



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 4, 2023 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Cary Bovey, City Attorney**
- 3. Service Recognitions**
 - ◆ **Cynthia Longhofer, Finance Department - 10 Years**
 - ◆ **Misty McCowan, Police Department - 5 Years**
- 4. Proclamations**
 - ◆ **National Travel and Tourism Week**
 - ◆ **Brenham Children's Chorus 20th Anniversary**
 - ◆ **National Peace Officers Memorial Week**
- 5. Citizens Comments**

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. Approve the Minutes from the April 6, 2023 and April 20, 2023 Regular City Council Meetings**
 - 6-b. Approve a Noise Variance for Lisa Crawford for a Memorial/Celebration of Life to be Held on May 29, 2023 at Henderson Park from 3:00 p.m. - 10:00 p.m.**

**6-c. Approve Ordinance No. O-23-007 on Its Second Reading Adopting
a Rate Tariff Schedule for the City of Brenham Electric System**

REGULAR SESSION

7. **Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand and Associates, Inc., Related to an Impact Fee Study for the City of Brenham's Public Utilities and Authorize the Mayor to Execute Any Necessary Documentation**
8. **Discuss and Possibly Act Upon the Appointment of Sixteen (16) Individuals to the City of Brenham's Project Working Group for the Development Services Small Area Plan and Authorize the Mayor to Execute Any Necessary Documentation**
9. **Discuss and Possibly Act Upon Resolution No. R-23-015 Re-Adopting the Guidelines and Criteria for Granting Tax Phase-In in a Reinvestment Zone Created in the City of Brenham**
10. **Administrative/Elected Officials Report**

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.

EXECUTIVE SESSION

11. **Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas**

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

RE-OPEN REGULAR SESSION

Adjourn

CERTIFICATION

I certify that a copy of the May 04, 2023 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 St., Brenham, TX on Monday, May 1, 2023 at 12:30 p.m.

Jeana Bellinger, TRMC, CMC

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 _____, 2023 at _____ AM PM.

Signature

Title

PROCLAMATION

- WHEREAS,** Travel and tourism activities impact business productivity; and
- WHEREAS,** Travel and tourism activities generate a positive economic effect; and
- WHEREAS,** Direct travel spending for Brenham in 2022 totaled \$87.1M; and
- WHEREAS,** Travel spending generated \$6.6M in tax receipts for Brenham; and
- WHEREAS,** Travel and tourism activities generated 610 jobs for the area; and
- WHEREAS,** The Visit Brenham and the Tourism Advisory Board urge all citizens to observe this week by celebrating the visitors who spend time and money in Brenham;

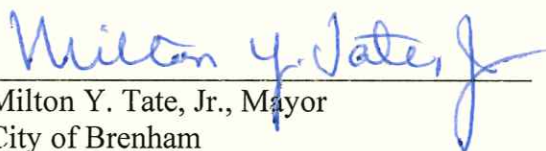
NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham, Texas do hereby proclaim the week of May 7-13, 2023, as

National Travel & Tourism Week

And do hereby proclaim Tuesday, May 16, 2023, as

Local Travel & Tourism Day

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

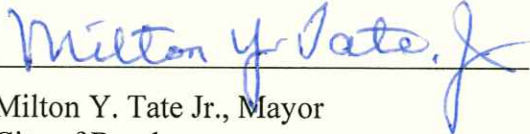

Milton Y. Tate, Jr., Mayor
City of Brenham

PROCLAMATION

- WHEREAS,** Beginning with a dream of Paul Pomeroy and community support, the Brenham Children's Chorus began in 2003 under the direction of Founding Artistic Director Pam Bennett Young. For 20 years, the Chorus has provided choral and musical theatre education for singers from ages 5 to 14 in Brenham and surrounding communities in the Brazos Valley; and
- WHEREAS,** Composed of four ensembles, the Chorus performs at civic events, choral concerts, public and private schools, and in a Junior Broadway Musical. Through weekly rehearsals and camp, singers receive instruction in music theory, choreography, voicing, and musical theatre; and
- WHEREAS,** As ambassadors for Brenham, the Chorus has performed with the Brazos Valley Symphony Orchestra and Chorale, the A&M Century Singers, the Brenham Chorale, the Brenham Sacred Chorus, Blinn College Camerata, the Houston Children's Chorus, the Houston Boychoir, and productions at Blinn College and Brenham High School; and
- WHEREAS,** Consistent with the mission of the Board of Trustees, no singer is denied participation due to a lack of economic resources. Through participation in the Chorus, children develop into mature musicians and make a valuable contribution to the arts in our community and beyond; and
- WHEREAS,** The City of Brenham is proud to honor all students of the Brenham Children's Chorus as they celebrate the 20th Anniversary with a concert for the community on Saturday, May 20, 2023, at 2 pm, at the Blinn College Dr. W. W. O'Donnell Performing Arts Center;

NOW, THEREFORE, I, Milton Y. Tate Jr., Mayor of The City of Brenham, do hereby proclaim May 20, 2023, as

Brenham Children's Chorus 20th Anniversary Day



Milton Y. Tate Jr., Mayor
City of Brenham

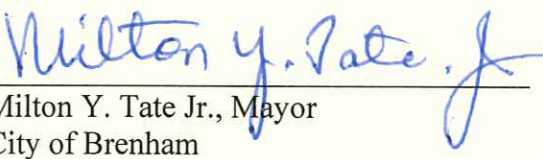
PROCLAMATION

- WHEREAS,** There are more than 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the City of Brenham Police Department; and
- WHEREAS,** Since the first recorded death in 1786, more than 23,000 law enforcement officers in the United States have made the ultimate sacrifice and have been killed in the line of duty; and
- WHEREAS,** The names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and
- WHEREAS,** In 2022 there were 245 line of duty deaths of police officers nationwide, with 35 of those deaths occurring in the state of Texas; and
- WHEREAS,** May 15 is designated as National Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half-staff; and
- WHEREAS,** All citizens are urged to make every effort to express heartfelt appreciation to the men and women who risk their lives daily to guard each of us against evildoers;

NOW, THEREFORE, I, Mayor Milton Y. Tate Jr. of the City of Brenham, do hereby proclaim the week of May 15-21, 2023 as

NATIONAL PEACE OFFICERS MEMORIAL WEEK

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


Milton Y. Tate Jr., Mayor
City of Brenham

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on Thursday, April 6, 2023, beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Clint Kolby
Councilmember Leah Cook
Councilmember Shannan Canales
Councilmember Atwood Kenjura
Councilmember Adonna Saunders
Councilmember Albert Wright

Members Absent:

None

City of Brenham Staff present:

City Manager Carolyn Miller, City Attorney Cary Bovey, City Secretary Jean Bellinger, General Manager of Public Utilities Debbie Gaffey, Deputy General Manager of Public Utilities Alton Sommerfield, Director of Public Works Dane Rau, Director of Development Services Stephanie Doland, Director of Finance Stacy Hardy, Strategic Budget Officer Tim McRoberts, Human Resources Director Susan Nienstedt, Kyle Branham, Robin Hutchens, Karen Stack, Cherry Cash Prewitt, Megan Gray, Shawn Bolenbarr, Shauna Laauwe, Debora Pinto, Cynthia Longhofer, Steven Eilert, Leigh Linden, Teresa Rosales, Nancy Stafford, Robin Hutchens, Kristi Jackson, Jerry Saldivar, and JoAnne Hynes.

Citizens/Others Present:

Ben Menjares, Paul LaRoche, III, Cynthia Timpa, Steve Sefcik, Jamie Pinner, and Keith Hofmann

Media Present:

Jason May, Brenham Banner-Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Manager Carolyn Miller**

3. **Service Recognitions**
 - Robin Hutchens, Purchasing Department – 5 Years
4. **Special Recognitions**
 - Megan Gray, Animal Services Manager
5. **Proclamations**
 - Safe Digging Month
6. **Citizens Comments**

No citizen comments were heard.

CONSENT AGENDA

7. **Statutory Consent Agenda**
 - 7-a. **Approve the Minutes from February 16, 2023, and March 2, 2023 Regular Meetings**
 - 7-b. **Approve a Noise Variance Request from the Texas Church Leaders for a National Day of Prayer Event to be Held on May 4, 2023, at the Washington County Courthouse Gazebo from 6:00 p.m. to 7:15 p.m.**
 - 7-c. **Approve a Noise Variance Request from the City of Brenham and the Boys & Girls Club of Washington County for a Pop-up Play Day to be Held on May 20, 2023, at Jackson Street Park from 9:30 a.m. to 11:30 a.m.**
 - 7-d. **Approve the Use of Seized Narcotic Funds for the City of Brenham Police Department for the Purchase of Confidential Telecommunication Records from T-Mobile, In the Amount of \$200.00, and Authorize the Mayor to Execute Any Necessary Documentation**
 - 7-e. **Approve the Use of Seized Narcotic Funds for the City of Brenham Police Department for the Purchase of Confidential Telecommunication Records from AT&T, In the Amount of \$220.00, and Authorize the Mayor to Execute Any Necessary Documentation**
 - 7-f. **Approve the Use of Seized Narcotic Funds for the City of Brenham Police Department for the Purchase of a Mini Claw Kit-2nd Generation from ICOR Technology, In the Amount of \$4,890.00 and Authorize the Mayor to Execute Any Necessary Documentation**
 - 7-g. **Approve the Use of Seized Narcotic Funds for the City of Brenham Police Department for the Purchase of 1-TCCC/TECC Training Module 2-IFAKS from North American Rescue in the Amount of \$3,611.53 and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve the Statutory Consent Agenda Items 7.a. through 7.g. as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

WORK SESSION

8. Presentation and Update on the City of Brenham's Housing Task Force

Director of Development Services Stephanie Doland presented this item and presented the following information to Council:

- Establishment of the Housing Task Force (HTF)
 - July 21, 2022
 - 24 members
- HSF Meeting Topics:
 - Housing pipeline
 - 2021 ResIntel Report
 - Kountry Containers
 - Low Income Housing Tax Credit (LIHTC) Program and Public Facilities Corporations (PFC)
 - Texas Economic Development Council's webinar "Groundbreaking Strategies to Solve the Housing Shortage in Your Community"
- Defined Middle-Income Workforce
- HTF Recommendations:
 - Adopt Duplex/Twin Home Standards
 - Revise Accessory Dwelling Unit Standards
 - Promote Apartments in Downtown
 - Brenham Housing Authority Sub-Committee
 - Low Income Housing Tax Credit
 - Develop a Planned Development District Outline
 - Special Utility Districts
 - Public Private Partnerships

- Additional HTF Discussion Items
 - Regulations regarding short-term rentals
 - Grants or subsidies to mitigate the cost of land
 - Restrictions regarding use of new technologies or new materials
- Possible Next Steps
 - Short-term implementation
 - Adopt duplex and twin home standards.
 - Revise ADU standards.
 - Recognize additional LIHTC units are not a priority.
 - Utilize Chapter 380 and 381 agreements for desired projects.
 - Items for further research
 - Adopt life safety improvement grant for downtown
 - Develop a Planned Development District Outline
 - Consider Public Facilities Corporation model with BHA
 - Research special districts (MUDs, SUDs, PIDs)

REGULAR SESSION

9. City Secretary's Certification of Unopposed Candidate for the City of Brenham's May 6, 2023 Special Election

Certificación del Secretario de la Ciudad del candidato sin oposición para la elección especial de la ciudad de Brenham del 6 de mayo de 2023

City Secretary Jeana Bellinger presented the Certification of Unopposed Candidate for the City's May 6, 2023 Special Election. Bellinger explained that as outlined in Section 2.052 of the Election Code, the authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed. This certification shall be delivered to the governing body as soon as possible after the filing deadline.

A motion was made by Councilmember Canales and seconded by Councilmember Kenjura to accept the City Secretary's Certification of Unopposed Candidate for the City of Brenham's May 6, 2023 Special Election.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon an Order Declaring an Unopposed Candidate for the Position of Councilmember Place 3 – Ward 3 Elected to Office and Canceling the City of Brenham’s May 6, 2023 Special Election

Discutir y Posiblemente Actuar Sobre Una Orden que Declara a un Candidato sin Oposicion para el Puesto de Concejal Lugar 3 – Distrito 3 Elegido para el Cargo y Cancela la Eleccion Especial de la Ciudad de Brenham del 6 de mayo de 2023

City Secretary Jeana Bellinger presented this item. Bellinger explained that upon receipt of the City Secretary's Certification of Unopposed Candidate, the City Council must by order or ordinance declare the unopposed candidate elected to office.

Bellinger stated that the Elections Division of the Secretary of State's office interprets the unopposed candidate as being elected when they are issued the certificate of election after the prescribed election day (May 6, 2023). Unopposed candidates declared elected to office cannot take office until the regular canvassing of the election would have taken place. Therefore, the unopposed candidate, Paul F. LaRoche, III, will not take office and begin his official duty as Councilmember until he is sworn into office at the May 18, 2023 Council meeting.

A motion was made by Councilmember Wright and seconded by Councilmember Saunders to approve an Order declaring Paul F. LaRoche, III an unopposed candidate for the position of Councilmember Place 3 – Ward 3 and elected to office therefore canceling the City of Brenham’s May 6, 2023 Special Election.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Discuss and Possibly Act to:

- a. Rescind the March 2, 2023 Approval by the City Council to Purchase a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham’s Wastewater Construction Department from Essential Equipment Through Sourcewell Contract No. 120721-RVL, in the Amount of \$181,807.73; and**
- b. Approve the Purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham’s Wastewater Construction Department from Essential Equipment Through Sourcewell Contract No. 120721-RVL, in the Amount of \$209,681.93; and**

Authorize the Mayor to Execute Any Necessary Documentation

Water/Wastewater Director Bobby Keene presented this item. Keene explained that Council approved the purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System from Essential Equipment through Sourcewell contract No. 120721RVL on March 2, 2023. Keene advised that two (2) proposals had been received; and the incorrect quote was inadvertently submitted to Council; therefore, Council must rescind the purchase approved on March 2, 2023 in the amount of \$181,807.73 and approve the corrected purchase amount of \$209,681.93.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to rescind the March 2, 2023 approval by the City Council to purchase a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department from Essential Equipment through Sourcewell Contract No. 120721-RVL, in the amount of \$181,807.73; and approve the purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department from Essential Equipment through Sourcewell Contract No. 120721-RVL, in the amount of \$209,681.93; and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

12. Discuss and Possibly Act to:

- a. Rescind the March 2, 2023 Approval by the City Council of an Equipment Financing Proposal from the Bank of Brenham with a Five (5) Year Note at an Interest Rate of 4.95 Percent, for the Purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department in the Amount of \$181,807.73; and**
- b. Approve an Equipment Financing Proposal from the Bank of Brenham with a Five (5) Year Note at an Interest Rate of 4.95 Percent, for the Purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department in the Amount of \$209,681.93; and**

Authorize the Mayor to Execute Any Necessary Documentation

Finance Director Stacy Hardy presented this item. Hardy explained this was a companion action to Item 11 and requested that Council rescind the approval of the financing proposal from the Bank of Brenham for the purchase of the RapidView IBAK Trailer Mounted Pipeline Inspection System in the amount of \$181,807.73 and approve the revised financing proposal with the Bank of Brenham for the purchase of the RapidView IBAK Trailer Mounted Pipeline Inspection System in the with a five (5) year note at an interest rate of 4.95 percent in the amount of \$209,681.93.

A motion was made by Councilmember Kenjura and seconded by Councilmember Saunders rescind the March 2, 2023 approval by the City Council of an equipment financing proposal from the Bank of Brenham with a five (5) year note at an interest rate of 4.95 percent, for the purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department in the amount of \$181,807.73; and approve an equipment financing proposal from the Bank of Brenham with a five (5) year note at an interest rate of 4.95 percent, for the purchase of a RapidView IBAK Trailer Mounted Pipeline Inspection System for the City of Brenham's Wastewater Construction Department in the amount of \$209,681.93; and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

13. Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand Associates, Inc. for Engineering Services Related to the 2023 Brenham Business Center Sanitary Sewer Extension and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Project Manager Shawn Bolenbarr presented this item. Bolenbarr stated that Public Utilities is seeking to secure a Professional Service Agreement (PSA) with Strand Associates, LLC for the land surveying, project design, and preparation of construction documents to extend the sanitary sewer along James Nutt Boulevard towards Blue Bell Road and construct a new grinder pump lift station, all within the Brenham Business Center. Bolenbarr stated the cost of the PSA would not exceed \$140,000.00, and costs will be only for actual services provided. Bolenbarr further stated the funding for this project would be provided by BCDC.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve a Professional Services Agreement between the City of Brenham and Strand Associates, Inc. for engineering services related to the 2023 Brenham Business Center Sanitary Sewer Extension, in an amount not to exceed \$140,000.00 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

14. Discuss and Possibly Act Upon the Approval of an Airport Project Participation Agreement (APPA) (Grant No. 2317BRENM) for the Construction Phase of an Airfield Lighting Project for the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Airport Manager Debora Pinto presented this item. Pinto stated on November 9, 2021, an Airport Project Participation Agreement (APPA) was executed for the design phase of the replacement of the Medium Intensity Runway Lights (MIRL's) at Runway 16/34, replace and relocate the supplemental wind cone, replace the rotating beacon, lighting systems and electrical vault modifications; and replace airfield signage for Runway 16/34 and Taxiways at the Brenham Municipal Airport.

Pinto explained that the City's 10% local match for the design phase (\$10,000) was funded using the American Rescue Plan Act (ARPA) Federal funds and on November 17, 2022, TxDOT billed the City for 10% of the estimated construction costs (\$70,000). Pinto stated the City's share of the estimated construction cost for this project is now \$86,667; the City has already submitted \$70,000 for this project, and TxDOT has invoiced the City for the additional \$16,667 and requested execution of the APPA.

A motion was made by Councilmember Saunders and seconded by Councilmember Canales to approve the Airport Project Participation Agreement (APPA) (Grant No. 2317BRENM) for the construction phase of the Airfield Lighting Project for the Brenham Municipal Airport and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

15. Administrative/Elected Officials Report

- **Nextlink Fiber Installation Project**
 - General Manager of Public Utilities Debbie Gaffey advised Council that Nextlink will be installing underground fiber for highspeed internet connectivity throughout the City. Gaffey advised that her staff is working with Nextlink on utility locations and that installation will begin with 1,000 feet per day, gradually increasing to 10,000 feet per day.
- **City Manager Carolyn Miller announced:**
 - City offices will be closed on Friday, April 7th for Good Friday
 - Candidate Forum, 2 Mayoral candidates and 2 Blinn College Board candidate, on Thursday, April 13th at 5:30 p.m. at the Brenham National Bank
 - Wednesday, April 12th Paul LaRoche, III, the new City Councilmember for Ward 3, will be in City Hall all day for orientation.
 - TX Coop magazine features our own LJs Bar-B-Que this month

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on Thursday, April 20, 2023, beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Clint Kolby
Councilmember Leah Cook
Councilmember Atwood Kenjura
Councilmember Adonna Saunders
Councilmember Albert Wright

Members Absent:

Councilmember Shannan Canales

City of Brenham Staff present:

City Manager Carolyn Miller, City Attorney Luke Cochran, City Secretary Jeana Bellinger, General Manager of Public Utilities Debbie Gaffey, Deputy General Manager of Public Utilities Alton Sommerfield, Director of Finance Stacy Hardy, Strategic Budget Officer Tim McRoberts, Human Resources Director Susan Nienstedt, Director of Tourism & Marketing Jennifer Eckermann, Fire Chief Roger Williams, Captain Lloyd Powell, Public Works Director Dane Rau, Development Services Director Stephanie, Teresa Rosales, Karen Stack, Kyle Branham, Cherry Cash Prewitt, Shawn Bolenbarr, Kevin Boggus, Curtiss Schoen, JoAnne Hynes, Shauna Laauwe, Nancy Joiner, Steven Eilert, and Leigh Linden

Citizens/Others Present:

Sherry Harber, Kathleen Matthews, Jared Anderson, Katie Burch, Edward Smith, Paul LaRoche, III, Cindy Wells, Billy Sutherland, Rusty Seymour, Tami Redshaw, B. Smith, Keith Hofmann, Tom Whitehead, Darren & Dayna Heine, Cynthia Timpa, Chris Kamprath, Jamie Pinner, Pete Simpson, Doug Peck, and John Davies

Media Present:

Jason May, Brenham Banner-Press; and Josh Blaschke, KWHI

1. **Call Meeting to Order**
2. **Invocation and Pledges to the US and Texas Flags – Mayor Milton Y. Tate, Jr.**
3. **Proclamation**
 - **National Day of Prayer**
4. **Citizen Comments**

No citizen comments were heard.

CONSENT AGENDA

5. **Statutory Consent Agenda**
 - 5-a. **Approve the Minutes from the March 16, 2023 Regular City Council Meeting**
 - 5-b. **Approve a Noise Variance from the Brenham Maifest Association for the 133rd Maifest Celebration on May 5-6, 2023 at Fireman's Park from 11:00 a.m. to Midnight**

A motion was made by Councilmember Wright and seconded by Mayor Pro Tem Kolby to approve the Statutory Consent Agenda Item 5.a. through 5.b. as presented.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

WORK SESSION

6. **Presentation and Discussion on Additional and Enhanced Parking Spaces in Downtown Brenham**

Director of Public Works Dane Rau presented this item. Rau stated Public Works was asked to review downtown Brenham and explore possibilities of adding or enhancing parking spaces. Rau provided information on adding 18 additional parking spaces by enhancing existing spaces and strip areas that were not previously striped.

REGULAR SESSION

9. **Discuss and Possibly Act Upon Resolution No. R-23-013 Authorizing the Publication of Notice of Intention to Issue Certificates of Obligation, Series 2023**

Director of Finance Stacy Hardy presented this item. Hardy stated during Council budget workshops related to FY22-23 Budget, it was discussed issuing certificates of obligation (COs) for general government projects in the amount of \$10 million; \$8 million for the construction and equipping of a new fire station and \$2 million for in-house street reconstruction/rebuild projects. Hardy explained to Council this item today is giving notice of the City's intent to issue Certificates of Obligation, Series 2023 not to exceed \$10 million, including bond costs.

Hardy introduced Jennifer Ritter, the City's financial advisor, explaining Ms. Ritter prepared an Issuance Timetable. Hardy added, the initial step in the financing process is to give notice of intent, publish the notice in the Brenham Banner Press and on the City's website, and Ms. Ritter will secure the pricing and bring it back to Council for action on June 15, 2023.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve Resolution No. R-23-013 authorizing the publication of Notice of Intention of Issue Certificates of Obligation, Series 2023.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

7. **Discuss and Possibly Act Upon Resolution No. R-23-012 Amending the City of Brenham Downtown Parklet Manual**

City Manager Carolyn Miller presented this item. Miller advised that Council adopted a Downtown Parklet Manual in June 2022, setting standards for design, construction, and location of Parklets in the downtown area. Miller explained that only two (2) changes to the Manual are being requested:

- Allow any downtown business to apply for a Parklet, not limit it to just food establishments.
- Allow only one (1) Parklet per city street instead of per block face.

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve Resolution No. R-23-012 amending the City of Brenham Downtown Parklet Manual.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Discuss and Possibly Act Upon A License Agreement Between the City of Brenham and Mescalito Coffee LTD Co. Related to the Construction of a Downtown Parklet Adjacent to 100 E. Alamo Street, Brenham, Texas and Authorize the Mayor to Execute Any Necessary Documentation

City Manager Carolyn Miller presented this item. Miller stated that Council reviewed Mescalito Coffee LTD Co.'s application for a Parklet back in January 19, 2023, and it was not approved over concerns of not enough parking in downtown. At that time, Council asked staff to review parking in downtown for possible ways to enhance parking. Miller advised that the previous Work Session item was in response to Council's request and that staff was able to add eighteen 18 additional parking spaces by enhancing existing spaces and strip areas that were not previously striped.

Miller stated the Mescalito Coffee LTD Co. application meets all the requirements/criteria in the original Parklet Manual and will also meet the proposed revisions to the Parklet Manual, as previously heard today by Council, if approved. Miller continued by introducing Fire Chief Williams to address Fire Code Compliance and Williams confirmed the addition of the Parklet for Mescalito as presented met fire code. Miller requested the approval of the application submitted by Mescalito for a Parklet.

The Mayor called for citizen comments about this topic. There were several citizens that spoke in favor of the Parklet with only one citizen in opposition.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to approve a License Agreement between the City of Brenham and Mescalito Coffee LTD Co. related to the construction of a downtown parklet adjacent to 100 E. Alamo Street, Brenham, Texas and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

10. Discuss and Possibly Act Upon an Addendum to the Agreement Between the City of Brenham and Vermont Systems for Credit Card Processing Software, Hardware, and Related Support Services and Authorize the Mayor to Execute Any Necessary Documentation

Kevin Boggus presented this item. Boggus stated in June of 2001 the City entered into a license agreement with Vermont Systems, Incorporated (VSI) for RecTrac software and service. RecTrac works with the credit card terminals at the Aquatic Center and requires a gateway service (Plug'n Pay) to process credit card information, and the service is outdated. Boggus explained a new gateway service and new credit card terminals are needed and VSI has an add-on gateway product called PayTrac that would allow the Aquatic Center to use more modern terminals with features such as tap and pay, as well as chip-reading technology.

A motion was made by Councilmember Kenjura and seconded by Councilmember Saunders to approve an addendum to the Agreement between the City of Brenham and Vermont Systems, Inc. for credit card processing software, hardware, and related support services and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

11. Discuss and Possibly Act Upon Award of RFQ No. 23-003 Related to Professional Services for the Design and Engineering of the City of Brenham Fire Station No. 2 and Authorize the Mayor to Execute Any Necessary Documentation

Fire Chief Roger Williams presented this item. Williams stated on February 23, 2023 the City opened Request for Qualifications (RFQ) for the design and construction services for Fire Station No. 2 and a total of eleven (11) RFQs were received. Williams advised due to the substantial number of submittals, an RFQ Review Team was put together to help review the RFQs. The team consisted of Budget Manager Tim McRoberts, Public Utilities Project Manager Shawn Bolenbarr, Purchasing and Central Fleet Supervisor Kyle Branham, Maintenance Supervisor Stephen Dreahn, and Chief Williams.

Williams advised that the Review Team scored each RFQ using three (3) major scoring components:

1. Proposer's qualifications and expertise in all aspects of the Scope of Work;
2. Proposer's ability to deliver the services as specified in the Scope of Work; and
3. Proposer's Scope of Work experience, specifically with fire stations and fire training facilities.

Williams stated that after several weeks the Review Team made a final selection of Brown Reynolds and Watford Architects (BRW) and believes BRW has the specialized understanding of fire station design, sustainability, experience and history. Williams added that BRW has a portfolio of over 280 award winning firehouse facilities, is nationally recognized in the industry and has a comprehensive understanding of fire station design. Williams went on to say BRW's College Station office will manage the project with a firm of 121 dedicated staff with a time frame of approximately 2-years from stakeholder meetings through construction/completion.

A motion was made by Councilmember Wright and seconded by Councilmember Saunders to award RFQ No. 23-003 related to Professional Services for the design and engineering of the City of Brenham Fire Station No. 2 to Brown Reynolds and Watford (BRW) and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

12. Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting Rate Tariff Schedules for the City of Brenham Electric System

Public Utilities Deputy General Manager Alton Sommerfield presented this item. Sommerfield explained this Ordinance does not raise electric rates; however, due to rising cost of supplies and materials it was necessary for the City to increase fees for:

- Pulling/Re-installing Meter: This service is to allow for safe repairs to be done on the customer's side of the meter. The cost is based upon one City employee and one truck for one hour.
- Service Wire Reconnect/Disconnect – This service is usually performed at the request of electricians to replace the meter and breaker panel. The cost for this service is based upon a 2-hour period with City crew on site.
- Upsizing and Repairs to Existing Equipment and Lines – Upsizing occurs when customers request an upsize or increase to existing equipment, Also included are repairs to a damaged service line caused by the customer or contractor.
- Fees for New Residential Service – Residential services consist of either overhead or underground services. Fees for these services are calculated using the current cost of materials, labor, and equipment.

Sommerfield explained that the tariff in the packet was incorrect as it did not include zoning ordinance information; however, a corrected tariff was laid around the dais for Council consideration.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to approve an Ordinance on its first reading adopting a Rate Tariff Schedule for the City of Brenham Electric System, with the correction as presented, and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

13. Discuss and Possibly Act Upon Bid No. 63C-19C Related to a Generator at the Atlow Booster Pumping Station and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Project Manager Shawn Bolenbarr presented this item. Bolenbarr stated the reason for installing the generator at the Atlow Booster Pumping Station is to put the City in compliance with Senate Bill 3, which requires water utilities to develop and implement emergency preparedness plans to keep their services operating during extended power “outages lasting for more than 24-hours”.

Bolenbarr explained there was a total of four (4) bids received and after review, references, referrals, and Strand Associates findings it was determined McDonald Municipal and Industrial, A Division of C. F. McDonald Electric, Inc. was best suited for this project.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Wright to award Bid No., 63-19C related to a generator at the Atlow Booster Pumping Station to McDonald Municipal and Industrial, A Division of C. F. McDonald Electric, Inc., in the amount of \$184,136.00 and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

14. Discuss and Possibly Act Upon an Agreement with Dudley Construction, LLC for the Extension of the Bid Award Deadline for Project No. 2021-06-A Related to the 2022 Sanitary Sewer Improvements - Stone Hollow Lift Station Replacement and Authorize the Mayor to Execute Any Necessary Documentation

This item was passed.

15. Discuss and Possibly Act Upon Resolution No. R-23-014 Authorizing the Acceptance of Public Improvements in the Liberty Village Subdivision Phase 2B

Director of Development Services Stephanie Doland presented this item. Doland explained that DR Horton began construction of the Liberty Village Subdivision in 2020 which at build out will include the development of 321 single-family home lots, a neighborhood park and two detention ponds. Doland stated that Phase 1 of the Subdivision includes 122 single-family home lots, and the infrastructure was completed and accepted by the City Council in May 2021.

Doland stated that the second phase of construction began in March of 2021 for the construction of multiple residential streets, sidewalks, a lift station, detention pond and an additional 96 lots. Phase two consists of approximately 23.317 acres of land in which the infrastructure has been divided into Phase 2A and Phase 2B. In Phase 2A. Phase 2A of the subdivision includes 48 single-family homes and associated public infrastructure was completed and accepted by Council on September 9, 2022.

Doland stated DR Horton has completed the infrastructure improvements (water, sanitary sewer, streets, sidewalks, and storm drainage) as well as the sanitary sewer lift station which serves Phase 2B and Phase 3 of Liberty Village Subdivision and is ready for acceptance by the City of Brenham.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve Resolution No. R-23-014 authorizing the acceptance of public improvements in the Liberty Village Subdivision Phase 2B and authorize the Mayor to execute any necessary documentation.

Mayor Tate called for a vote. The motion passed with Council voting as follows:

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Clint Kolby	Yes
Councilmember Shannan Canales	Yes
Councilmember Leah Cook	Yes
Councilmember Atwood Kenjura	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

16. Administrative/Elected Officials Report

City Manager Carolyn Miller reported on the following:

- Connect After 4 tonight, April 20th from 4:00 p.m. – 6:00 p.m. will be held at Brenham National Bank, sponsored by the Washington County Chamber of Commerce
- Early Voting begins on Monday, April 24, 2023 from 8:00 a.m. – 5:00 p.m. through May 2, 2023 (no Early Voting on Saturday, April 29th or Sunday April 30th) at the Washington County Courthouse Annex in downtown Brenham
- Nextlink Emergency Drill will be held at the Emergency Operations Center on Friday, April 21st 10:00 a.m.
- Maifest Kickoff Picnic, Wednesday, May 3rd 6:00 p.m. – 8:00 p.m. at Fireman's Park

Council adjourned into Executive Session at 2:10 p.m.

EXECUTIVE SESSION

- 17. Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas**
- 18. Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Legal Issues Concerning the City of Brenham Lake Somerville Raw Water Intake Structure, the Federal Emergency Management Agency, and Associated Matters**

Executive Session adjourned at 2:57 p.m.

RE-OPEN REGULAR SESSION

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 6-B.

Agenda Item: Approve a Noise Variance for Lisa Crawford for a Memorial/Celebration of Life to be Held on May 29, 2023 at Henderson Park from 3:00 p.m. - 10:00 p.m.

Meeting Type: Regular Meeting-May 04, 2023

Department: Public Works

Staff Contact: JoAnne Hynes

SUMMARY STATEMENT:

Lisa Crawford is planning a Memorial/Celebration of Life on Sunday, May 28th at Henderson Park from 3:00 p.m. to 10:00 p.m. There will be food and live music. Due to the use of amplified sound, a noise variance is required.

Lisa Crawford has the kitchen at Henderson Park reserved on May 28th for the event.

ATTACHMENTS:

(1) Noise Variance Request

RECOMMENDED ACTION:

Approve a Noise Variance for Lisa Crawford for a Memorial/Celebration of Life to be held on May 29, 2023 at Henderson Park from 3:00 p.m. - 10:00 p.m.



Noise Variance Request

For: Memorial

Name of sponsoring organization: N/A

Your Contact Information

Name: Lisa Crawford

Phone: (979)525-6610, 1pm

Email: crawfordlife09@gmail.com

Event Details

Event Name: Memorial

Purpose: Celebration of someone life, who has passed away

Location: Henderson Park - 804 Old N. Market Street

Date: 2023-05-28

Time: 3pm - 10pm

Setup From: 3pm **To:** 3:30pm

Clean up From: 9pm **To:** 9:45pm

Types of activities planned and any additional information specific to this event: live music

Describe activities at this event that require the variance to the noise ordinance: live music with amps

Will you use sound amplification equipment? Yes

Cleanup Provisions: picking up all trash on the premise and making sure all trash bags are in the dumpster before 10pm. Double check the premise before leaving

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any court? No

Please identify the offence, State of conviction and penalty imposed:

Approved by City Council on:

ORDINANCE NO. O-23-007

AN ORDINANCE ADOPTING ELECTRIC RATE TARIFF SCHEDULES FOR ELECTRIC SERVICES FOR THE CITY OF BRENHAM, TEXAS; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE:

WHEREAS, the City Council for the City of Brenham, Texas ("City Council") deems it necessary to change the rates charged for electric services to its customers in order to provide for conditions of utility service which promote health, safety, and welfare of the citizens of Brenham, Texas.

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

SECTION I

The City Council of the City of Brenham, Texas does hereby adopt the Electric Rate Schedules for electric services set forth in the attached Exhibit "A", which is made a part hereof for all purposes pertinent, to be effective with utility billing occurring on and after May 4, 2023.

SECTION II

This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas. The implementation of rates as forth herein and on the attached Exhibit "A" shall be effective with utility billing occurring on and after May 4, 2023.

PASSED AND APPROVED, on its first reading this the 20th day of April, 2023.

PASSED AND APPROVED, on its second reading this the 4th day of May, 2023.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

“EXHIBIT A”

CITY OF BRENHAM

200 WEST VULCAN STREET P.O. BOX 1059
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES	400	495
TARIFF	SECTION NO.	SHEET NO.
ELECTRIC RATE SCHEDULE	MAY 4, 2023	
SECTION TITLE	EFFECTIVE DATE	

DISCONNECTS/RECONNECTS EXISTING SERVICES

For disconnects/reconnects for existing the following service fees will apply:

Service	Normal Business Hours	All Other Hours
Meter pulling and reinstalling (200 amp or less)	\$50.00	\$75.00
Service wire disconnect/reconnect	\$100.00	\$150.00

Customers requesting a meter pulled and reconnected for the same day after 4:00 PM may be offered to be connected or reconnected on the next day that is either not a City holiday or weekend. The Utility reserves the right to delay requested connections during weekends and City of Brenham holidays.

OVERHEAD / UNDERGROUND UPSIZING AND/OR DAMAGES

No electric service will be provided by City greater than 100 feet distance from the transformer (or adequate size secondary) to the meter. The Utility, at its discretion, may allow a 10% variance. Any request for upsizing a service line shall be at cost. Repairs to a damaged service line caused by customer or contractor shall be at cost.

NEW SERVICES

For New Services customers will be charged as follows:

Class	Overhead	Underground
Residential-Single Family Lot	\$ 800.00	\$ 1050.00
All Other	Actual Cost	Actual Cost

Residential cost is based on one utility pole and one transformer. Additional poles will be charged at the actual cost.

Fees, Exclusions, Miscellaneous:

- The service cost shall be calculated by the City on the basis of new facilities, regardless of existing installations.
- Costs for boring and casing will be added based on actual costs and will not be subject to cost sharing.
- General requirements for any new electric service connection, use of right-a-way, and design requirements can be found in the City of Brenham Public Infrastructure Design Manual.
- The Utility will neither start work nor will the Utility order materials until it receives full payment.
- The fees for service not specifically addressed in this Tariff will be charged in the amount of the actual cost of performing the service.
- Designs must comply with applicable planning and zoning ordinances. The Utility will not, under any circumstances, authorize or design an extension in conflict with the City's ordinances.



Regular City Council
AGENDA ITEM 7.

Agenda Item: Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand and Associates, Inc., Related to an Impact Fee Study for the City of Brenham's Public Utilities and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-May 04, 2023

Department: Public Utilities

Staff Contact: Debbie Gaffey

SUMMARY STATEMENT:

Impact fees help finance infrastructure needed to serve new development and reduce the economic burden on existing citizens. With recent growth, the City of Brenham wishes to adopt impact fees for water, wastewater, and roadway facilities. In accordance with Chapter 395 of the Texas Local Government Code, before adopting impact fees, a study must be performed by a qualified engineer. The Professional Services Agreement engages Strand Associates, Inc. to conduct an Impact Fee Study for the City of Brenham. The scope of services to be performed by Strand Associates, Inc. is shown on Attachment "A". The time for performance of the Scope of Services is March 1, 2024, or ten (10) months.

The cost of the study is an amount not to exceed \$250,000. Study costs are spread over two (2) fiscal years with funding breakdown as follows:

- \$50,000 General Fund
- \$65,000 Water Fund
- \$135,000 Wastewater Fund (includes a wastewater collection system model)

ATTACHMENTS:

- (1) PSA and Certificates of Agreement
- (2) CIP

RECOMMENDED ACTION:

Approve a Professional Services Agreement between the City of Brenham and Strand Associates, Inc., related to an impact study for the City of Brenham's Public Utilities not to exceed \$250,000.00 and authorize the Mayor to execute any necessary documentation.

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
CITY OF BRENHAM
PROJECT NO. _____
2023 IMPACT FEE STUDY**

THE STATE OF TEXAS

§

§

COUNTY OF WASHINGTON

§

THIS AGREEMENT made on the _____ day of _____, 20____, entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Strand Associates, Inc.[®] ("Engineer").

WITNESSETH:

WHEREAS, the City desires to prepare and adopt impact fees for water, wastewater, and roadway facilities in accordance with the State of Texas Local Government Code, Chapter 395, and to prepare a wastewater collection system model, as further described in Part A of Attachment "A" (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to assist with development of impact fees for water, wastewater, and roadway facilities, including preparing capital improvements plans, performing traffic counts, and preparing a wastewater collection system model, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Services," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

SECTION II CHARACTER AND EXTENT OF SERVICES

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. The City's use of any work product prepared by the Engineer for purposes other than for the intended project shall be at the City's sole risk and without liability to the Engineer.

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Services is through March 1, 2024; beginning from the execution date of this Agreement, which is anticipated the week of May 1, 2023. Upon written request of Engineer, the City Manager may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

Engineer agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services to be performed hereunder and Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$250,000, as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Strand Associates, Inc.[®]
1906 Niebuhr Street
Brenham, TX 77833
Attn: Ryan D. Tinsley, P.E., ENV SP

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
P.O. Box 1059
Brenham, TX 77834
Attn: City Manager

SECTION X LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City Manager, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable

expenses, will be paid for by the City on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City. Non-payment within 45 days of receipt of invoice by the City, may at Engineers option, result in suspension of services upon 5 days written notice to the City. Upon receipt of payment in full Engineer will resume services without liability to City for such suspension.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an

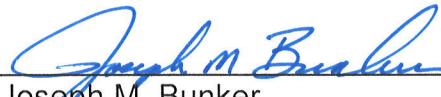
individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the Mayor of said City and attested by the City Secretary and Strand Associates, Inc.[®], acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 20____.

ENGINEER:

STRAND ASSOCIATES, INC.[®]

 4/25/23
Joseph M. Bunker Date
Corporate Secretary

ATTEST:

CITY OF BRENHAM, TEXAS

Jeana Bellinger Date
City Secretary

Milton Y. Tate Jr. Date
Mayor

ATTACHMENT "A"

PART A—SCOPE OF SERVICES

CITY OF BRENHAM PROJECT NO. _____ 2023 IMPACT FEE STUDY

Description of Project

1. Prepare a request for information including data and documentation for the services and submit to City. General information anticipated to be obtained from the City includes, but is not limited to, the following:
 - a. Population projections prepared by Texas Water Development Board and Brazos Valley Council of Governments.
 - b. Existing wastewater collection system mapping and service area boundary for wastewater service.
 - c. Any documents related to proposed developments, including maps, drawings, development densities, and construction schedules.
 - d. Current and future land use maps.
2. Attend one kickoff meeting with City to review project scope, available information, and schedule; and obtain additional data and documentation, as needed.
3. Review City-provided information. Previously provided data from past projects will also be reviewed.
4. Prepare draft land use assumptions for years 2023 through 2033. Land use assumptions will be based on information provided by City for future developments. The number of current equivalent living units and anticipated growth in service units/connections for the years 2023 through 2033 will be included. The draft land use assumptions used for calculating water and wastewater impact fees will extend to City's Extraterritorial Jurisdiction. The draft land use assumptions used for calculating roadway impact fees will be limited to up to five areas of anticipated future development within the City Limits requiring roadway facility upgrades to serve the future development areas. The draft land use assumptions will be summarized in a technical memorandum.
5. Meet with City to review the draft land use assumptions. Incorporate City's comments into an updated version of the draft land use assumptions technical memorandum.

6. Prepare presentation and present the draft land use assumptions, including anticipated growth in service units/connections for the years 2023 through 2033, to the City's Capital Improvements Advisory Committee (CIAC). Incorporate CIAC comments into the final version of the land use assumptions technical memorandum.
7. Prepare a draft Water Supply, Treatment, and Distribution Facilities Capital Improvements Plan (Water CIP) to serve future development based on the final version of the land use assumptions. Future water demands will be simulated using City's water distribution system model, which was recently calibrated by Engineer under a separate agreement. Review potential pressure and flow deficiencies, and the system's ability to provide water for fire protection under existing and future conditions. Opinions of probable costs (OPCs) will be prepared for each identified Water CIP project. Up to 20 water CIP projects are anticipated. OPCs will be prepared to the Association of the Advancement of Cost Engineering (AACE) Class 4 level. The portion or percentage of each existing or new Water CIP projects needed to meet existing demands, demands for years 2023 through 2033, and excess capacity to support future growth beyond 2033 will be identified in the water CIP.
8. Prepare a hydraulic and hydrologic model of City's wastewater collection system using City-provided information, including geographic information system (GIS) shapefiles of the wastewater collection system and City-collected measure-downs from the manhole rims to the sanitary sewer inverts. City-collected measure-downs are anticipated on sanitary sewers eight inches in diameter or greater. Engineer may assist City with collection of measure-downs as an additional service to this Agreement.
9. Assist City in conducting lift station drawdown tests at up to 19 lift stations. City shall provide access to the lift station sites and operate all aspects of the lift station throughout the drawdown tests. Drawdown testing results, combined with the City's historical runtimes at each lift station, will be used to calibrate the wastewater collection system model to the Chartered Institution of Water and Environmental Management's guidelines.
10. Prepare a draft Wastewater Collection and Treatment Facilities Capital Improvements Plan (Wastewater CIP) to serve future development based on the final version of the land use assumptions. Future wastewater demands will be simulated using City's wastewater collection system model. Review flow and potential pumping deficiencies under existing and future conditions. OPCs will be prepared for each identified Wastewater CIP project. Up to 20 Wastewater CIP projects are anticipated. OPCs will be prepared to the AACE Class 4 level. The portion or percentage of each existing or new Wastewater CIP projects needed to meet existing demands, demands for years 2023 through 2033, and excess capacity to support future growth beyond 2033 will be identified in the Wastewater CIP.
11. Prepare a draft Roadway Facilities Capital Improvements Plan (Roadway CIP) consisting of roadway improvements to serve up to five areas of anticipated future development based on the final version of the land use assumptions. Perform traffic counts at up to two intersections for each of the five development areas to

establish existing baseline traffic levels. Review anticipated development densities for each of the five development areas to identify potential roadway facility and/or intersection improvements. OPCs will be prepared for each identified Roadway CIP project. Up to five Roadway CIP projects are anticipated. OPCs will be prepared to the AACE Class 4 level. The portion or percentage of each existing or new Roadway CIP projects needed to meet existing demands, demands for years 2023 through 2033, and excess capacity to support future growth beyond 2033 will be identified in the Roadway CIP.

12. Meet with City to review the draft Water, Wastewater, and Roadway CIPs (collectively referred to as Impact Fee CIPs). Incorporate City's comments into an updated version of the draft Impact Fee CIPs.
13. Prepare presentation and present the final land use assumptions and draft Impact Fee CIPs to the City's CIAC. Incorporate CIAC comments into the final version of the Impact Fee CIPs.
14. Attend a City Council meeting to participate in a public hearing to discuss the final land use assumptions and final Impact Fee CIPs.
15. Calculate draft assessable impact fees for water, wastewater, and roadway facilities using methods described in the State of Texas Local Government Code, Chapter 395.
16. Meet with City to review the draft assessable impact fees for water, wastewater, and roadway facilities. Incorporate City's comments into an updated version of the draft assessable impact fees for water, wastewater, and roadway facilities.
17. Prepare presentation and present the final land use assumptions, final Impact Fee CIPs, and draft assessable impact fees for water, wastewater, and roadway facilities to the City's CIAC. Incorporate CIAC comments into the final version of the assessable impact fees for water, wastewater, and roadway facilities.
18. Prepare a draft Water, Wastewater, and Roadway Impact Fee letter report. Draft report will include the final land use assumptions, Impact Fee CIPs, and assessable impact fees for water, wastewater, and roadway facilities. Submit draft report to City for review. Address City comments and prepare final report.
19. Attend a City Council meeting to participate in a public hearing to discuss the final assessable impact fees and the final report. The City shall determine the final assessable impact fees based on the public hearing and final report.
20. Assist City with a draft impact fee ordinance. The City shall prepare the final impact fee ordinance.

PART B–BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

CITY OF BRENHAM PROJECT NO. _____ 2023 IMPACT FEE STUDY

The following represents the maximum compensation for the scope of services documented in Attachment A, Part A of this Agreement. If services beyond those specifically identified are determined necessary during the Project, Engineer shall not proceed with those services until such time written approval of the scope and any additional fees are approved by the City Manager.

City shall compensate Engineer on a lump sum basis not to exceed \$250,000.

ATTACHMENT "B"

INSURANCE

CITY OF BRENHAM
PROJECT NO. _____
2023 IMPACT FEE STUDY



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis Towers Watson Midwest, Inc. c/o 25 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: Willis Towers Watson Certificate Center PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com INSURER(S) AFFORDING COVERAGE INSURER A: Continental Casualty Company NAIC # 20443 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Strand Associates, Inc. 910 West Wingra Drive Madison, WI 53715	

COVERAGES **CERTIFICATE NUMBER:** W28778178 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (EA occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPOF AGG \$ OTHER:
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (EA accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ OTHER:
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ OTHER:
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR, PARTNER, EXECUTIVE OFFICER, MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			113974097	07/11/2022	07/11/2023	Per Claim \$2,000,000 Aggregate \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Strand PN#: 3900.277 - 2023 Impact Fee Study

CERTIFICATE HOLDER

City of Brenham, Texas
 Attn: City Manager
 PO Box 1059
 Brenham, TX 77834

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

[Signature]

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SR ID: 24048129

BATCH: 2946020



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/24/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ansay & Associates, LLC 2901 W Beltline Hwy, Suite 202 Madison WI 53713	CONTACT NAME: Connie Easland	
	PHONE (A/C, No, Ext): 608-828-0232	FAX (A/C, No): 608-831-4777
INSURED Strand Associates, Inc. 910 W Wingra Drive Madison WI 53715	E-MAIL ADDRESS: connie.easland@ansay.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Travelers Property Casualty Co of America	
	INSURER B: Travelers Indemnity Co of Connecticut	
	INSURER C: The Travelers Indemnity Co.	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 1160825702**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ 1,000 GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☒ LOC			P-630-1W455660-TIA-23	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			BA-1W469615-23-43-G	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 10,000			CUP-1W474601-23-43	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB-1W473211-23-43-E	1/1/2023	1/1/2024	☒ WC STATUS- TORY LIMITS ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
Strand PN#: 3900.277 - 2023 Impact Fee Study

CERTIFICATE HOLDER**CANCELLATION**

City of Brenham, Texas ATTN: City Manager PO Box 1059 Brenham TX 77837	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Connie Easland</i>

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CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2023-1010319

Date Filed:
04/21/2023

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Strand Associates, Inc.
Brenham, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Brenham

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Strand Project No. 3900.277
Engineering Services for 2023 Impact Fee Study

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Strand Associates, Inc.	Brenham, TX United States	X	

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is Joseph M. Bunker, and my date of birth is August 2, 1973.

My address is 910 West Wingra Drive, Madison, WI, 53715, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dane County, State of Wisconsin, on the 25 day of April, 2023.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon the Appointment of Sixteen (16) Individuals to the City of Brenham's Project Working Group for the Development Services Small Area Plan and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-May 04, 2023

Department: Development Services

Staff Contact: Shauna Laauwe

SUMMARY STATEMENT:

On March 2, 2023, the City Council approved a Professional Services Agreement with Kendig Keast Collaborative (KKC) for a special project and long-range planning document known as a Small Area Plan around the Brenham Family Park. Generally, the subject area is bounded by the Brenham Business Center to the east, US Highway 290 to the north, the State Supported Living Center to the South and State Highway 36 to the west. The subject properties have a combined area of approximately 600 acres and are zoned a combination of R-1, Single-Family Residential, R-2, Residential Mixed-Use, B-1 Local Business Mixed, and B-2, Commercial Business and Technology.

Included in the Scope of Services for the Small Area Plan is the formation of a Project Working Group made up of property owners, public officials, design professionals and City Staff. The role of the Project Working Group is to give stakeholder insight, create goals, and give recommendations to facilitate KKC in developing a Brenham Family Park Small Area Plan that will provide compatible and sustainable growth for residents and visitors alike.

Staff recommends that the Project Working Group be comprised of sixteen (16) individuals on the attached list. The Project Working Group includes the property owners within the 600+ acres, and a representative from City Council, Planning and Zoning Commission, the Parks and Recreation Board, the TIRZ Board, the BCDC, TXDOT, and local design professionals. We are confident that this is a strong and innovative group that will provide excellent feedback and local knowledge to help create a Brenham Family Park Small Area Plan that is a viable and sustainable endeavor.

ATTACHMENTS:

(1) Project Working Group Members

RECOMMENDED ACTION:

Approve the appointment of sixteen (16) individuals to the City of Brenham's Project Working Group for the Development Services Small Area Plan and authorize the Mayor to execute any necessary documentation.



Small Area Plan Project Working Group

1. Councilmember Clint Kolby, Position 5- At Large
2. Keith Behrens, Planning and Zoning Commission Representative
3. Gary Crocker, TIRZ Board Representative
4. Bill Betts, BCDC Representative
5. William (Dusty) Robinson, Parks & Recreation Board Representative
6. Jeff Miles, TXDOT Representative
7. Darren Heine, Design Professional (Architect)
8. Darren Huckert, Design Professional (Architect)
9. Wes Hall, Kruse family (property owner) representative
10. Carl Detering, property owner
11. Reuben Feazel, property owner
12. Michael and Shirley Gajeske, property owners
13. John Gajeske, property owner
14. Shannan Gajeske, property owner
15. Jean Warmke (Kolwes), property owner
16. Sandra Perry Kolwes, property owner



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-23-015 Re-Adopting the Guidelines and Criteria for Granting Tax Phase-In in a Reinvestment Zone Created in the City of Brenham

Meeting Type: Regular Meeting-May 04, 2023

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

In accordance with Texas Tax Code Section 312.002(c) the guidelines and criteria adopted by the governing body to govern tax abatement agreements are effective for two years from the date adopted. Therefore, to continue to offer Tax Phase-In as an economic development incentive for new and expanding commercial enterprises, the City Council is required to re-adopt the Policy.

No changes have been made to the policy since 2017; however, staff will be working with the Economic Development Sub-Committee of Council along with Judge Durrenberger and County Commissioner Bullock to review the Policy and bring back any recommended amendments for City Council consideration in the next few months.

ATTACHMENTS:

- (1) Resolution No. R-23-015
- (2) Policy Statement for Tax Phase-In Incentives

RECOMMENDED ACTION:

Approve Resolution No. R-23-015 re-adopting the guidelines and criteria for granting Tax Phase-In in a Reinvestment Zone created in the City of Brenham.

RESOLUTION NO. R-23-015

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS RE-ADOPTING THE GUIDELINES AND CRITERIA FOR GRANTING TAX PHASE-IN IN A REINVESTMENT ZONE CREATED IN THE CITY OF BRENHAM

WHEREAS, the creation and retention of job opportunities that bring new wealth to the community is a high civic priority; and

WHEREAS, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services; and

WHEREAS, the City of Brenham must compete with other localities across the nation currently offering tax inducements to attract new commercial enterprises and modernization projects for existing businesses; and

WHEREAS, any tax incentives offered in the City of Brenham would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community; and

WHEREAS, any tax incentives should not affect the competitive position of existing companies operating in the City of Brenham; and

WHEREAS, the abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely re-circulating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area economy; and

WHEREAS, effective September 1, 1987, Texas law requires an eligible taxing jurisdiction to establish guidelines and criteria as to eligibility for tax abatement agreements prior to granting of any future tax abatement, said guidelines and criteria to be unchanged for a two-year period unless amended by a three-fourths vote of the participating governing body; and

WHEREAS, on February 20, 1992 City Council adopted by resolution a policy for the creation of tax abatement zones in the City of Brenham; and

WHEREAS, on December 19, 2019 City Council passed Resolution No. R-19-038 re-adopting the guidelines and criteria for granting tax abatement in a reinvestment zone created in the city; and

WHEREAS, the City Council has reviewed said guidelines and criteria and recommend no changes be made to the guidelines and criteria for granting tax abatement in a reinvestment zone; and

WHEREAS, these guidelines and criteria shall not be construed as implying or suggesting that the City of Brenham is under any obligation to provide tax abatement or other incentive to any applicant and all applicants shall be considered on a case by case basis;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Brenham does hereby re-adopt the attached guidelines and criteria for granting tax abatement in reinvestment zones in the City of Brenham styled as “Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises”, as amended and incorporated herein by reference and effective May 4, 2023.

APPROVED this the _____ day of _____, 2023.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

CITY OF BRENHAM

POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

Policy Adoption Date: May 4, 2023

I. PURPOSE

The City of Brenham, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Phase-In incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Phase-In incentive under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX PHASE-IN INCENTIVE

Tax Phase-In incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive. Brenham ISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property Tax Phase-In incentive, the planned improvement at a minimum must:

- (a) Be a facility used or to be used by a Primary Jobs Employer according to Exhibit A (except for a location in the Downtown Zone).
- (b) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Brenham or \$150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of \$50,000. This is to help maintain the economic viability of the central business district.
- (c) The applicant must maintain or create within the first year and throughout the Tax Phase-In incentive period a minimum of ten (10) jobs at an average salary of \$36,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the Tax Phase-In incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.
- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's master plan for development.
- (3) Valuation at Termination of Tax Phase-In Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Phase-In incentive. The economic life of the added-value property must exceed the duration of the granted Tax Phase-In incentive period.

(4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local businesses;

The alternative development possibilities for proposed site;

The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX PHASE-IN INCENTIVE AUTHORIZED

- (a) Authorized Date A facility shall be eligible for the Tax Phase-In incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.
- (b) Creation of New Value Tax Phase-In incentive may only be granted for the additional value of eligible property improvements made subsequent to the filing of an application for the Tax Phase-In incentive and specified in the Tax Phase-In incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

- (c) New and Existing Facilities Tax Phase-In incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Phase-In incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).
- (d) Eligible Property Except as otherwise provided in this policy, the Tax Phase-In incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.
- (e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Phase-In incentives:
- land,
 - animals,
 - inventories,
 - supplies,
 - tools,
 - furnishings and other forms of movable personal property,
 - vehicles,
 - vessels,
 - aircraft,
 - housing or residential property (except for property owners in the Downtown Zone),
 - hotels/motels,
 - fauna,
 - flora,
 - retail facilities (except for property owners in the Downtown Zone),
 - deferred maintenance investments,
 - property to be rented or leased except as provided in Part IV (f),
 - improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
 - any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility, or
 - property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.
- (f) Owned/Leased Facilities If a leased facility is granted the Tax Phase-In incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Phase-In incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Phase-In incentive period by resuming the Tax Phase-In incentive with the combined value of the replacement lessee by disregarding the Tax Phase-In incentive extension term. The lessor shall not receive any Tax Phase-In incentive during any year where a Tax Phase-In incentive extension has been elected. The Tax Phase-In incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Phase-In incentive based solely on its new value investment.

- (g) Value and Term of Tax Phase-In incentive Tax Phase-In incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Phase-In incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Phase-In incentive. The Table 1 and Table 2 Tax Phase-In incentive Schedules - Exhibit "B", Table 3 in a Downtown Zone (map Exhibit "C"), incorporated herein by reference, shall be the maximum Tax Phase-In incentive available based on total new value investment or added employment for each year during the Tax Phase-In incentive term, whichever is greater.

The total amount of eligible property improvements and jobs created and retained are based on projected property improvements and personnel employed. However, the actual amount of tax phase-in incentives shall be determined annually by Table 1 and Table 2 in Exhibit B based on the actual eligible improvements and the actual number of employees, unless located in a Downtown Zone, in which the total amount of abatement will be derived from Table 3.

If an Existing Local Business has ten to forty-nine (10-49) employees for their base year employment, then the total abatement levels shall be determined from Levels 1-4 in Table 2 of Exhibit B. If an Existing Local Business has fifty (50) or more employees for their base year employment, then the following abatement levels shall be determined from Table 2 in Exhibit B:

- Level 5 – if base year employment is at least 90% for that calendar year
- Level 4 – if base year employment is at least 80% for that calendar year
- Level 3 – if base year employment is at least 70% for that calendar year
- Level 2 – if base year employment is at least 60% for that calendar year
- Level 1 – if base year employment is at least 50% for that calendar year

- (h) Downtown Zone A Tax Phase-In incentive zone within the designated downtown area in the attached Exhibit C, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit C under common ownership. Tax Phase-In incentive in a Downtown Zone shall receive approval for building plans and specifications by the Main Street Board as a condition of receiving the Tax Phase-In incentive.

- (i) Taxability From the execution of the Tax Phase-In incentive contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

V. APPLICATION PROCESS

- (a) Any present or potential owner of taxable property in the City of Brenham may request the creation of a Reinvestment Zone and Tax Phase-In incentive by filing written request with the City Manager.
- (b) The application shall consist of a completed application form accompanied by:
 - (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;
 - (2) A descriptive list of the improvements which will be a part of the facility;
 - (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.
 - (4) A time schedule for undertaking and completing the planned improvements;
 - (5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
 - (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
 - (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Phase-In incentive; and
 - (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.
- (c) Upon receipt of a completed application, the City Manager shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Phase-In incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.
- (d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Phase-In incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.

- (e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Phase-In incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Phase-In incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

VI. PUBLIC HEARING

- (a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Phase-In incentive will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.
- (b) Neither a Reinvestment Zone nor a property Tax Phase-In incentive agreement shall be authorized if it is determined that:
 - (1) There would be a substantial adverse effect on the provision of a government service or tax base of the City.
 - (2) The applicant has insufficient financial capacity
 - (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
 - (4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

- (a) After approval of the application for the designation of an area as a Reinvestment Zone for the property Tax Phase-In incentive, the City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:
 - (1) Estimated value to be abated and the base year value.
 - (2) Percent of value to be abated each year as provided in Part IV (g).
 - (3) The commencement date and the termination date of Tax Phase-In incentive.
 - (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.
 - (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
 - (6) Amount of investment and average number of jobs involved for the period of the Tax Phase-In incentive.
 - (7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

- (b) Such agreement shall be executed within ninety (90) days after the later of 1) the date applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.
- (c) The City shall make its own determination of the property Tax Phase-In incentive which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each Tax Phase-In incentive project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Phase-In incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Phase-In incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Phase-In incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Phase-In incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before June 30 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and 1 by the Chief Appraiser. They will be appointed by January 30 of even numbered years for a two year term. Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time. The company/individual receiving the property Tax Phase-In incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.
- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before October 1 of each calendar year.
- (c) The Committee shall provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

IX. DEFAULT

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create jobs as outlined in the agreement; or
- (3) if an Existing Local Business falls below fifty percent (50%) of their base year employment number; or
- (3) violates any of the terms and conditions of the Tax Phase-In incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Phase-In incentive period;

then the agreement shall terminate and so shall the Tax Phase-In incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination.

X. ASSIGNMENT

- (a) The Tax Phase-In incentive may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Phase-In incentive agreement are guaranteed by the execution of a new contractual agreement with the City.
- (b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the Tax Phase-In incentive agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to the City for outstanding taxes or other obligations.
- (d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

- (a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Phase-In incentive contracts created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.
- (b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the City.
- (c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

- (a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.
- (b) Property that is owned or leased by the following is excluded from the property Tax Phase-In incentive:
 - (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
 - (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.
- (c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Phase-In incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

XIII. VARIANCE

Requests for any variances from this Policy may be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant, company or individual should be granted a variance. Approval of a request for variance requires a three- fourths (3/4) majority vote of the governing body of the City.

GLOSSARY

- (a) "City" means the City of Brenham, Texas that levies ad valorem taxes upon and/or provides services to property located within the City limits.
- (b) "Agreement" means a contractual agreement between a property owner and/or lessee and the City for the purpose of the Tax Phase-In incentive.
- (c) "Base year employment" means the average number of employees for each quarter at an existing local business of the year prior to the execution of the agreement.
- (d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for the Tax Phase-In incentive.
- (e) "Committee" means the Compliance Review Committee, consisting of representatives appointed by the City, County and Chief Appraiser's office to annually review documents verifying compliance of all projects receiving the Tax Phase-In incentive.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Existing Local Business" means a business that has been located in the City of Brenham and has paid property taxes for at least one full year prior to submitting any application for the property Tax Phase-In incentive.
- (h) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of \$36,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.
- (k) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.
- (l) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

EXHIBIT A
PRIMARY JOBS EMPLOYER DEFINITION

Sec. III (a)

Be a facility used or to be used by a Primary Jobs Employer.

"Primary job" means a job that is:

- (i) available at a company for which a majority of the products or services of that company are ultimately exported to regional, statewide, national, or international markets infusing new dollars into the local economy; and
- (ii) included in one of the following sectors of the North American Industry Classification System (NAICS):

NAICS Sector #	Description
111	Crop Production
112	Animal Production
113	Forestry and Logging
11411	Commercial Fishing
115	Support Activities for Agriculture and Forestry
211-213	Mining
221	Utilities
311-339	Manufacturing
42	Wholesale Trade
48-49	Transportation and Warehousing
51 (excluding 512131 and 512132)	Information (excluding motion picture theaters and drive-in motion picture theaters)
523-525	Securities, Commodity Contracts, and Other Financial Investments and Related Activities; Insurance Carriers and Related Activities; Funds, Trusts, and Other Financial Vehicles
5413, 5415, 5416, 5417, and 5419	Architectural, Engineering, and Related Services; Computer System Design and Related Services; Management, Scientific, and Technical Consulting Services; Scientific Research and Development Services; Other Professional, Scientific, and Technical Services
551	Management of Companies and Enterprises
56142	Telephone Call Centers
922140	Correctional Institutions

EXHIBIT B TAX PHASE-IN INCENTIVE SCHEDULES

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

TABLE 1 (earns 50% of incentive)

1A - Property Improvements by an Existing Local Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year							
	From	To	1	2	3	4	5	6	7	8
1	\$ 150,000	\$1,000,000	45	40	30	20	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20

1B - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year							
	From	To	1	2	3	4	5	6	7	8
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20

TABLE 2 (earns 50% of incentive)

2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses

Level	The number of new and/or retained full-time employees with an average salary level of \$36,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year							
	From	To	1	2	3	4	5	6	7	8
1	10	19	45	40	30	20	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0
3	30	39	45	45	45	40	30	20	0	0
4	40	49	45	45	45	45	40	30	20	0
5	50 and more		45	45	45	45	45	40	30	20

TABLE 3 Downtown Zone

Amount of valuation of
downtown reinvestment
determined by tax appraisal:

Percent of property tax to be abated each year

Valuation	1	2	3	4	5	6	7	8
\$ 50,000 to \$150,000	90	90	90	60	40	20	0	0
\$150,001 to \$250,000	90	90	90	90	60	40	20	0
\$250,001 and beyond	90	90	90	90	90	60	40	20

EXHIBIT C
MAP OF DOWNTOWN ZONE





Regular City Council
AGENDA ITEM 11.

Agenda Item: Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Aviators Plus, LLC v. City of Brenham, Texas; Cause No. 37896; 21st Judicial District Court, Washington County, Texas

Meeting Type: Regular Meeting-May 04, 2023

Department: Administration

Staff Contact: Carolyn Miller

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action - Executive Session discussion only.