



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 2, 2019 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN ST.
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Cantey**
- 3. Service Recognitions**
 - **James Antkowiak, Electric** **20 Years**
 - **Colleen Latham, Collection** **25 Years**
- 4. Proclamations**
 - **Independence Coffee – 2019 Texas SBA Small Business Persons of the Year**
 - **National Travel and Tourism Week** **Pages 1-2**
- 5. Fortnightly Club Presentation to the Nancy Carol Roberts Memorial Library**
- 6. Citizens Comments**

CONSENT AGENDA

7. 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.

7-a. Minutes from the April 4, 2019 Regular City Council Meeting

7-b. Ordinance No. O-19-015 on Its Second Reading Amending Chapter 8½, Flood Damage Prevention, of the Code of Ordinances of the City of Brenham Pages

7-c. Ordinance No. O-19-016 on Its Second Reading Providing for a No Parking Zone on the West Side of Green Street Between College Avenue and W. Third Street

Pages 3-35

REGULAR SESSION

8. **Discuss and Possibly Act Upon Ordinance No. O-19-017 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Part II, Division 1, Section 18 to Establish Exterior Construction Materials for Selected Zoning Districts in Brenham, Washington County, Texas (Case No. P-19-001)** **Pages 36-39**
9. **Discuss and Possibly Act Upon a Bid for City of Brenham Project No. 2017-06 Related to the 24” Raw Water Line Lowering at Sandy Creek Rebid and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 40-52**
10. **Discuss and Possibly Act Upon the Purchase of a Trencher for the Gas Department Through BuyBoard Using EKA Contract Number 515-16 and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 53-56**
11. **Discuss and Possibly Act Upon a One Year Contract Extension, in Accordance with Bid No. 18-006, for Generator Maintenance and Inspection for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 57-58**
12. **Discuss and Possibly Act Upon an Amendment to the Brenham Community Development Corporation (BCDC) Bylaws and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 59-60**

EXECUTIVE SESSION

13. **Section 551.087 – Texas Government Code – Economic Development Negotiations – Discuss and Deliberate Project Hi-Speed Regarding Commercial or Financial Information that the City Has Received from a Business Prospect and the Offer of Financial or Other Incentives to a Business Prospect that the City Seeks to Have Locate In or Near the City of Brenham and With Which the City is Conducting Economic Development Negotiations** **Page 61**

RE-OPEN REGULAR AGENDA

14. **Discuss and Possibly Act Upon the Approval of a Performance Agreement of the Brenham Community Development Corporation (BCDC) Regarding Project Hi-Speed and Authorize the Mayor to Execute Any Necessary Documentation** **Page 62**
15. **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.

Adjourn

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

CERTIFICATION

I certify that a copy of the May 2, 2019 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on April 29, 2019 at **12:55 PM**.

Kacey A. Weiss, TRMC

Deputy City Secretary I

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 _____, 2019 at _____ AM PM.

Signature

Title

PROCLAMATION

WHEREAS, On October 14, 2003, Christi and Ragan Bond pulled their first batch of coffee from their small roaster on their homestead; and

WHEREAS, The first year 2,000 pounds of coffee was roasted and experimented with as they refined their skills, leading to the birth of their "Independent" style of deep roasting; and

WHEREAS, In 2018, Independence Coffee roasted over 650,000 pounds of organic, high-grown Arabica coffees from thirteen producing countries; and

WHEREAS, Independence Coffee Company supports the community through a variety of endeavors; and

WHEREAS, Independence Coffee Company has won the U.S. Small Business Administration award for the State of Texas, following its nomination by the Blinn College Small Business Development Center; and

WHEREAS, Independence Coffee Company co-owners, Christi and Ragan Bond, have been recognized for company-wide excellence;

NOW, THEREFORE, I, Milton Y. Tate Jr., Mayor of the City of Brenham, do hereby proclaim Tuesday, May 7, 2019 as

Independence Coffee Day - Celebrating Co-Owners Christi and Ragan Bond as 2019 Texas SBA Small Business Persons of the Year

Milton Y. Tate Jr., Mayor
City of Brenham

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 2017 totaled \$67,734,604; and
- WHEREAS,** Travel spending generated \$5,944,166 in tax receipts for Brenham; and
- WHEREAS,** Travel and tourism activities generated 690 jobs for the area; and
- WHEREAS,** The Tourism and Marketing Department urges 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, do hereby proclaim the week of May 5-11, 2019 as

National Travel & Tourism Week

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

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on April 4, 2019 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 Andrew Ebel
Councilmember Susan Cantey
Councilmember Danny Goss
Councilmember Albert Wright
Councilmember Clint Kolby

Members absent:

Councilmember Keith Herring

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Assistant City Manager – Chief Financial Officer Carolyn Miller, Comptroller Stacy Hardy, Human Resources Director Susan Nienstedt, Debbie Gaffey, Crystal Locke, Fire Chief Ricky Boeker, Dant Lange, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Alton Sommerfield, Amber Ortega, Development Services Director Lori Sanguedolce, Stephanie Doland, Kim Hodde, Susan Cates, Daniel McCracken, Melinda Gordon, Kevin Boggus, Kevin Schmidt, Ande Bostain, Chris Bugaj, Gary Marburger, Joe Moore, Vincent Estrada, Matthew Monfreda, Greg Franco, DeQuincey Lewis, Luke Ongudu, Jordan Prigge, Shawn Bolenbarr, Bobby Keene, Nancy Stafford, Mason Patranella, Cindy Turnbow, Michele Glenz and Becky Squyres

Citizens present:

Pat Johnson, Dorothy Morgan, Adonna Saunders and Erica Ogle

Media Present:

Arthur Hahn, Brenham Banner Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Wright**

3. **Service Recognitions**
 - **Daniel McCracken, Public Utilities** **20 Years**
 - **Lowell Ogle, Public Utilities** **35 Years**

4. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

5. **Statutory Consent Agenda**

- 5-a. **Minutes from the February 28, 2019 Special City Council Meeting and March 7, 2019 Regular City Council Meeting**
- 5-b. **Approve a Noise Variance from the Washington County Ministerial Association for a National Day of Prayer Event to be Held on May 2, 2019 from 11:30 a.m. – 1:15 p.m. at the Courthouse Gazebo and Authorize the Mayor to Execute Any Necessary Documentation**
- 5-c. **Approve a Noise Variance from the Brenham Maifest Association for the 2019 Maifest Events to be Held May 2 Through May 4, 2019 and Authorize the Mayor to Execute Any Necessary Documentation**
- 5-d. **Approve a Ground Space Lease Agreement with Mark Pollard for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve the Statutory Consent Agenda Items 5-a. through 5-d.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
Councilmember Clint Kolby	Yes

WORK SESSION

6. Presentation and Discussion Regarding Chapter 8½, Flood Damage Prevention, of the Code of Ordinances of the City of Brenham

Development Services Director Lori Sanguedolce presented this item. Sanguedolce explained that FEMA recently completed a revision to the countywide Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) for Washington County, Texas and Incorporated Areas. Sanguedolce stated that the City of Brenham was not affected by the updated flood hazard information; however, it is necessary for the City to update the floodplain management ordinance known as the Flood Damage Prevention ordinance to reflect the new FIRM effective date of May 16, 2019.

REGULAR SESSION

7. Discuss and Possibly Act Upon an Agreement for Assistance Through the U.S. Department of Agriculture Natural Resources Conservation Service Emergency Watershed Protection Program for Higgins Branch and Authorize the Mayor to Execute Any Necessary Documentation

Development Services Director Lori Sanguedolce presented this item. Sanguedolce explained that the City of Brenham requested assistance through the Emergency Watershed Protection Program for financial assistance when a federal, state, or local emergency is declared. Sanguedolce stated that the request was submitted to NRCS on October 12, 2017 for drainage ways throughout the City.

Sanguedolce advised that during Hurricane Harvey, DR-4332, the City of Brenham sustained damages to creeks throughout the City. Sanguedolce noted that this agreement is specifically for Higgins Branch from W. Main Street to east of Burleson Street, approximately 3,260 feet of channel, including Hattie Mae Park. Sanguedolce explained that this project will remove and dispose of accumulated sediment by reestablishing flow lines, side slopes, and armor eroded areas. Sanguedolce stated that once the agreement is executed by NRCS, staff would have 220 days to complete the project. Sanguedolce advised that there is a 10% match

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve an agreement for assistance through the U.S. Department of Agriculture Natural Resources Conservation Service Emergency Watershed Protection Program for Higgins Branch 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
Councilmember Clint Kolby	Yes

8. Discuss and Possibly Act Upon Resolution No. R-19-011 Adopting the 2019-2024 Washington County Hazard Mitigation Action Plan as It Applies to the City of Brenham

Fire Chief Ricky Boeker presented this item. Boeker explained that this Hazard Mitigation Action Plan was updated in 2013 and again in 2018. Boeker stated that the jurisdictions participating in this update include Washington County, the cities of Brenham and Burton, and Blinn College. Boeker advised that it is intended as a blueprint for future hazard mitigation, defined as “any sustained action taken to reduce or eliminate the long-term risk to human life and property from all hazards.”

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve Resolution No. R-19-011 adopting the 2019-2024 Washington County Hazard Mitigation Action Plan as it applies to the City of Brenham.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
Councilmember Clint Kolby	Yes

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 12, Health and Sanitation, of the Code of Ordinances of the City of Brenham, Regarding Use of Tobacco at City-Owned Facilities

Public Works Director Dane Rau presented this item. Rau explained that in the past year staff has received numerous complaints from citizens about people smoking in our parks; specifically in and around the playground areas. Rau stated that after receiving several complaints staff decided to take the issue to the Parks and Recreation Board for discussion on how to handle the problem.

Rau advised that at the December 12, 2018 and the February 13, 2019 Parks and Recreation Advisory Board meetings, the Board discussed various options for handling this. Rau noted that it was an overall consensus of the Board to recommend the City Council consider amending the current no smoking ordinance (Chapter 12 of the Code of Ordinances) to more clearly define the park and playground areas as no smoking zones and to amend the definitions to include some new smoking-related products that are now available. Rau stated that the Board also recommended that tobacco use, overall, be prohibited as well. Rau explained that after further discussion, it was the consensus of the Board that City parks not only be smoke free, but tobacco free as well.

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve an Ordinance on its first reading amending Chapter 12, Health and Sanitation, of the Code of Ordinances of the City of Brenham, regarding use of tobacco at city-owned facilities.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
Councilmember Clint Kolby	Yes

10. Discuss and Possibly Act Upon the Renewal of the Microsoft Enterprise Agreement with Microsoft Corporation, through Microsoft Affiliate SHI Government Solutions, and Authorize the Mayor to Execute Any Necessary Documentation

Information Technology Manager Kevin Schmidt presented this item. Schmidt explained that the Microsoft Enterprise Agreement (MEA) is a three-year contract allowing the City of Brenham to maintain the usage of Microsoft software and licenses. Schmidt stated that this is the fourth renewal of the original MEA, which was signed in 2007. Schmidt advised that this renewal is unique in that it will shift the City from on premise Microsoft Office licensing to Office 365 subscriptions.

A motion was made by Councilmember Cantey and seconded by Councilmember Goss to approve the renewal of the Microsoft Enterprise Agreement with Microsoft Corporation for a three year contract renewal in the amount of \$72,799.47 per year, through Microsoft Affiliate SHI Government Solutions, 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 Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
Councilmember Clint Kolby	Yes

Council adjourned into Executive Session at 1:40 p.m.

EXECUTIVE SESSION

11. Section 551.072 – Texas Government Code – Deliberation Regarding Real Property – Discussion Regarding the Possible Acquisition of Real Property in the Downtown Area

Executive Session adjourned at 2:08 p.m.

RE-OPEN REGULAR AGENDA

12. Discuss and Possibly Act Upon the Purchase of Real Property in the Downtown Area for Future Municipal Improvements and Authorize the Mayor to Execute Any Necessary Documentation

No action was taken on this item.

13. Administrative/Elected Officials Report

City Manager James Fisher reported on the following:

- Farmer's Market will be open tomorrow from 3:00 p.m. to 7:00 p.m.
- Employee picnic is April 9th
- Fire Department fish fry is April 12th
- Election Day is May 4th
- The budget calendar will be discussed at the May 2nd Council meeting

Public Works Director Dane Rau reported on the following:

- The restrooms at Fireman's Park opened last week

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

DRAFT

ORDINANCE NO. O-19-015

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING THE CODE OF ORDINANCES, BY DELETING ALL OF CHAPTER 8½, FLOOD DAMAGE PREVENTION, THEREOF AND SUBSTITUTING THEREFORE A NEW CHAPTER 8½; PROVIDING RULES AND REGULATIONS DESIGNED TO PREVENT DAMAGE TO PROPERTY AND INJURY TO PERSONS RESULTING FROM FLOODING; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR SEVERABILITY.

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

WHEREAS, the flood hazard areas of the City of Brenham are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains, which increase flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, or otherwise protected from flood damage;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT CHAPTER 8½, FLOOD DAMAGE PREVENTION, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Chapter 8½ of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

Chapter 8½ - FLOOD DAMAGE PREVENTION

DIVISION 1. - GENERALLY

Sec. 8½-1. - Statutory authorization.

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

Sec. 8½-2. - Findings of fact.

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

Sec. 8½-3. - Statement of purpose.

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

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

Sec. 8½-4. - Methods of reducing flood losses.

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

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

Sec. 8½-5. - Definitions.

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

Accessory structure means a structure which is located on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure.

Addition means any alteration to an existing structure that increases its footprint.

Appeal means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

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

Area of shallow flooding means a designated AO, AH, AR/AO, AR/AH, or VO zone on the flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

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

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

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

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

Breakaway wall means open wood lattice, insect screening or any other suitable building material approved by the city engineer which is not part of the structural support of the associated structure and which is intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the structure or damage to the structural integrity of the structure on which breakaway walls are installed.

Construction site permit means a permit issued to a developer by the city for site work and/or construction of water, sanitary, or natural gas mains.

Conveyance means the flow of water during the base flood with a velocity that is greater than one foot per second or a depth that is greater than one foot.

Crawlspace means an enclosed area below the lowest floor of a building formed when the foundation walls are used to elevate the lowest floor above the base flood elevation.

Critical facilities means facilities that materially affect the public health and welfare. Such facilities include, but are not be limited to:

- (1) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (2) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood;
- (3) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood; and
- (4) Structures or facilities that produce, use, treat, store, or dispose of highly volatile, flammable, explosive, toxic, and/or water-reactive materials.

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

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, clearing, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. Fences or fence-type walls located within the floodplain are included within this definition.

Development permit means a permit issued under the provisions of this chapter for any development of a site located within a flood-prone area. The term "development permit" shall also include a permit for the placement of a recreational vehicle for more than 180 days in Zone AE.

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

Elevation certificate means a statement from an engineer or surveyor licensed by the Texas Board of Professional Engineers on the most current FEMA form certifying that the lowest floor of the structure has been elevated at least as high as required by this chapter.

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

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

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

Fill means any material that is placed in an area and increases the elevation of that area or displaces water volume.

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

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

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

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood insurance study (FIS). See *Flood elevation study*.

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

Floodplain or *flood-prone area* means any land area, including the special flood hazard area, susceptible to being inundated by water from any source (see Flood).

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

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

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

Floodproofing certificate means a certificate issued by a registered professional engineer licensed by the Texas Board of Professional Engineers which states that the engineer has developed and/or reviewed the structural design, specifications, and plans for the construction of the structure or improvements covered by the certificate and that the design and methods of construction are in accordance with accepted standards of practice for meeting the following requirements:

- (1) The flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and
- (2) Together with attendant utility and sanitary facilities, the structures are designed so that below the base flood level the structures are watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Floodway. See *Regulatory floodway*.

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

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

Historic structure means any structure that is:

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

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

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

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter set forth in Sec. 8 ½-13.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

New development means the initial construction of a structure.

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

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

Repetitive loss means flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before damage occurred.

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

Special flood hazard area or *special area* means the land in the floodplain within the city that is subject to a one percent or greater chance of flooding in any given year and is designated on the FIRM as Zone AE.

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

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

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

Substantial improvement.

- (1) The term "substantial improvement" means any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:
 - a. Before "start of construction" of the improvement or repair; or
 - b. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- (2) The term "substantial improvement" includes repetitive loss, as defined in this section; substantial damage, regardless of the actual repair work performed, but does not include either:
 - a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - b. Any alteration of a historical structure provided that the alteration will not preclude the structure's continued designation as a historical structure.

Utilities means all building utilities including, but not limited to, electrical, heating, ductwork, ventilating, plumbing, air conditioning equipment, and any other service facilities.

Variance means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (See Sec. 8 1/2-11 and section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

State Law reference— *Definitions relating to Flood Control and Insurance Act, V.T.C.A., Water Code § 16.313.*

Sec. 8½-6. - General provisions.

- (a) Lands to which this chapter applies. This chapter shall apply to all flood-prone areas within the jurisdiction of the City of Brenham.
- (b) Basis for establishing flood-prone areas. The special flood hazard area identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study for Washington County, Texas," dated May 16, 2019, with accompanying flood insurance rate maps, dated May 16, 2019, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. In addition to the special flood hazard area, the city engineer, with approval of the city council by resolution, may designate by maps certain other areas to be flood-prone based on flood history or other characteristics that indicate a potential for future flooding events.
- (c) Compliance. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this chapter and other applicable regulations.
- (d) Violation is a misdemeanor. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence, violate any provision of this chapter shall be deemed guilty of a misdemeanor.
- (e) Abrogation and greater restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (f) Interpretation. In the interpretation and application of this chapter, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the city council; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes or other applicable law.
- (g) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the flood-prone areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, or any officer or employee thereof, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

DIVISION 2. – ADMINISTRATION

Sec. 8½-7 - Establishment of development permit.

- (a) Generally. No building permit, development permit, construction site permit or other permit required for a structure or development shall be issued, and no plat shall be approved, unless the applicant demonstrates that the permit or plat meets the applicable requirements of this division, or unless a variance, excepting such structure or development from the provisions of this chapter, is granted under the terms of this division.
- (b) Development permit required. A development permit shall be obtained before construction or development begins within any special flood hazard area established in Sec. 8 ½-6 or within any other flood-prone area designated by the city engineer with approval of the city council by resolution. The permit shall be for all structures including manufactured homes, and for all development including fill and other activities.
- (c) Application for development permit. Application for a development permit shall be made on forms furnished by the Department of Development Services and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area proposed for development, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - (1) The existing topography and the location, dimensions, and elevation of any proposed alterations;
 - (2) Existing and proposed structures;
 - (3) The location of the proposed alterations in relation to special flood hazard area(s);
 - (4) Elevation, in relation to mean sea level of the lowest floor (including basement) of all new and substantially improved structures;
 - (5) Elevation in relation to mean sea level to which any nonresidential structures will be or have been floodproofed;
 - (6) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Sec 8 ½-13(b);
 - (7) If the site is adjacent to a watercourse or drainage channel, the description of how that watercourse will be impacted as a result of proposed development;
 - (8) Base flood elevations from effective FIRM data for all structures and substantial improvements; and
 - (9) Each sheet in the plans on which elevations are marked shall include the vertical datum and adjustment, consistent with the effective FIRM, along with the FIRM benchmark and site benchmark used for vertical control.

- (d) Elevation certificate. The permit applicant for development of a structure is required to provide the city engineer with a signed FEMA elevation certificate at the following three (3) stages during the application and construction process:
- (1) When the permit application is submitted;
 - (2) Prior to forming/pouring the lowest floor of the structure; and
 - (3) Prior to receiving the final inspection (photographs required on final certificate).
- (e) Engineering analyses. Based on the nature of the proposed development, the city engineer may require the permit applicant to submit one or more of the following studies:
- (1) Fill mitigation analysis;
 - (2) Hydraulic impact analysis;
 - (3) Hydrologic impact (overland flow path and ponding) analysis; and/or
 - (4) Any other technical analysis deemed necessary by the city engineer in order to protect the community from the impacts of potential flooding events.

Permit applicants are encouraged to discuss proposed development plans with the city engineer prior to submitting an application in order to determine which analyses may be required to support the application. Technical analyses shall be certified by a professional engineer licensed by the Texas Board of Professional Engineers.

- (f) Permit approval or denial. Approval or denial of a development permit by the city engineer shall be based on all of the provisions of this chapter and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable; and
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Sec. 8½-8. - Designation of the floodplain administrator.

The city engineer is hereby appointed floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (Emergency Management and Assistance-National Flood Insurance Program Regulations) pertaining to floodplain management by granting or denying development permit applications in accordance with its provisions.

Sec. 8½-9. - Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to:

(1) Permit review.

- a. Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- b. Review all development permit applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies (including but not limited to section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1344) from which prior approval is required.
- c. Review all development permit applications to determine if the proposed development is located in the regulatory floodway. If located in the regulatory floodway, assure that the encroachment provisions of Sec. 8 ½ - 15 are met.
- d. Review all development permit applications to ensure that the proposed building site projects, including the placement of manufactured homes, will be reasonably safe from flooding.

(2) Use of other base flood data (in A Zones). When base flood elevation data has not been provided in accordance with Sec. 8 ½-6(b), obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer sections 8 ½-13 and 8 ½-15.

(3) Information to be obtained and maintained.

- a. Where base flood elevation data is provided through the flood insurance study, Flood Insurance Rate Map (FIRM), or required as in subsection (2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- b. For all new or substantially improved floodproofed structures where base flood elevation data is provided through the flood insurance study, FIRM, or as required in subsection (2) of this section:
 1. Verify and record the actual elevation (in relation to mean sea level); and
 2. Maintain the floodproofing certifications required in Sec. 8 ½-7(c)(6).
- c. Maintain for public inspection all records pertaining to the provisions of this Chapter.

(4) Alteration of watercourses.

- a. Notify, in riverine situations, adjacent communities, the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality, or their successor agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- b. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) FIRM boundaries.

- a. Interpretation. Make interpretations, where needed, as to exact location of the boundaries of the special flood hazard area (i.e., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sec 8 ½-11.
- b. Revision; encroachments. Under the provisions of 44 CFR 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE and AH on a community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first completes all of the provisions required by said section 65.12.

Sec. 8½-10. - Plat approval; issuance.

- (a) Any person who is required or elects to obtain the city's approval of a plat shall also comply with the applicable provisions of this chapter.
- (b) When a person files an application for approval of a plat, the approval of the plat is subject to the approval of a drainage plan for the property that is the subject of the plat application if the property is located in whole or in part in a flood-prone area within the city. The drainage plan shall include the base flood elevation data for the property certified as true and correct on the face of the drainage plan by a registered professional engineer licensed by the Texas Board of Professional Engineers.
- (c) The city engineer shall review the drainage plan and determine whether the development will be reasonably safe from flooding and whether such proposed development is:
 - (1) Consistent with the need to minimize flood damage within the flood-prone area;
 - (2) To be constructed so that all public utility facilities including, but not limited to, sanitary sewer, gas, water and electrical systems are located and constructed so as to minimize flood damage from the base flood;
 - (3) To be constructed so that drainage is provided to reduce exposure of such development to flood hazards; and
 - (4) Would comply with the applicable requirements of division 3 of this chapter.

- (d) If the proposed development satisfies the criteria in subsection (c) of this section, the city engineer shall approve the drainage plan and shall so notify the city planning and zoning commission in writing.
- (e) The city planning and zoning commission shall not approve a final plat until the city engineer has approved the drainage plan for that site.

Sec. 8½-11. - Variance procedures.

(a) Appeal board.

- (1) The appeal board, as established by the city council, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The appeal board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- (3) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
 - a. The danger that materials may be swept onto other lands to the injury of others;
 - b. The danger to life and property due to flooding or erosion damage;
 - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - d. The importance of the services provided by the proposed facility to the community;
 - e. The necessity to the facility of a waterfront location, where applicable;
 - f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - g. The compatibility of the proposed use with existing and anticipated development;
 - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- (4) Upon consideration of the factors of subsection (a)(3) of this section and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
 - (5) The floodplain administrator shall maintain the records of all appeals and requests for variances, and shall report any variances to the Federal Emergency Management Agency upon request.
- (b) Conditions for variances.
- (1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in subsection (a)(3) of this section have been fully considered. As the lot size increases, the technical justification required for issuing the variance increases.
 - (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, without regard to the procedures set forth in this section.
 - (3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.
 - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (5) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (a)(3) of this section, or conflict with other local laws or ordinances.
 - (6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece or property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. Variances primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.
 - (7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (b)(1) of this section, and otherwise complies with Sec 8 $\frac{1}{2}$ -12(a) and (b) of the general standards.

- (8) Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. The criteria outlined in subsection 8½-11(b) are met; and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (9) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (c) Appeal of decision. All decisions of the appeal board are final and binding and may not be appealed to the city council. However, any person aggrieved by a decision of the appeal board may contest the decision of the appeal board in a court of appropriate jurisdiction within thirty (30) calendar days after the date the board's decision is filed in the office of the secretary of the board.
- (d) Notice of decision. The secretary shall give written notice of the decision of the appeal board and the right of appeal of the decision to each party either by personal delivery, by certified or registered mail sent via the U. S. Postal Service, or by email, not later than the third day after the date of the decision.

DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 8½-12. - General standards.

In a flood-prone area, the following standards are required:

- (1) Anchoring.
 - a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effects of buoyancy.
 - b. All manufactured homes must likewise be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrostatic and hydrodynamic loads including the effects of buoyancy, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)
- (2) Site drainage. Drainage pathways are required around structures to guide floodwaters around such structures.

(3) Construction materials and methods.

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(4) Utilities.

- a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
- c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(5) Standards for subdivisions.

- a. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be consistent with the need to minimize flood damage;
- b. All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet floodplain development permit requirements of this chapter;
- c. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- d. All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood damage; and
- e. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots and/or five (5) acres.

- (6) Review of building permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (Sec 8 ½-9(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, and similar information/records, where available. Failure to elevate at least two (2) feet above the highest adjacent grade in these zones may result in higher insurance rates.
- (7) Mitigation of fill. Fill in the flood-prone area must be mitigated to ensure that the storage volume of such area is not diminished by development. A development permit applicant must submit a fill mitigation analysis demonstrating that the proposed development, if constructed, will not result in a decrease in storage volume within the flood-prone area.

Sec. 8½-13. - Specific standards.

- (a) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least two (2) feet above the base flood elevation. A registered professional engineer or land surveyor shall submit a FEMA elevation certificate to the floodplain administrator that verifies that the standard of this subsection is satisfied.
- (b) Nonresidential construction.
 - (1) New construction and substantial improvements of any commercial, industrial, or other nonresidential structure shall either meet the specific standards for residential construction, or, together with attendant utility and sanitary facilities, shall:
 - a. Be floodproofed to at least two (2) feet above the base flood level so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Sec 8 ½-9(3)b.;
 - (2) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (d) of this section; and
 - (3) Applicants floodproofing nonresidential buildings are advised that flood insurance premiums may be based on rates that are greater than those established for buildings with the first floor elevated to the same level.

- (c) Critical facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the flood-prone area. Construction of new critical facilities shall be permissible within the flood-prone area if no feasible alternative site is available. Critical facilities constructed within the flood-prone area shall have the lowest floor elevated, or the structure shall be floodproofed to an elevation at least two (2) feet above the elevation of the 500-year (0.2 percent probability) flood event or three (3) feet above the highest adjacent grade of the building site if flood elevation data is not available. Additionally, floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access to and from the critical facility must be assured under all circumstances. The city engineer will review and approve all plans for access routes for critical facilities located in the flood-prone area.
- (d) Enclosures. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a professional engineer licensed by the Texas Board of Professional Engineers or must meet or exceed the following minimum criteria:
- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - (4) Below-grade crawlspaces shall be designed in accordance with FEMA Technical Bulletin 11-01, "Crawlspace Construction for Buildings Located in Special Flood Hazard Areas," FIA-TB-11, or revisions to this document.
 - (5) Below-grade crawlspaces are prohibited at sites where the velocity of floodwaters exceeds five (5) feet per second.
 - (6) All building utility systems within the crawlspace shall be elevated above base flood elevation or be designed so that floodwaters cannot enter or accumulate within the system component during flood conditions.
 - (7) The interior of a crawlspace below the base flood elevation must not be more than two (2) feet below the lowest adjacent exterior grade (LAG) and the height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation must not exceed four (4) feet at any point.
 - (8) Below-grade crawlspaces constructed in accordance with the requirements listed in this subsection (d) shall not be considered basements. However, applicants who construct buildings that have below-grade crawlspaces are hereby advised that such buildings may have higher flood insurance premiums than buildings that have crawlspaces with interior elevations at or above the lowest adjacent grade. In addition, the building design must include adequate provision for drainage from the crawlspace following a flooding event.

(e) Manufactured homes.

(1) All manufactured homes to be placed or substantially improved on sites:

- a. Outside of a manufactured home park or subdivision;
- b. In a new manufactured home park or subdivision;
- c. In an expansion to an existing manufactured home park or subdivision; or
- d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at two (2) feet above the base flood elevation and be securely anchored to an adequately designed foundation system to resist flotation, collapse and lateral movement.

(2) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within the flood-prone area that are not subject to the above manufactured home provisions shall be elevated so that either:

- a. The lowest floor of the manufactured home is elevated at two (2) feet above the base flood elevation; or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately designed foundation system to resist flotation, collapse, and lateral movement.

(f) Recreational vehicles. Recreational vehicles placed on sites are required to either:

- (1) Be on the site for fewer than one hundred eighty (180) consecutive days;
- (2) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- (3) Meet the requirements of subsection (e) of this section and the elevation and anchoring requirements for manufactured homes.

(g) Accessory structures. Accessory structures shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters; shall be anchored to prevent flotation which may result in damage to other structures; and service utilities such as electrical and heating equipment shall be elevated or floodproofed.

(h) Breakaway walls. Breakaway walls must be designed so that if carried downstream they will not cause damage to any other structure. Breakaway walls must have a design safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of twenty (20) pounds per square foot (either by design or when so required by city or state codes) may be permitted only if a registered professional engineer licensed by the Texas Board of Professional Engineers certifies that the proposed design meets the following conditions:

- (1) Wall collapse shall result from a water load less than that which would occur during the base flood; and
- (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). Maximum wind and water loading values to be used in this determination shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).

Sec. 8 ½-14. - Before regulatory floodway.

In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the city's FIRM unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Sec. 8 ½-15. - Regulatory floodway.

The regulatory floodway is the designated area within Zone AE of the special flood hazard area established in Sec. 8 ½-6. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Prohibit new private development in the regulatory floodway. Improvements to existing structures which do not propose an expansion of the existing footprint of such structures may be permitted if all other requirements of this section are fulfilled.
- (2) Concerning public development, prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional civil engineer, licensed by the Texas Board of Professional Engineers, is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge. This requirement may be satisfied by a conditional letter of map revision issued by the Federal Emergency Management Agency.
- (3) Require that the bottom of the lowest horizontal member supporting the proposed structure, including bridges, be elevated at least 24 inches above the base flood elevation.
- (4) If subsections (2) and (3) of this section are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

Sec. 8 1/2 -16. - Standards for shallow flooding areas (AO/AH Zones).

Located within the special flood hazard area established in Sec. 8 1/2-6 (b) are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow. In these areas, the following provisions apply:

- (1) New construction and substantial improvements of residential structures and manufactured homes within AO/AH Zones shall have the lowest floor (including basement) elevated above the highest grade adjacent to the building, two (2) or more above the depth number specified on the FIRM (at least three (3) feet if no depth number is specified).
- (2) New construction and substantial improvements of nonresidential structures within AO/AH Zones shall either:
 - a. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, two (2) or more above the depth number specified on the FIRM (at least three (3) feet, if no depth number is specified); or
 - b. Together with attendant utility and sanitary facilities, be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Sec 8 1/2-13 (b)(3).
- (3) Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
- (4) Recreational vehicles placed on sites within AO/AH Zones on the community's FIRM must either:
 - a. Be on the site for fewer than 180 consecutive days;
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirements of this section and the elevation and anchoring requirements for manufactured homes.

Sec. 8½-17. - Penalties for violations.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined for each violation in accordance with chapter 1, section 1-5, Code of Ordinances of the City of Brenham, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 2.

All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 3.

It is the intent of the City that this Ordinance shall comply in all respects with the applicable provisions of the United States Constitution, the Texas Constitution, and the Charter of the City of Brenham. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Brenham, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 4.

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

PASSED and **APPROVED** on its first reading this the 18th day of April, 2019.

PASSED and **APPROVED** on its second reading this the 2nd day of May, 2019.

ATTEST:

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-19-016

AN ORDINANCE PROVIDING FOR A NO-PARKING ZONE ALONG THE WEST SIDE OF GREEN STREET BETWEEN COLLEGE AVENUE AND W. THIRD STREET; AND PROVIDING FOR PENALTY FOR VIOLATION THEREOF.

WHEREAS, it is necessary to provide for no-parking zones within the City of Brenham, to prevent accidents, collisions and damages, and to promote the flow of traffic along and into such street, and to regulate the same:

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Brenham, Texas:

SECTION I.

That every person, firm, corporation, or other entity shall be prohibited from parking any motor vehicle, trailer, or other vehicle, upon the designated street or portions thereof, when signs are erected giving notice thereof:

- a. On the west side of Green Street between College Avenue and W. Third Street

SECTION II.

The terms “park” and “parking” shall mean the standing or stopping of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading passengers or property.

SECTION III.

In any case when a person, firm, corporation or other entity shall have been charged with a violation of this Ordinance, proof that said motor vehicle, trailer, or other vehicle was, at the date of the offense alleged, owned by the person, firm, corporation or entity charged with the offense, shall constitute prima facie evidence that said motor vehicle, trailer, or other vehicle was stopped, left standing or parked at the place charged by said owner.

SECTION IV.

The provisions of this Ordinance shall not apply to any authorized emergency vehicle or City of Brenham motor vehicle, trailer, or other vehicle.

SECTION V.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION VI.

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases remaining should any provision be declared unconstitutional or invalid.

SECTION VII.

That any person, firm, corporation or other entity violating this Ordinance shall be fined a sum of not less than \$1.00 and not more than \$500.00, plus applicable court costs.

SECTION VIII.

This Ordinance shall take full force and effect from and after its passage and approval.

PASSED and APPROVED on its first reading this the 18th day of April, 2019.

PASSED and APPROVED on its second reading this the 2nd day of May, 2019.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



AGENDA ITEM 8

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 29, 2019	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Stephanie Doland	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☒ 2ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Ordinance No. O-19-017 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Part II, Division 1, Section 18, to Establish Exterior Construction Materials for Selected Zoning Districts in Brenham, Washington County, Texas (Case No. P-19-001)		
SUMMARY STATEMENT: This is a City initiated request to amend the City of Brenham’s Code of Ordinances, Appendix A, Section 18 to establish minimum non-metal façade requirements on residential uses in selected zoning districts. On April 18, 2019 the City Council unanimously voted to approve the first reading of an Ordinance to prohibit the use of a metal façade (exterior) on residential structures in the following districts: - o R-1: Residential District - o R-2: Mixed Residential District - o R-3: Manufactured Home Residential - o B-1: Local Business/Residential Mixed Use District The second and final reading of this Ordinance is placed on the regular agenda item due to the following change in the proposed Ordinance: <i>(Sec. 18.02) To protect the public health, safety, character, and general welfare and to reduce or eliminate potential fire hazards in areas containing a higher density of buildings, a dwelling in any of the zoning categories to which this section applies shall not be constructed with a metal façade. For the purposes of this section “non-metal façade” shall mean brick or brick veneer, stone or stone veneer, stucco, wood, vinyl, or fiber-cement siding, and further, for the purposes of this section a wood-like or fiber cement-like exterior or finish shall be considered “non-metal façade.”</i> During consideration of the item, Council directed staff to conduct additional research on the topic and provide a recommendation(s) concerning compatible infill and redevelopment in existing neighborhoods by December 2019.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): Chapter three – Housing, of the Brenham Comprehensive Plan recommends that the City establish guidelines to protect established neighborhoods. Staff finds that metal façade dwellings, specifically those built with a 100% metal façade, are not compatible adjacent to or within established neighborhoods built primarily of brick, stone, or other non-metallic façades.		

It is recommended to amend the zoning ordinance establishing a requirement that residential uses built in Brenham and located in the R-1, R-2, R-3, and B-1 districts be built with a non-metal exterior. **Staff recommends approval of the proposed text amendment to prohibit the use of a metal façade on residential structures.**

A. PROS:

- Protecting existing established neighborhoods through design guidelines will ensure the long-term stability and long-term vitality of an area, and thus the quality of life for the community.
- Establishing guidelines to preserve neighborhood integrity will help maintain property values and protect community character.

B. CONS:

- Approval of the proposed amendment may limit the construction of residential structures built in Brenham with metal features or accents.

ALTERNATIVES (In Suggested Order of Staff Preference):

1. Approve the proposed amendment;
2. Deny the proposed text amendment.

ATTACHMENTS: (1) Ordinance No. O-19-017

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Approve Ordinance No. O-19-017 on its second reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Part II, Division 1, Section 18 to prohibit the use of a metal façade on residential structures in the R-1, R-2, R-3 and B-1 Zoning Districts

APPROVALS: James Fisher

ORDINANCE NO. O-19-017

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES PART II, DIVISION 1, BY ADDING SECTION 18, EXTERIOR CONSTRUCTION MATERIALS FOR SELECTED DISTRICTS, TO ESTABLISH METAL FAÇADE LIMITATIONS IN SELECTED DISTRICTS.

WHEREAS, the City of Brenham has requested that Appendix A – “Zoning” of the Code of Ordinances be amended; and

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Brenham, Texas, have published notice and conducted public hearings regarding the request to amend Appendix A – “Zoning” of the Code of Ordinances; and

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

WHEREAS, these amendments were considered by the City of Brenham Planning & Zoning Commission in its final report during its regular meeting February 25, 2019; and

WHEREAS, the City Council deems it appropriate to approve the requested amendments to Appendix A – “Zoning” of the Code of Ordinances; Now Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas Part II, Division 1 is hereby amended by adding Section 18, Exterior Construction Materials for Selected Districts to read as follows:

Sec. 18. – Exterior Construction Materials for Selected Districts.

(Sec. 18.01) The requirements of this section shall apply to construction of residential structures in the following zoning districts:

1. R-1: Residential District
2. R-2: Mixed Residential District
3. R-3: Manufactured Home Residential
4. B-1: Local Business/Residential Mixed Use District

(Sec. 18.02) To protect the public health, safety, character, and general welfare in areas containing a higher density of buildings, all exterior wall surfaces, excluding windows and doors, of a dwelling in any of the zoning districts to which this section applies shall be constructed with a non-metal façade. For the purposes of this section “non-metal façade” shall mean brick or brick veneer, stone or stone veneer, stucco, wood, vinyl, or fiber-cement siding, and further, for the purposes of this section a wood-like or fiber cement-like exterior or finish shall be considered “non-metal façade.”

SECTION 2.

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

PASSED and **APPROVED** on its first reading this the 18th day of April, 2019.

PASSED and **APPROVED** on its second reading this the 2nd day of May, 2019.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



AGENDA ITEM 9

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 23, 2019	
DEPT. OF ORIGIN: Development Services / Engineering	SUBMITTED BY: Lori Sanguedolce	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Bid for City of Brenham Project No. 2017-06 Related to the 24" Raw Water Line Lowering at Sandy Creek Rebid and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: Due to flooding the raw water line at Sandy Creek has been exposed and is now sitting in the flowline of the creek. This project is to prevent blockage of the reek and reduce potential damages to the City of Brenham water source. This project was submitted to FEMA's Hazard Mitigation Grant Program for DR-4272 in July 2017. The grant application was approved June 2018. This project is funded at a 75/25 cost share. We have been working to finalize the design and get the project ready to bid. The project was first bid December 2018, with an opening date in February 5, 2019. Unfortunately at that time we did not receive any bid submittals. The project was rebid. The notice to bidders for this project was published March 12 and 19, 2019. The submittals were due on April 9, 2019 at 2:00 PM. Five contractors submitted bids ranging from \$296,000 to \$580,000 for the base bid. Based on discussions with the consultant and City staff the lowest qualified contractor for this project is Barclays Premier Utility Services, LLC. The total base bid is \$296,345.00.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Notice to Bidders – Raw Water Line Lowering at Sandy Creek; (2) Consultant's Recommendation Letter with Bid Tab – Raw Water Line Lowering at Sandy Creek; and (3) Raw Water Line Lowering at Sandy Creek Construction Agreement		

FUNDING SOURCE (Where Applicable): 75% FEMA Reimbursement/25% City Match General Fund Reserves
RECOMMENDED ACTION: Approve a bid for City of Brenham Project No. 2017-06 to Barclays Premier Utility Services, LLC, in the amount of \$296,345.00, related to the 24” Raw Water Line Lowering at Sandy Creek Rebid and authorize the Mayor to execute any necessary documentation
APPROVALS: James Fisher



City of Brenham

Milton Y. Tate, Jr.
Mayor

James Fisher
City Manager

NOTICE TO BIDDERS

The City of Brenham, Texas shall accept sealed bids to provide all labor, materials, services, and equipment necessary for, or reasonably incidental to, construction of the Work shown in the Drawings and Project Manual for "24" Raw Water Line Lowering at Sandy Creek Rebid."

Sealed bids shall be addressed to the Office of the City Secretary, City of Brenham, 200 West Vulcan Street, Suite 206, Brenham, Texas 77833, and shall be labeled **"City of Brenham Project No. 2017-06, 24" Raw Water Line Lowering at Sandy Creek Rebid, DO NOT OPEN."** Mailed bids, by USPS, must be addressed to P.O. Box 1059, Brenham, Texas 77834-1059. Bids shall be submitted no later than **2:00 p.m., Local Time on March 27, 2019.** Bids may be submitted in person, by mail, or delivery service. Responses will NOT be accepted by email or fax.

A pre-bid conference will be held on March 20, 2019, at 10:00 a.m. at the City of Brenham, City Hall, Room 1A, 200 West Vulcan Street, Brenham, Texas 77833, to familiarize the Bidders with the goals for this project. The pre-bid conference is not mandatory.

The Bid Documents, including DRAWINGS and SPECIFICATIONS may be obtained, at no charge at:

- Civcastusa.com (Account setup required)

Cashier's Check, Certified Check, or Bid Bond in an amount equal to five percent (5%) of the total amount bid must accompany the BID. The Owner reserves the right to reject any or all bids or to accept any bid deemed advantageous to it and waive informalities in bidding. All bids received after the closing time designated will be returned unopened.

Upon consideration of the bids, the City of Brenham reserves the right to accept or to reject any and all bids, to waive technicalities and to make any investigation deemed necessary concerning the bidder's ability to provide the services as covered by the specifications, and to accept what in their judgment is the most advantageous bid. Award of contract subject to FEMA approval after method of construction is determined.

1st Publication: March 12, 2019
2nd Publication: March 19, 2019



Strand Associates, Inc.®

1906 Niebuhr Street
Brenham, Texas 77833
(P) 979-836-7937

April 11, 2019

Mrs. Lori Sanguedolce, City Engineer
City of Brenham
200 West Vulcan
Brenham, TX 77833

Re: 24" Raw Water Line Lowering at Sandy Creek Rebid
Contract No. 2017-06
City of Brenham, Texas

Dear Lori,

Bids for the above-referenced project were opened on April 9, 2019. Five bids were received with the resulting bid tabulation enclosed. The low bid of \$296,345.00 was less than ENGINEER's opinion of probable construction cost.

Barclays Premier Utility Services, LLC of Houston, Texas was the apparent low bidder at \$296,345.00. The bid included a bid bond for 5 percent and Addendum No. 1 was acknowledged.

We reviewed the submitted bid documents and recently reviewed Barclays' references with City of Brenham staff for the City's FY 2019 Water Main Replacements. Based on this review and the information received from outside sources, Strand Associates, Inc.® offers no objection to awarding the contract to Barclays Premier Utility Services for this project.

We are also enclosing Barclays Premier Utility Services' financial documents for your consideration.

Sincerely,

STRAND ASSOCIATES, INC.®

Robert C. Schmidt, P.E.

Enclosure

TBPE No. F-8405
TBPLS No. 10030000

3900.147RCS:mds\R\BRE\Documents\Specifications\Archive\2019\Brenham, City of\3900.147.3-2018R\RCS(16) Specification Letters(a) Resulting Bid Tabulation\041119.docx

Bids Received: 02:00 PM
April 9, 2019

STRAND ASSOCIATES, INC.®
1906 Niebuhr Street
Brenham, TX 77833

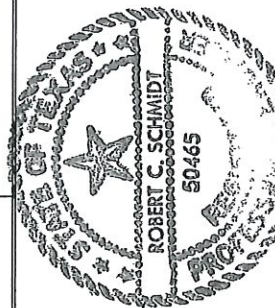
24" RAW WATER LINE LOWERING AT SANDY CREEK REBID
PROJECT NO. 2017-06
CITY OF BRENHAM, TEXAS

BID TABULATION SUMMARY

Bidder and Address	Bid Bond	Addenda Acknowledged	Total Base Unit Prices
Barclays Premier Utility Services, LLC 1630 Gault Road Houston, TX 77039	5%	Yes	\$296,345.00 *\$296,445.00
JBS Underground, LLC 14202 Fort Smith Trail Austin, TX 78734	5%	Yes	\$344,811.55 *\$344,809.16
Doughtie Construction Co., Inc. P.O. Box 1233 Huntsville, TX 77342	5%	Yes	\$377,557.25
Lone Star Sitework P.O. Box 1867 Wimberley, TX 78676	5% Cashier's Check	Yes	\$493,371.00
Boyer, Inc. 8904 Fairbanks North Houston Road Houston, TX 77064	5%	Yes	\$579,273.00

*Contractor's Computed Total

Reviewed by *R. C. Schmidt*



Bids Received: 2:00, April 9, 2019

STRAND ASSOCIATES, INC.*
1906 Niebuhr Street
Brenham, TX 77833

24" RAW WATER LINE LOWERING AT SANDY CREEK REBID

PROJECT NO. 2017-06

CITY OF BRENHAM, TEXAS

BID TABULATION BREAKDOWN

No.	Description	Quantity	Unit	Barclays Premier Utility Services, LLC 1630 Gault Road Houston, TX 77039		JBS Underground, LLC 14202 Fort Smith Trail Austin, TX 78734		Doughtie Construction Co., Inc. P.O. Box 1233 Huntsville, TX 77342		Lone Star Sitework P.O. Box 1867 Wimberley, TX 78676		Boyer, Inc. 8904 Fairbanks N. Houston Rd. Houston, TX 77064	
				Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
1.	Mobilization	1	LS	\$ 65,000.00	\$ 65,000.00	\$ 18,000.00	\$ 18,000.00	\$ 35,000.00	\$ 35,000.00	\$ 20,000.00	\$ 20,000.00	\$ 49,715.00	\$ 49,715.00
2.	Stabilized construction exit	220	SY	\$ 11.00	\$ 2,420.00	\$ 11.77	\$ 2,589.40	\$ 45.00	\$ 9,900.00	\$ 60.00	\$ 13,200.00	\$ 80.00	\$ 17,600.00
3.	Silt fence	125	LF	\$ 3.00	\$ 375.00	\$ 32.52	\$ 4,065.00	\$ 3.25	\$ 406.25	\$ 8.00	\$ 1,000.00	\$ 5.00	\$ 625.00
4.	Installation of 24-IN DI pipe by open cut or by bore at Contractor's discretion	200	LF	\$ 400.00	\$ 80,000.00	\$ 443.54	\$ 88,708.00	\$ 311.00	\$ 62,200.00	\$ 975.00	\$ 195,000.00	\$ 445.00	\$ 89,000.00
5.	Installation of 24-IN DI pipe in 36-IN steel casing by open cut or by bore at Contractor's discretion Contractor to designate method of casing installation (check one): By bore: _____ By open cut: _____	70	LF	\$ 1,150.00	\$ 80,500.00	\$ 1,387.14	\$ 97,099.80	\$ 2,100.00	\$ 147,000.00	\$ 840.00	\$ 58,800.00	\$ 1,485.00	\$ 102,550.00
6.	Installation of 8-IN DI pipe by open cut	40	LF	\$ 120.00	\$ 4,800.00	\$ 302.28	\$ 12,091.20	\$ 75.00	\$ 3,000.00	\$ 130.00	\$ 5,200.00	\$ 281.00	\$ 10,440.00
7.	Remove and dispose of existing 24-IN DI pipe	156	LF	\$ 15.00	\$ 2,340.00	\$ 213.43	\$ 33,295.08	\$ 100.00	\$ 15,600.00	\$ 6.00	\$ 936.00	\$ 136.00	\$ 21,216.00
8.	Wet connections to existing 24-IN DI water line	2	EA	\$ 15,500.00	\$ 31,000.00	\$ 4,377.33	\$ 8,754.66	\$ 15,000.00	\$ 30,000.00	\$ 42,125.00	\$ 84,250.00	\$ 66,901.00	\$ 133,802.00

Barclays Premier Utility Services, LLC 1630 Gault Road Houston, TX 77039				JBS Underground, LLC 14202 Fort Smith Trail Austin, TX 78734		Doughtie Construction Co., Inc. P.O. Box 1233 Huntsville, TX 77342		Lone Star Sitework P.O. Box 1867 Wimberley, TX 76676		Boyer, Inc. 8904 Fairbanks N. Houston Rd. Houston, TX 77064			
No.	Description	Quantity	Unit	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price		
					*\$31,100.00								
9.	Connection to existing 8-IN water line	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 2,465.71	\$ 2,465.71	\$ 3,900.00	\$ 3,900.00	\$ 12,800.00	\$ 12,800.00	\$ 24,501.00	\$ 24,501.00
10.	Trench safety	310	LF	\$ 1.00	\$ 310.00	\$ 43.65	\$ 13,531.50	\$ 15.00	\$ 4,650.00	\$ 30.00	\$ 9,300.00	\$ 18.00	\$ 5,580.00
							*\$13,530.00						
11.	TxDOT seeding	1	LS	\$ 1,200.00	\$ 1,200.00	\$ 9,699.43	\$ 9,699.43	\$ 2,250.00	\$ 2,250.00	\$ 8,400.00	\$ 8,400.00	\$ 7,192.00	\$ 7,192.00
12.	Traffic control	1	LS	\$ 1,500.00	\$ 1,500.00	\$ 1,968.00	\$ 1,968.00	\$ 1,500.00	\$ 1,500.00	\$ 5,000.00	\$ 5,000.00	\$ 9,067.00	\$ 9,067.00
13.	24-IN DI bend, all angles	8	EA	\$ 400.00	\$ 3,200.00	\$ 2,862.61	\$ 22,900.88	\$ 3,685.00	\$ 29,480.00	\$ 4,200.00	\$ 33,600.00	\$ 5,730.00	\$ 45,840.00
							*\$22,900.84						
14.	24-IN x 8-IN tee	1	EA	\$ 500.00	\$ 500.00	\$ 2,970.85	\$ 2,970.85	\$ 3,500.00	\$ 3,500.00	\$ 3,560.00	\$ 3,560.00	\$ 8,542.00	\$ 8,542.00
15.	8-IN gate valve and valve box	1	EA	\$ 500.00	\$ 500.00	\$ 2,605.54	\$ 2,605.54	\$ 1,900.00	\$ 1,900.00	\$ 2,100.00	\$ 2,100.00	\$ 6,042.00	\$ 6,042.00
16.	8-IN DI bend, all angles	3	EA	\$ 400.00	\$ 1,200.00	\$ 1,212.36	\$ 3,637.08	\$ 665.00	\$ 1,995.00	\$ 1,575.00	\$ 4,725.00	\$ 3,445.00	\$ 10,335.00
							*\$3,637.07						
17.	24-IN butterfly valve and valve box	2	EA	\$ 10,000.00	\$ 20,000.00	\$ 10,214.71	\$ 20,429.42	\$ 12,638.00	\$ 25,276.00	\$ 17,750.00	\$ 35,500.00	\$ 18,613.00	\$ 37,226.00
ENGINEER'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 17					\$ 296,345.00		\$ 344,811.55		\$ 377,557.25		\$ 493,371.00		\$ 579,273.00
CONTRACTOR'S COMPUTED TOTAL ITEMS NO. 1 THROUGH 17					\$ 296,445.00		\$ 344,809.16		\$ 377,557.25		\$ 493,371.00		\$ 579,273.00

* CONTRACTOR'S COMPUTED TOTAL

Reviewed by *R. E. Sullivan*

Document 00520

AGREEMENT

Project: 24" Raw Water Line Lowering at Sandy Creek Rebid

Project Location: In Right-of-Way Of SH36 North of Brenham, TX

Project Bid No: 2017-06

The City: The City of Brenham, County of Washington, Texas (the "City")
and

Contractor: BARCLAYS PREMIER UTILITY SERVICES, LLC

(Address for Written Notice) 1630 GAULT ROAD, HOUSTON, TX 77039

Fax Number: _____

City Engineer is: Strand Associates, Inc.®

(Address for Written Notice) 1906 Niebuhr Street, Brenham, TX 77833

Fax Number: _____

THE CITY AND CONTRACTOR AGREE AS FOLLOWS:

ARTICLE 1

THE WORK OF THE CONTRACT

1.1 Contractor shall perform the Work in accordance with the Contract.

ARTICLE 2

CONTRACT TIME

2.1 Contractor shall achieve Date of Substantial Completion, and will be completed and ready for Final Payment, within 210 days after Date of Commencement of the Work, subject to adjustments of Contract Time as provided in the Contract. The Parties acknowledge and agree that the Contract Time is a reasonable time to achieve Substantial Completion of the Work.

a. In addition to the required substantial completion time, there are milestones by which certain items of work must be completed. See General Requirements for milestone requirements.

Milestone 1 - 120 days from Date of Commencement of the Work.

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04-01-2017

Milestone 2 - No earlier than 165 days and not later than 210 days from the Date of Commencement of the Work.

2.2 The Parties recognize that time is of the essence for this Agreement and that the City will suffer financial loss if the Work, or required milestones, are not completed within the Contract Time. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay the City the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) for each and every calendar day beyond Contract Time. The Parties further agree that the above-described amount is a reasonable determination of the damages that the City will sustain per calendar day upon the failure of the Contractor to complete Work within the Contract Time, and this amount should in no way be construed as a penalty.

The above liquidated damages shall apply for each and every day beyond the time allowed for each milestone.

ARTICLE 3

CONTRACT PRICE

3.1 Subject to terms of the Contract, the City will pay Contractor in current funds for Contractor's performance of the Contract, Contract Price of \$296,345.00, which includes Alternates, if any, accepted below.

3.2 The City accepts Bids as follows:

Base Bid: \$296,345.00

ARTICLE 4

PAYMENTS

4.1 The City will make progress payments to Contractor as provided below and in the General Conditions.

4.2 The Period covered by each progress payment is one calendar month ending on the [] 10th, [] 20th, or [X] last day of the month.

4.3 The Schedule of Values established as provided in paragraph 2.07.A of the General Conditions will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed. The City will make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as provided below in paragraphs 4.3.1 and 4.3.2.

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04-01-2017

4.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or City may withhold, in accordance with paragraph 14.02 of the General Conditions:

- a. For contracts under \$400,000.00, 90% of Work completed (with the balance being retainage). For contracts over \$400,000.00, 95% of Work completed (with the balance being retainage.)
- b. For contracts under \$400,000.00, 90% (with the balance being retainage) and for contracts over \$400,000.00, 95% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to the City as provided in paragraph 14.02 of the General Conditions).

4.3.2 Upon Substantial Completion, the City shall pay an amount sufficient to increase total payments to Contractor to 95% of the Work completed, less such amounts as Engineer shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the Certificate of Substantial Completion.

4.4 Final payment, constituting entire unpaid balance of Contract Price, will be made by the City to Contractor as provided in the General Conditions.

ARTICLE 5

CONTRACTOR REPRESENTATIONS

5.1 Contractor represents:

5.1.1 Contractor has examined and carefully studied Contract documents and other related data identified in Bid Documents.

5.1.2 Contractor has visited the site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, and performance of the Work.

5.1.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.

5.1.4 Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in Contract documents and (2) reports and drawings of a hazardous environmental condition, if any, at the site which has been identified in Contract documents.

5.1.5 Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques,

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sequences, and procedures of construction to be employed by Contractor, including applying specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract to be employed by Contractor, and safety precautions and programs incident thereto

5.1.6 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for performance of the Work at Contract Price, within Contract Time, and in accordance with the Contract.

5.1.7 Contractor is aware of general nature of work to be performed by the City and others at the site that relates to the Work as indicated in Contract documents.

5.1.8 Contractor has correlated information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract.

5.1.9 Contractor has given City Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract, and written resolution thereof by City Engineer is acceptable to Contractor.

5.1.10 Contract documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 The Contract may be terminated by either Party as provided in Conditions of the Contract.

6.2 The Work may be suspended by the City as provided in Conditions of the Contract.

ARTICLE 7

ENUMERATION OF CONTRACT DOCUMENTS

7.1 The following documents are incorporated into this Agreement:

7.1.1 Document 00700 - General Conditions

7.1.2 Document 00800 - Supplementary Conditions

7.1.3 General Requirements.

7.1.4 Divisions 02 through 16 of Specifications attached hereto or incorporated by reference in Document 00010 - Table of Contents.

7.1.5 Drawings listed in Document 00015 - List of Drawings and bound separately.

7.1.6 Addenda which apply to the Contract, are as follows:

Addendum No. 1, dated **3/25/19**

Addendum No. 2, dated **N/A**

Addendum No. 3, dated **N/A**

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7.1.7 Other documents:

<u>Document No.</u>	<u>Title</u>
[X] 00410B	Bid Form – Part B
[X] 00500	Form of Business
[X] 00501	Resolution of Corporation (if a corporation)
[X] 00610	Performance Bond
[X] 00611	Statutory Payment Bond
[X] 00612	One-year Maintenance Bond
[X] 00620	Affidavit of Insurance (with the Certificate of Insurance attached)
[X] 00800	Exhibit A, Wage Rates
[] 00821	Wage Rate for Building Construction
[] 00830	Trench Safety Geotechnical Information

ARTICLE 8

SIGNATURES

8.1 This Agreement is executed in three originals and is effective on _____.

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04-01-2017

CONTRACTOR:
BARCLAYS PREMIER UTILITY SERVICES, LLC

(If Joint Venture)

By: _____

Name: _____

Title: _____

Date: _____

Tax Identification Number: _____

By: _____

Name: _____

Title: _____

Date: _____

Tax Identification Number: _____.

ATTEST/SEAL:

[SEAL]

Attest: _____

Date: _____.

CITY OF BRENHAM, TEXAS:

By: _____
Mayor

Date: _____

ATTEST/SEAL:

[SEAL]

Attest: _____
City Secretary

Date: _____

END OF DOCUMENT



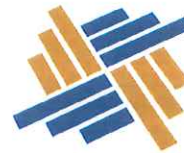
AGENDA ITEM 10

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 26, 2019	
DEPT. OF ORIGIN: Public Utilities	SUBMITTED BY: Lowell Ogle, Jr.	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Purchase of a Trencher for the Gas Department Through BuyBoard Using EKA Contract Number 515-16 and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: During the budget process Council approved the purchase of a new trencher. This trencher will be used for trenching for replacing and the new installation of gas lines. This trencher will replace Unit 137, a 1999 model that has begun to have many maintenance issues. The old unit will be sold on GovDeals. The unit was budgeted at \$59,000 and is coming in at \$58,959.76. This unit will be purchased using the EKA Contract Number 515-16.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Replace unreliable unit and increase efficiency. B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) EKA Quote Number 8465; and (2) Photo of the Ditch Witch RT45		
FUNDING SOURCE (Where Applicable): Electric Fund		
RECOMMENDED ACTION: Approve the purchase of a trencher in the amount of \$58,959.76 through BuyBoard using EKA Contract Number 515-16, for the Gas Department and authorize the Mayor to execute any necessary documentation		
APPROVALS: James Fisher		

EKA

P.O. Box 932 • Grayson, GA 30017-0018

770.498.9316 • 866.498.9316 • 770.498.9318 (fax)

EKA**Sales.com**
EKA
 GOVERNMENT
 SALES EXPERTS

Customer Quote

EKA Quote #	Date	Quote valid until:
8465	4/5/2019	5/5/2019

Name / Address	
City Of Brenham PO BOX 1059 BRENHAM, TX 77834-1059 9793377200 abostain@cityofbrenham.org	
Solicitation number	DEALER REQ

Delivery Address

EKA Quote Contact	Contract Number	Payment Terms	F.O.B. terms	Dealer
cindy@ekasales.com	515-16	NET 30 DAYS	DEST	DW HOUSTON

Item / Description	Qty	Price Each	Total
DITCH WITCH RT45A Compact Trencher With the following configuration: Decals English Engine Highly Regulated Tire/Tracks 26 X 12-12 8-Ply (Dana 44) Rear/Front Differential D44 rigid rear Backfill Blade 4-way 64 in Color Standard Hydraulic Oil Standard #799-1089 RT45 EXTENDED WARRANTY (2YR) #100-267 FRONT COUNTERWEIGHT KIT #375-080 COUNTERWEIGHT (100 LBS) (8) #190-1508 RT45 BACK-UP ALARM DITCH WITCH H314A Digging Attachment With the following configuration: Decals English Headshaft Sprocket 12 Tooth Slide Kit Hydraulic Slide Color Standard #604-682 DOUBLE SHORT AUGER ASSEMBLY KIT #143-060 "52" LT ROLLER BOOM (2.000"P)" #190-2406 MECHANICAL CLEANER CONVER KIT (ROLLER) #140-1363 4' LOWER CLEANER BAR (2.000"P) #141-134 CLEANER SHOE (6") #131-416 50K 2P DURA/SHK B 96P 6.0 BUYBOARD #515-16	1	58,959.76	58,959.76

DUNS: 07-594-9644; TIN: 58-1328598; Cage Code: 2Y851.
 We appreciate the opportunity to serve your government business needs.

Total**\$58,959.76**

RT45 TRACTOR

 **Ditch Witch®**



RIDE-ON



FIND THE SUPPORT YOU NEED AT YOUR DITCH WITCH® DEALER, INCLUDING:



DIGGING SYSTEMS

Replacing worn digging system components is essential to maintaining maximum productivity from your trencher. See your dealer for genuine Ditch Witch chain, specially manufactured headshaft sprockets and digging teeth, which are designed to work together as a system to provide unparalleled trenching performance.



PARTS

Tires, rubber tracks, o-ring kits, decals, paint, filters, hydraulic cylinder kits, belts, and many other accessories and replacement parts are available at your local Ditch Witch dealership, where you'll also find expert advice that comes from years of experience in the underground construction industry.



SERVICE

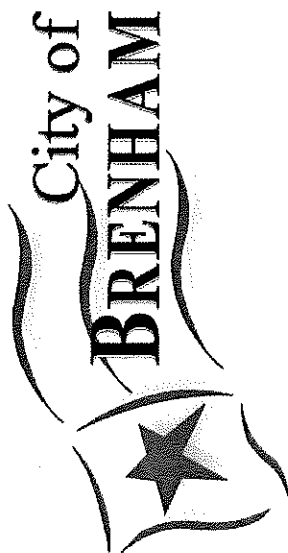
Your Ditch Witch dealership offers professional service technicians who are extensively trained in every aspect of Ditch Witch equipment maintenance and repair. Ask a service representative about our Orange Armor® Planned Maintenance program, a schedule of maintenance at factory-suggested intervals that keeps your equipment in peak operating condition.





AGENDA ITEM 11

DATE OF MEETING: May 2, 2019		DATE SUBMITTED: April 29, 2019	
DEPT. OF ORIGIN: Purchasing		SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION	
☐ WORK SESSION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a One Year Contract Extension, in Accordance with Bid No. 18-006, for Generator Maintenance and Inspection for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: On February 15, 2018 Council awarded Bid No. 18-006 for generator maintenance and inspections to Loftin Equipment Company in the amount of \$11,130.00 for semi-annual inspections. The bid also included a \$1.50 per mile additional trip charge and \$85.00 an hour labor rate for emergency calls. This bid was originally awarded for a period of one year, with the option to renew for two additional one-year terms. Loftin has agreed to renew the contract for another year at the same price that was bid in 2018. Therefore, staff is requesting that Council approve this first one-year renewal of the contract with Loftin Equipment Company for the same pricing that was bid in 2018.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Quality service. B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Bid No. 18-006 Bid Tabulation			
FUNDING SOURCE (Where Applicable): Maintenance Department Budget			
RECOMMENDED ACTION: Approve a one year contract extension with Loftin Equipment Company in the amount of \$11,130.00, in accordance with Bid No. 18-006 for generator maintenance and inspection for various City facilities and authorize the Mayor to execute any necessary documentation			
APPROVALS: James Fisher			



BID TABULATION GENERATOR MAINTENANCE AND INSPECTION IFB NO. 18-006						
	Power Secure Service	Kentech Inc	Genra Power Solutions	Loftin Equipment	Waukesha- Pearce Industries	
Total	13,490.00	12,990.00	17,799.00	11,130.00	15,837.22	
Addn'l. Trip Charge	300.00	100.00	250.00	\$1.50/mile	T/M	
Labor Rate	95.00	90.00	85.00	85.00	90.00	



AGENDA ITEM 12

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 29, 2019	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Amendment to the Brenham Community Development Corporation (BCDC) Bylaws and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: At the April 24 th BCDC meeting the Board of Directors discussed amending Article III, Section 3.02 of the BCDC bylaws to allow, consistent with current state law, persons who do not reside in the city limits of Brenham to serve on the BCDC Board. As currently worded, the bylaws allow only persons living with the city limits of Brenham to serve on the BCDC Board. The Board discussed how in years past, it has been difficult to find people living within the city limits that are willing to serve. Many times the application for appointment has to be denied because of the applicant's residency. The Board has also lost members due to the member moving outside of the city limits. Since the City has taken over the administrative responsibility of economic development for both the City and Washington County, the Board thinks it would be beneficial to have residents from outside the city limits serve on the BCDC. The current appointment process would not change; therefore, any person (City or non-City resident) wishing to serve on the BCDC would still be reviewed by a sub-committee of the City Council and then presented to the full Council for consideration of appointment to the BCDC Board. The BCDC Board is requesting that the Council approve its recommendation to amend the bylaws to allow non-city residents to serve on the BCDC; however, the BCDC Board also recommended that the bylaws provide that BCDC Board membership be limited to no more than two (2) non-City residents.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		

ATTACHMENTS: None
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: Approve amending Article III, Section 3.02, of the BCDC Bylaws to allow non-City residents to be appointed to serve on the BCDC Board of Directors with the condition that BCDC Board membership be limited to no more than two (2) non-City residents, and authorize the Mayor to execute any necessary documentation.
APPROVALS: James Fisher



AGENDA ITEM 13

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 24, 2019	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher	
MEETING TYPE: ☐ REGULAR ☐ SPECIAL ☒ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Section 551.087 – Texas Government Code – Economic Development Negotiations – Discuss and Deliberate Project Hi-Speed Regarding Commercial or Financial Information that the City Has Received from a Business Prospect and the Offer of Financial or Other Incentives to a Business Prospect that the City Seeks to Have Locate In or Near the City of Brenham and With Which the City is Conducting Economic Development Negotiations		
SUMMARY STATEMENT: To be discussed in Executive Session.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: None		
APPROVALS: Milton Y. Tate, Jr.		



AGENDA ITEM 14

DATE OF MEETING: May 2, 2019	DATE SUBMITTED: April 24, 2019	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Approval of a Performance Agreement of the Brenham Community Development Corporation (BCDC) Regarding Project Hi-Speed and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: As discussed in Executive Session		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: As discussed in Executive Session		
APPROVALS: Milton Y. Tate, Jr.		