements, vegetative cover, and erosion control measures.

SIGNED

Developer

Date

Principal Contact

Printed Name of Contact

Contact Number



AGENDA ITEM 11

DATE OF MEETING: May 5, 2016		DATE SUBMITTED: April 28, 2016	
DEPT. OF ORIGIN: Development Services		SUBMITTED BY: Erik Smith	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING	
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION	
	☐ WORK SESSION		
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Residential Lot Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 95, 19.94 Acres, Out of the Phillip Coe Survey, A-31, Located at 940 Farmers Road, in Brenham, Washington County, Texas			
SUMMARY STATEMENT: Donald Lampe has submitted a variance, on behalf of, H. A. and Judy Smith who own a 19.94 acre tract of land located within the City of Brenham Extra Territorial Jurisdiction that is addressed as 940 Farmers Road. The City of Brenham is allowed to enforce the subdivision ordinance within the ETJ. The subject property does not have road frontage but has an access easement to Farmers Road. The applicant wishes to subdivide this property into two tracts. However, after reviewing the proposed site plan in accordance with the City's subdivision ordinance, staff realized they would not be able to submit a plat that was not in compliance with the city's ordinances. Chapter 23-22(5)(a) Article III – Design Standards, (1) states:			
(5) Lot facing: a. <i>Street frontage. Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.</i> The applicant is specifically asking for a variance to remove the requirement to have property frontage on a City right-of-way. The Planning and Zoning Commission recommended unanimous approval of this request.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS: Allows resident to access their private property through existing access easement.			
B. CONS: Variance request is in direct conflict with the ordinance.			
ALTERNATIVES (In Suggested Order of Staff Preference):			

ATTACHMENTS: (1) Ordinance; (2) General Application for variance; (3) Cover Letter; (4) Site Plan; and (5) Unofficial Metes and Bounds
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: Approve an Ordinance on its first reading authorizing a variance to residential lot requirements, as outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a tract of land being described as Tract 95, 19.94 Acres, out of the Phillip Coe Survey, A-31, located at 940 Farmers Road, in Brenham, Washington County, Texas
APPROVALS: Terry K. Roberts

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, GRANTING A VARIANCE TO SECTION 23-22(5)(a) OF THE CITY OF BRENHAM CODE OF ORDINANCES, CHAPTER 23, REGULATING SUBDIVISIONS, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries of the City of Brenham and the extraterritorial jurisdictional boundaries of the City of Brenham; and

WHEREAS, Chapter 23, Section 23-22(5)(a) *Street Frontage* states that “[e]ach lot shall be provided with adequate access to an existing or proposed public street by frontage on such street;” and

WHEREAS, the Planning and Zoning Commission recommended unanimous approval of this variance request at the April 25th, 2016 Planning and Zoning Commission meeting; and

WHEREAS, as the legislative body of the City of Brenham, the City Council of the City of Brenham, Texas has the authority to grant variances from the terms of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, pursuant to Section 23-34 of said Code of Ordinances; and

WHEREAS, the property described as Tract 95 being one lot on 19.94 acres, out of the Phillip Coe Survey, A-31 (hereinafter “Property”), is currently accessed by private access easement; and

WHEREAS, the Property is in compliance with the City of Brenham Comprehensive Plan; and

WHEREAS, the City Council finds that by granting the variance, the spirit of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions is observed; and

WHEREAS, the City Council further finds that granting the variance is not contrary to the public interest;

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

1. **Findings of Fact:** All of the above premises are hereby found to be true and correct findings of the City Council of the City of Brenham and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

2. **Variance Granted:** The City Council, with regard to the Property, hereby grants the request for a variance from the provisions of the City of Brenham Code of Ordinances, Chapter 23, Section 22(5)(a) which requires each lot be provided with adequate access to an existing or proposed public street by frontage on such street, and the City Council hereby finds: 1) that such variance is in accord with the City of Brenham Comprehensive Plan; and 2) that the probable effect of such variance will not create adverse impacts in the vicinity.
3. **Conflict with Prior Ordinances:** In the case of a conflict between this Ordinance and any provision or clause of previous Ordinances adopted by the City of Brenham, the provisions of this Ordinance shall prevail.
4. **Severability:** Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are severable.
5. **Effective Date:** This Ordinance shall become effective immediately upon and after its passage and publication as may be required by governing law.
6. **Proper Notice and Meeting:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and APPROVED on its first reading this the 5th day of May, 2016.

PASSED and APPROVED on its second reading this the 19th day of May, 2016.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



For office use only

APPLICATION NO. _____

MEETING DATE: _____

DATE SUBMITTED: _____

FILING FEE: \$100.00

CITY OF BRENHAM

GENERAL APPLICATION

Type of Application

- | | |
|---|---|
| ☐ Variance from Appendix A: Zoning | ☐ Zone Change |
| ☐ Specific Use Permit | ☐ Plan Review |
| ☐ Preliminary Plat | ☐ Final Plat/Replat/Amending Plat |
| ☐ Variance from Chapter 21: Signs | ☒ Other: <u>Variance to Subdivision Ordinance</u> |

Property Owners Information

Name H.A. + JUDY Smith
Principal Officers (If Corporation) President _____
Secretary _____
Address P.O. Box 2396 Brenham, Tx 77834-2396
Telephone Number 979-277-2109 E-mail Address judy5242@hotmail.com

Applicant Information

Name H.A. + Judy Smith
Address P.O. Box 2396 Brenham, Tx 77834-2396
Telephone Number 979-277-2109 E-mail Address judy5242@hotmail.com

Agent or Engineer Information

Name Lampe Surveying, Inc - Donald W. Lampe
Address P.O. Box 2637 Brenham, Tx 77834-2637
Telephone Number 979-836-6677 E-mail Address Donald.lampe@lampe
surveying.com

Location of Property

Street Address: 940 Farmers Road Brenham, Tx 77833

Legal Description (attach metes and bounds description if not subdivided):

Subdivision: _____ Block(s): _____ Lot(s): _____

Zoning Information

N/A ETJ

Existing Zoning : _____

Proposed Zoning: _____

Reasons for requesting zone change: * _____

Variance Information

Section of Code from which variance is described: * _____

Describe variance requested: * Remove the requirement to have property frontage of City Right of Way.

Reasons for requesting variance: * Selling our 19. Acre tract and retaining 2.5 Acres to build new residence on the 2.5 ac. being retained.

Proposed Property Use

Describe in detail the proposed operation at this location: *

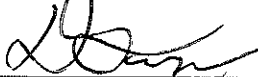
Residential - New Residence to be built.

Construction Value \$ _____

Site plans are required for variance, special use, and plan review requests; please see Ordinance No. 0-05-007 for minimum site plan requirements.

I, Lampe Surveying, Inc / Donald W. Lampe, being the owner (or authorized agent) of the above described property, do hereby certify the information set forth above is true and correct. I further request that the Planning & Zoning Commission/Board of Adjustments/Plan Review Committee review this matter and take appropriate action.

Owner



Lampe Surveying, Inc / Donald W. Lampe

LAMPE SURVEYING, INC
PROFESSIONAL LAND SURVEYORS
P. O. Box 2037 - 1408 West Main Street
Brenham, Texas 77834-2037
Texas Licensed Surveying Firm No. 10040700
(979) 836-6677 - Fax (979) 836-1177

April 19, 2016

City of Brenham
Planning Commission
200 West Vulcan
Brenham, Texas 77833

Re: H. A. Smith and Judy Smith 19.94 Acre tract within the City of Brenham ETJ with easement access to Farmers Road.

Dear Commission,

The purpose of this letter is to formally request a variance for the removal of the requirement to have property frontage on a City right-of-way, on behalf of H. A. Smith and Judy Smith.

The property has an address of 940 Farmers Road, Brenham, Texas.

Your time for consideration of approving the variance for this property is appreciated.

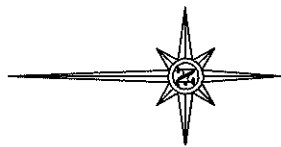
Respectfully Submitted,


Donald W. Lampe
Lampe Surveying, Inc
Surveyor for H. A. Smith and Judy Smith



GRAPHIC SCALE — FEET

Bearings are based on the Texas Coordinate System of 1983—Central Zone as obtained by GPS observations.



PHILLIP COE
SURVEY, A-31
WASHINGTON COUNTY, TEXAS

CHARLES RAY HARR

940 FARMERS ROAD

SOUTH ACCESS EASEMENT

LUTHER J. WESS AND KERRE WESS

LUTHER J. WESS
AND KERRE V. WESS

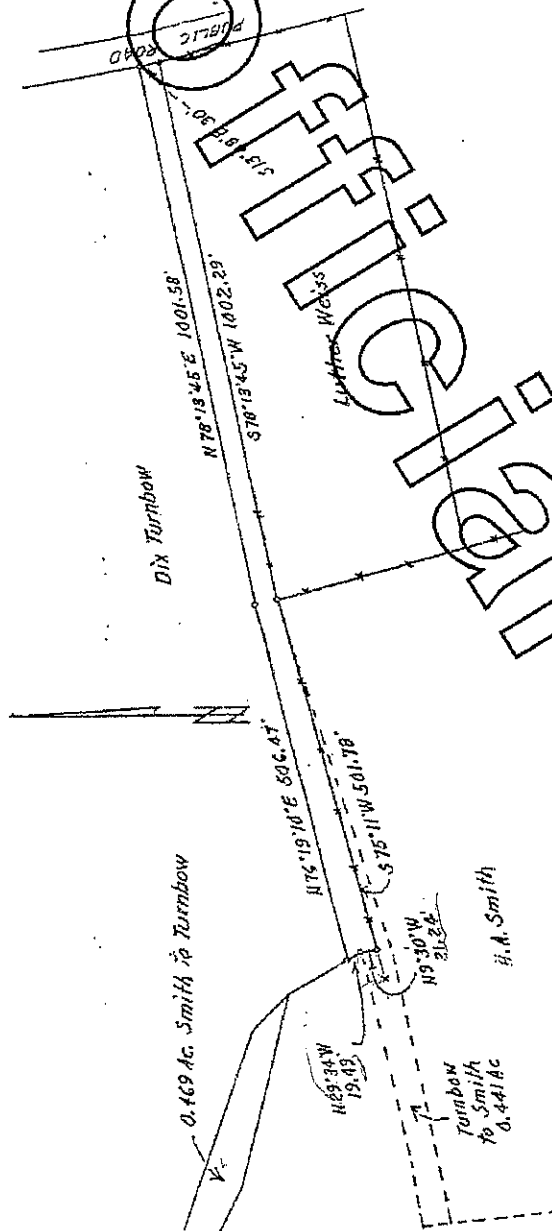
PROPOSED TRACT
2.5 ACRES ±

HORACE ALDEN SMITH
AND JUDY SMITH
CALLED 19.94 ACRES

LAMPE SURVEYING, INC.
PROFESSIONAL LAND SURVEYORS

1409 WEST MAIN STREET
DALLAS, TEXAS 75204
(972) 535-6677 • FAX (972) 535-1177
TEXAS LICENSED SURVEYING FIRM NO. 10640700
W.C. SMITH SURVEYING 301535WFL000

Unofficial



ROADWAY EASEMENT: Turnbow to Smith

BEGINNING at a concrete monument on the west margin of a public road at the northeast corner of a Luther Weiss tract for the southeast corner of this easement and southeast corner of the land conveyed by Edward Mather, et ux, to Dix R. Turnbow, et ux, by deed recorded in Volume 313 at Page 922, Washington County, Deed Records.

THENCE departing from said public road with the south boundary of the Turnbow tract over which this easement runs and north boundary of the Weiss tract, S. 78° 13' 45" W. 1002.29 ft. to an iron pin and fence corner at the northwest corner of the Weiss tract, northeast corner of the H.A. Smith land and east corner of the 0.441 acre parcel conveyed by Turnbow to Smith.

THENCE with the north boundary of the said 0.441 acre parcel and continuing with the south boundary of the Turnbow land along an existing fence, S. 75° 11' W. 501.73 ft. to an iron pin at a re-entrant corner of said 0.441 acre parcel for the southwest corner hereof.

301/45
1st 10-4-79
2d 4-29-91
3rd 4-8-65
+ 6-4-41
(Log 5, 6, 447)

THENCE with an eastern boundary of the Smith land, N. 9° 30' W. 21.24 ft. to an iron pin at a corner of said 0.441 acre parcel and southeast corner of a 4.969 acre Smith tract, AND N. 29° 34' W. 19.49 ft. with the common boundary of Smith and Turnbow to the northwest corner hereof.

THENCE covering the Turnbow land, N. 75° 19' 10" E. 506.47 ft. to a point 30 ft. N. 11° 46' 15" W. from the northwest corner of said Luther Weiss tract, and N. 78° 13' 45" E. 1001.58 ft. to an intersection with the west margin of the public road.

THENCE with said road line, S. 13° 08' E. 30 ft. to the place of beginning containing 1.093 acre of land.

September 22, 1975.

William W. Reue
WILLIAM W. REUE
Registered Public Surveyor

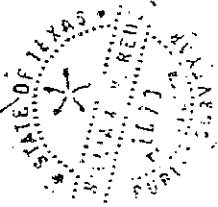


EXHIBIT A

1056-1232-B

FILED FOR RECORD ON THE 24 DAY OF October A.D. 1975, AT 4:05 O'CLOCK P M
DULY RECORDED THIS THE 27 DAY OF October A.D. 1975, AT 9:35 O'CLOCK A M
INSTRUMENT NO. 3150

GERTRUDE LEHRMANN, COUNTY CLERK
WASHINGTON COUNTY, TEXAS

BY Gale Dierker DEPUTY

the usual acceleration of maturity and attorney's fee clauses, and all provisions of said note are made a part hereof as though written herein; payment of said note is secured by the vendor's lien herein and hereby retained, and also by a Deed of Trust of even date herewith from the makers of said note to George R. Moorman Trustee on the hereinafter described property;

HAVE GRANTED, SOLD AND CONVEYED, and by these presents DO GRANT, SELL AND CONVEY unto the said HORACE ALDEN SMITH and wife, JUDY ANN SMITH, of the County of Washington, State of Texas, the following described property:

FIRST TRACT:

All that tract or parcel of land situate in Washington County, Texas out of the P. H. Coe League and being a portion of the 92.52 acre tract conveyed to Edward Mather by Marjorie G. Lacina Alexander by Deed recorded in Vol. 262, Page 603, Washington County Deed Records, more particularly described as follows: BEGINNING at an iron pin and fence corner in the South line of a private road at the Northwest corner of the 1.337 acre tract conveyed to Luther Weiss;

THENCE with the West line of said tract and the East line of the original 92.52 acre tract S. 15°19' E. 666.68 ft. to an iron pin and fence corner;

THENCE with the South line of the original tract N. 85°31' W. 1009.72 ft. to an iron pin;

THENCE N. 5°26' W. 339.38 ft. to an iron pin in the South line of a private road;

THENCE with said road line N. 78°29' E. 387.49 ft.; N. 72°52' E. 505.40 ft. to the point or place of beginning, containing 10.479 acres of land.

Being the same and identical property as described in Deed from Edward Mather, et ux to J. W. Benn; et ux, dated January 8, 1968, recorded in Volume 274, Page 355, Deed Records of Washington County, Texas.

SECOND TRACT:

All that tract or parcel of land situate in Washington County, Texas out of the P. H. Coe League and being a portion of the 92.52 acre tract conveyed to Edward Mather by Marjorie G. Lacina Alexander by Deed recorded in Vol. 262, Page 603, Washington County Deed Records more particularly described as follows: BEGINNING at an iron pin in the West line of the original 92.52 acre tract at the Southwest corner of the 4.969 acre tract now owned by Bud Smith; THENCE with the South line of said tract S. 85°37' E. 378.23 ft.; N. 80°23' E. 88.56 ft. to an iron pin;

THENCE with the West end of a private road and the West side of the 10.479 acre tract for J. W. Benn S. 5°26' E. 376.97 ft. to an iron pin in the South line of the original tract;
THENCE with said line N. 85°31' W. 648.77 ft. to an iron pin and fence corner at the Southwest corner of the original tract;
THENCE with the original West line N. 24°22' E. 373.15 ft. to the point or place of beginning, containing 4.491 acres of land.

Being the same and identical property as described in Deed from Edward Mather, et ux to J. W. Benn, et ux, dated September 5, 1968, recorded in Volume 278, Page 273, Deed Records of Washington County, Texas.

THIRD TRACT:

All that tract or parcel of land situated in Washington County, Texas, out of the P. H. Coe League and being a portion of the 92.52 acre tract, conveyed to Edward Mather by Marjorie G. Lacina Alexander by Deed recorded in Volume 262, Page 603, Washington County Deed Records more particularly described as follows:

BEGINNING at an iron pin in the West line of the original 92.52 acre tract, at a point S. 46°05' W. 409.07 ft. from the S.W. corner of the Jimmie Hahn 25.608 acre tract;
THENCE S. 74°24' E. 580.38 ft. to the S.E. corner of the Ed Mather Homestead tract;
THENCE S. 44°49' E. 68.43 ft. to an iron pin;
THENCE S. 29°51' E. 111.71 ft. to an iron pin at a corner of a private road;
THENCE S. 77°08' W. 287.00 ft. to an iron pin;
THENCE S. 80°23' W. 179.34 ft. to an iron pin;
THENCE N. 85°37' W. 378.23 ft. to an iron pin in the original West line;
THENCE with said line N. 24°30' E. 435.00 ft. to the point or place of beginning, containing 4.969 acres of land. As surveyed by D. R. Muzzy, May 12, 1967.

The above described property being the same and identical property as described in Deed from Edward Mather to Horace Alden Smith, et ux, dated August 8, 1967, recorded in Volume 272, Page 275, of the Deed Records of Washington County, Texas; and the same and identical property described in Deed from Horace Alden Smith, et ux to J. W. Benn, et ux in Deed dated September 1, 1970, which Deed has been duly recorded in the Deed Records of the County Clerk's Office of Washington County, Texas.

Grantors also hereby grant and convey to Grantees herein, and their heirs and assigns a perpetual right-of-way and easement over an existing road with the full right and privilege of ingress and egress and full and uninterrupted use of said roadway by Grantees, their heirs and assigns, forever, over and across the following described property:

U
N
D
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R
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S

All that certain tract or parcel of land situate in Washington County, Texas, out of the P. H. Coe League and being a portion of the 92.52 acre tract conveyed to Edward Mather by Marjorie G. Lacina Alexander by Deed recorded in Vol. 262, Page 603, Washington County Deed Records, more particularly described as follows:

BEGINNING at an iron pin in the West line of a public road at the Northeast corner of the Luther Weiss 4.605 acre tract;
THENCE with the North line of said tract S. 77°00' W. 999.44 ft. to the Northwest corner of Luther Weiss 1.437 acre tract and the Northeast corner of a 10.479 acre tract for J. W. Benn;
THENCE with the North line of said Benn tract S. 72°52' W. 505.40 ft.; S. 78°29' W. 387.49 ft. to the Northwest corner of said 10.479 acre tract;
THENCE N. 5°26' W. 37.59 ft. to an iron pin in the South line of the 4.969 acre Bud Smith Tract;
THENCE with said line N. 80°23' E. 90.78 ft.; N. 77°08' E. 287.00 ft. to an iron pin at the East corner of said Bud Smith Tract;
THENCE North 72°52' E. 440 ft. to a point 30 ft. North 15°00' W. 30.00 ft. from the Northwest corner of the Luther Weiss tract;
THENCE N. 77°00' E. 999.44 ft. to a point in the West line of the road;
THENCE with said road line S. 15° E. 30.00 ft. to the point of place of beginning.

The above described property being the same and identical property described in Deed from Edward Mather to J. W. Benn, et ux, dated January 8, 1968, recorded in Volume 274, Page 355, Deed Records of Washington County, Texas.

This conveyance is executed by Grantors and accepted by Grantees as being subject to the following:

1. The reservation of 1/2 of the usual 1/8 royalty on a non-participating basis by Henry A. Becker, et al for a period of 20 years from July 16, 1954, as more particularly shown in the Deed dated July 16, 1954, recorded in Volume 199, Page 589, Deed Records of Washington County, Texas.
2. Subject to Oil, Gas and Mineral Lease to M. B. Rhodes, dated August 22, 1968, recorded in Volume 279, Page 254, of the Deed Records of Washington County, Texas.
3. Subject to Oil, Gas and Mineral Lease to M. B. Rhodes, dated August 19, 1968, recorded in Volume 280, Page 235, Deed Records of Washington County, Texas.
4. Subject to Oil, Gas and Mineral Lease to M. B. Rhodes, dated September 27, 1968, recorded in Volume 284, Page 471, Deed Records of Washington County, Texas.
5. Subject to provision in Deed from Edward Mather, et ux to J. W. Benn, et ux, dated January 8, 1968, recorded in

doesn't close



AGENDA ITEM 12

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 26, 2016															
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Kim Hodde															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Ground Space Lease Agreement with David Loendorf for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation																
SUMMARY STATEMENT: JC Umland owned the hangar addressed as 3175 Aviation Way. Mr. Umland passed away and his hangar was left to David Loendorf; therefore a new lease agreement needs to be executed Mr. Loendorf. Execution of this lease agreement with Mr. Loendorf will cancel the previous agreement with Mr. J.C. Umland. This lease agreement is our standard ground space lease for .08 cents per square foot.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):																
A. PROS:																
B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Ground Space Lease Agreement with Exhibit "A"																
FUNDING SOURCE (Where Applicable):																
RECOMMENDED ACTION: Approve a ground space lease agreement with David Loendorf for hangar space at the Brenham Municipal Airport and authorize the Mayor to execute any necessary documentation																
APPROVALS: Terry K. Roberts																

**LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH DAVID LOENDORF
(3175 AVIATION WAY – B-4)**

THE STATE OF TEXAS
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and DAVID LOENDORF, hereinafter called "Lessee.

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

ARTICLE I – PREMISES AND PRIVILEGES

A. DESCRIPTION OF PREMISES.

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

B. TERM.

The term of said lease is for a period of thirty (30) years commencing December 1, 2015, and terminating December 1, 2045. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 1,239 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

C. ACCESS.

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.

2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport
4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section C of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.
2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.
3. Sales of alcoholic beverages at the leased premises, except with City approval.
4. Sales, advertisement or storage of non-aviation products.
5. Storage, transfer, or sale of fuel.
6. Any sublease which allows further sublease by Lessee's tenant
7. Any use prohibited by law.

G. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or
2. The City may enter into a new lease agreement for the lease area.

H. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

I. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

J. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

ARTICLE II – OBLIGATIONS OF LESSEE

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

B. ALTERATIONS TO AND CONDITIONS OF PREMISES.

Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham. Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

C. TRASH, GARBAGE, LANDSCAPING.

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive uses, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.
2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.
4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.
5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.
6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.
7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the ____ day of _____, 2016.

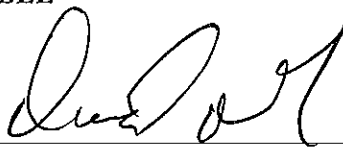
LESSOR

Milton Y. Tate, Jr., Mayor
City of Brenham
P. O. Box 1059
Brenham, TX 77834-1059

ATTEST:

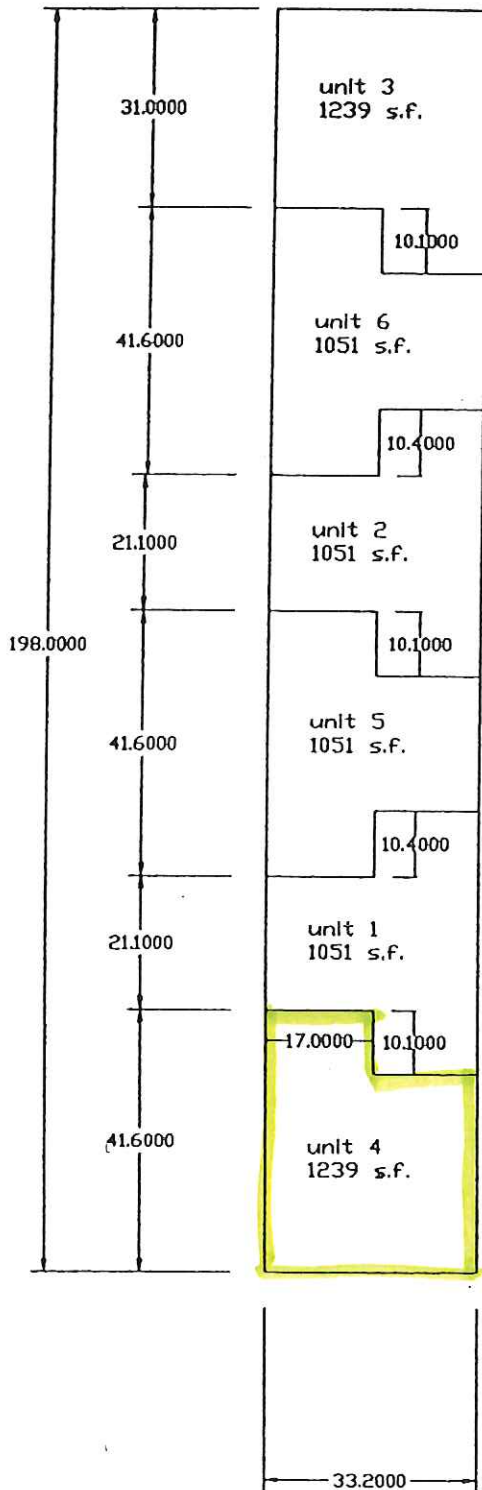
Jeana Bellinger, City Secretary

LESSEE



David Loendorf
64659 East Rosewood Drive
Tucson, AZ 85739
(520) 820-8343 - cell

Date signed by Lessee: 4/7/2016



3175 Aviation Way

← Z

EXHIBIT "A"



AGENDA ITEM 13

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 28, 2016	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Kacey Weiss	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request for a Noise Variance from Washington County Historical Juneteenth Association for a Juneteenth Celebration at Fireman's Park to be Held on June 17, 2016 from 7:00 p.m. – 11:00 p.m. and June 18, 2016 from 12:00 p.m. – 4:00 p.m. and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: The Washington County Historical Juneteenth Association is requesting a Noise Variance for the Juneteenth Celebration at Fireman's Park on Friday, June 17, 2016 from 7:00 p.m – 11:00 p.m. and Saturday, June 18, 2016 from 12:00 p.m. – 4:00 p.m. They will have a band Friday night and a DJ using speakers on Saturday, which requires a Noise Variance. The Brenham Police Department and the Brenham Fire Department have approved the noise variance request; therefore, I ask the City Council to approve the noise variance request.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Noise Variance Request form		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve a request for a noise variance from Washington County Historical Juneteenth Association for a Juneteenth Celebration at Fireman's Park to be held on June 17, 2016 from 7:00 p.m. – 11:00 p.m and June 18, 2016 from 12:00 p.m. – 4:00 p.m. and authorize the Mayor to execute any necessary documentation.		
APPROVALS: Terry K. Roberts		

Paid 04/04/16
check # 1654
kw

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Washington County Historical Juneteenth Association
2. Name and address of individual making application on behalf of sponsoring organization: Washington County Historical Juneteenth Assoc - Pamela Jenkins
President, 203 Blinn Blvd, Brenham Tx 77833
3. Purpose of the Event: Juneteenth Celebration
4. Location of Event: ^{camp pg} Fireman Park
5. Date of the event: Friday - June 17, 2016 ; Saturday - June 18, 2016
6. Time of Event: Friday - 7pm - 11pm ; Saturday - 12pm - 4pm.
7. Event Set-up: From: Friday - 7pm - 11pm To: _____
Event Clean-up: From: Saturday - 12pm - 4pm To: _____
Event Clean-up: From: By City To: _____
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: Bounce House, Vendors, @ music
 - b) Bands/Musical Instruments: Friday - Band ; Saturday - D.J.
 - c) Sound amplification equipment: speakers
 - d) Cleanup provisions: None (City)

Pamela Jenkins - President
Name of Applicant (Printed or Typed)

Date: 4/2/16

Pamela Jenkins
Applicant or Authorized Person's Signature

Phone: 4/2/16

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? _____ Yes _____ No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):



AGENDA ITEM 15

DATE OF MEETING: May 5, 2016	DATE SUBMITTED: April 28, 2016															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry K. Roberts															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☐ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☒ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☐ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☒ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
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☒ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Contract for City Prosecutor																
SUMMARY STATEMENT: To be discussed in Executive Session.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: None																
FUNDING SOURCE (Where Applicable):																
RECOMMENDED ACTION:																
APPROVALS: Milton Y. Tate, Jr.																