



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, APRIL 7, 2022 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Mayor Pro Tem
Clint Kolby**
- 3. Proclamations**
 - ♦ Safe Digging Month**
- 4. Service Recognitions**
 - ♦ Amber Ortega, Utility Customer Service - 5 Years**
 - ♦ Andrew Jozwiak, Fire Department - 15 Years**
- 5. Citizens Comments**

CONSENT AGENDA

- 6. Statutory Consent Agenda**

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

 - 6-a. Approve the Minutes from the March 17, 2022 Regular City Council Meeting, the March 22, 2022 Emergency City Council Meeting, and the March 29, 2022 Special City Council Meeting**
 - 6-b. Approve Ordinance No. O-22-006 on Its Second Reading Amending the FY 2021-22 Adopted Budget**

- 6-c. Approve Resolution No. R-22-017 Repealing Resolution No. R-20-038 Related to Procurement Procedures for Expenditures Related to Gas and Electric Utilities**
- 6-d. Approve a Ratification of the Award of Bid No. 22-002 Related to Janitorial Services, to Kustom Klean Janitorial Services, in the Amount of \$1,169.88 and Authorize the Mayor to Execute Any Necessary Documentation**
- 6-e. Approve the Ratification of a Purchase from Smith Pump Company in the Amount of \$53,293.22 Related to Emergency Pump Repairs at the Intake Structure at Lake Somerville and Authorize the Mayor to Execute Any Necessary Documentation**
- 6-f. Award Bid No. 22-005 for Chlorine Dioxide to EVOQUA Water Technologies, Inc. Related to the Water Treatment Plant in the Amount of \$0.975 Per Pound and Authorize the Mayor to Execute Any Necessary Documentation**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

- 7. Public Hearing, Discussion, and Possible Action on an Ordinance on Its First Reading Amending Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham, Part I, Section 5.02, Definitions; Part II, Division 1, Section 14.03(3) Limitations on Home Occupations; and Part II, Division 1, Section 14.04, Specifically Prohibited as Home Occupations (Case No. P-22-012)**

WORK SESSION

- 8. Presentation and Discussion on the Upcoming Brenham Independent School District's Bond Election**
- 9. Presentation by Bickerstaff, Heath Delgado Acosta, LLP and Discussion of the Initial Assessment Regarding the Need to Redistrict the City Councilmember Wards Based on Recently Issued 2020 Census Data**
- 10. Discussion and Update on the Hours of Operation for Brannon Industrial Group at the City of Brenham's Transfer Station**

REGULAR SESSION

- 11. Discuss and Possibly Act Upon Resolution No. R-22-018 Adopting Criteria for Use in the 2021 Redistricting Process**
- 12. Discuss and Possibly Act Upon Resolution No. R-22-019 Establishing Guidelines for Persons Submitting Specific Redistricting Proposals and Providing Comments**

13. Discuss and Possibly Act Upon the Purchase of a Tractor/Shredder for the City of Brenham Street Department and Authorize the Mayor to Execute Any Necessary Documentation
14. Discuss and Possibly Act Upon Change Order No. 2 and Final Payment to Brazos Paving, Inc. for Project No. 2020-02 Related to Old Chappell Hill Road Improvements and Authorize the Mayor to Execute Any Necessary Documentation
15. Discuss and Possibly Act Upon the Renewal of the Microsoft Enterprise Agreement with Microsoft Corporation Affiliate SHI Government Solutions, and Authorize the Mayor to Execute Any Necessary Documentation
16. 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 salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

EXECUTIVE SESSION

17. Texas Government Code - Section 551.086 - Utility Competitive Matters - City of Brenham Electric Utility System - Power Supply and Associated Competitive Matters
18. Texas Government Code Section 551.071 – Consultation with Attorney – Executive Session for the Purpose of Consultation with Legal Counsel Regarding the City’s Redistricting Obligations

RE-OPEN REGULAR SESSION

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 April 07, 2022 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on Monday, April 4, 2022 at 11:30 a.m.

Alyssa Faykus

Deputy City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2022 at _____ AM PM.

Signature

Title

PROCLAMATION

- WHEREAS,** Thousands of times each year, the underground infrastructure in Texas is damaged by those who do not have underground lines located prior to digging, resulting in service interruption, environmental damage, and threat to public safety; and
- WHEREAS,** In 2005, the Federal Communications Commission designated 811 to provide contractors and homeowners a simple number to contact utility operators to request the location of underground lines at the intended dig site; and
- WHEREAS,** The national 811 notification system is promoted in an effort to reduce these damages; and
- WHEREAS,** Damage prevention is a shared responsibility; by using safe digging practices, the contractors and homeowners of Brenham can save time and money and help keep our infrastructure safe and connected; and
- WHEREAS,** The City of Brenham encourages contractors and homeowners throughout Brenham and Washington County to always call 811 before digging; safe digging is no accident;

NOW THEREFORE, I Milton Y. Tate Jr., Mayor of the City of Brenham do hereby proclaim April 2022 as:

BRENHAM SAFE DIGGING MONTH

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

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

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on March 17, 2022 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

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

Members Absent:

None

City of Brenham Staff present:

City Manager Carolyn Miller; City Attorney Cary Bovey; City Secretary Jeana Bellinger; Director of Public Works Dane Rau; Director of Finance Stacy Hardy; General Manager of Public Utilities Debbie Gaffey; Legal and Legislative Services Manager Karen Stack; Deputy City Secretary Alyssa Faykus; City Planner Shauna Laauwe; Public Utilities Director Alton Sommerfield; Strategic Budget Officer Tim McRoberts; Kevin Boggus; Brian Smith; Lt. Lloyd Powell; Carrie Derkowski; Pam Ruemke; Shawn Bolenbarr; Economic Development Director Susan Cates; Kyle Branham

Citizens/Others Present:

Charles Bradford

Media Present:

Trace Harris, Brenham Banner-Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Manager Carolyn Miller**
- 3. Special Recognitions**
 - **Assistant Fire Chief Ronald Bentke – Retirement from Brenham Fire Department**
- 4. Citizen Comments**

There were no comments received.

CONSENT AGENDA

- 5. Statutory Consent Agenda**
 - 5-a. Approve the Minutes from the March 3, 2022 Regular City Council Meeting**
 - 5-b. Approve Ordinance No. O-22-005 on Its Second Reading to Grant a Non-Exclusive Franchise to Maroon Dumpsters, LLC to Operate a Roll-Off Container Service for Residents, Businesses and Industries Inside the City of Brenham City Limits and Authorize the Mayor to Execute Any Necessary Documentation**
 - 5-c. Approve an Ordinance on Its First Reading Amending the FY 2021-22 Budget**
 - 5-d. Accept a Grant from Texas A&M Forest Service, Rural Volunteer Fire Department Assistance Program, in the Amount of \$10,000.00 for the Purchase of Training Aids for the City of Brenham Fire Department and Authorize the Mayor to Execute Any Necessary Documentation**
 - 5-e. Approve a Noise Variance from the Community Alcohol and Substance Awareness Partnership (CASAP) of Brazos and Washington County for a 5K and Color Run at the Blinn College Kruse Center from 7 A.M. to 2 P.M. and Authorize the Mayor to Execute Any Necessary Documentation**
 - 5-f. Approve a Noise Variance from the City of Brenham for a Bike Rodeo and Safety Day to be Held on March 26, 2022 at the Blue Bell Aquatic Center from 9:30 A.M. to 11:30 A.M. and Authorize the Mayor to Execute Any Necessary Documentation**
 - 5-g. Approve the Appointment of:**
 - **Holly Johnson – Position 14 on the Police Citizen Advisory Board: term to Expire on December 31, 2024;**
 - **J. Weldon Clampitte – Position 9 on the Police Citizens Advisory Board: term to Expire on December 31, 2024**
 - **Suzanne Callaway – Position 4 on the Animal Services Board: Term to Expire on December 31, 2023**
- and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Saunders and seconded by Councilmember Canales to approve the Statutory Consent Agenda Items 5-a. thru 5-g. as presented.

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

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

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

6. Public Hearing, Discussion and Possible Action on an Ordinance on Its First Reading on Case No. P-22-004, A Request by Brenham Housing Authority for an Amendment to the City of Brenham's Official Zoning Map of the Code of Ordinances to Change the Zoning District from a Mixed Residential Use District (R-2) to a Local Business Residential Mixed Use District (B-1) on 1.202-Acres of Land Currently Addressed as 1003 Hasskarl Drive and Being Further Described as Lot 1 of Fairview Terrace Subdivision, Out of the Arrabella Harrington Survey, Abstract No. 55 in Brenham, Washington County, Texas

City Planner Shauna Laauwe presented this item. The subject property is 1.202 acres and is addressed as 1003 Hasskarl Drive. The subject tract is developed with a 6,500 square foot community center that serves the Fairview Terrace Brenham Housing Authority (BHA) residential development and is available to rent to the community.

The BHA platted the subject property and the adjacent property to remove existing duplexes to construct a multifamily apartment complex in May 2021. This apartment complex includes a clubhouse, therefore the need for the existing community center is not needed.

The applicant requested the subject property be re-zoned to allow for the development of the permitted uses in the B-1, Local Business and Residential Mixed Use District that include businesses and medical offices, affordable moderate-density multifamily residential on sites of two (2) acres or more, and neighborhood shopping.

Mayor Tate opened the public hearing. There were no comments received.

Mayor Tate closed the public hearing and advised that no further action would be taken on this item.

REGULAR SESSION

7. Discuss and Possibly Act Upon Resolution No. Resolution No. R-22-015 Adopting a Policy for the Reimbursement of Qualified Infrastructure Costs for Private Development of Public Infrastructure Within the Tax Increment Reinvestment Zone Number One

Economic Development Director Susan Cates presented this item. Cates advised that Tax Increment Reinvestment Zone Number One (TIRZ) was established by the City Council on December 20, 2018.

Cates said private development of public infrastructure by private landowners benefitting the TIRZ may facilitate development that enhances the value of taxable real property within the TIRZ, which is why the city needs to establish guidelines for reimbursement from TIRZ revenues generated by projects within the TIRZ.

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve Resolution No. R-22-015 adopting a policy for the reimbursement of qualified infrastructure costs for private development of public infrastructure within the Tax Increment Reinvestment Zone Number One, as recommended by the TIRZ Board.

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

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

8. Discuss and Possibly Act Upon the Approval of a Memorandum of Understanding Between the City of Brenham and Market Square, LP and Authorize the Mayor to Execute Any Necessary Documentation

Economic Development Director Susan Cates presented this item. Cates explained that the Memorandum of Understanding was for Market Square, LP to receive reimbursement from the TIRZ, pursuant to Chapter 311 of the Texas Tax Code.

Cates stated that the reimbursement will only be for qualified infrastructure costs as outlined in the policy adopted by Resolution No. R-22-015 (the previous agenda item). Cates advised that the estimated cost of the infrastructure improvements is \$7,259,000.00 and as outlined in the policy, their total reimbursement could be \$10,000,000.00 over twenty years.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve a Memorandum of Understanding between the City of Brenham and Market Square, LP and authorize the Mayor to execute any necessary documentation.

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

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

9. Discuss and Possibly Act Upon Resolution No. R-22-016 Authorizing the Termination of the “Agreement Providing for Subdivision Regulation by the Municipality Within the Extraterritorial Jurisdiction (ETJ) of the Municipality” Between the City of Brenham and Washington County and Authorize the Mayor to Execute Any Necessary Documentation

Director of Development Services Stephanie Doland presented this item. Doland said the City of Brenham and Washington County entered an Interlocal Agreement (ILA) in 2002 for the purpose of assigning authority for the review and approval of subdivision plats within the Brenham Extra-Territorial Jurisdiction (ETJ).

Doland explained that since annexation laws have changed since 2002 the terms of the old ILA are no longer relevant. Doland stated that the next item on the agenda is a new ILA with the County that addresses several things that were not covered in the old 2002 agreement.

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve Resolution No. R-22-016 authorizing the termination of the “Agreement Providing for Subdivision Regulation by the Municipality Within the Extraterritorial Jurisdiction (ETJ) of the Municipality” between the City of Brenham and Washington County and authorize the Mayor to execute any necessary documentation.

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

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

10. Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for the Provision of Subdivision Standards and Regulations within the Extraterritorial Jurisdiction (ETJ) of the City of Brenham, Texas and Authorize the Mayor to Execute Any Necessary Documentation

Director of Development Services Stephanie Doland presented this item. Doland said the City and Washington County entered an Interlocal Agreement (ILA) in 2002 for the purpose of assigning authority for the review and approval of subdivision plats within the City's Extra-Territorial Jurisdiction (ETJ).

Doland explained that due to a change in annexation laws, a new ILA was needed. This new ILA re-establishes the authority of subdivision regulations in the city's ETJ. Doland stated that this new ILA was approved by the Washington County Commissioners Court on March 8, 2022.

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve an Interlocal Agreement between the City of Brenham and Washington County for the Provision of Subdivision Standards and Regulations within the Extraterritorial Jurisdiction (ETJ) of the City of Brenham, Texas and authorize the Mayor to execute any necessary documentation

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

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

11. Discuss and Possibly Act Upon the Purchase of Equipment for the City of Brenham Street Department as Shown on the Equipment Schedule Included in the Agenda Packet and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Manager Shawn Bolenbarr presented this item. Bolenbarr stated that during the 2021-22 budget process, staff shared with Council major street equipment that would need to be replaced.

Bolenbarr explained that over the last few months, staff has researched the equipment, taken many site visits to determine what equipment would work best for the City and be within budget. Bolenbarr advised that staff is recommending the purchase of 4 pieces of equipment: (1) one John Deere Motor Grader from RDO Equipment in the amount of \$281,544.09; (2) one 938M Wheel Loader from Mustang Cat in the amount of \$264,800.00; and (3) one Bush Hog Tractor Shredder from Hlavinka Equipment in the amount of \$97,548.00; and (4) one Bush Hog Tractor Shredder from Hlavinka Equipment in the amount of \$97,548.00. The total of all equipment would be \$741,440.09.

Several member of the City Council expressed concern over why the purchase of this equipment was not from local vendors. Director of Public Works Dane Rau advised that the city received quotes for the equipment and spent a lot of time discussing the purchase of the tractors/shredders from non-local vendors but due to the specifications of the equipment, it is staff's recommendation that both tractor/shredders be purchased from Hlavinka Equipment.

After further discussion, it was the consensus of Council that the City should try and buy from local vendors when possible. Councilmember Wright asked if a compromise could be made and purchase at least one of the tractors from a local vendor (Washington County Tractor). Rau advised that staff would contact Washington County Tractor and some other dealers to get quotes on the one shredder and would bring back a purchase recommendation at the next meeting.

A motion was made by Councilmember Canales and seconded by Councilmember Saunders to approve the purchase of the: (1) John Deere Motor Grader from RDO Equipment in the amount of \$281,544.09; (2) 938M Wheel Loader from Mustang Cat in the amount of \$264,800.00; and (3) Bush Hog Tractor Shredder from Hlavinka Equipment in the amount of \$97,548.00 and authorize the Mayor to execute any necessary documentation.

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

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

12. Discuss and Possibly Act Upon Amendment No. 1 to the Professional Services Agreement with Strand Associates Inc. for Hurricane Harvey Mitigation Projects and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau said in October of 2020, the City applied to two General Land Office (GLO) Grants related to Hurricane Harvey and the 2016 floods. Rau explained that City Council authorized an engineering agreement with Stand Associates, Inc. for engineering related to the grants.

Rau explained that when the engineering contract was approved, GLO had not finalized the contract wording. Rau stated that the GLO has finished the contract documents and now Strand would like to align their contract language and scope of work with the language in the GLO contract. Rau advised that no monetary changes are being made to the agreement.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Cook to approve Amendment No.1 to the Professional Services Agreement with Strand Associates Inc. for Hurricane Harvey Mitigation Projects and authorize the Mayor to execute any necessary documentation.

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

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

13. Discuss and Possibly Act Upon Bid No. 22-002 Related to Janitorial Services and Authorize the Mayor to Execute Any Necessary Documentation

Purchasing and Central Fleet Supervisor Kyle Branham presented this item. Branham explained that bids for janitorial services were opened on December 2, 2021 to clean twelve city facilities, thirty-nine park restrooms, four park kitchens, windows at the Fire Museum and the Barnhill Center windows.

Branham explained that eight bids were received and even though our current provider, Kustom Klean, was not the lowest bidder, it is staff's recommendation that they be awarded the contract again due to best value based on the excellent service they have provided to the City in the past.

Branham also advised Council that since there were other bids received from local vendors, staff has pulled the Brenham Police Department and the Animal Shelter from this bid to give other local providers an opportunity to work with the city. Branham explained that the janitorial services for these two facilities is under \$50,000.00 so it would not need to be approved by Council.

A motion was made by Councilmember Saunders and seconded by Councilmember Wright to award Bid No. 22-002 for janitorial services to Kustom Klean in the amount of \$149,352.48, based on best value, and does not include janitorial services at the Brenham Police Department, the Brenham Animal Shelter, or any special janitorial services that will be performed on an as needed basis, and authorize the Mayor to execute any necessary documentation.

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

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

14. Administrative/Elected Officials Report

City Manager Carolyn Miller advised of the following:

- A special City Council meeting will be held on March 29th at 8:30 a.m. to discuss various utility issues.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

An emergency meeting of the Brenham City Council was held on March 22, 2022 beginning at 11:00 a.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

Mayor Pro Tem Clint Kolby
Councilmember Shannan Canales
Councilmember Leah Cook
Councilmember Atwood Kenjura
Councilmember Adonna Saunders
Councilmember Albert Wright

Members Absent:

Mayor Milton Y. Tate, Jr.

City of Brenham Staff present:

City Manager Carolyn Miller; City Secretary Jeana Bellinger; and General Manager of Public Utilities Debbie Gaffey.

City Attorney Cary Bovey attended via telephone conference.

Citizens/Others Present:

None.

Media Present:

Trace Harris, Brenham Banner-Press

1. Call Meeting to Order

City Council adjourned into Executive Session at 11:02 a.m.

EXECUTIVE SESSION

- 2. Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Legal Issues Concerning the City of Brenham Lake Somerville Raw Water Lake Intake Structure, the Federal Emergency Management Agency, and Associated Matters**

City Council reconvened into Regular Session at 11:49 a.m.

RE-OPEN REGULAR SESSION

The meeting was adjourned.

Clint Kolby
Mayor Pro Tem

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

A special meeting of the Brenham City Council was held on March 29, 2022 beginning at 8:30 a.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

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

Members Absent:

None

City of Brenham Staff present:

City Manager Carolyn Miller; City Secretary Jeana Bellinger; and General Manager of Public Utilities Debbie Gaffey.

City Attorney Cary Bovey attended via telephone conference.

Citizens/Others Present:

None.

Media Present:

Jason Chlapek, Brenham Banner-Press; Mark Whitehead, KWHI

1. Call Meeting to Order

2. Invocation and Pledges to the US and Texas Flags – Mayor Milton Y. Tate, Jr.

3. Citizen Comments

No citizen comments heard.

City Council adjourned into Executive Session at 8:32 a.m.

EXECUTIVE SESSION

- 4. Section 551.086 Texas Government Code – Utility Competitive Matters – City of Brenham Gas Utility System – Gas Supply and Transportation Arrangements and Agreements, and Associated Matters**
- 5. Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding City of Brenham v. WTG Gas Marketing, Inc.; Cause No. 37573; 335th Judicial District Court, Washington County, Texas**
- 6. Section 551.071 Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Legal Issues Concerning the City of Brenham Lake Somerville Raw Water Lake Intake Structure, the Federal Emergency Management Agency, and Associated Matters**

City Council reconvened into Regular Session at 9:48 a.m.

RE-OPEN REGULAR SESSION

- 7. Discuss and Possibly Act Upon the Approval of an Engagement Agreement with Legal Counsel Re: Administrative Action of the Federal Emergency Management Agency Regarding the Lake Somerville Raw Water Intake Structure and Authorize the Mayor or City Manager to Execute Any Necessary Documentation**

A motion was made by Councilmember Canales and seconded by Mayor Pro Tem Kolby to approve an engagement agreement with Bracewell, LLP for a response to the administrative action of the Federal Emergency Management Agency regarding Lake Somerville Raw Water Intake Structure and authorize the Mayor or City Manager to execute any necessary documentation

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

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

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

DRAFT

ORDINANCE NO. O-22-006

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING THE FY2021-22 ADOPTED BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brenham, Texas has previously approved a budget for the fiscal year ending September 30, 2022, after having filed the same with the City Secretary and after holding public hearings on same, all after due notice as required by statute; and

WHEREAS, due to unforeseen circumstances and/or conditions, the City Council finds it is necessary to amend the FY2021-22 Budget for municipal purposes;

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

SECTION 1.

That the City Council of the City of Brenham, Texas, does hereby amend the budget for the City of Brenham, Texas for the fiscal year ending September 30, 2022, as shown on Exhibit A.

SECTION II.

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

PASSED and APPROVED on its first reading this the 17th day of March 2022.

PASSED and APPROVED on its second reading this the 7th day of April 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

CITY OF BRENHAM
FY2021-22 ADOPTED BUDGET
BUDGET AMENDMENT #1
EXHIBIT A

FUND	AMENDMENT PAGE #	REVENUES (INC)/DEC	GRANT REVENUES (INC)/DEC	ILA REVENUE (INC)/DEC	TRANSFERS-IN (INC)/DEC	OPERATING EXPENDITURES INC/(DEC)	DEBT PAYMENTS INC/(DEC)	GRANT/BOND CAP PROJ INC/(DEC)	TRANSFERS-OUT INC/(DEC)	NET CHANGE TO FUND (INC)/DEC
101 GENERAL FUND	1	(179,144)	-	-	-	214,144	-	-	140,000	175,000
103 GAS FUND	2	-	-	-	-	43,000	-	-	-	43,000
123 GAS WPC FUND	3	-	-	-	-	338,269	-	-	-	338,269
236 VERF FUND	4	-	-	-	(140,000)	140,000	-	-	-	-
240 VERF FUND	5	-	-	-	-	48,832	-	-	-	48,832
TOTAL		(179,144)	-	-	(140,000)	784,245	-	-	140,000	605,101

FUND 101 - GENERAL FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
1. 101-5-152-101.00	SALARIES & WAGES	EXPENDITURE	INC/(DEC)	1,175,910	115,712	1,291,622	1. THIS AMENDMENT IS TO INCREASE THE BUDGET FOR MID-YEAR ADDITION OF 3 FIREFIGHTERS \$115,712 SALARY/BENEFITS, PLUS \$9,000 FOR ONE-TIME GEAR/EQUIPMENT. WILL BE OFFSET BY INCREASE IN SALES TAX.
1. 101-5-152-208.00	CLOTHING/PERS PROTECTIVE EQUIPMENT	EXPENDITURE	INC/(DEC)	32,000	9,000	41,000	
1. 101-4-140.00	CITY SALES TAX	REVENUE	INC/(DEC)	(5,817,710)	(124,712)	(5,942,422)	
2. 101-5-148-101.00	SALARIES & WAGES	EXPENDITURE	INC/(DEC)	-	52,432	52,432	2. THIS AMENDMENT IS TO INCREASE THE BUDGET FOR MID-YEAR ADDITION OF AN AIRPORT MANAGER \$52,432 SALARY/BENEFITS, PLUS \$1,400 ONE-TIME OFFICE FURNITURE/EQUIPMENT AND \$600 ONE-TIME COMPUTER EQUIPMENT & SUPPLIES. WILL BE OFFSET BY INCREASE IN SALES TAX.
2. 101-5-148-212.00	COMPUTER EQUIPMENT & SUPPLIES	EXPENDITURE	INC/(DEC)	200	600	800	
2. 101-5-148-712.00	OFFICE FURNITURE/EQUIPMENT	EXPENDITURE	INC/(DEC)	-	1,400	1,400	
2. 101-4-140.00	CITY SALES TAX	REVENUE	INC/(DEC)	(5,942,422)	(54,432)	(5,996,854)	
3. 101-5-100-940.00	BMSHP INTEREST REIMBURSEMENT	EXPENDITURE	INC/(DEC)	0	35,000	35,000	3. THIS AMENDMENT IS TO REIMBURSE BRENNHAM MAIN STREET HISTORICAL PRESERVATION INC (THE BARNHILL CENTER AT THE HISTORIC SIMON THEATER) FOR QUARTERLY INTERST ON EXISTING LOANS ENCUMBERING THE BARNHILL CENTER. WILL BE OFFSET BY GENERAL FUND RESERVES.

FUND 103 - GAS FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
4. 5-162-804.00	UTILITY LINES	EXPENDITURE	INC/(DEC)	35,801	43,000	78,801	4. CARRYOVER PROJECT, THIS AMENDMENT WILL INCREASE EXPENSE \$43,000 FOR REPAIRS/TESTING OF EXISTING GAS MAIN PER RAILROAD COMMISSION.

FUND 123 - GAS WPC FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
5.	123-5-100-402.00 AUDITS/CONSULTANTS FEES	EXPENDITURE	INC/(DEC)	4,400	77,000	81,400	5. THIS AMENDMENT IS TO INCREASE AUDIT/CONSULTANTS EXPENSE \$77,000 HIRING A CONSULTANT TO NEGOTIATE NEW GAS SUPPLY AND TRANSPORT CONTRACTS.
6.	123-5-100-419.00 LEGAL FEES	EXPENDITURE	INC/(DEC)	38,731	261,269	300,000	6. THIS AMENDMENT IS TO INCREASE LEGAL FEES \$261,269 FOR WTG LITIGATION AND ATTORNEY ASSISTING WITH GAS TRANSPORT CONTRACT. THESE EXPENSES ARE BEING RECOVERED OVER TIME FROM CUSTOMERS VIA THE GAS COST ADJUSTMENT (GCA).

FUND 236 - EQUIPMENT FUND-GENERAL

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
7. 236-5-100-812.0C	OFFICE FURNITURE/EQUIPMEN'	EXPENDITURE	INC/(DEC)	-	140,000	140,000	7. THIS AMENDMENT IS TO UTILIZE 3 DAYS OF GENERAL FUND RESERVES FOR THE AV UPGRADE OF COUNCIL CHAMBERS.
7. 236-6-000-601.0C	INTERFUND TRNSF-GENERAL FL	TRANSFER	(INC)/DEC	(433,379)	(140,000)	(573,379)	
7. 101-6-000-662.0C	INTERFUND TRNSF-EQUIPMENT	TRANSFER	INC/(DEC)	433,379	140,000	573,379	

FUND 240 - VERF FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
8. 240-5-152-813.00	VEHICLES/LARGE EQUIPMENT	EXPENDITURE	INC/(DEC)	-	48,832	48,832	8. THIS AMENDMENT IS TO INCREASE THE BUDGET FOR THE PURCHASE OF FIRE CHIEF FORD F-150 OUT OF VERF RESERVES.



Regular City Council
AGENDA ITEM 6-C.

Agenda Item: Approve Resolution No. R-22-017 Repealing Resolution No. R-20-038 Related to Procurement Procedures for Expenditures Related to Gas and Electric Utilities

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

After discussion with the General Manager of Public Utilities, Debbie Gaffey, it was determined that this Resolution is no longer needed. Any purchases related to gas and electric utilities will follow state purchasing laws and the City's purchasing policies.

ATTACHMENTS:

- (1) Resolution R-22-017
- (2) Exhibit A

RECOMMENDED ACTION:

Approve Resolution No. R-22-017 repealing Resolution No. R-20-038 related to procurement procedures for expenditures related to the gas and electric utilities.

RESOLUTION NO. R-22-017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS REPEALING AND RESCINDING RESOLUTION NO. R-20-038 FINDING A PUBLIC PURPOSE AND ESTABLISHING PROCUREMENT PROCEDURES FOR EXPENDITURES IN CONNECTION WITH PURCHASES MADE BY THE CITY OF BRENHAM GAS AND ELECTRIC UTILITY DEPARTMENTS

WHEREAS, the City of Brenham (“City”) is a home-rule municipality located in Washington County, Texas, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Resolution No. R-20-039 to find a public purpose and establish procurement procedures for expenditures in connection with purchases made by the City of Brenham gas and electric utility departments for gas and electricity acquisition, transportation, transmission, distribution and associated system improvements was approved by City Council on December 3, 2020 and attached hereto as Exhibit “A”; and

WHEREAS, the City Council now finds it is no longer in the public interest for the City of Brenham gas and electric utility departments to use modified procurement procedures; and

WHEREAS, the City Council finds these departments should comply with the procedures required by Chapter 252 of the Local Government Code; and

WHEREAS, the City Council of the City of Brenham now desires to repeal and rescind said Resolution No. R-20-038;

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

The City Council does hereby repeal and rescind Resolution No. R-20-038 in its entirety, and any authorization and/or approval provided for in Resolution No. R-20-038 is null and void.

RESOLVED this 7th day of April 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

RESOLUTION NO. R-20-038

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS FINDING A PUBLIC PURPOSE AND ESTABLISHING PROCUREMENT PROCEDURES FOR EXPENDITURES IN CONNECTION WITH PURCHASES BY THE CITY OF BRENHAM GAS AND ELECTRIC UTILITY DEPARTMENTS, BEING MUNICIPALLY OWNED UTILITIES, FOR GAS AND ELECTRICITY ACQUISITION, TRANSPORTATION, TRANSMISSION, DISTRIBUTION AND ASSOCIATED GAS AND ELECTRIC SYSTEM IMPROVEMENTS AND FACILITIES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Brenham ("City") is a home-rule municipality located in Washington County, Texas, acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Section 51.001, Texas Local Government Code, authorizes the City Council of the City of Brenham to adopt rules and regulations for the good government, peace, and order of the municipality, and necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 252.022(c), Texas Local Government Code, exempts from the purchasing requirements of Chapter 252, Texas Local Government Code, expenditures made by municipally owned gas and electric utilities for any purchases made by the municipally owned gas and electric utilities in accordance with procurement procedures adopted by a resolution of its governing body that sets out the public purpose to be achieved by such procurement procedures; and

WHEREAS, the City of Brenham, Texas a home-rule municipal corporation in the State of Texas, owns and operates municipal gas and electric utilities, the Brenham Gas and Electric Departments; and

WHEREAS, the Brenham City Council desires to adopt this Resolution in order to modify purchasing procedures for the Brenham Gas and Electric Departments; and

WHEREAS, the Brenham City Council further finds that these purchasing procedures will benefit the public purpose, the citizens of Brenham, and the customers and ratepayers of the Brenham Gas and Electric Departments by providing for Brenham Gas and Electric Department purchases to conform with all applicable state procurement laws, the City Charter and this Resolution, while assuring that procurements are beneficial, efficient and cost-effective for the Brenham Gas and Electric Departments, the Departments' customers, and the Departments' projects; and

WHEREAS, Section 252.022(c) of the Texas Local Government Code provides that the requirements of Chapter 252 of said Code to not apply to expenditures by a municipally owned gas and electric utility in connection with any purchases by said municipally owned utilities made in accordance with procurement procedures adopted by a resolution of the body vested with authority for management and operation of the municipally owned utilities that sets out the public purpose to be achieved by those procedures;

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

SECTION 1. The findings set forth hereinabove are incorporated into the body of this Resolution as if fully set forth herein.

SECTION 2. The City Council hereby adopts the procurement procedures applicable to the Brenham Gas and Electric Departments, being municipally owned utilities, more particularly outlined in Exhibit "A" attached hereto and incorporated herein for all purposes pertinent.

SECTION 3. The Mayor and/or the City Manager, or designee, is hereby authorized to take any action and to execute any documentation necessary or appropriate to carry out the intent of this Resolution.

SECTION 4. This Resolution shall become effective immediately upon its passage and approval.

PASSED, APPROVED AND ADOPTED THIS THE 3rd DAY OF DECEMBER 2020.



Milton Y. Tate, Jr.
Mayor

ATTEST:

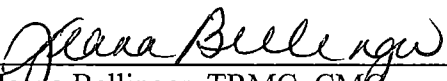

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT "A"

1. General Policy - Purchases by the Brenham Gas and Electric Departments of equipment, supplies, materials, and services for gas and electricity acquisition, transportation, transmission, distribution and associated gas and electric system improvements and facilities, including but not limited to gas pipeline installation and repair, gas pipeline maintenance, electric power pole installation and repair, power transmission and distribution line installation and repair, power pole and line maintenance, metering facilities and stations, and similar projects shall be made in a manner that:

- (a) Conforms with the substance of all applicable state procurement laws, the City Charter, all applicable City Resolutions, and this Resolution; and
- (b) Is beneficial, efficient and cost-effective for the Brenham Gas and Electric Departments, the Departments' customers, and the Departments' projects.

Actions and procurements not addressed by this Resolution shall be governed by the applicable provisions of Chapter 252, Texas Local Government Code, and any other applicable procurement laws.

2. Solicitation Type - The City of Brenham will determine the type of solicitation to be used in a procurement, taking into account the requirements of the competitive and efficiency needs, and the best interests, of the Brenham Gas and/or Electric Department, as applicable. For purchases subject to the competitive bidding requirements of Chapter 252 or other law, typically an Invitation for Bid will be used for purchases of equipment, materials, etc., and a Request for Proposals will be used for procurement of services and for certain other purchases. Procurement of professional services and public works construction not governed by Chapter 252 of the Local Government Code will not be affected by this section. Procurements that meet the requirements of critical business need as set forth in Section 4 herein below may follow the procedures established therein.

3. Bids and Proposals; Advertising; Change Orders - The general business practice will be for all bids and proposal, advertisement of solicitations, responses to solicitations, change orders and other procurement procedures of the Brenham Gas and Electric Departments to be observed by the City of Brenham as required by Chapter 252, Texas Local Government Code. However, any or all procurements, procedures and requirements of Chapter 252, Texas Local Government Code may be waived at the discretion of the City Council, if there is a "Critical Business Need" as set forth in Section 4 herein below.

4. Critical Business Need - The procedures set forth in the above sections may be changed or modified by the City Council, or the person acting on its behalf, on a case-by case basis as necessary in order to meet a critical business need of the Brenham Gas and/or Electric Department for the purchases of equipment, supplies, materials, and services for gas and electricity acquisition, transportation, transmission, distribution and associated gas and electric system improvements and facilities, including but not limited to gas pipeline installation and repair, gas pipeline maintenance, electric power pole installation and repair, power transmission and distribution line installation and repair, power pole and line maintenance, metering facilities and stations, and similar projects. The expenditure shall not exceed \$500,000.

Circumstances which could give rise to a finding of critical business need include, but are not limited to, the following:

- (a) emergency situation, including procurements necessary to protect the public health or safety of in response to a public calamity;
- (b) a procurement necessary because of unforeseen damage to public equipment, machinery, or other property;
- (c) a procurement necessary to promote the efficient and accelerated completion of a proposed or ongoing gas or electric system improvements project;
- (d) a procurement for personal services or highly technical services and testing;
- (e) a procurement of items that are available from only one source;
- (f) a procurement to promote the best interests of the Brenham Gas and/or Electric Department; or
- (g) a procurement necessary to protect the competitive interests of the Brenham Gas and/or Electric Department.

The existence of a critical business need must be approved by the City Council. Once it has been determined that a procurement is necessary to meet a critical business need of the Brenham Gas and/or Electric Department, the City Manager or his designee will manage the procurement so as to assure that it expeditiously meets the critical business need.



Regular City Council
AGENDA ITEM 6-D.

Agenda Item: Approve a Ratification of the Award of Bid No. 22-002 Related to Janitorial Services, to Kustom Klean Janitorial Services, in the Amount of \$1,169.88 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-April 07, 2022

Department: Purchasing

Staff Contact: Kyle Branham

SUMMARY STATEMENT:

On March 17, 2022, Council awarded Bid No. 22-002 related to janitorial services to Kustom Klean Janitorial Services in the amount of \$149,352.48. After City Council approval, a purchase order was being generated and it was discovered that the cost of the park restrooms was added incorrectly and the grand total of the award should have been \$150,522.36.

This error was a difference of \$1,169.88.

ATTACHMENTS:

(1) Price Sheet

RECOMMENDED ACTION:

Approve a ratification of the award of Bid No. 22-002 related to janitorial services, to Kustom Klean Janitorial Services, in the amount of \$1,169.88 and authorize the Mayor to execute any necessary documentation.

JANITORIAL PRICE SHEET

FACILITIES	PRICE
City Hall	\$3,804.18
Library	\$1,531.82
Fire Station	\$343.69
BBAC	\$422.24
All Sports	\$343.69
CW	\$122.75
Barnhill/Visitors Center	\$286.26
Airport Terminal	\$110.00
Electric	\$130.00
Street	\$232.00
Parks	\$183.32
Maintenance Building	\$560.00
All facilities per month	\$8,069.95
All facilities YEARLY TOTAL	\$96,839.40

PARKS RESTROOMS	PRICE
Firemans New	\$289.97
Firemans Field	\$192.98
Firemans Rock RR	\$192.98
Henderson Kitchen	\$289.97
Henderson Field	\$192.98
Splash Pad	\$192.98
Fink & Korthauer	\$192.98
Hattie Mae Flowers	\$192.98
Jackson St. B Ball	\$192.98
Jaskon St. Kitchen	\$192.98
Down Town	\$192.98
Jery Wilson	\$192.98
LA Lower RR	\$192.98
LA Fields	\$192.98
HS Tennis Courts	\$192.98
Amphitheatre	\$192.98
Holht Soccer	\$192.98
Holht Baseball	\$192.98
Holht Softball	\$192.98
Holht Playground	\$192.98
PARKS RR month	\$4,053.58
PARKS RR YEARLY	\$48,642.96

PARKS KITCHENS	PRICE
Henderson Kitchen	\$105.00
Fireman's Kitchen	\$105.00
Fireman's Rock Room Kitchen	\$105.00
Jackson St. Kitchen	\$105.00
PARKS KITCHENS MONTH	\$420.00
PARKS KITCHENS YEARLY	\$5,040.00

FACILITIES YEARLY	\$96,839.40
PARKS RESTROOM YEARLY	\$48,642.96
PARKS KITCHESN YEARLY	\$5,040.00

APPROVED COUNCIL AMOUNT	\$149,352.48
JANITORIAL YEARLY PRICE	\$150,522.36
Difference	-\$1,169.88



Regular City Council
AGENDA ITEM 6-E.

Agenda Item: Approve the Ratification of a Purchase from Smith Pump Company in the Amount of \$53,293.22 Related to Emergency Pump Repairs at the Intake Structure at Lake Somerville and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-April 07, 2022

Department: Utilities

Staff Contact: Alton Sommerfield

SUMMARY STATEMENT:

Quotes were requested for removal, transport, inspections, and diagnostics for Pump No. 2 at the Intake Structure at Lake Somerville. Smith Pump Company was the lowest cost for these duties. Upon inspection and diagnostic, the quote for needed repairs, reassembly, delivery, and installation was \$53,293.22. The lake intake structure has two pumps currently working with no backups. It is vital to continue to meet the City's water needs to have a back up pump on location if we were to experience a pump failure with the approaching summer season.

The purchase was authorized Under Local Government Code Chapter 252.022- a procurement necessary to preserve or protect the public health, or safety of the municipality's residents.

ATTACHMENTS:

None

RECOMMENDED ACTION:

Approve the ratification of a purchase from Smith Pump Company, Inc. in the amount of \$53,293.22 related to emergency pump repairs at the Intake Structure at Lake Somerville and authorize the Mayor to execute any necessary documentation.



Regular City Council
AGENDA ITEM 6-F.

Agenda Item: Award Bid No. 22-005 for Chlorine Dioxide to EVOQUA Water Technologies, Inc. Related to the Water Treatment Plant in the Amount of \$0.975 Per Pound and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-April 07, 2022

Department: Public Utilities

Staff Contact: Bobby Keene

SUMMARY STATEMENT:

The City of Brenham solicited bids for a one-year supply of chlorine dioxide to be delivered to the Lake Intake Pump Station.

This contract shall become effective from date of acceptance and approval by the City of Brenham. It shall remain in force and effect with firm fixed bid prices for a period of one year, beginning the date of award of contract. Upon completion of the term of the original contract and with mutual agreement of both parties, the contract may be extended for up to four additional one-year terms, five years total. The renewal will be under the same terms and conditions as the original contract.

In the event a new contract cannot be executed at the anniversary date of the original term or any renewal term, the contract may be renewed month-to-month until a new contract is executed.

On March 30, 2022, we received and opened two bids. Staff recommends awarding the bid to EVOQUA.

ATTACHMENTS:

(1) Bid Tabulation

RECOMMENDED ACTION:

Award Bid No. 22-005 for Chlorine Dioxide to EVOQUA Water Technologies, Inc. related to the Water Treatment Plant, in the amount of \$0.975 per pound, and authorize the Mayor to execute any necessary documentation.



BID TABULATION FORM

BID OPENING DATE: 30-Mar-22 **BID OPENING TIME:** 10:00 a.m.

BID NAME/NO: ITB 22-005; Chlorine Dioxide Treatment System

WITNESSED BY: Bobby Keene, Kyle Branham, Jerry Saldivar, Gerg Franco

ITEM	BIDDERS		
	International Dioxide Incorporated	EVOQUA	
Sodium Chlorite, 25% Aqueous Solution, Per Pound	1.10 per pound	.975 per pound	
Kemio Sensors	NB	\$2,250.00	
Glycine Reagent	NB	\$255.00	
CR-1 Reagent	NB	\$310.00	
CR-2 Reagent	NB	\$255.00	
Palintest Kemio Disinfection Kit	NB	\$3,050.00	



Regular City Council
AGENDA ITEM 7.

Agenda Item: Public Hearing, Discussion, and Possible Action on an Ordinance on Its First Reading Amending Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham, Part I, Section 5.02, Definitions; Part II, Division 1, Section 14.03(3) Limitations on Home Occupations; and Part II, Division 1, Section 14.04, Specifically Prohibited as Home Occupations (Case No. P-22-012)

Meeting Type: Regular Meeting-April 07, 2022

Department: Development Services

Staff Contact: Shauna Laauwe, AICP

SUMMARY STATEMENT:

For information on this item, please see the attached staff report.

On Monday, March 28, 2022, after conducting a Public Hearing, the Planning and Zoning Commission **voted unanimously to recommend approval** of the Text Amendment request as written.

ATTACHMENTS:

- (1) Ordinance for First Reading
- (2) Staff Report

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending Appendix A – Zoning of the Brenham Code of Ordinances, Part II, Division 1, Section 14- Home Occupations; Section 14.03(3) Limitations on Home Occupations, Section 14.04 Specifically Prohibited as Home Occupations, and Section 5.02 Definitions, in order to prohibit commercial cryptocurrency mining as a home occupation, referred to as Case No. P-22-012, and authorize the Mayor to execute any necessary documentation.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A – “ZONING”, OF THE CODE OF ORDINANCES BY AMENDING PART I, SEC 5.02 – DEFINITIONS TO ADD THE DEFINITIONS OF CRYPTOCURRENCY, COMMERCIAL CRYPTOCURRENCY MINING, SERVER FARM, AND HIGH-DENSITY LOAD SERVICE; AMENDING PART II, DIVISION 1, SEC 14.03(3), LIMITATIONS ON HOME OCCUPATIONS TO ADD ELECTRICAL TO THE LIMITATIONS IN EXCESS OF WHAT IS NORMAL IN THE RESIDENTIAL NEIGHBORHOOD, AND AMENDING PART II, DIVISION 1, SEC 14.04, SPECIFICALLY PROHIBITED AS HOME OCCUPATIONS, TO ADD COMMERCIAL CRYPTOCURRENCY MINING AND SERVER FARM AS PROHIBITED HOME OCCUPATIONS, AND CORRECT A CLERICAL ERROR IN 14.04(1) TO CHANGE THE REFERENCING SECTION TO 14.03; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS.

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the Code of Ordinances which regulate land uses and their physical development standards in Brenham; and

WHEREAS, the City Council recognizes the need from time to time to amend these regulations to help protect the integrity of Brenham’s residential neighborhoods; and

WHEREAS, the Planning and Zoning Commission and the City Council of the City of Brenham, Texas have published notices 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 full and complete opportunity to be heard; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during the special meeting held on March 28, 2022; 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:

SECTION 1.

That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas Part I, Section 5.02, Definitions, is hereby amended by adding the definitions for Cryptocurrency, Commercial Cryptocurrency Mining, Server Farm, and High-Density Load Service, to read as follows:

Cryptocurrency: A digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

Commercial Cryptocurrency Mining: The commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms employing data processing equipment. For purposes of this definition, any equipment which requires a High-Density Load Service, or any Server Farm, will presumably be a commercial cryptocurrency mining operation.

Server Farm: Three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

High-Density Load Service: Provision of electrical service where the requested load density, in the portion of the premises containing the load consuming equipment exceeds 250 kWh/ft²/year.

SECTION 2.

That Appendix A – Zoning, Part II, Division 1, Section 14.03 of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

(Section 14.03) Limitations on home occupations. A home occupation is a permitted use in a residential neighborhood only if less than fifty (50) percent of the floor space is allocated to the home occupation, is used by a resident of the home where the home occupation is located and is not described as a prohibited activity as provided below. However, no home occupations including those described above shall be permitted that does any of the following:

- (1) Changes the outside appearance of the dwelling;
- (2) Is visible from the street;
- (3) Generates traffic, parking, sewage, electrical, or water use in excess of what is normal in the residential neighborhood;
- (4) Results in the off-street or on-street parking of more than two (2) vehicles at any one time not owned by members of the occupant family;

- (5) Creates a hazard to persons or property;
- (6) Results in electrical interference;
- (7) Is a nuisance;
- (8) Results in the outside storage or display of anything;
- (9) Includes employment within the home or on the premises of persons other than members of the occupant family;
- (10) Displays signs or advertising of any type on premises, except as follows:
 - (a) Word of mouth by telephone or face to face.
 - (b) Free listing in the telephone directories and business journals and directories.
 - (c) Business cards and stationery.

SECTION 3.

That Appendix A – Zoning, Part II, Division 1, Section 14.04 of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

(Section 14.04) The following are specifically prohibited as home occupations:

- (1) Barber, beauty, and other personal service, unless the provision of such services is conducted within the limitations of a home occupation in section 14.03;
- (2) Animal hospitals, stables, or kennels;
- (3) Commercial Cryptocurrency Mining;
- (4) Server Farm;
- (5) Dance studios, schools;
- (6) Mortuaries;
- (7) Private clubs;
- (8) Repair shops;
- (9) Restaurants;
- (10) Automobile paint or repair shops;
- (11) Doctor, dentist, veterinarian, or other medically related office;
- (12) Rooming/boarding/lodging house

SECTION 4. **REPEALER CLAUSE**

Any other ordinance or parts of ordinances in conflict with this Ordinance are hereby expressly repealed.

SECTION 5.
SAVINGS

All provisions of any ordinance, resolution, or other action of the City in conflict with this Ordinance are hereby repealed to the extent they are in conflict. Any remaining portions of said ordinances, resolutions or other actions shall remain in full force and effect.

SECTION 6.
SEVERABILITY

Should any section, subsection, sentence or 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 7.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 8.
PROPER NOTICE AND MEETINGS

It is hereby officially found and determined that the meetings at which this Ordinance was passed were open to the public as required and that public notice of the time, place, and purpose of said meetings were given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and **APPROVED** on its first reading this the __ day of ____, 2022.

PASSED and **APPROVED** on its second reading this the __ day of ____, 2022.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



CASE NUMBER P-22-012

TEXT AMENDMENT – Home Occupations

REQUEST:

The City of Brenham initiated this request to amend the City of Brenham’s Code of Ordinances, Appendix A: Zoning, Part II, Division 1, Section 14 – Home Occupations; Section 14.03(3) Limitations on Home Occupations, Section 14.04 Specifically Prohibited as Home Occupations, and Section 5.02 Definitions, to prohibit commercial cryptocurrency mining as a home occupation.

BACKGROUND:

In the Fall 2021, a resident requested additional electrical amperage for a single-family home to support large, state-of-the-art computer systems needed for digicoin trading hobby. It was stated that “we are wanting to add 1 shelf rack of computers to the existing garage and that he simply wanted to pursue a hobby that requires commuter programming that requires power.” As is customary, utility billing verified with Development Services that the proposed use was allowable in the given zoning district (R-1). The resident provided Development Services a statement that the intended use was a hobby, that no signage would be installed, that no outside employees would be involved, that the use would not be visible from the street and that the use would meet all the parameters of Home Occupations as listed in Section 14.03 (see below under Proposed Amendments). Additionally, the Development Services and the Electrical Department met with the property owner to discuss the additional electrical upgrades for the proposed use to allow an additional 1200 amps of electrical service to the standard 200 amps. The use was approved and subsequently the electrical meters were installed and passed an electrical inspection. Since approval, it has come to City Staff’s attention that the electricity load for the residential property excessive with electrical usage, to the point the usage is the same as found in large commercial contracts. One noteworthy difference is the deposit associated with utility accounts based on use of the property. Currency mining located in a residential home would not require any additional deposit for service and properties with currency mining generate bills that far exceed the \$300 deposit if a bill were to default. Further research by Staff has resulted in findings that the new cryptocurrency mining endeavor has additional impacts and should be prohibited in residential areas. Therefore, the City of Brenham is requesting a text amendment to the Zoning Ordinance to provide new definitions that regard cryptocurrency mining, and language to Section 14- Home Occupations, that would prohibit future requests from being allowed as a home occupation or hobby.

PROPOSED AMENDMENTS:

Appendix A Zoning, Part 1. General Provisions:

Section 5.02 – Definitions:

- Cryptocurrency: A digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, operating independently of a central bank.

- Commercial cryptocurrency mining: The commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms employing data processing equipment. For purposes of this definition, any equipment which requires a High-Density Load Service, or any Server Farm, will presumably be a commercial cryptocurrency mining operation.
- Server Farm: Three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.
- High-Density Load Service: Provision of electrical service where the requested load density, in the portion of the premises containing the load consuming equipment exceeds 250 kWh/ft²/year.

Appendix A, Part 2, Division 1, Section 14 – Home Occupations (Additions are shown in red, existing ordinance shown in black.)

(Section 14.03) Limitations on home occupations. A home occupation is a permitted use in a residential neighborhood only if less than fifty (50) percent of the floor space is allocated to the home occupation, is used by a resident of the home where the home occupation is located and is not described as a prohibited activity as provided below. However, no home occupations including those described above shall be permitted that does any of the following:

- (1) Changes the outside appearance of the dwelling;
- (2) Is visible from the street;
- (3) Generates traffic, parking, sewage, **electrical**, or water use in excess of what is normal in the residential neighborhood;
- (4) Results in the off-street or on-street parking of more than two (2) vehicles at any one time not owned by members of the occupant family;
- (5) Creates a hazard to persons or property;
- (6) Results in electrical interference;
- (7) Is a nuisance;
- (8) Results in the outside storage or display of anything;
- (9) Includes employment within the home or on the premises of persons other than members of the occupant family;
- (10) Displays signs or advertising of any type on premises, except as follows:
 - (a) Word of mouth by telephone or face to face.
 - (b) Free listing in the telephone directories and business journals and directories.
 - (c) Business cards and stationery.

(Section 14.04) The following are specifically prohibited as home occupations:

- (1) Barber, beauty, and other personal service, unless the provision of such services is conducted within the limitations of a home occupation in **section 14.03**;
- (2) Animal hospitals, stables, or kennels;
- (3) **Commercial Cryptocurrency mining**;
- (4) **Server farm**;
- (5) Dance studios, schools;
- (6) Mortuaries;
- (7) Private clubs;
- (8) Repair shops;
- (9) Restaurants;
- (10) Automobile paint or repair shops;
- (11) Doctor, dentist, veterinarian or other medically related office;

- (12) Rooming/boarding/lodging house.

ANALYSIS:

As cited in the city's adopted Zoning Ordinance, site development standards are established for the purpose of promoting and protecting the health, safety, morals and general welfare of the residents, citizens and inhabitants of the City of Brenham and for the protection and preservation of the small-town character of Brenham, including historical places, places of cultural importance and places that reflect the predominant community values as reflected in the City's Comprehensive Plan. However, staff finds that from time-to-time it is necessary to update the Zoning Ordinance and existing site development standards to accommodate development and modernize development requirements.

Cryptocurrency Mining is a relatively new venture that communities are just now learning of the negative effects to residents and communities as a whole. Staff first looked for guidance from the American Planning Association and could not find any planning documents or action plans to mitigate the new technology and electrical use. Among Staff's research, we did find numerous articles and a detailed and informative presentation that was given by Andy Wendell, Director of Customer Services of Chelan County Public Utility District in Chelan County, Washington to the Chelan County Commission on September 25, 2021 (See Exhibit A). In Mr. Wendell's report, it details how one cryptocurrency mining operation uses the same amount of electricity as five (5) homes. A typical street of fifteen (15) residential homes would share five (5) transformers and utilize a typical urban underground distribution system. However, if one of those homes began a home occupation (or hobby) of cryptocurrency mining, the same street would now have the equivalent of twenty (20) residential homes, require at least two (2) new transformers, new secondary supply cables, and replacement and upgrading of the primary cable. If cryptocurrency is decentralized and allowed in residential zoned areas, it could quickly result in the need to add neighborhood substations, upgrading existing transformers, adding high voltage transmissions, and upgrading existing neighborhood distribution lines. One cryptocurrency mining use will not have a huge impact, but additional cryptocurrency mining operations in residential areas may quickly result in the need for additional and costly infrastructure. Given the potential impacts to the increased electrical use and existing infrastructure, Staff finds that prohibiting cryptocurrency mining in residences as home occupations or hobbies in Section 14 of the Zoning Ordinance as a beneficial first step in regulating the use.

PUBLIC COMMENTS:

The Notice of Public Hearing for the proposed Text Amendment was published in the Brenham Banner on March 17, 2022. Any public comments submitted to staff will be provided prior to the Planning and Zoning Commission and City Council prior to their decision on the matter.

STAFF RECOMMENDATION:

Staff recommends **approval** of an ordinance to amend Appendix A – Zoning of the Brenham Code of Ordinances, Part II, Division 1, Section 14- Home Occupations; Section 14.03(3) Limitations on Home Occupations, Section 14.04 Specifically Prohibited as Home Occupations, and Section 5.02 Definitions, to prohibit commercial cryptocurrency mining as a home occupation.

Attachments:

- (1) PowerPoint Presentation to the Chelan County PUD by Andy Wendell – Director of Customer Services, Chelan County Planned Utility District (Chelan County, Washington)

Attachment

Presentation (condensed version) given regarding Cryptocurrency:
Chelan County, Washington State



What we are hearing through outreach

- Establishing proper zoning for cryptocurrency mining is a County and municipal responsibility
- Cryptocurrency mining in residential spaces introduces unique safety and reliability concerns in neighborhood electrical grids.
- Cryptocurrency mining is an Industrial / Commercial use of electricity
- Cryptocurrency mining is best served in Industrial / Commercial zones
- PUD should ensure electrical capacity for traditional non-crypto mining growth

If traffic volume in the City increased to
5x times what it is today...

What would you do ?



100 Watt

Turned on for (1 hour) = 100 WattHour



100 Watt

100 Watt

100 Watt



100 Watt

100 Watt

100 Watt



100 Watt

100 Watt

100 Watt

100 Watt

1,000 Watts

Turned on for (1 hour) = or

1,000 WattHour

1 KiloWattHour
(1 Kwh)

JUNE 2018						
Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Free Printable Calendars From twincalendar.com

$$30 \text{ days} \times 24 \text{ hrs} = 720 \text{ hour / Month}$$



Wenatchee Residential Service

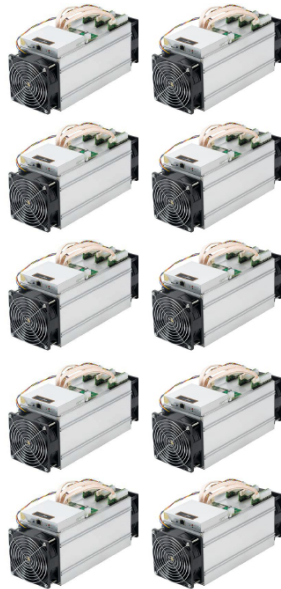
$$\text{Average Monthly Usage} = \sim 1,660 \text{ KiloWattHours}$$

or

$$(1,660 \text{ KWhs})$$

$$\text{Cost: } (1,660 \text{ KWhs}) \times (\$0.032/\text{KWh}) = \$53.12 / \text{Month}$$

Typical (residential) Cryptocurrency Operation

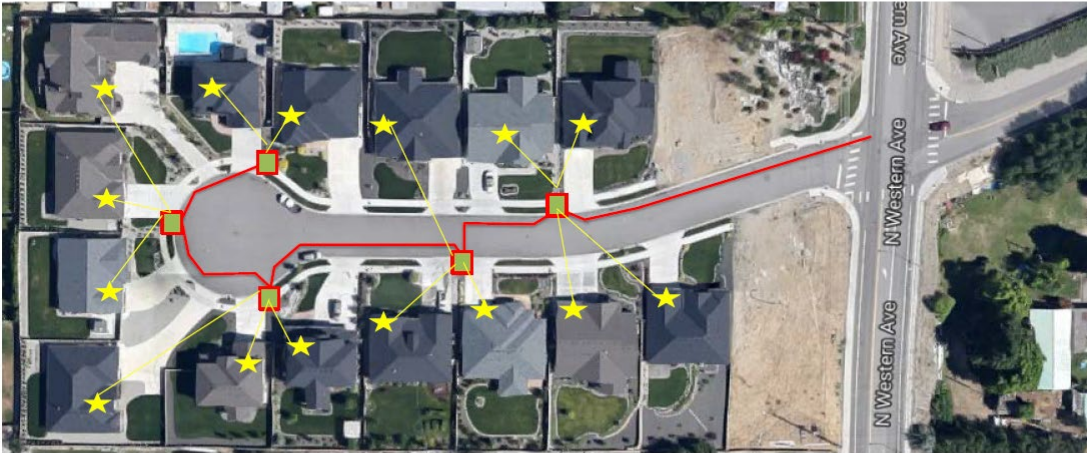


$$(10) \times (1,200 \text{ Watts}) = 12,000 \text{ Watts}$$

$$\begin{aligned} &> (10) \text{ ASIC Miner} \\ &24 \times 7 \text{ Monthly Usage} \\ &\quad (720 \text{ Hours}) \end{aligned} = \begin{aligned} &8,640 \text{ KiloWattHours} \\ &\text{or} \\ &(8,640 \text{ KWhs}) \end{aligned}$$

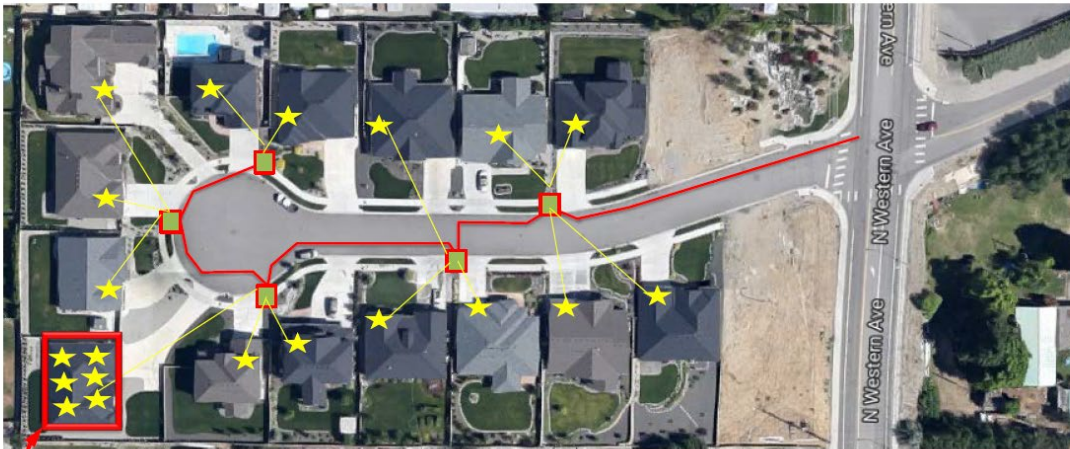
$$5 \times (\text{Typical residential home usage})$$

Typical Street Development



- 15 Residential Homes
- (5) Shared Transformers,
- Typical Urban underground distribution system

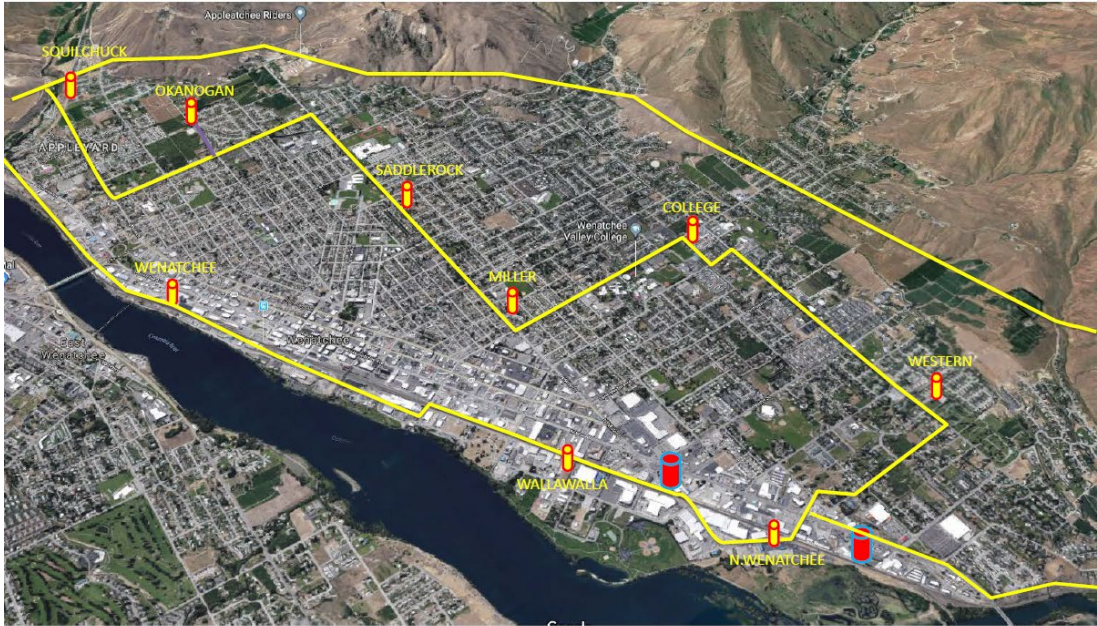
Typical Street Development With (1) Typical Mining Operation



**Equivalent to adding
5 additional homes**

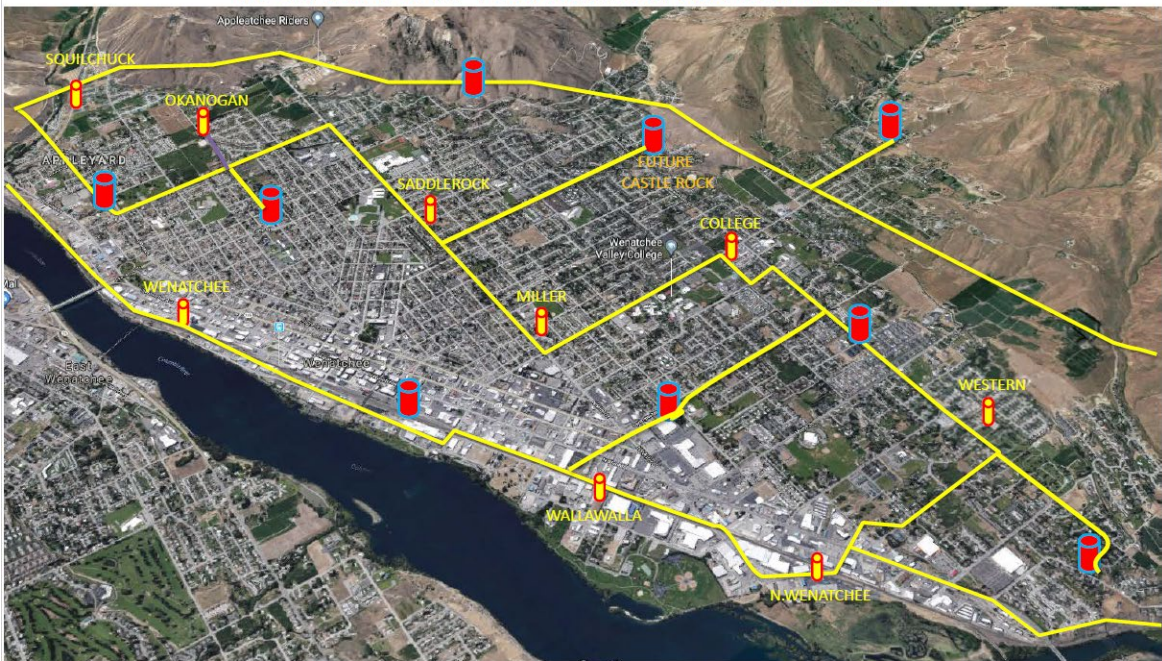
- Equivalent of ~~15~~ **20** Residential Homes
- Requires at least (2 New Transformers)
- New Secondary Supply Cables
- Replacement & Upgrading of the primary cable

If Cryptocurrency load is centralized
& zoned similar as Industrial



Electrical infrastructure impacts are limited to the specific Industrial/Crypto zoned areas

If Cryptocurrency load is De-Centralized
& allowed in residential zoned areas



Electrical infrastructure impacts would be far more extensive & costly

If Cryptocurrency load is De-Centralized
& allowed in residential zoned areas:



Adding neighborhood Substations



Upgrading existing transformers



Adding High voltage Transmission

Material
Change to
Current Cost
Models



Upgrading existing neighborhood
Distribution lines



Regular City Council
AGENDA ITEM 8.

Agenda Item: Presentation and Discussion on the Upcoming Brenham Independent School District's Bond Election

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Carolyn Miller

SUMMARY STATEMENT:

Brenham ISD Superintendent Dr. Tylor Chaplin will give a presentation regarding the upcoming Brenham ISD Bond Election and answer any questions Councilmembers may have.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action; discussion only.



Regular City Council
AGENDA ITEM 9.

Agenda Item: Presentation by Bickerstaff, Heath Delgado Acosta, LLP and Discussion of the Initial Assessment Regarding the Need to Redistrict the City Councilmember Wards Based on Recently Issued 2020 Census Data

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

The City's initial redistricting assessment shows that the total population of Brenham on April 1, 2020 was 17,369 persons. This represents an increase in population from 15,716 person on April 1, 2010, or approximately 10.51 percent. Based on the new population numbers, the ideal City councilmember ward should now contain 4,342 persons.

In looking more closely at the numbers, Councilmember Ward 3 (Kenjura) has the largest population, which is approximately 8.42% (366 people) above the ideal ward size. Councilmember Ward 2 (Wright) has the smallest population, which is approximately 9.03% (392 people) below the size of the ideal ward. The total maximum deviation between the four existing councilmember wards for the city is 17.46% which exceeds the standard of 10%. Based on this information, the city should redistrict to bring its wards within the 10% range permitted by law.

Syd Falk with Bickerstaff Heath Delgado Acosta, LLP will be at the meeting to present the assessment in more detail and provide the Council with direction on the next steps in the redistricting process.

ATTACHMENTS:

(1) Initial Assessment

RECOMMENDED ACTION:

No action; discussion only.



March 30, 2022

Mayor Milton Y. Tate, Jr. and City Councilmembers
City of Brenham, Texas
200 W. Vulcan
Brenham, TX 77833

Re: *Initial Assessment considering 2020 Census data*

Dear Mayor Tate and City Councilmembers:

This is the Initial Assessment letter for the City of Brenham. Our review of the recently released 2020 Census population and demographic data for the City shows that the City's councilmember wards are sufficiently out of population balance that you should redistrict. We are prepared to meet with the City Council to review the Initial Assessment and to advise the City Council on how to proceed to redistrict the City councilmember wards to bring them into population balance for use in the 2022 election cycle.

This letter presents a brief overview of basic redistricting principles to assist you in preparing for our presentation on the Initial Assessment. We also set out in the attachments (Attachment H) suggested posting language for the meeting at which the Initial Assessment will be presented. Note that this posting language includes agenda items for the adoption of redistricting criteria and guidelines. These are matters that should be addressed early in the redistricting process to enable us to proceed efficiently. We will be working with you to develop the appropriate language for your adoption of redistricting criteria and guidelines.

In redistricting the councilmember wards, the City will need to be aware of the legal standards that apply. We will review these principles in detail with the City Council at the presentation on the Initial Assessment. There are three basic legal principles that govern the redistricting process: (i) the "one person-one vote" (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. These principles are discussed in detail in the attachments to this letter, which we urge you to read and review carefully.

The process we have outlined for the redistricting process and the policies and procedures that we are recommending the Council adopt will ensure that the City adheres to these important legal principles and that the rights of protected minority voters in the political subdivision are accorded due weight and consideration.

The "One Person – One Vote" Requirement: Why You Should Redistrict

The "one person-one vote" requirement of the United States Constitution requires that members of an elected body be chosen from ward of substantially equal population and applies to city councils. Exact equality of population is not required, but a "total maximum deviation" of no more than ten percent in total population between the most populated and the least populated city

councilmember wards based on the most recent census should be achieved. This maximum deviation of ten percent constitutes a rebuttable presumption of compliance with the one person-one vote requirement. If a city's councilmember wards do not fall within the ten percent maximum deviation, the city is at substantial risk of being sued for violation of one person-one vote standards.

The population and demographics of all the current City councilmember wards are presented partially here and in more detail in Attachment A.

The tables in Attachment A show that the total population of the City on April 1, 2020, was 17,369 persons. This represents an increase in population from 15,716 persons on April 1, 2010, or approximately 10.51 percent. The ideal City councilmember ward should now contain 4,342 persons (total population / 4 single-member ward).

Councilmember Ward 3 has the largest population, which is approximately 8.42 percent above the size of the ideal ward (or 366 people). Ward 2 has the smallest population, which is approximately 9.03 percent below the size of the ideal ward (or 392 people). The total maximum deviation between the four existing councilmember wards for the City, therefore, is 17.46 percent. This total maximum deviation exceeds the standard of ten percent that generally has been recognized by the courts as the maximum permissible deviation. Accordingly, the City should redistrict to bring its City councilmember wards within the ten percent range permitted by law.

Section 2 of the Voting Rights Act: Avoiding discrimination claims

Section 2 of the federal Voting Rights Act prohibits any voting standard, practice, or procedure – including new redistricting plans – that have the effect of discriminating against a protected minority group. The principles of Section 2's nondiscrimination mandate are discussed in Attachment C.

The data in the Population Tables in Attachment A as well as the data in the maps in Attachment B, which show the geographic distribution of the primary minority groups in the City, will also be important in assessing the potential for Voting Rights Act Section 2 liability. (See Attachment C for a discussion of Section 2.)

Shaw v Reno: Additional equal protection considerations

As noted above, in order to comply with Section 2, the City must consider race when drawing wards. The 1993 Supreme Court case *Shaw v. Reno*, however, limits how and when race can be a factor in the districting decisions. Thus, local governments must walk a legal tightrope, where the competing legal standards must all be met. The *Shaw v. Reno* standard requires that there be a showing that (1) the race-based factors were used in furtherance of a “compelling state interest” and (2) their application be “narrowly tailored,” that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. (*Shaw v. Reno* is discussed in Attachment C.) We will guide the City through proper application of this principle.

Adoption of redistricting criteria and public participation guidelines

At the presentation of the Initial Assessment we will recommend certain “traditional” redistricting criteria that the City may require all redistricting plans to follow. These criteria generally track the legal principles that the courts and the Department of Justice have found to be appropriate elements in sound redistricting plans. We will also recommend certain public participation guidelines that the City may wish to adopt to ensure fair and adequate public participation in the redistricting process, and that any comments or proposed plans submitted by members of the public are written, clear, and complete, and the submitter provides contact information.

Once redistricting guidelines and criteria are adopted and the City Council gives instructions about how it would like plans to be developed considering this Initial Assessment and the applicable legal standards, we can begin to assist the City in the development of plans for consideration.

We hope this Initial Assessment discussion is helpful to you and that it will guide the City Council as it executes the redistricting process. We look forward to meeting with the Council to review this Initial Assessment and to answer any questions you may have concerning any aspect of that process. Please feel free to call me in the interim as we prepare for the presentation and let me know if there is any additional information you may require.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sydney W. Falk, Jr.", is positioned above the printed name.

Sydney W. Falk, Jr.

Encl.

ATTACHMENT A
INITIAL ASSESSMENT POPULATION TABLES

Demographics Report - Summary 2020 Census Total Population

District	Persons	Ideal Size	Deviation	Hispanic % of Total Population	Non-Hispanic White % of Total Population	Non-Hispanic Black % of Total Population	Non-Hispanic Asian % of Total Population	Non-Hispanic Other % of Total Population
1	4,655	4,342	7.20%	21.87%	52.76%	18.09%	3.29%	4.04%
2	3,950	4,342	-9.03%	26.23%	28.18%	40.63%	1.34%	3.62%
3	4,708	4,342	8.42%	12.79%	69.73%	11.24%	3.10%	3.14%
4	4,056	4,342	-6.59%	23.84%	48.74%	21.30%	2.02%	4.12%

TOTAL: 17,369 20.86% 50.83% 22.11% 2.50% 3.72%

Ideal Size: 17369 / 4 = 4342

Total Population: 17,369

Overall Deviation: 17.46%

Some percentages may be subject to rounding errors.

Demographics Report - Summary 2020 Census Voting Age Population

District	Total VAP*		Hispanic % of Total VAP	Non-Hispanic Anglo % of Total VAP	Non-Hispanic Black % of Total VAP	Non-Hispanic Asian % of Total VAP	Non-Hispanic Other % of Total VAP
1	3,558		19.34%	57.34%	17.17%	3.46%	2.73%
2	2,956		22.60%	31.39%	42.29%	1.08%	2.64%
3	3,662		9.64%	75.04%	9.72%	3.41%	2.18%
4	3,368		19.45%	52.02%	22.80%	1.93%	3.86%
	13,544		17.45%	55.14%	22.04%	2.55%	2.84%

* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

Plan Name: Brenham City Council Districts -2021 Initial Assessment

Demographics Report - Detailed 2020 Census Total Population

District	Persons	Ideal Size	Deviation	Hispanic	Hispanic % of Total Population	ANGLO	Non-Hispanic Anglo % of Total Population	Black	Black % of Total Population	Asian	Asian % of Total Population	AM Indian Native	IND / NAT % TOT Pop.	Haw Pac. Isl.	HAW/ PAC % of Total Pop.	Other	Other % of Total Pop.	Two or More Races	Two or More Races % Tot Pop
1	4,655	4,342	7.20%	1,018	21.87%	2,456	52.76%	842	18.09%	153	3.29%	15	0.32%	2	0.04%	12	0.26%	159	3.42%
2	3,950	4,342	-9.03%	1,036	26.23%	1,113	28.18%	1,605	40.63%	53	1.34%	10	0.25%	0	0.00%	13	0.33%	120	3.04%
3	4,708	4,342	8.42%	602	12.79%	3,283	69.73%	529	11.24%	146	3.10%	4	0.08%	4	0.08%	15	0.32%	125	2.66%
4	4,056	4,342	-6.59%	967	23.84%	1,977	48.74%	864	21.30%	82	2.02%	7	0.17%	8	0.20%	22	0.54%	130	3.21%
TOTAL:	17,369			3,623	20.86%	8,829	50.83%	3,840	22.11%	434	2.50%	36	0.21%	14	0.08%	62	0.36%	534	3.07%

Ideal Size: 17369 / 4 = 4342

Total Population: 17,369

Overall Deviation: 17.46%

Some percentages may be subject to rounding errors.

Plan Name: Brenham City Council Districts -2021 Initial Assessment
Demographics Report - Detailed 2020 Census Voting Age Population



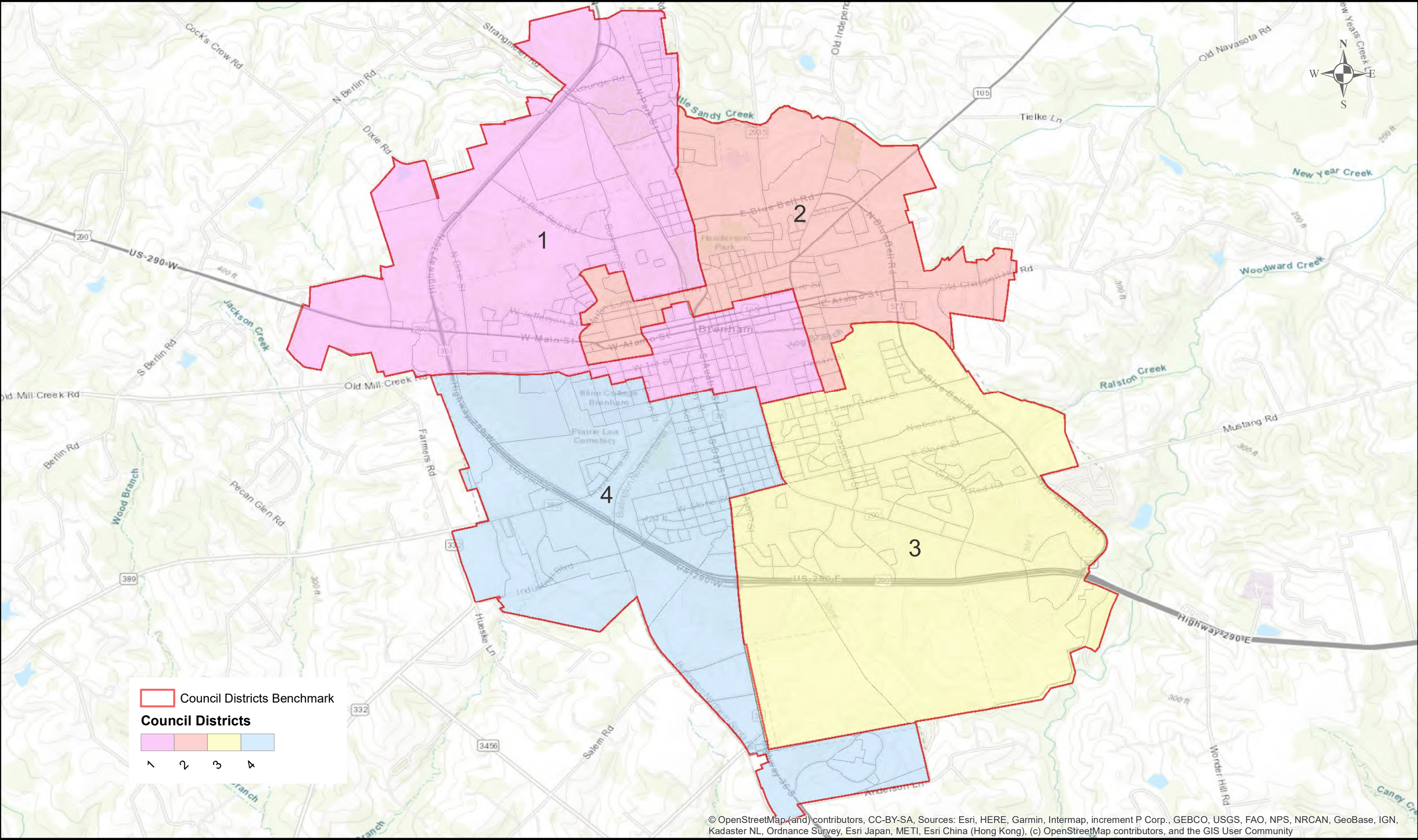
District	Total VAP	Hispanic VAP	% Hispanic VAP	Anglo VAP	% Anglo VAP	Black VAP	% Black VAP	Asian VAP	% Asian VAP	AM IND NATIVE VAP	% AM IND NATIVE VAP	HAW/PAC VAP	% HAW/PAC VAP	Other VAP	% Other VAP	Two or More Races VAP	% Two or more VAP
1	3,558	688	19.34%	2,040	57.34%	611	17.17%	123	3.46%	12	0.34%	2	0.06%	12	0.34%	71	2.00%
2	2,956	668	22.60%	928	31.39%	1,250	42.29%	32	1.08%	5	0.17%	0	0.00%	8	0.27%	65	2.20%
3	3,662	353	9.64%	2,748	75.04%	356	9.72%	125	3.41%	4	0.11%	4	0.11%	2	0.05%	70	1.91%
4	3,368	655	19.45%	1,752	52.02%	768	22.80%	65	1.93%	7	0.21%	8	0.24%	20	0.59%	95	2.82%
TOTALS:	13,544	2,364	17.45%	7,468	55.14%	2,985	22.04%	345	2.55%	28	0.21%	14	0.10%	42	0.31%	301	2.22%

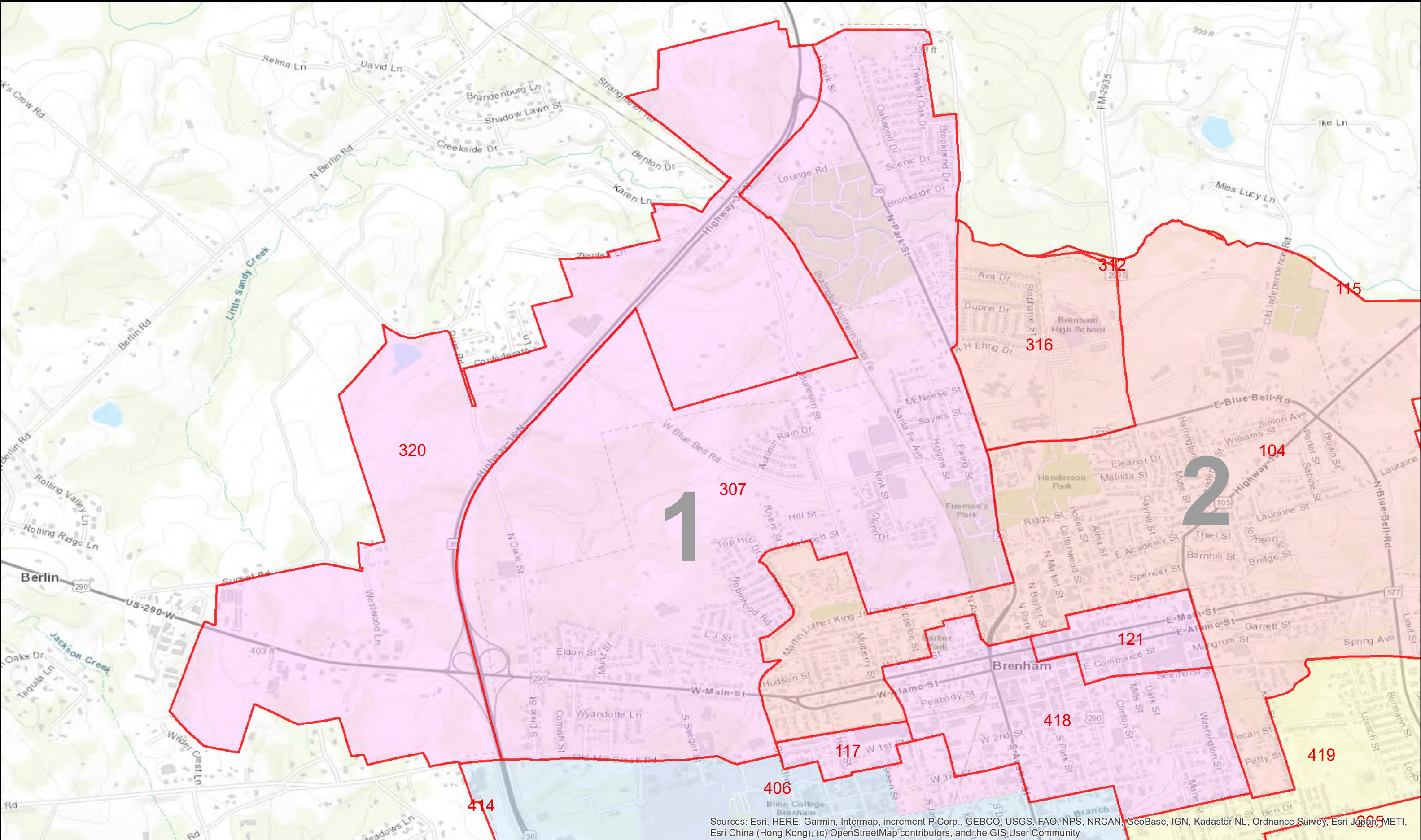
* VAP - Voting Age Population

Some percentages may be subject to rounding errors.

ATTACHMENT B

MAPS



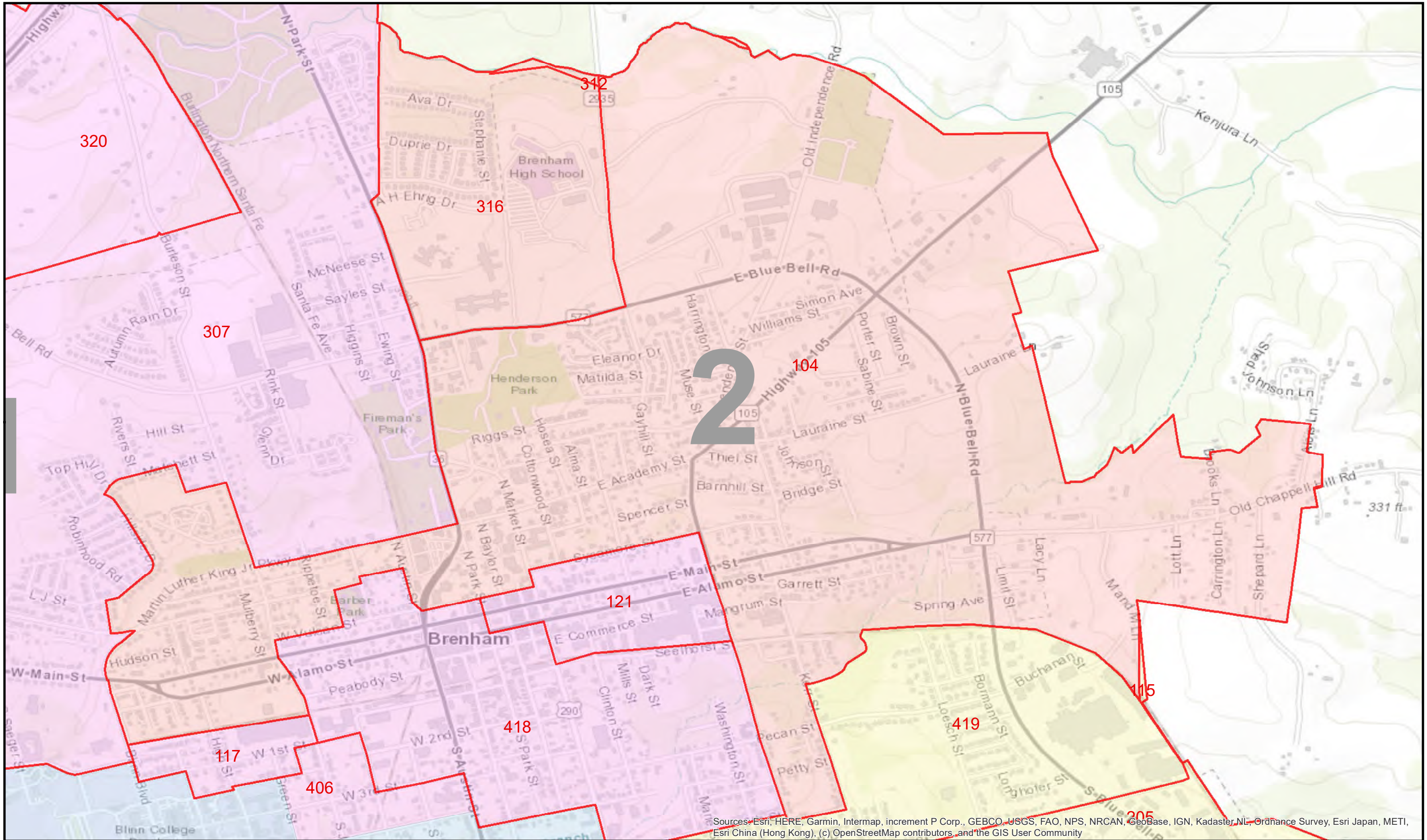


Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

City of Brenham Council Districts 2021 Initial Assessment

District 1





Created: 10/22/2021

0 0.075 0.15 0.225 0.3 Miles

Council Districts

1 2 3 4

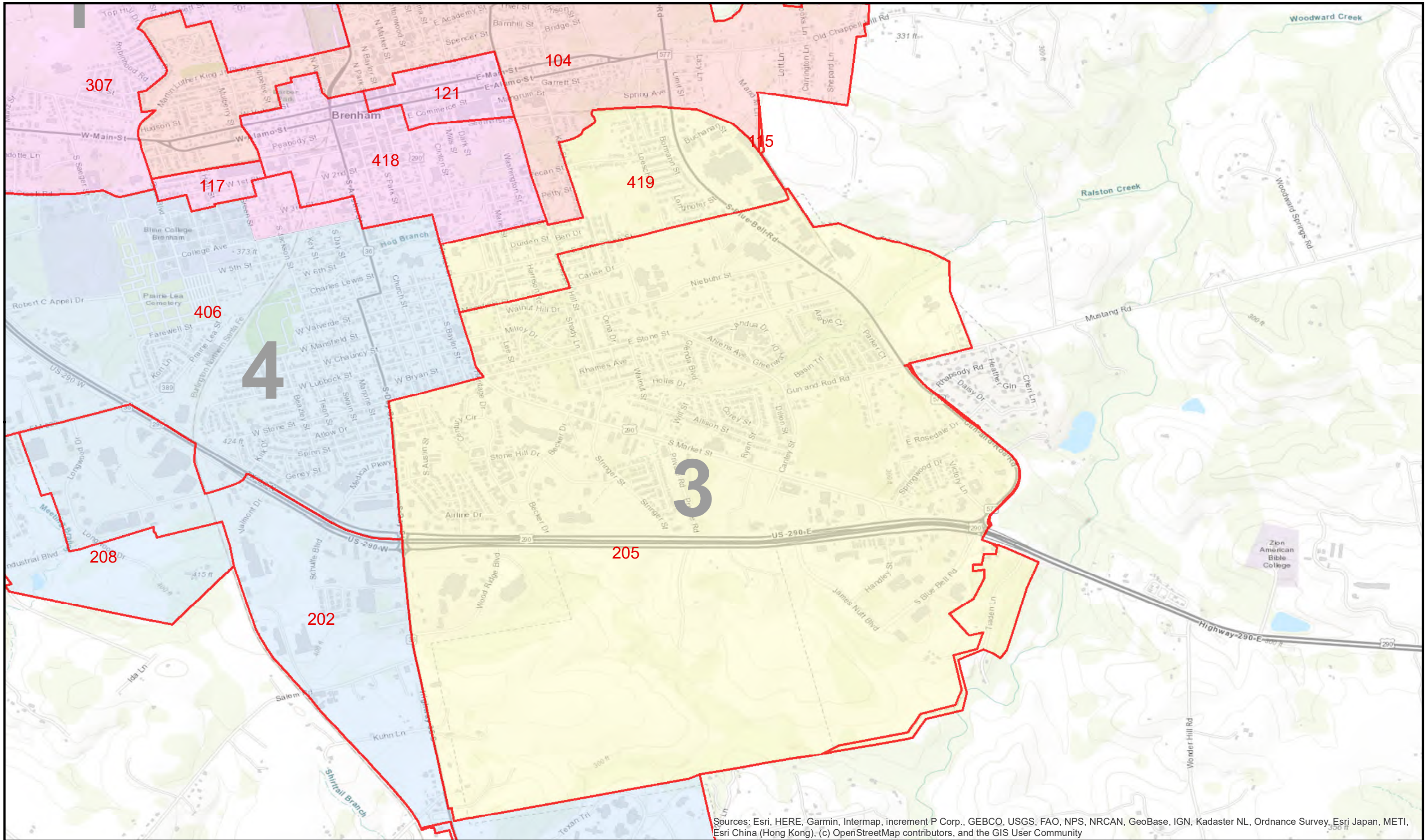
2020 VTD's

City of Brenham Council Districts 2021 Initial Assessment

District 2

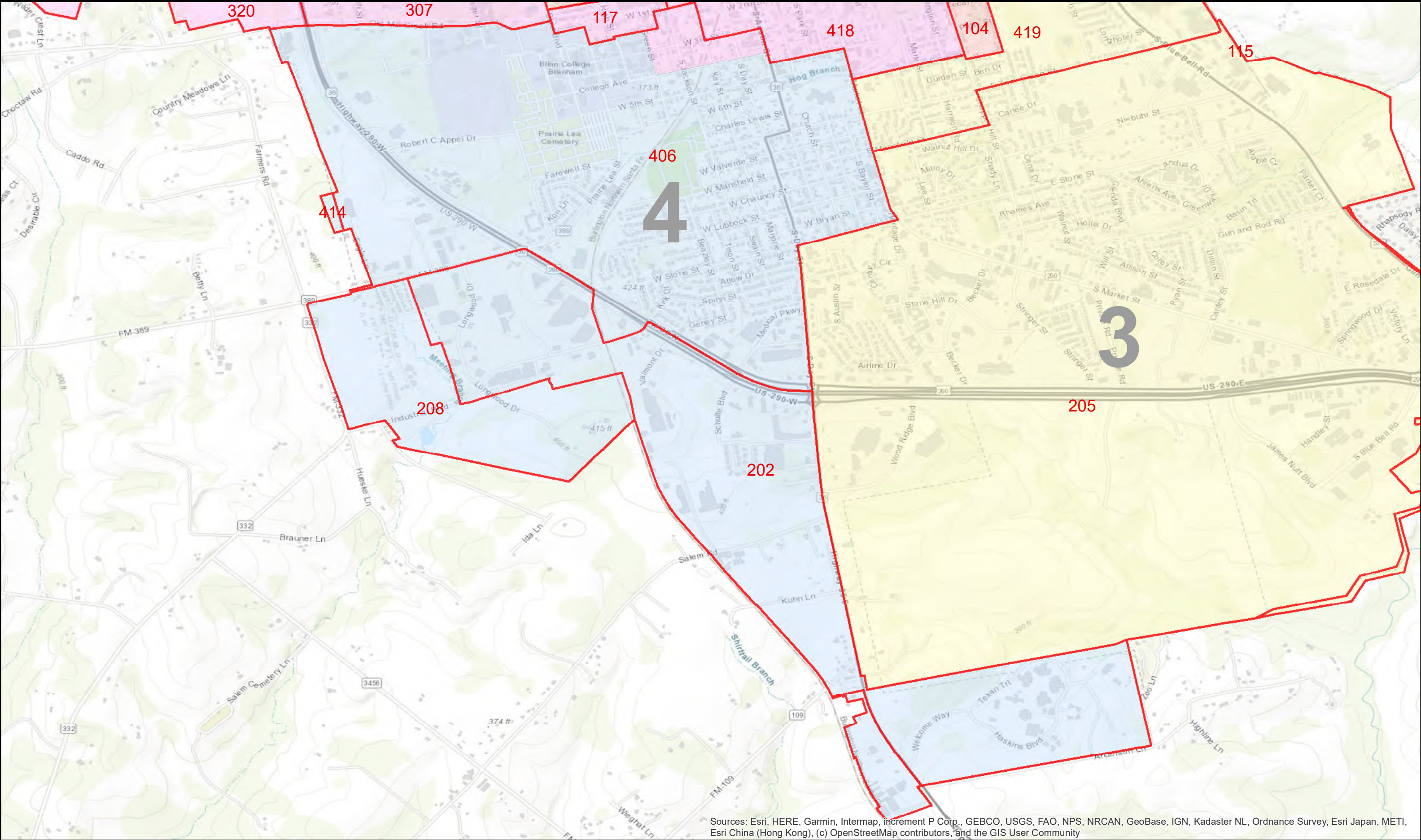
© 2021 Bickerstaff Heath Delgado Acosta LLP
Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau





Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community





Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community



Created: 10/22/2021

0

0.125

0.25

0.375

0.5

Miles

Council Districts

1

2

3

4

2020 VTD's

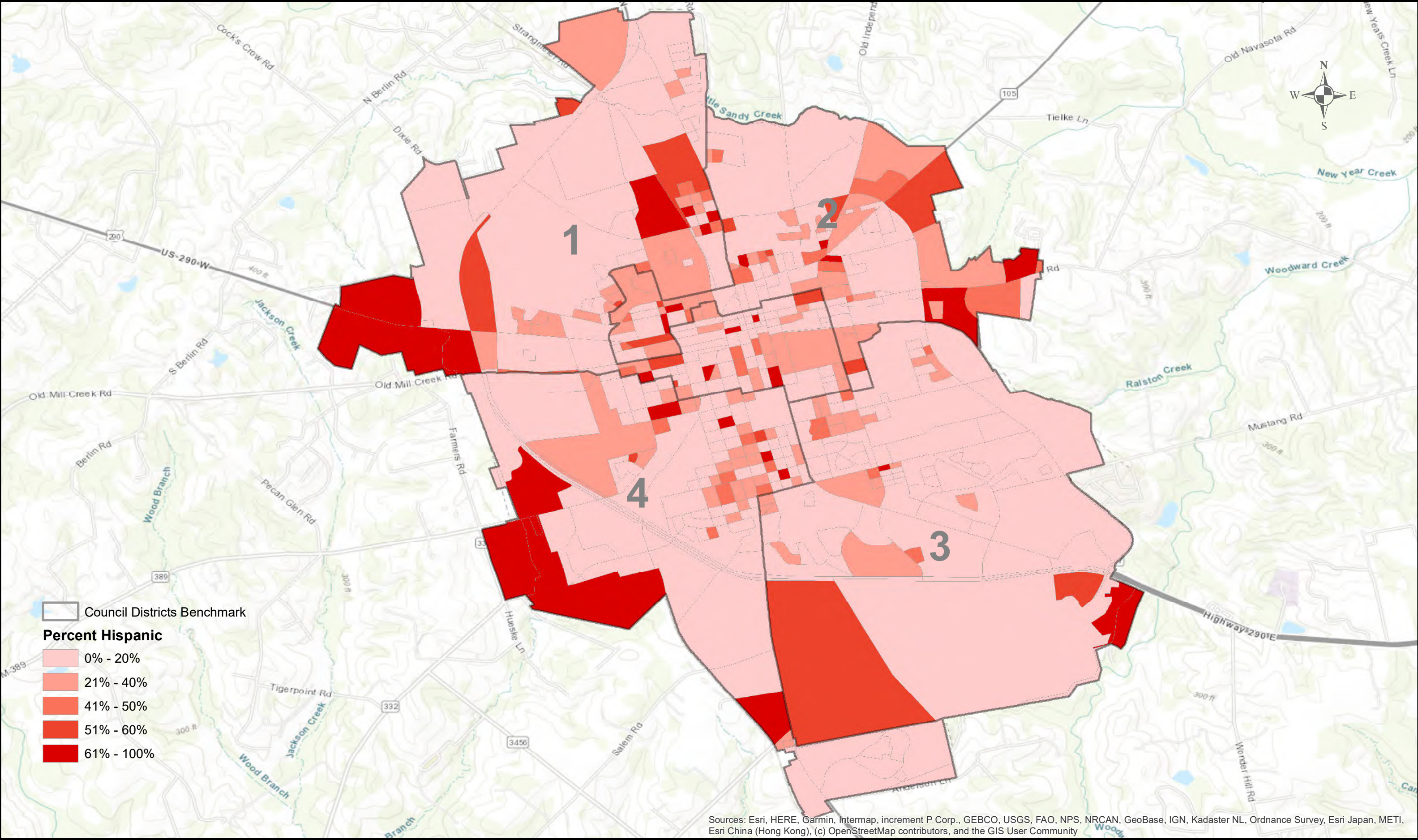
City of Brenham Council Districts

2021 Initial Assessment

District 4

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Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau





0 0.275 0.55 0.825 1.1 Miles

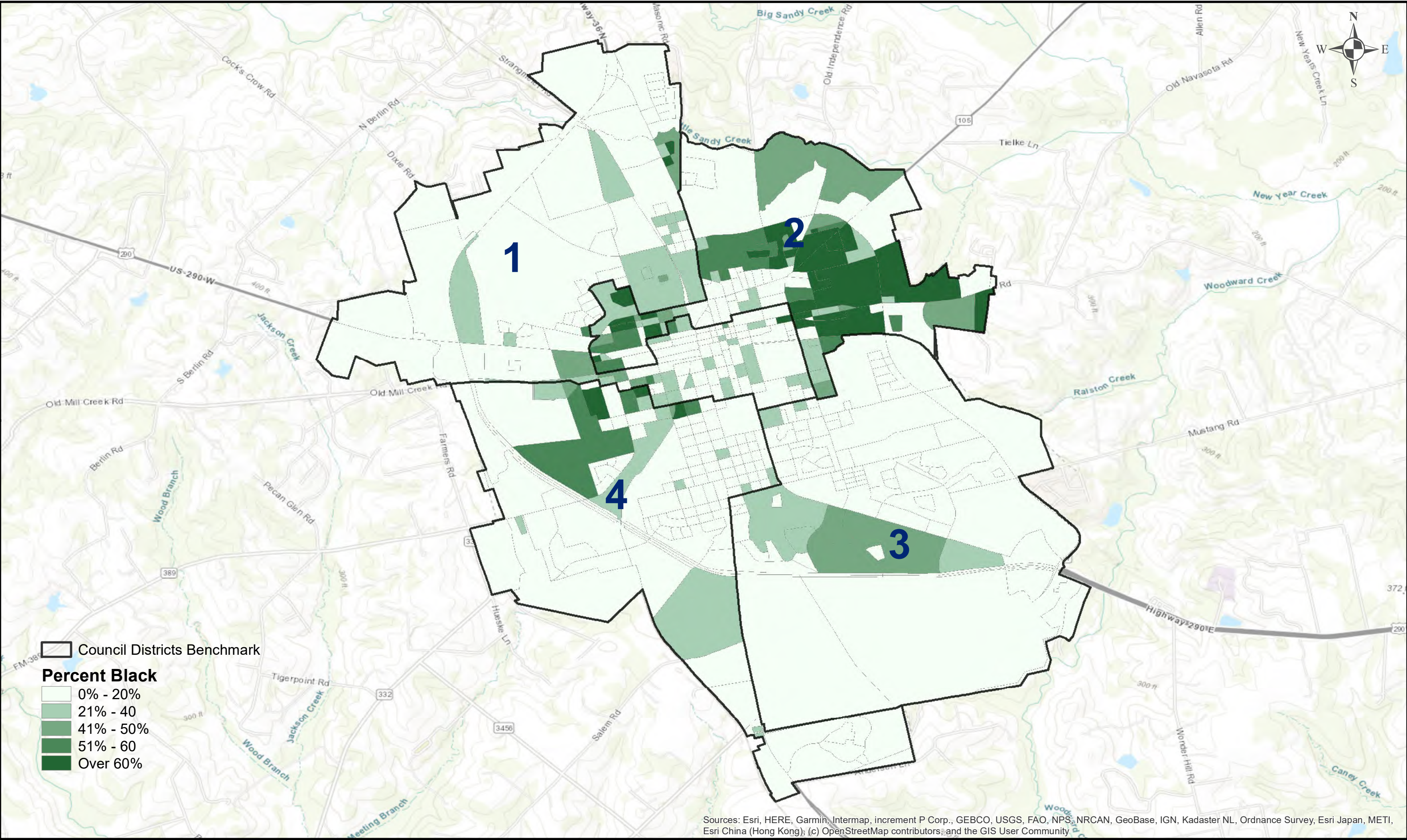
City of Brenham Council Districts- 2021 Initial Assessment

Percent Hispanic by 2020 Census Block

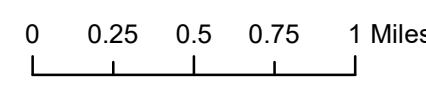
Created: 10/21/2021

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Data Source: Roads, Water and other
features obtained from the 2020
Tiger/line files, U.S. Census Bureau





Created: 10/22/2021



City of Brenham Council Districts- 2021 Initial Assessment

Percent Black by 2020 Census Block

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Data Source: Roads, Water and other features obtained from the 2020 Tiger/line files, U.S. Census Bureau



ATTACHMENT C
LEGAL PRINCIPLES

LEGAL PRINCIPLES GOVERNING THE REDISTRICTING PROCESS

There are three basic legal principles that govern the redistricting process: (i) the “one person-one vote” (equal population) principle; (ii) the non-discrimination standard of Section 2 of the Voting Rights Act; and (iii) the *Shaw v. Reno* limitations on the use of race as a factor in redistricting. In addition, although it will not apply to the 2021 redistricting, Section 5 of the Voting Rights Act, which applied a “retrogression” standard to minority group populations in specific districts, may be helpful as a tool to analyze potential Section 2 issues regarding a proposed new plan.

The terminology of redistricting is very specialized and includes terms that may not be familiar, so we have included as Attachment D to this Initial Assessment letter a brief glossary of many of the commonly-used redistricting terms.

The “One Person – One Vote” Requirement: Why You Redistrict

The “one person-one vote” requirement of the United States Constitution requires that members of an elected body be drawn from districts of substantially equal population. This requirement applies to the single-member districts of “legislative” bodies such as commissioners courts and other entities with single-member districts such as school boards or city councils.

Exact equality of population is not required for local political subdivisions. However, they should strive to create districts that have a total population deviation of no more than 10 percent between their most populated district and the least populated district. This 10 percent deviation is usually referred to as the “total maximum deviation.” It is measured against the “ideal” or target population for the governmental entity based on the most recent census. The 10 percent standard is a rebuttable presumption of compliance with the one person-one vote requirement.

A governing body is therefore required to determine whether the populations of its single-member districts (including school board trustee districts) are within this 10 percent balance based on 2020 Census population data. If the population deviation among the districts exceeds the permissible 10 percent total maximum deviation, the entity must redistrict, that is, redraw the boundaries of the individual districts so that the total populations of all the new districts are within the permissible 10 percent limit. A hypothetical example of how deviation is calculated is given in Attachment E.

Generally, redistricting will use the Census Bureau’s recently released population data for the 2020 Census in drawing new redistricting plans – the so-called “PL 94-171” data. In any legal challenge to a new plan, it is this data that likely would be applied. Although several types of population data are provided in the PL 94-171 files, redistricting typically is based upon total population.

Official Census data should be used unless the governmental entity can show that better data exists. The court cases that have dealt with the question have made it clear that the showing

required to justify use of data other than Census data is a very high one – impossibly high at a time so close to the release of new Census data. As a practical matter, therefore, we recommend that entities use the 2020 Census data in their redistricting processes. We have based the Initial Assessment on PL 94-171 total population data; the relevant data are summarized in Attachment A.

In the redistricting process, each governmental entity will use a broad spectrum of demographic and administrative information to accomplish the rebalancing of population required by the one person-one vote principle. The charts provided with this report not only show the total population of the entity but also give breakdowns of population by various racial and ethnic categories for the entity as a whole and for each single-member district.

Census geography

These single-member population data are themselves derived from population data based on smaller geographical units. The Census Bureau divides geography into much smaller units called “census blocks.” In urban areas, these correspond roughly to city blocks. In more rural areas, census blocks may be quite large. Census blocks are also aggregated into larger sets called “voting tabulation districts” or “VTDs,” which often correspond to county election precincts.

For reasons concerning reducing the potential for *Shaw v. Reno*-type liability, discussed below, we recommend using VTDs as the redistricting building blocks where and to the extent feasible. In many counties this may not be feasible.

Census racial and ethnic categories

For the 2020 Census, the Census Bureau recognized over 100 combinations of racial and ethnic categories and collected and reported data based on all of them. Many of these categories include very few persons, however, and will not therefore have a significant impact on the redistricting process. The charts that accompany this report include only eight racial and ethnic categories that were consolidated from the larger set. The entire population of the entity is represented in these charts. These eight categories are the ones most likely to be important in the redistricting process.

The 2020 Census listed 6 racial categories. Individuals were able to choose a single race or any combination of races that might apply. Additionally, the Census asks persons to designate whether they are or are not Hispanic. When the Hispanic status response is overlaid on the different possible racial responses, there are over 100 possible different combinations. The Census tabulates each one separately.

If this information is to be usable, it must be combined into a smaller number of categories (of course, having the same overall population total). For purposes of analyzing Voting Rights Act Section 2 issues, discussed below, DOJ indicated in a guidance document issued on September 1, 2021, that it would use the following rules for determining Hispanic and race population numbers from the 2020 Census data:

- persons who selected “Hispanic” are categorized as Hispanic, no matter what race or races they have designated; all others will be classified as non-Hispanic of one or more races; *e.g.*, Hispanic-White and Hispanic-African-American are both classified as Hispanic;
- persons who did not select “Hispanic” and who designated a single race will be classified as members of that race; *e.g.*, White, African-American, Asian, etc.;
- persons who did not select “Hispanic” and who designated themselves as belonging to a single minority race and as White will be classified as members of the minority race; *e.g.*, Asian+White will be classified as Asian; and
- persons who did not select “Hispanic” and who designated themselves as belonging to more than one minority race will be classified as “other multiple race;” *e.g.*, White+Asian+Hawaiian or African-American+Asian. This category is expected to be small.

We will also consider data called “voting age population” (or “VAP”) data. It is similarly classified in eight racial and ethnic categories. This information is provided for the limited purpose of addressing some of the specific legal inquiries under the Voting Rights Act that are discussed below. Voting age population is the Census Bureau’s count of persons who identified themselves as being eighteen years of age or older at the time the census was taken (*i.e.*, as of April 1, 2020).

In addition to this population and demographic data, the entity will have access to additional information that may bear on the redistricting process, such as county road miles, facility locations, registered voter information, incumbent residence addresses, etc.

Section 2 of the Voting Rights Act – No Discrimination Against Minority Groups

Section 2 of the Voting Rights Act, 52 U.S.C. §10301, forbids a voting standard, practice, or procedure from having the effect of reducing the opportunity of members of a covered minority to participate in the political process and to elect representatives of their choice. In practical terms, this non-discrimination provision prohibits districting practices that, among other things, result in “packing” minorities into a single district in an effort to limit their voting strength. Similarly, “fracturing” or “cracking” minority populations into small groups in a number of districts, so that their overall voting strength is diminished, can be discrimination under Section 2. There is no magic number that designates the threshold of packing or cracking. Each plan must be judged on a case-by-case basis. Failure to adhere to such Section 2 standards could invite a challenge in court by a protected minority group or even by the Department of Justice.

In previous redistricting cycles, “preclearance” was required under Section 5 of the Voting Rights Act before a new plan (or any other change of any kind to voting standards, practices or procedures) could be implemented. Section 5 will not apply in the 2021

redistricting cycle, but as we discuss below, the Section 5 “retrogression” standard can be a useful tool to identify potential Section 2 issues with a proposed new plan.

The Supreme Court has defined the minimum requirements for a minority plaintiff to bring a Section 2 lawsuit. There is a three-pronged legal test the minority plaintiff must satisfy – a showing that: (1) the minority group’s voting age population is numerically large enough and geographically compact enough so that a district with a numerical majority of the minority group can be drawn (a “majority minority district”); (2) the minority group is politically cohesive, that is, it usually votes and acts politically in concert on major issues; and (3) there is “polarized voting” such that the Anglo majority usually votes to defeat candidates of the minority group’s preference. *Thornburg v. Gingles*, 478 U.S. 30 (1986). In the federal appellate Fifth Circuit, which includes Texas, the minority population to be considered is *citizen* voting age population. In certain cases, a minority group may assert that Section 2 requires that the governmental body draw a new majority minority district. The governing body must be sensitive to these Section 2 standards as it redistricts.

In considering changes to existing boundaries, a governmental entity must be aware of the location of protected minority populations within its single-member districts for the purpose of ensuring that changes are not made that may be asserted to have resulted in “packing,” or in “fracturing” or “cracking” the minority population for purposes or having effects that are unlawful under Section 2. The thematic maps included in Attachment B depict the locations of Hispanic and African-American (and if applicable, Asian) population concentrations by census block; they are useful in addressing this issue. Voting age population (VAP) data is useful in measuring potential electoral strength of minority groups in individual districts.

Shaw v. Reno Standards – Avoid Using Race as the Predominant Redistricting Factor

The modern era of redistricting began in the 1960’s when the Supreme Court determined that districting plans were subject to judicial review and that they must conform to one-person, one-vote principles. This was followed in short order by the passage of the Voting Rights Act in 1965, which along with the Fourteenth Amendment, required jurisdictions to ensure that districts were not racially discriminatory. Accordingly, to avoid liability in voting rights suits, governments were highly conscious of race when drawing districts and fashioned districts to reflect racial and ethnic housing patterns.

In 1993, the United States Supreme Court decided *Shaw v. Reno*, a case that contained a district that was so extremely irregular on its face that race was the predominant consideration in its creation to the exclusion of traditional districting principles and without sufficiently compelling justification. The Court held that the district was a racial gerrymander that violated the Equal Protection Clause of the Fourteenth Amendment.

The *Shaw* opinion subjects governmental bodies undertaking the redistricting process to a delicate balancing act. The governmental body must consider race when drawing districts if it is to comply with the requirements of the Voting Rights Act; however, if race is the

predominant consideration in the process, the governmental body may be subject to a racial gerrymandering claim.

Where racial considerations predominate in the redistricting process to the subordination of traditional (non-race-based) factors, the use of race-based factors is subject to the “strict scrutiny” test. To pass this test requires that there be a showing that (1) the race-based factors were used in furtherance of a “compelling state interest” and (2) their application be “narrowly tailored,” that is, they must be used only to the minimum extent necessary to accomplish the compelling state interest. Compliance with the anti-discrimination requirements of section 2 of the Voting Rights Act is a compelling state interest.

The following principles have emerged in the post-*Shaw* environment to guide the redistricting process:

- race may be considered;
- but race may not be the predominant factor in the redistricting process to the subordination of traditional redistricting principles;
- bizarrely-shaped districts are not unconstitutional *per se*, but the bizarre shape may be evidence that race was the predominant consideration in the redistricting process;
- if race is the predominant consideration, the plan may still be constitutional if it is “narrowly tailored” to address compelling governmental interest such as compliance with the Voting Rights Act; and
- if a plan is narrowly tailored, it will use race no more than is necessary to address the compelling governmental interest.

While race will almost always be a consideration, the better course, if possible under the circumstances, is that racial considerations not predominate to the subordination of traditional redistricting criteria, so that the difficult strict scrutiny test is avoided.

Adherence to the *Shaw v. Reno* standards will be an important consideration during the redistricting process. One way to minimize the potential for *Shaw v. Reno* liability is to adopt redistricting criteria that include traditional redistricting principles and that do not elevate race-based factors to predominance.

Section 5 of the Voting Rights Act – Preclearance and Retrogression

Preclearance will not be required

In prior redistricting cycles, Section 5 of the Voting Rights Act, 52 U.S.C. § 10304, required all “covered jurisdictions” identified in the applicable Department of Justice (DOJ) regulations to “preclear” any changes to voting standards, practices, or procedures before they

may become legally effective. Texas was a “covered jurisdiction,” so all local governments in the state, as well as the State itself, were required to preclear any voting change, including their redistricting plans. This included changes to any single-member district lines (including school board trustee district lines). Section 5 applied not only to changes in single-member district lines, but also to changes in election precincts and in the location of polling places. For counties, Section 5 applied not only to commissioners’ precincts, but also to JP and constable precincts, even though these latter are not subject to the one person-one vote requirement (since these are not “representative,” *i.e.*, “legislative” officials).

In the 2013 case *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the U.S. Supreme Court invalidated Section 4 of the Voting Rights Act until Congress corrected some deficiencies. This is the section that, in effect, defines which states and local jurisdictions are subject to Section 5 preclearance requirements. Congress has not made the required corrections, so Section 5 will not apply to any jurisdiction this redistricting cycle. Nonetheless, the legal standard applied to preclearance under Section 5, “retrogression”, can be useful to identify potential Section 2 discrimination issues in a proposed new districting plan.

Retrogression standard

In past redistricting cycles, Section 5 review involved considering whether a proposed new districting plan had a retrogressive effect. The issue is whether the net effect of the proposed new plan would be to reduce minority voters’ ability to elect their preferred candidates when the plan is compared to the prior benchmark plan. In other words, does the new districting plan result in a reduction of the minority group’s ability to elect?

To determine if retrogression exists, it is necessary to compare a proposed plan against a benchmark, typically the *prior* district boundary plan, but considered using the *new* 2020 Census population and demographic data.

Voting age population data (“VAP”) – the Census count of persons eighteen years of age or older at the time the Census was taken (*i.e.*, as of April 1, 2020). It is a measure of the number of people old enough to vote if they are otherwise eligible to do so. Since the retrogression inquiry focuses on whether a minority group’s overall voting strength has been reduced, and VAP is a more direct measure of voting strength than total population, VAP should be considered in the retrogression analysis, not just total population.

In combination with a balanced consideration of the other applicable redistricting criteria, the entity’s governing body will need to consider the effects of any changes to the benchmark measures that its proposed plan produces. Because of changes in population and the need to comply with one person-one vote principles, sometimes it may be impossible to avoid drawing a retrogressive plan. But if a proposed new plan is retrogressive, careful consideration should be given before adopting it.

Since retrogression was the test by which redistricting plans were measured under Section 5 of the Act and that section is no longer operative, retrogression is no longer the standard. Nevertheless, a jurisdiction that draws a plan that is retrogressive may increase the

chance that it will be sued under Section 2. Thus, it may be beneficial to avoid retrogression where possible even though the plan will not be required to be submitted to the Department of Justice for Section 5 review under that test.

Adoption of Redistricting Criteria

Adoption of appropriate redistricting criteria – and adherence to them during the redistricting process – is potentially critical to the ultimate defensibility of an adopted redistricting plan. Traditional redistricting criteria that the governing body might wish to consider adopting include, for example:

- use of identifiable boundaries;
- using whole voting precincts, where possible and feasible; or, where not feasible, being sure that the plan lends itself to the creation of reasonable and efficient voting precincts;
- maintaining communities of interest (*e.g.*, traditional neighborhoods);
- basing the new plan on existing districts;
- adopting districts of approximately equal population;
- drawing districts that are compact and contiguous;
- keeping existing representatives in their districts; and
- narrow-tailoring to comply with the Voting Rights Act and *Shaw v. Reno*..

There may be other criteria that are appropriate for an individual entity's situation, but all criteria adopted should be carefully considered and then be followed to the greatest degree possible. A copy of a sample criteria adoption resolution is provided as Attachment F. You may wish to include additional criteria; or determine that one or more on that list are not appropriate. We will discuss with you appropriate criteria for your situation.

Requirements for Plans Submitted by the Public

You should also consider imposing the following requirements on any plans proposed by the public for your consideration: (1) any plan submitted for consideration must be a complete plan, that is, it must be a plan that includes configurations for all districts and not just a selected one or several. This is important because, although it may be possible to draw a particular district in a particular way if it is considered only by itself, that configuration may have unacceptable consequences on other districts and make it difficult or impossible for an overall plan to comply with the applicable legal standards; and (2) any plan submitted for consideration must follow the adopted redistricting criteria.

ATTACHMENT D

GLOSSARY

GLOSSARY

Census blocks, census block groups, census VTDs, census tracts – Geographic areas of various sizes recommended by the states and used by the Census Bureau for the collection and presentation of data.

Citizen voting age population (CVAP) – Persons 18 and above who are citizens. This is a better measure of voting strength than VAP; however, the relevant citizenship data will need to be developed.

Compactness – Having the minimum distance between all parts of a constituency.

Contiguity – All parts of a district being connected at some point with the rest of the district.

Cracking – The fragmentation of a minority group among different districts so that it is a majority in none. Also known as “fracturing.”

Fracturing – See “cracking.”

Homogeneous district – A voting district with at least 90 percent population being of one minority group or of Anglo population.

Ideal population – The population that an ideal sized district would have for a given jurisdiction. Numerically, the ideal size is calculated by dividing the total population of the political subdivision by the number of seats in the legislative body.

Majority minority district – Term used by the courts for seats where an ethnic minority constitutes a numerical majority of the population.

One person, one vote – U.S. Constitutional standard articulated by the U.S. Supreme Court requiring that all legislative districts should be approximately equal in size.

Packing – A term used when one particular minority group is consolidated into one or a small number of districts, thus reducing its electoral influence in surrounding districts.

Partisan gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one political party.

PL 94-171 – The Public Law that requires the Census Bureau to release population data for redistricting. The data file, referred to as “PL 94-171”, was supposed to be released by April 1, 2021, although due to technical issues it was not released until August, is reported at the block level, and contains information on:

- Total population
- Voting age population
- By Race
- By Hispanic origin

Racial gerrymandering – The deliberate drawing of district boundaries to secure an advantage for one race.

Retrogression – The Section 5 standard (not applicable in this redistricting cycle) that considered whether a proposed new districting plan made it less likely a protected minority group could elect candidates of the group’s choice.

Section 2 of the Voting Rights Act – The part of the federal Voting Rights Act that protects racial and language minorities from discrimination in voting practices by a state or other political subdivision.

Section 5 of the Voting Rights Act – The part of the federal Voting Rights Act that required certain states and localities (called “covered jurisdictions”) to preclear all election law changes with the U.S. Department of Justice (“DOJ”) or the federal district court for the District of Columbia before those laws may take effect. Not applicable this redistricting cycle.

Shaw v. Reno – The first in a line of federal court cases in which the U.S. Supreme Court held that the use of race as a dominant factor in redistricting was subject to a “strict scrutiny” test under the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. This case and the line of Supreme Court cases that follows it establishes that race should not be used as a predominant redistricting consideration, but if it is, it must be used only to further a “compelling state interest” recognized by the courts and even then must be used only as minimally necessary to give effect to that compelling state interest (“narrow tailoring”).

Spanish surnamed registered voters (SSRV) – The Texas Secretary of State publishes voter registration numbers that show the percentage of registered voters who have Spanish surnames. It is helpful to measure Hispanic potential voting strength, although it is not exact.

Total population – The total number of persons in a geographic area. Total population is generally the measure used to determine if districts are balanced for one person, one vote purposes.

Voting age population (VAP) – The number of persons aged 18 and above. DOJ requires this to be shown in section 5 submissions. It is used to measure potential voting strength. For example, a district may have 50 percent Hispanic total population but only 45 percent Hispanic voting age population.

Voter tabulation district (VTD) – A voting precinct drawn using census geography. In most instances, especially in urban areas, VTDs and voting precincts will be the same. In rural areas, it is more likely they will not be identical.

ATTACHMENT E
HYPOTHETICAL POPULATION DEVIATION CALCULATION

Hypothetical Population Deviation Calculation

Consider a hypothetical political subdivision with four districts and a total population of 40,000. The “ideal district” for this political subdivision would have a population of 10,000 (total population / number of districts). This is the target population for each district. The deviation of each district is measured against this ideal size.

Suppose the latest population data reveals that the largest district, District A, has 11,000 inhabitants. The deviation of District A from the ideal is thus 1000 persons, or 10 percent. Suppose also that the smallest district, District D, has 8000 inhabitants; it is underpopulated by 2000 persons compared to the ideal size. It thus has a deviation of –20 percent compared to the ideal size. The *maximum total deviation* is thus 30 percent. Since this is greater than the 10 percent range typically allowed by the courts for one person-one vote purposes, this hypothetical subdivision must redistrict in order to bring its maximum total deviation to within the legally permissible limits.

The following table illustrates this analysis:

<u>District</u>	<u>Ideal district</u>	<u>District total pop.</u>	<u>Difference</u>	<u>Deviation</u>
A	10,000	11,000	1000	+ 10.0 percent
B	10,000	10,750	750	+ 7.5 percent
C	10,000	10,250	250	+ 2.5 percent
D	10,000	8,000	- 2000	- 20.0 percent
Totals:	40,000	40,000	net= 0	net= 0 percent

Total maximum deviation = difference between most populous and least populous districts = 10 percent + 20 percent = 30 percent.

ATTACHMENT F
ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

ILLUSTRATIVE REDISTRICTING CRITERIA RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting criteria might contain, but not including the footnotes. They are only included here by way of explanation to you of some of the criteria.)

The City Council will observe the following criteria, to the greatest extent possible, when drawing district boundaries:

1. Easily identifiable geographic boundaries should be followed.
2. Communities of interest should be maintained in a single district, where possible, and attempts should be made to avoid splitting neighborhoods.
3. Districts should be composed of whole voting precincts. Where this is not possible or practicable, districts should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.
4. Although it is recognized that existing districts will have to be altered to reflect new population distribution, any districting plan should, to the extent possible, be based on existing districts.
5. Districts must be configured so that they are relatively equal in total population according to the 2020 federal census. In no event should the total population deviation between the largest and the smallest district exceed ten percent as compared to the ideal district size.
6. Districts should be compact and composed of contiguous territory. Compactness may contain a functional,¹ as well as a geographical, dimension.
7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.
8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno*.

¹ Functional compactness is a sometimes-controversial notion that has appeared in some cases. Basically, the concept is that compactness is not simply a matter of geography but can include considerations such as (1) the availability of transportation and communication, (2) the existence of common social and economic interests, (3) the ability of the districts to relate to each other, and (4) the existence of shared interests. We do not anticipate that we will rely heavily on functional compactness, but there may be instances in which it comes into play. For example, we might be able to draw a very geographically compact district by including land on both sides of a river. If, however, the nearest bridge is several miles away, our geographically compact district may not be functionally compact. Saying that compactness has a functional dimension gives us flexibility to address this type of situation.

9. The plan should not fragment² a geographically compact minority community or pack³ minority voters in the presence of polarized voting so as to create liability under the Voting Rights Act.

The Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted by a citizen to the Council for its consideration should be a complete plan — *i.e.*, it should show the full number of districts and should redistrict the entire city. The Council may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the Council should conform to these criteria.

² Fragmenting or fracturing occurs when a geographically compact area of minority voters is split into two or more districts when, if the area had been put in a single district, minority voters would have had greater voting strength.

³ Packing refers to concentrating excessively large numbers of minority voters in a single district. For example, if a district is drawn to be 90 percent African-American, that group's influence may be limited to that single district when, if it had been split, the group might have had an opportunity to elect candidates of their choice in two districts.

ATTACHMENT G
ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

ILLUSTRATIVE REDISTRICTING GUIDELINES RESOLUTION

(Here is an example of what the body of a resolution or ordinance adopting redistricting guidelines for public participation might contain.)

The following guidelines are to be followed by each person submitting a redistricting plan for consideration or submitting comments:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The City Council wants to be sure that all proposals are fully and accurately considered.
2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed district, based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.
3. Plans should redistrict the entire entity, so the Council may consider the effect of any plan on the entire city. All plans are subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire [county, city, district], it may be impossible for the Council to assess its impact on one or more protected minority groups.
4. Plans should conform to the criteria the Council will be using in drawing the precincts.
5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.
6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.
7. All comments and proposed plans must be submitted to the City Council [by the close of / no later than __ days before] the public hearing.

This resolution shall be effective upon passage by the City Council.

ATTACHMENT H
SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

SUGGESTED INITIAL ASSESSMENT AGENDA ITEM LANGUAGE

Here is suggested language for the agenda item for receiving the Initial Assessment and for adopting the two suggested resolutions (criteria, guidelines).

Receive Initial Assessment regarding whether redistricting is required considering the new 2020 census data; and, if so, consider adoption of criteria to apply to development of new districting plans, and guidelines for public participation in the redistricting process.

If your practice is to specifically post executive session items, you may wish to use this language:

Executive Session. The City Council may go into executive session pursuant to Texas Government Code section 551.071 to receive advice from legal counsel regarding the City's redistricting obligations.



Regular City Council
AGENDA ITEM 10.

Agenda Item: Discussion and Update on the Hours of Operation for Brannon Industrial Group at the City of Brenham's Transfer Station

Meeting Type: Regular Meeting-April 07, 2022

Department: Public Works

Staff Contact: Dane Rau

SUMMARY STATEMENT:

City of Brenham staff has received a request from the Brannon Industrial Group, aka BVR Waste and Recycling, to reduce the hours of operations at the Brenham Collection Station from 8 a.m. to 4 p.m. to 8 a.m. to 1 p.m. on Saturdays. This request comes from an operational efficiency standpoint in which after 1 p.m. the Collection Station traffic is diminished greatly, and the receiving landfill closes at 1p.m. Currently, the Recycling Center next door closes at 1 p.m. along with the Premier Metal Yard in which BVR operates.

When the City of Brenham operated the Collection Station prior to outsourcing we also saw a significant decrease in customers from 1 p.m. to 4 p.m. I have spoken with Colleen Latham who worked at the facility when the City of Brenham operated the facility and she agreed that in the afternoon hours that based on usage it would be beneficial to look at closing early as 95% of the users came in between 8 a.m. to 1p.m. She even indicated that originally (1993-2000) the Collection Station hours were 8 a.m. to noon.

BIG has provided a letter stating the requested changes and the reasoning for the request. Staff feels that this is something we should consider and allow. This may help hold off rate increases or at least keep them minimal as inflation hits every part of operations.

The current contract with BIG states that they are allowed to make operational changes but need approval in writing from the City. We wanted to bring this to council for discussion and if the majority feels OK with this request, we will formalize a letter indicating the change is approved. We will not change the formal agreement at this time, as if approved we would like to give it some time to make sure changes are accepted before having an addendum to the original agreement. If approved, we will make sure to work with BIG on notifications to all users prior to implementation. We anticipate that if approved, a May 7th implementation of operation hour changes. This will allow plenty of time for notification.

ATTACHMENTS:

(1) Transfer Station Hours Change Request Letter

RECOMMENDED ACTION:

No action; discussion only.

March 31, 2022

Dear Mr. Rau,

We would like to formally request the City's approval to change the transfer station operating hours to 8 AM to 1 PM on Saturdays. Currently, the facility is open 8 AM to 4 PM on Saturdays.

In our nearly 2 years of operating the transfer station, we have noticed a low traffic pattern after noon on Saturdays. We do not feel that the change would significantly impact the residents or businesses in our community. To minimize confusion, we would post a notice at the facility and communicate the new operating hours via multiple channels in advance of the change.

The change would benefit our organization. The reduction in hours would reduce overtime and weekend work commitments for our team members. Additionally, the change would provide us with a larger window of opportunity to service equipment during non-operating hours.

Currently, all of the non-recyclable waste received at the transfer station is hauled to the Twin Oaks Landfill in Carlos. They close at 1 PM on Saturday. Effectively any material received after about 11 AM will remain at the transfer station until Monday morning. The proposed change would align us better with the area's primary disposal site.

We greatly appreciate your consideration of the request.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Brannon', with a stylized, flowing script.

Blake Brannon
President



Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-22-018
Adopting Criteria for Use in the 2021 Redistricting Process

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

The city must pass a Resolution adopting criteria that will be used in the 2021 redistricting process. The criteria will include things such as:

- Easily identifiable geographic boundaries.
- Maintain communities and avoid splitting neighborhoods.
- When possible, wards should be composed of whole voting precincts and splitting census blocks should be avoided, if possible.
- Wards must be configured so that they are relatively equal in total population.
- The wards should be compact and composed of contiguous territory.
- Consideration may be given to incumbent-constituency relations.
- The plan should avoid racial gerrymandering.
- The plan should not fragment a geographically compact minority community or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

Syd Falk from Bickerstaff Heath Delgado Acosta will be here to discuss the Resolution and explain why the City must adopt such specific criteria.

ATTACHMENTS:

(1) Resolution R-21-018

RECOMMENDED ACTION:

Approve Resolution No. R-22-018 adopting criteria for use in the 2021 redistricting process.

RESOLUTION NO. R-22-018

THE STATE OF TEXAS

§

§

THE CITY OF BRENHAM

§

RESOLUTION ADOPTING CRITERIA FOR USE IN 2021 REDISTRICTING PROCESS

WHEREAS, this City Council has certain responsibilities for redistricting under federal and state law, including but not limited to Amendments 14 and 15 to the United States Constitution, U.S.C.A.; section 2 of the Voting Rights Act, 52 U.S.C.A. §10301; and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, a review of the 2020 census data reveals that a population imbalance exists among the City's councilmember wards requiring redistricting of those wards; and

WHEREAS, it is the intent of the City to comply with the Voting Rights Act and with all other relevant law, including *Shaw v. Reno* jurisprudence; and

WHEREAS, a set of established redistricting criteria will serve as a framework to guide the City in the formulation and consideration of districting plans; and

WHEREAS, redistricting criteria will provide the City a means by which to evaluate proposed plans; and

WHEREAS, redistricting criteria will assist the City in its efforts to comply with all applicable federal and state laws;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City, in its adoption of a redistricting plan for councilmember wards, will adhere to the following criteria to the greatest extent possible when establishing new councilmember ward boundaries:

To the extent practicable:

1. Easily identifiable geographic boundaries should be followed.
2. Communities of interest should be maintained in a single ward, and attempts should be made to avoid splitting neighborhoods.
3. Councilmember wards should be composed of whole voting precincts. Where this is not possible or practicable, wards should be drawn considering county election precincts. Avoid splitting census blocks unless necessary.
4. Although it is recognized that existing wards will have to be altered to reflect new population distribution in the City, any districting plan should be based on existing wards.

5. Wards must be configured so that they are relatively equal in total population according to the 2020 federal census. In no event should the total population deviation between the largest and the smallest ward exceed ten percent as compared to the ideal precinct size.
6. The wards should be compact and composed of contiguous territory. Compactness may contain a functional, as well as a geographical, dimension.
7. Consideration may be given to the preservation of incumbent-constituency relations by recognition of the residence of incumbents and their history in representing certain areas.
8. The plan should be narrowly tailored to avoid racial gerrymandering in violation of *Shaw v. Reno*.
9. The plan should not fragment a geographically compact minority community or pack minority voters in the presence of polarized voting or otherwise discriminate against protected groups so as to create liability under the Voting Rights Act.

The City Council will review all plans considering these criteria and will evaluate how well each plan conforms to the criteria.

Any plan submitted to the City Council by a citizen for its consideration should be a complete plan—*i.e.*, it should include all 4 councilmember wards and should redistrict the entire City. The City Council may decline to consider any plan that is not a complete plan.

All plans submitted by citizens, as well as plans submitted by staff, consultants, and members of the City Council should conform to these criteria.

This resolution shall be effective upon passage by the City Council.

BE IT SO ORDERED.

Adopted on this 7th day of April 2022.

City of Brenham, Texas

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC, City Secretary



Regular City Council
AGENDA ITEM 12.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-22-019
Establishing Guidelines for Persons Submitting Specific
Redistricting Proposals and Providing Comments

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

In order to provide for proper consideration and evaluation of any redistricting plans submitted to the City Council by citizens and/or special interest groups, the city must adopt specific guidelines. This Resolution outlines the steps to be followed by others in presenting a proposed redistricting plan to Council. The guidelines include things such as:

- Proposed plans must be submitted in writing and be legible.
- Plans must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed council ward based on the 2020 Census Data.
- Plans should redistrict the entire City.
- Plans should conform to the same redistricting criteria the Council will be using.
- Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.
- Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address.
- All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

Syd Falk from Bickerstaff Heath Delgado Acosta will be here to discuss the Resolution and explain why it is important that the city have specific guidelines in place.

ATTACHMENTS:

(1) Resolution R-22-019

RECOMMENDED ACTION:

Approve Resolution No. R-22-019 establishing guidelines for persons submitting specific redistricting proposals and providing comments.

RESOLUTION NO. R-22-019

THE STATE OF TEXAS

§

§

THE CITY OF BRENHAM

§

GUIDELINES FOR PERSONS SUBMITTING SPECIFIC REDISTRICTING PROPOSALS AND PROVIDING COMMENTS

WHEREAS, this City Council has certain responsibilities for redistricting the City's councilmember wards under federal and state law, including but not limited to Amendments 14 and 15 to the United States Constitution, U.S.C.A. and Section 2 of the Voting Rights Act, 52 U.S.C.A. §10301; and Tex. Gov't Code Ann. §§ 2058.001 and 2058.002; and

WHEREAS, it is necessary to provide for the orderly consideration and evaluation of redistricting plans which may come before the Council; and

WHEREAS, these guidelines relate to persons who have specific redistricting plans they wish the Council to consider; and

WHEREAS, the Council also welcomes any comments relevant to the redistricting process;

NOW, THEREFORE, BE IT RESOLVED that, in order to make sure that any comments regarding the redistricting process and any redistricting plan that might be submitted are of maximum assistance to the Council in its decision-making process, the Council hereby sets the following guidelines to be followed by each person submitting a comment or a redistricting plan for consideration:

1. Proposed plans must be submitted in writing and be legible. If a plan is submitted orally, there is significant opportunity for misunderstanding, and it is possible that errors may be made in analyzing it. The Council wants to be sure that all proposals are fully and accurately considered.
2. Any plan must show the total population and voting age population for African-Americans, Hispanics, Asians, and Anglo/Other for each proposed council ward based on the 2020 Census Data. If a plan is submitted without a population breakdown, the Council may not have sufficient information to give it full consideration.
3. Plans should redistrict the entire City. The Council will be considering the effect of any plan on the entire City. Any plan is subject to the Voting Rights Act, which protects various racial and language minorities. Thus, as a matter of federal law, the Council will be required to consider the effect of any proposal on multiple racial and ethnic groups. If a plan does not redistrict the entire City, it may be impossible for the Council to assess its impact on one or more protected minority groups.

4. Plans should conform to the redistricting criteria the Council will be using in drawing the wards.
5. Comments must be submitted in writing and be legible, even if the person also makes the comments orally at a public hearing.
6. Persons providing comments and those submitting proposed plans must identify themselves by full name and home address and provide a phone number and, if available, an email address. The Council may wish to follow up on such comments or obtain additional information about submitted plans.
7. All comments and proposed plans must be submitted to the City Council by the close of the public hearing.

This resolution shall be effective upon passage by the City Council.

BE IT SO ORDERED.

Adopted on this 7th day of April 2022.

City of Brenham, Texas

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC, City Secretary



Regular City Council
AGENDA ITEM 13.

Agenda Item: Discuss and Possibly Act Upon the Purchase of a Tractor/Shredder for the City of Brenham Street Department and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-April 07, 2022

Department: Public Works

Staff Contact: Dane Rau/Shawn Bolenbarr

SUMMARY STATEMENT:

During the 2021-22 budget process, staff shared major equipment needs with Council which were up for replacement according to the Street Department's five-year capital plans. During the July budget workshop, it was decided that with a large amount of equipment due up for the next five years, these pieces of equipment would be purchased using Certificate of Obligation Expenses in order to purchase the equipment.

During the City Council meeting held on March 17, 2022, it was agreed upon with the City Council that the City of Brenham would purchase one tractor shredder combo from Hlavinka Equipment (Massey Ferguson MF5711/ 15' Bush Hog Shredder) which was approved during the Council meeting, and another from WC Tractor (Kubota M6-111/ 15' Bush Hog Shredder). Both brands of tractors are very reputable and dependable and will provide many years of dependability for the Street Department. The tractors and shredders are used daily for shredding city right-of-ways and city properties. They are vital in making sure that our crews have adequate, effective, and efficient means to conduct daily work throughout the City of Brenham.

The total dollar amount proposed to council in July for all equipment purchases for the Street Department was \$743,807. With the final numbers coming in and with all pieces of equipment being purchased from either the Buy Board or off the Sourcwell Contract, the final total for all pieces of equipment will be \$746,881.07. Kubota had a 4% price increase on April 1, 2022, which contributed to total equipment purchases being over budget.

We would like to ask council to approve the purchases of the Kubota M6-111 from WC Tractor.

ATTACHMENTS:

(1) Kubota M6-111 Quote

RECOMMENDED ACTION:

Approve the purchase of a Kubota M6-111 tractor and a 15' Bush Hog Shedder from WC Tractor for the City of Brenham in the amount of \$102,988.98 and authorize the Mayor to execute any necessary documentation.

-- Standard Features --

-- Custom Options --



M Series

M6-111DTC-F

4WD FARM TRACTOR, ELECTRO-HYDRAULIC SHUTTLE
 TRANSMISSION & CAB

*** EQUIPMENT IN STANDARD MACHINE & SPECIFICATIONS ***

DIESEL ENGINE

Kubota V3800 Direct Injection
 3.8L (230 cu. In.) 4 Cyl
 EPA Tier 4 Final Compliant
 Common Rail Electronic Fuel Injection
 Electronic Engine Management
 Turbocharged
 w/Wastegate and Intercooled
 Fuel Tank Capacity: 50.2 Gal
 130 Amp Alternator Cab
 12V 900 CCA Battery
 SAE Gross HP: 114.1
 Engine Net HP: 106.8
 Max . PTO HP: 92.0
 @ 2600 Engine RPM

TRANSMISSION

24F/24R Intelli-Shift
 Auto 4WD Function
 Three Range, 8-Speed Semi-
 Powershift
 Auto Shift Mode - Field & Road
 Auto 4WD Function
 Electro-Hydraulic Shuttle Shift
 Electro-Hydraulic Front & Rear Diff.
 Lock
 Clutch - Multi Plate Wet
 Planetary Final Drives
 Hydraulic Wet Disc Brakes

EXHAUST EMISSION CONTROL TYPE

DPF System (Diesel Particulate Filter)
 SCR System
 DEF Tank Capacity: 4.2 Gal

FRONT AXLE

Hydrostatic Power Steering
 4WD: Cast Iron, Bevel Gear Type
 Bi-Speed Turn Feature
 Planetary Final Drives
 Adj. (Rim) Tread Spacing

HYDRAULICS / HITCH / DRAWBAR

Open Center Gear Pump
 Max. Flow @ Rated Engine Speed:
 Power Steering: 16.1 gpm
 Impl. Flow: 18.7 gpm
 Total Flow: 34.8 gpm

FLUID CAPACITY

Cooling System: 11.3 qts
 Crankcase: 10.5 qts
 Hydraulics/Trans: 17.2 gal

REMOTE VALVES

(1) SCD (Self Canceling Detent) 1) FD (Float
 Detent)
 In-Cab Flow Control Adjustment

INSTRUMENTS

LCD readout for MPH and PTO rpm
 26 Mode LCD Readout
 Tachometer/Hour meter
 Oil Pressure
 Fuel Gauge
 Coolant Temperature
 Gear Speed Digital Light Indicator
 Digital Light Indicator F/R Direction

3 POINT HITCH & DRAWBAR

Cat II 3-point Hitch
 @ Lift Points: 8598 lbs
 @ 24" Behind: 6834 lbs
 2 External Lift Cylinders
 Electronic Position and Draft Control
 Telescoping Lower Links
 Stabilizers
 Swinging Drawbar - Straight

GRAND-X CAB

4-post, ROPS Certified
 RH & LH Doors
 Tinted Glass Doors and Windows
 In-roof window/vent
 Tilt and Telescoping Steering Wheel
 Deluxe Air Ride Seat
 Dual Level Air Conditioning & Heater
 Front and Rear Wiper/Washer
 Front Sun Visor
 Rear View Mirror
 LH & RH Telescoping Side Mirrors
 Radio Ready Cab
 Steps, Left and Right Side
 Interior Dome Light
 12V - 30-Amp 2 Wire Coupler
 12V - 3 Pin 30-Amp Coupler
 12V - Outlet
 Cup Holder
 Instructor Seat Ready
 Horn

POWER TAKE OFF (540)

Live-Independent Hyd. PTO
 SAE 1 3/8" Six Spline
 540 rpm @ 2405 Eng. rpm
 SAE 1 3/8" Twenty-One Spline
 1000 rpm @ 2389 Eng. rpm

LIGHTING

2 Headlights - Tail lights
 4 Hazard Flasher Lights w/ Turn Signals
 2 Grille Mounted Worklights
 2 Front Cab Halogen Worklights
 2 Rear Halogen Worklights

SAFETY EQUIPMENT

Flip-Up PTO Shield
 Safety Start Switches
 Electric Key Shut Off
 Parking Brake
 Turn Signals

M6-111DTC-F Base Price: \$99,965.00

(2) REAR WHEEL WEIGHTS - 2 PER SET 164 LBS. EACH	\$724.00
M8126A-REAR WHEEL WEIGHTS - 2 PER SET 164 LBS. EACH	
(1) 3RD POSITION LEVER KIT	\$254.00
M7629-3RD POSITION LEVER KIT	
(12) FRONT SUITCASE WEIGHT	\$1,416.00
M8079-FRONT SUITCASE WEIGHT	
(1) DROP DRAWBAR	\$233.00
M9227-DROP DRAWBAR	
(1) GRILL GUARD (FOR USE W/ UP TO 12 FRONT SUITCASE WEIGHTS)	\$333.00
M6934-GRILL GUARD (FOR USE W/ UP TO 12 FRONT SUITCASE WEIGHTS)	
(1) INSTRUCTOR'S SEAT KIT	\$539.00
M9121A-INSTRUCTOR'S SEAT KIT	
(1) HEAVY DUTY METAL FUEL TANK GUARD	\$352.00
M6913-HEAVY DUTY METAL FUEL TANK GUARD	
(1) BOLT KIT/M8126A WHL WGHT/CAST DISK	\$31.00
M8119B-BOLT KIT/M8126A WHL WGHT/CAST DISK	
(1) BOLT KIT FOR REAR WHEEL WEIGHTS	\$29.00
M8127B-BOLT KIT FOR REAR WHEEL WEIGHTS	
(1) BOLT / BAR KIT	\$52.00
M9275-BOLT / BAR KIT	
(1) FRONT WEIGHT BRACKET UP TO 12 WEIGHTS	\$489.00
M9126-FRONT WEIGHT BRACKET UP TO 12 WEIGHTS	
(1) FLOAT DETENT (FD) AUXILIARY VALVE	\$960.00
M7684A-FLOAT DETENT (FD) AUXILIARY VALVE	
Configured Price:	\$105,377.00
Sourcewell Discount:	(\$23,182.94)
SUBTOTAL:	\$82,194.06
Factory Assembly:	\$260.00
Dealer Assembly:	\$541.17
Freight Cost:	\$1,243.75
PDI:	\$250.00
WCT Special Discount	(\$4,000.00)
Bush Hog 2815	\$22,500.00

Total Unit Price: \$102,988.98

Quantity Ordered: 1

Final Sales Price: \$102,988.98

**Purchase Order Must Reflect
 the Final Sales Price**

To order, place your Purchase Order directly with the quoting dealer

SMV Sign
7-Pin Electrical Trailer Connector

SELECTED TIRES

AMR8559A & AMR9256C

FRONT - 340/85R24 R1W GOODYEAR OPTRAC

REAR - 460/85R34 R1W GOODYEAR OPTRAC CAST

***Some series of products are sold out for 2022. All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price.** All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.

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192.230.86.11

DRAFT



Regular City Council
AGENDA ITEM 14.

Agenda Item: Discuss and Possibly Act Upon Change Order No. 2 and Final Payment to Brazos Paving, Inc. for Project No. 2020-02 Related to Old Chappell Hill Road Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-April 07, 2022

Department: Public Works

Staff Contact: Dane Rau

SUMMARY STATEMENT:

On February 4, 2021, City Council awarded the Old Chappell Hill Road Improvement Project to Brazos Paving Inc. This project consisted of right-of-way widening, drainage improvements, and upgrading to a concrete driving surface. The value of the contract was \$724,044.50. We are very happy to say that this project has been completed and the final work looks great. As with any construction project, there were several obstacles along the way, but our contractor has now completed the items on the final punch list and we are ready to move to final payment and start the one-year warranty.

Change Order No. 2 is included in the packet and is valued at \$4,567.55. This Change Order had several field additions/adjustments that arose while construction was in progress in which staff was made aware of and agreed to in order to keep the project moving. It also had a couple deductions on lessor quantities used so those were reconciled against the additions/adjustments. With Change Order No. 2, the total project costs came in at \$728,612.05. All invoices have been paid to date except Final Payment (Application for Payment No. 8) which is \$62,010.82. With the two large road projects being Salem Road and Old Chappell Hill Road completed and expensed, we were still positive related to the amount budgeted for both projects.

We would like to ask Council to approve Final Payment in the amount of \$62,010.82 along with approving Change Order No. 2 (Reconciliation Change Order). Documentation has showed that the contractor has met all financial obligations by returning the Consent of Surety, Power of Attorney, and Certification of Payment. The one-year maintenance period has begun on February 23, 2022, when a final walkthrough was conducted. All punch list items were completed, and a one-year walkthrough will be conducted in February of 2023.

ATTACHMENTS:

-
- (1) Change Order #2
 - (2) Application for Payment #08
 - (3) Final Certificate of Substantial Completion Letter
 - (4) Consent to Final Payment
 - (5) General Power of Attorney
 - (6) Certification of Payment

RECOMMENDED ACTION:

Approve Change Order No. 2 and Final Payment to Brazos Paving, Inc. in the amount of \$62,010.82 related to Old Chappell Hill Road Improvements and authorize the Mayor to execute any necessary documentation.



March 15, 2022

CHANGE ORDER NO. 2

PROJECT: Old Chappell Hill Road Improvements
OWNER: City of Brenham, Texas
CONTRACT: 2020-02
CONTRACTOR: Brazos Paving, Inc.

Description of Change

2a	Remove the existing manhole (1 each [EA] at \$1,200 per EA).	ADD	\$1,200.00
2b	Renew the Builder's Risk Insurance (1 lump sum [LS] at \$900.00 per LS).	ADD	\$900.00
2c	Furnish and install the tapping sleeve for the fire hydrant relocation (1 EA at \$2,175.00 per EA).	ADD	\$2,175.00
2d	Increase the quantity of Bid Item No. 4 from 1,118 SY to 1,138.66 SY (Unit Price: \$14.10 per SY).	ADD	\$291.31
2e	Increase the quantity of Bid Item No. 10 from 4 EA to 5 EA (Unit Price: \$490.00 per EA).	ADD	\$490.00
2f	Increase the quantity of Bid Item No. 17 from 5,060 SY to 5,186 SY (Unit Price: \$48.50 per SY).	ADD	\$6,111.00
2g	Increase the quantity of Bid Item No. 19 from 1,006 SY to 1,026.66 SY (Unit Price: \$54.00 per SY).	ADD	\$1,115.64
2h	Increase the quantity of Bid Item No. 37 from 130 LF to 135 LF (Unit Price: \$6.60 per LF).	ADD	\$33.00
2i	Increase the quantity of Bid Item No. 38 from 365 LF to 533 LF (Unit Price: \$1.20 per LF).	ADD	\$201.60
2j	Decrease the quantity of Bid Item No. 8 from 2 EA to 1 EA (Unit Price: \$390.00 per EA).	(DEDUCT)	(\$390.00)
2k	Decrease the quantity of Bid Item No. 18 from 560 SY to 434 SY (Unit Price: \$60.00 per SY).	(DEDUCT)	(\$7,560.00)
2l	Add 43 days to the Final Completion date, making the new Final Completion date February 23, 2022.	ADD	\$0.00
TOTAL VALUE OF THIS CHANGE ORDER:		ADD	\$4,567.55

Contract Price Adjustment

Original Contract Price	\$724,044.50
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	\$4,567.55
Current Contract Price including this Change Order	\$728,612.05

City of Brenham-Brazos Paving Inc.
Contract 2-2020, Change Order No. 2
Page 2
March 15, 2022

Contract Substantial and Final Completion Date Adjustment

Original Contract Final Completion Date	June 18, 2021
Contract Final Completion Date Adjustments due to previous Change Orders	207 Days
Contract Final Completion Date Adjustments due to this Change Order	43 Days
Current Final Contract Completion Dates including all Change Orders	February 23, 2022

This document shall become a supplement to the Contract and all provisions will apply hereto.

RECOMMENDED

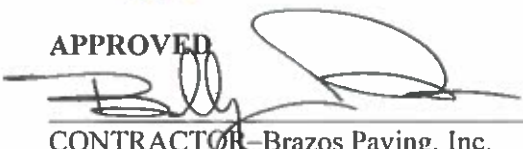


ENGINEER-Strand Associates, Inc.®

3.15.2022

Date

APPROVED



CONTRACTOR-Brazos Paving, Inc.

3/15/2022

Date

APPROVED

OWNER-City of Brenham, Texas

Date

APPLICATION FOR PAYMENT NO. 08
 TO OWNER: CITY OF BRENHAM, 200 WEST VULCAN, BRENHAM, TEXAS 77833
 FROM CONTRACTOR: Brazos Paving, Inc.
 PROJECT: OLD CHAPPELL HILL IMPROVEMENTS
 STRAND PROJECT NO. 3900.240

CONTRACT AWARDED: February 4, 2021
 PERIOD FROM: February 1, 2022
 CONST. TIME ALLOTTED (Days): 327

NOTICE TO PROCEED: February 18, 2021
 PERIOD TO: February 28, 2022
 TIME USED (Days): 375

ITEM	BASE BID	CONTRACT QUANTITY	UNIT	PREVIOUS PERIOD	CURRENT PERIOD	TOTAL	UNIT PRICE	TOTAL VALUE OF WORK COMPLETED
1	Mobilization (Not to exceed 10 percent of the total project bid, excluding mobilization).	1	LS	1	0	1	\$ 65,000.00	\$ 65,000.00
2	Furnish and integrate Stormwater Pollution Prevention Plan (SWPPP).	1	LS	1	0	1	\$ 6,500.00	\$ 6,500.00
3	Remove and dispose of the existing asphalt and/or base roadway surface.	4125	SY	4125	0	4125	\$ 3.75	\$ 15,468.75
4	Sawcut, remove, and dispose of the existing concrete and asphalt driveways.	1138.66	SY	1118	20.66	1138.66	\$ 14.10	\$ 16,055.11
5	Remove and dispose of the existing curb and gutter.	2322	LF	2322	0	2322	\$ 7.00	\$ 16,254.00
6	Remove and dispose of the existing chain link fence.	730	LF	730	0	730	\$ 7.60	\$ 5,548.00
7	Remove and dispose of the existing commercial sign, foundation, and landscaping.	1	LS	1	0	1	\$ 390.00	\$ 390.00
8	Relocate the existing road sign on a new sign base.	1	EA	0	1	1	\$ 390.00	\$ 390.00
9	Relocate the existing mailbox.	2	EA	2	0	2	\$ 450.00	\$ 900.00
10	Adjust the existing valve box and stem to finished grade.	5	EA	4	1	5	\$ 490.00	\$ 2,450.00
11	Adjust the existing water meter to finished grade.	6	EA	6	0	6	\$ 2,200.00	\$ 13,200.00
12	Adjust the existing sanitary sewer manhole to finished grade.	3	EA	3	0	3	\$ 850.00	\$ 2,550.00
13	Replace the existing manhole frame and cover and adjust to finished grade.	2	EA	2	0	2	\$ 1,200.00	\$ 2,400.00
14	Relocate existing fire hydrant assembly.	2	EA	2	0	2	\$ 4,450.00	\$ 8,900.00
15	Adjust the existing fire hydrant to finished grade.	2	EA	2	0	2	\$ 850.00	\$ 1,700.00
16	Excavation.	950	CY	950	0	950	\$ 16.50	\$ 15,675.00
17	6.5-inch reinforced concrete pavement with integral concrete curb and gutter.	5186	SY	5186	0	5186	\$ 48.50	\$ 251,521.00
18	6.5-inch reinforced high early-strength concrete pavement with integral curb and gutter.	434	SY	434	0	434	\$ 60.00	\$ 26,040.00
19	6-inch reinforced concrete driveway pavement.	1026.66	SY	1006	20.66	1026.66	\$ 54.00	\$ 55,439.64
20	Hot mix asphalt (HMA) pavement.	47	TON	47	0	47	\$ 335.00	\$ 15,745.00
21	Flexible base (6 inches deep).	93	CY	93	0	93	\$ 86.40	\$ 8,035.20
22	Furnish and install an 8-foot-tall chain link fence with barbed wire.	705	LF	705	0	705	\$ 66.35	\$ 46,776.75
23	Furnish and install a 5- by 6-foot curb inlet, with a 10-foot extension, complete in place.	4	EA	4	0	4	\$ 6,500.00	\$ 26,000.00
24	Furnish and install a 5- by 6-foot curb inlet, with a 5-foot extension, complete in place.	1	EA	1	0	1	\$ 5,925.00	\$ 5,925.00
25	Furnish and install a 5- by 5-foot precast junction box (PJB) with RC style cover.	1	EA	1	0	1	\$ 4,975.00	\$ 4,975.00
26	Furnish and install a 5- by 5-foot junction box; complete in place.	1	EA	1	0	1	\$ 5,200.00	\$ 5,200.00
27	Furnish and install 30-inch American Society for Testing and Materials (ASTM) C76, Class III, reinforced concrete pipe by open cut, all depths; complete in place.	83	LF	83	0	83	\$ 131.00	\$ 10,873.00
28	Furnish and install 24-inch ASTM C76, Class III, reinforced concrete pipe by open cut; all depths; complete in place.	128	LF	128	0	128	\$ 86.00	\$ 11,008.00
29	Furnish and install 18-inch ASTM C76, Class III, reinforced concrete pipe by open cut; all depths; complete in place.	609	LF	609	0	609	\$ 72.00	\$ 43,848.00
30	Furnish and install 30-inch corrugated metal pipe, all depths; complete in place.	20	LF	20	0	20	\$ 61.50	\$ 1,230.00
31	Furnish and install 30-inch, 6 to 1 slope, safety end treatment (TY II); complete in place.	1	EA	1	0	1	\$ 4,720.00	\$ 4,720.00
32	Furnish and install 18-inch, 3 to 1 slope, safety end treatment (TY II); complete in place.	1	EA	1	0	1	\$ 1,485.00	\$ 1,485.00

33	Furnish and install Type R stone riprap.	2	CY	2	0	2	\$ 375.00	\$ 750.00
34	Trench safety, according to the Specification.	280	LF	280	0	280	\$ 1.50	\$ 420.00
35	Furnish and install the Type C 4-inch solid pavement marking according to the Texas Department of Transportation (TxDOT) Item 668; complete in place.	2910	LF	0	2910	2910	\$ 1.20	\$ 3,492.00
36	Furnish and install the Type C 4-inch dashed pavement marking according to the TxDOT Item 668; complete in place.	1460	LF	0	1460	1460	\$ 1.20	\$ 1,752.00
37	Furnish and install Type C 24-inch solid pavement marking according to the TxDOT Item 668; complete in place.	135	LF	0	135	135	\$ 6.60	\$ 891.00
38	Furnish and install the 4-inch work zone pavement marking according to the TxDOT Item 662; complete in place.	533	LF	0	533	533	\$ 1.20	\$ 639.60
39	Furnish and install the Type C standard arrow pavement marking according to the TxDOT Item 668; complete in place.	6	EA	0	6	6	\$ 335.00	\$ 2,010.00
40	Furnish and install sign assembly, pole, and sign base; complete in place.	6	EA	0	6	6	\$ 620.00	\$ 3,720.00
41	Furnish traffic control plan and integrate according to the Texas Manual on Uniform Traffic Control Devices and TxDOT.	1	LS	0.9	0.1	1	\$ 8,600.00	\$ 8,600.00
42	Regrade existing ditch along Farm-to-market (FM) 577 (approximately 140 linear feet).	1	LS	1	0	1	\$ 2,860.00	\$ 2,860.00
43	Sodding and site restoration.	1	LS	0	1	1	\$ 7,000.00	\$ 7,000.00
2a	Remove Existing Manhole	1	EA	0	1	1	\$ 1,200.00	\$ 1,200.00
2b	Builder's Risk Insurance Renewal	1	LS	0	1	1	\$ 900.00	\$ 900.00
2c	Furnish and install tapping sleeve for fire hydrant relocation.	1	EA	0	1	1	\$ 2,175.00	\$ 2,175.00

Original Contract:	\$ 724,044.50
Plus Additions:	\$ -
Less Deductions:	\$ -
Adjusted Contract:	\$ 724,044.50

Value of Work Performed to Date	\$ 728,612.05
Plus Materials Stored at Close of	\$ -
Net Amt Earned to Date	\$ 728,612.05
Less 5% Retainage	\$ -
Subtotal	\$ 728,612.05
Less Previous Pay Applications	\$ 666,601.23
Amount Due this Application	\$ 62,010.82

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

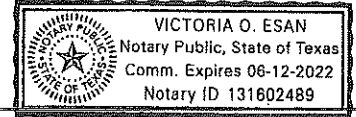
STATE OF TEXAS

COUNTY OF Brazos

WHEREAS, the undersigned, Billy Prewitt, who being duly sworn, on oath, says that he is the legal representative of Brazos Paving Inc., has been employed by City of Brenham to furnish labor and materials for the installation of the Old Chappel Hill Road Improvements project in Brenham, Texas.

The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interests and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

BY: Billy Prewitt DATE: 3/15/2022
 Brazos Paving, Inc.
 PRINTED NAME: Billy Prewitt TITLE: Senior V.P.
 SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 15th DAY OF March, 2022
[Signature]
 NOTARY PUBLIC IN AND FOR
 THE STATE OF TEXAS.



RECOMMENDED BY:

[Signature]
 STRAND ASSOCIATES, INC.®

DATE: 3.15.2022

APPROVED BY:

CITY OF BRENHAM, TEXAS

DATE:



Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, TX 77833
(P) 979.836.7937

March 2, 2022

Mr. Dane Rau, Public Works Director
City of Brenham
200 West Vulcan Street
Brenham, TX 77833

Mr. Billy Prewitt, Vice President
Brazos Paving, Inc.
7601 State Highway 21 West
Bryan, TX 77807

Re: Old Chappell Hill Road Improvements
Contract No. 2-2020
City of Brenham, Texas

Dear Mr. Rau and Mr. Prewitt:

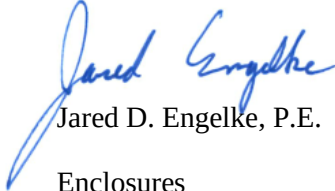
In accordance with Article 15.03 of the General Conditions and based on the comments received by Strand Associates, Inc.® from City of Brenham on February 28, 2022, this letter is a Final Certificate of Substantial Completion for the remainder of the project for Contract No. 2-2020. This certificate includes by reference the Preliminary Certificate of Substantial Completion dated February 25, 2022, and the punch List of Items to be Completed or Corrected that was enclosed with that certificate.

The Preliminary Certificate of Substantial Completion fixed the Substantial Completion date at February 23, 2022.

Please call 979-836-7937 should you have any questions.

Sincerely,

STRAND ASSOCIATES, INC.®



Jared D. Engelke, P.E.

Enclosures

c/enc: Jerome Hutzler, Strand Associates, Inc.®
Matt Yentz, Strand Associates, Inc.®

TBPE No. F-8405
TBPLS No. 10030000

3900.240\LGA:cdj\BREN\Documents\Specifications\Archive\2020\Brenham, City of\3900.240.2020-02.LGA\16) Specification Letters(g) Substantial Completion\03022022.docx



February 25, 2022

Mr. Dane Rau, Public Works Director
City of Brenham
200 West Vulcan Street
Brenham, TX 77833

Re: Old Chappell Hill Road Improvements
Contract No. 2-2020
City of Brenham, Texas

Dear Mr. Rau:

In accordance with the General Conditions, the above-referenced project was inspected on February 23, 2022. Based on this inspection, we have included in this preliminary certificate a date of February 23, 2022, for Substantial Completion of the project.

A punch List of Items to be Completed or Corrected, which were noted during this inspection, is enclosed.

In accordance with the General Conditions, at the time of delivery of the Preliminary Certificate of Substantial Completion, ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, maintenance, heat, utilities, insurance, and warranties. It is our recommendation that all the requirements of the Contract Documents be followed as to division of responsibilities between OWNER and CONTRACTOR, and it is not our intent to change any of these requirements through the following recommendations.

Contract Bonds and Insurance requirements are included in Article 6 of the General Conditions and Supplementary Conditions. As specified in Article 6.01 of the General Conditions, the Performance and Payment Bonds shall remain in effect at least until one year after the date when final payment becomes due.

As specified in the General Conditions and Supplemental General Conditions, CONTRACTOR shall continue to provide Contractor's Liability Insurance for the complete project until final payment is made and during correction period when CONTRACTOR is completing its Contract obligations and include completed operations coverage for a period of three years after final payment.

As specified in the General conditions and Supplementary Conditions, CONTRACTOR shall continue to provide property insurance for the complete project until final payment is made.

Concerning safety, we recommend that OWNER be responsible for safety of its work and operations and that CONTRACTOR be responsible for its work and operations. Occupational Safety and Health Act of 1970 and other federal and state requirements apply to both parties.

Contract correction period is included in Article 15.08 of the General Conditions and Supplementary Conditions. Beneficial occupancy or use by OWNER does not constitute acceptance.

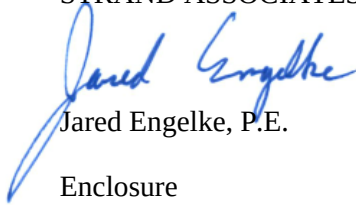
Mr. Dane Rau, Public Works Director
City of Brenham
Page 2
February 25, 2022

Please note that, in accordance with Article 15.03, OWNER has seven days after receipt of this Preliminary Certificate of Substantial Completion during which to make written objection to ENGINEER as to any provisions of the certificate or list of work remaining.

Please call 979-836-7937 should you have any questions.

Sincerely,

STRAND ASSOCIATES, INC.®



Jared Engelke, P.E.

Enclosure

c/enc: Billy Prewitt, Vice President, Brazos Paving, Inc.
Jerome Hutzler, Strand Associates, Inc.®
Matt Yentz, Strand Associates, Inc.®



List of Items to be Completed or Corrected
Old Chappell Hill Road Improvements
Contract 2-2020
City of Brenham, Texas

Original List Date: February 24, 2022 Updated List Date: _____

A. Storm Sewer

1. Cut back undermined concrete and regROUT the flow line of Inlet A-2.
2. Grout the interior of Inlet A-1.
3. Remove and replace four storm sewer lids.

B. Clean Up and Restoration

1. Raise the fire hydrant 12 inches at Station (Sta.) 12+75.
2. Regrade around the fire hydrant at Sta. 12+75 to make the existing water valve boxes flush with the finished grade.
3. Raise the fire hydrant 6 inches at Sta 18+00.
4. Remove the silt fence once grass has been established.
5. Remove rocks and other debris from around the foot of the fence near Inlet A-4.

C. Miscellaneous

1. Sign and execute Change Order No. 2.
2. Provide the Consent from Surety for final payment to Engineer.
3. Provide the final pay application to Engineer.
4. Provide a portable document format (PDF) of the red-line record drawings to Engineer.

c: Jerry Hutzler, Strand Associates, Inc.[®]
Matt Yentz, Strand Associates, Inc.[®]

**CONSENT TO FINAL PAYMENT
BY WESTFIELD INSURANCE COMPANY**

WESTFIELD INSURANCE COMPANY BOND NO. 088155T

TO OBLIGEE: The Honorable Mayor and City Council OBLIGEE'S PROJECT NO. 2020-02
of the City of Brenham
200 W. Vulcan Street
Brenham, TX 77833
DATE OF CONTRACT: 01/19/2021

PROJECT:

(Insert name, address and description of Project)

Old Chappell Hill Road Improvements, Project No. 2020-02
STRAND Project No. 3900.240

According to the provisions of the Contract between the Obligee and the Contractor as indicated above,
Westfield Insurance Company, P. O. Box 5001, One Park Circle, Westfield Center, Ohio 44251-5001, as
Surety on bond of contractor,
(Insert name and address of Contractor)

Brazos Paving, Inc.
PO Box 714
Bryan, TX 77806

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor
shall not relieve Westfield Insurance Company of any of its obligations to the Obligee,
(Insert name and address of Obligee)

The Honorable Mayor and City Council of the City of Brenham
200 W. Vulcan Street
Brenham, TX 77833

as stated in said Surety's bond.

Dated: March 14, 2022

Westfield Insurance Company

By: Randi N. Meche
Randi N. Meche



THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 03/08/22, FOR ANY PERSON OR PERSONS NAMED BELOW.

POWER NO. 4220702 01

General
Power
of Attorney

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

CERTIFIED COPY

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
JAMES R. JACKSON, LISA MARROQUIN, FELIX M. MOESMANG, RANDI N. MECHE, JOINTLY OR SEVERALLY

of WACO and State of TX its true and lawful Attorney(s) in Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s) in Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s) in Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney in Fact. may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney in Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be it Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 08th day of MARCH A.D., 2022.

Corporate
Seals
Affixed



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By:
Gary W. Stumper, National Surety Leader and Senior Executive

State of Ohio
County of Medina ss.:

On this 08th day of MARCH A.D., 2022, before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say, that he resides in Hartford, CT; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



State of Ohio
County of Medina ss.:

David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 14th day of March A.D., 2022.



Frank A. Carrino, Secretary

BPOAC2 (combined) (06 02)

THIS POWER OF ATTORNEY SUPERCEDES ANY PREVIOUS POWER BEARING THIS SAME POWER # AND ISSUED PRIOR TO 03/08/22, FOR ANY PERSON OR PERSONS NAMED BELOW.

General
Power
of Attorney

CERTIFIED COPY

POWER NO. 4220702 01

Westfield Insurance Co.
Westfield National Insurance Co.
Ohio Farmers Insurance Co.
Westfield Center, Ohio

Know All Men by These Presents, That WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, corporations, hereinafter referred to individually as a "Company" and collectively as "Companies," duly organized and existing under the laws of the State of Ohio, and having its principal office in Westfield Center, Medina County, Ohio, do by these presents make, constitute and appoint
JAMES R. JACKSON, LISA MARROQUIN, FELIX M. MOESMANG, RANDI N. MECHE, JOINTLY OR SEVERALLY

of WACO and State of TX its true and lawful Attorney(s) in Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings, or other instruments or contracts of suretyship.

LIMITATION: THIS POWER OF ATTORNEY CANNOT BE USED TO EXECUTE NOTE GUARANTEE, MORTGAGE DEFICIENCY, MORTGAGE GUARANTEE, OR BANK DEPOSITORY BONDS.

and to bind any of the Companies thereby as fully and to the same extent as if such bonds were signed by the President, sealed with the corporate seal of the applicable Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney(s) in Fact may do in the premises. Said appointment is made under and by authority of the following resolution adopted by the Board of Directors of each of the WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY:

"Be It Resolved, that the President, any Senior Executive, any Secretary or any Fidelity & Surety Operations Executive or other Executive shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s) in Fact to represent and act for and on behalf of the Company subject to the following provisions:

The Attorney in Fact, may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements of indemnity and other conditional or obligatory undertakings and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney in Fact shall be as binding upon the Company as if signed by the President and sealed and attested by the Corporate Secretary."

"Be It Further Resolved, that the signature of any such designated person and the seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signatures or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." (Each adopted at a meeting held on February 8, 2000).

In Witness Whereof, WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY have caused these presents to be signed by their National Surety Leader and Senior Executive and their corporate seals to be hereto affixed this 08th day of MARCH A.D., 2022.

Corporate
Seals
Affixed



WESTFIELD INSURANCE COMPANY
WESTFIELD NATIONAL INSURANCE COMPANY
OHIO FARMERS INSURANCE COMPANY

By:
Gary W. Stumper, National Surety Leader and
Senior Executive

State of Ohio
County of Medina ss.:

On this 08th day of MARCH A.D., 2022, before me personally came Gary W. Stumper to me known, who, being by me duly sworn, did depose and say, that he resides in Hartford, CT; that he is National Surety Leader and Senior Executive of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, the companies described in and which executed the above instrument; that he knows the seals of said Companies; that the seals affixed to said instrument are such corporate seals; that they were so affixed by order of the Boards of Directors of said Companies; and that he signed his name thereto by like order.

Notarial
Seal
Affixed



David A. Kotnik, Attorney at Law, Notary Public
My Commission Does Not Expire (Sec. 147.03 Ohio Revised Code)

State of Ohio
County of Medina ss.:

I, Frank A. Carrino, Secretary of WESTFIELD INSURANCE COMPANY, WESTFIELD NATIONAL INSURANCE COMPANY and OHIO FARMERS INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; and furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Westfield Center, Ohio, this 14th day of March A.D., 2022.



Frank A. Carrino, Secretary

BPOAC2 (combined) (06 02)

**CITY OF BRENHAM
STANDARD SPECIFICATION**

**CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS**

Document 00642

**CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS**

The undersigned, Billy Prewitt, states that he is the Sr. Vice President,
of Brazos Paving, Inc.
Affiant Title

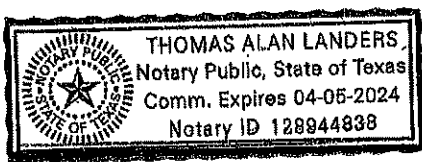
Contractor

and that he is duly authorized to execute this Certification of Payment to Subcontractors and Suppliers; that Contractor has made payments to Subcontractors and Suppliers for all labor, materials, equipment, and services furnished to date for Work on Project No. 2020-02 in the amounts for which Contractor has been paid; that the labor, materials, equipment, and services covered by this Certificate of Payment have been furnished in accordance with and all in compliance with the Contract Documents; that no sums have been withheld by Contractor for Subcontractors and Suppliers as a result of any allegations of deficiencies in the Work; and that such payments were made in accordance with the Contract Documents and with the laws of the State of Texas.

[Signature]
Affiant's Signature

SWORN AND SUBSCRIBED before me on

3/25/2022
Date



[Signature]
Notary Public in and for the State of TEXAS

Thomas Alan Landers
Print or type name

My Commission Expires: 4/5/2024
Expiration Date

END OF DOCUMENT



Regular City Council
AGENDA ITEM 15.

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

Meeting Type: Regular Meeting-April 07, 2022

Department: Information Technology

Staff Contact: Kevin Schmidt

SUMMARY STATEMENT:

The Microsoft Enterprise Agreement (MEA) is a three-year contract allowing the City of Brenham to maintain the usage of Microsoft software and licenses. This is the 5th renewal of the original MEA, which was executed in 2007. This renewal includes the Office 365 subscriptions for nearly all City employees. The total cost is \$94,948.80 per year for three years, to be paid annually. This is an increase from previous agreements due additional employees and PCs that were added, as well as cost increases from Microsoft.

ATTACHMENTS:

(1) SHI Quote

RECOMMENDED ACTION:

Approve the renewal of a three-year Microsoft Enterprise Agreement with Microsoft Corporation Affiliate SHI Government Solutions for \$94,948.80 per year and authorize the Mayor to execute any necessary documentation.



Pricing Proposal
Quotation #: 21723377
Created On: 3/10/2022
Valid Until: 3/31/2022

CITY OF BRENHAM

Kevin Schmidt

200 WEST VULCAN ST
CITY HALL - CITY OF BRENHAM
Brenham, TX 77833
United States
Phone: 9793377560
Fax:
Email: kschmidt@cityofbrenham.org

Senior Inside Account Manager

Jeff Rosen

3828 Pecana Trail
Austin, TX 78749
Phone: 800-870-6079 ext 8686150
Fax: (512)732-0232
Email: Jeff_Rosen@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 AzureActiveDrctryPremP2GCC ShrdSvr ALNG SubsVL MVL PerUsr Microsoft - Part#: MQN-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	2	\$83.52	\$167.04
2 ECALBridgeO365 ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-12426 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	36	\$39.84	\$1,434.24
3 ECALBridgeO365FromSA ALNG SubsVL MVL PerUsr Microsoft - Part#: AAA-12434 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	229	\$34.92	\$7,996.68
4 O365 G1 FSA GCC Sub Per User Microsoft - Part#: 7R6-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	32	\$71.76	\$2,296.32
5 O365 G1 GCC Sub Per User Microsoft - Part#: U4S-00002 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	8	\$85.44	\$683.52
6 O365 G3 FSA GCC Sub Per User Microsoft - Part#: AAA-11924 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	197	\$202.32	\$39,857.04

7	O365 G3 GCC Sub Per User Microsoft - Part#: AAA-11894 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	28	\$237.72	\$6,656.16
8	Power Automate GCC Sub Per User Microsoft - Part#: SFR-00001 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	1	\$162.12	\$162.12
9	Prjct Std ALNG SA MVL Microsoft - Part#: 076-01912 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	1	\$126.06	\$126.06
10	SQLSvrStdCore ALNG LicSAPk MVL 2Lic CoreLic Microsoft - Part#: 7NQ-00302 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	6	\$1,344.14	\$8,064.84
11	System Center DC Core ALng SA 2L Microsoft - Part#: 9EP-00208 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	16	\$48.30	\$772.80
12	System Center Standard Core ALng SA 2L Microsoft - Part#: 9EN-00198 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	8	\$18.01	\$144.08
13	VisioPro ALNG SA MVL Microsoft - Part#: D87-01159 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	13	\$108.06	\$1,404.78
14	Win Enterprise Device ALng SA Microsoft - Part#: KV3-00368 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	290	\$48.30	\$14,007.00
15	Win Enterprise Device ALng Upgrade SA Microsoft - Part#: KV3-00381 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	20	\$66.31	\$1,326.20
16	Win Server DC Core ALng SA 2L Microsoft - Part#: 9EA-00278 Contract Name: Microsoft Software VAR Contract #: DIR-TSO-4092 Coverage Term: 5/1/2022 – 4/30/2023	64	\$124.43	\$7,963.52

17 Win Server Standard Core ALng SA 2L	96	\$19.65	\$1,886.40
Microsoft - Part#: 9EM-00270			
Contract Name: Microsoft Software VAR			
Contract #: DIR-TSO-4092			
Coverage Term: 5/1/2022 – 4/30/2023			

Subtotal	\$94,948.80
Shipping	\$0.00
Total	\$94,948.80

Additional Comments

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

The products offered under this proposal are resold in accordance with the terms and conditions of the Contract referenced under that applicable line item.



Regular City Council
AGENDA ITEM 17.

Agenda Item: Texas Government Code - Section 551.086 - Utility Competitive Matters - City of Brenham Electric Utility System - Power Supply and Associated Competitive Matters

Meeting Type: Regular Meeting-April 07, 2022

Department: Public Utilities

Staff Contact: Debbie Gaffey

SUMMARY STATEMENT:

Executive Session item.

ATTACHMENTS:

None

RECOMMENDED ACTION:

To be discussed in Executive Session.



Regular City Council
AGENDA ITEM 18.

Agenda Item: Texas Government Code Section 551.071 – Consultation with Attorney – Executive Session for the Purpose of Consultation with Legal Counsel Regarding the City’s Redistricting Obligations

Meeting Type: Regular Meeting-April 07, 2022

Department: Administration

Staff Contact: Jeana Bellinger

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action will be taken.