



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MARCH 2, 2017 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Herring**
- 3. Special Presentation**
 - **2016 Texas Association of Public Pool Council Awards**
- 4. Service Recognitions**
 - **Stephen Nittsche, Street Department 5 Years**
 - **Curtis Martin, Electric Department 10 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. Minutes from the February 2, 2017 and February 16, 2017 Regular City Council Meetings

Pages 1-17

PUBLIC HEARING

7. **Proposed Annexation of Approximately 86.664 Acres of Land Situated in Washington County, Texas, out of the Phillip Coe Survey, Abstract No. A0031 Generally Consisting of Tracts with Frontage Along State Highway 36 North; Land Located West of and Adjacent to Dixie Street that is not Currently within the City Limits and Approximately 1,500 Feet from the “Cloverleaf” Intersection of Highway 290 West and State Highway 36 North**
Pages 18-23

REGULAR SESSION

8. **City Secretary’s Certification of Unopposed Candidates for the City of Brenham’s May 6, 2017 General Election**

Certificación de Candidatos Sin Oposición por la Secretaria de la Ciudad de el Municipio de Brenham
Pages 24-26
9. **Discuss and Possibly Act Upon an Order Declaring Unopposed Candidates for the Position of Councilmember Place 1 – Ward 1, Councilmember Place 3 – Ward 3, Councilmember Place 5 – At Large, and Councilmember Place 6 – At Large Elected to Office and Canceling the City of Brenham May 6, 2017 General Election**

Considerar y en consecuencia actuar una Orden Declarando Candidatos Sin Oposición Para el Puesto de Concejal para Lugar 1 – Distrito Electoral 1, Concejal para Lugar 3 – Distrito Electoral 3; Concejal para Lugar 5 – Distrito Abierto; Concejal para Lugar 6-Distrito Abierto Elegidos a su Puesto y Cancelando la Elección General de la Ciudad de Brenham para el 6 de mayo, 2017 **Pages 27-34**
10. **Discuss and Possibly Act Upon the Acceptance of the Audit from Seidel Schroeder for Fiscal Year 2016**
Page 35
11. **Discuss and Possibly Act Upon the Acceptance of the 2016 Audit of the Washington County Appraisal District by Seidel Schroeder**
Pages 36-37
12. **Discuss and Possibly Act Upon an Addendum to the Contract for Participation in the City of Brenham’s Rotation Log for Non-Consent Tows and Authorize the City Manager to Execute Any Necessary Documentation**
Pages 38-65

13. **Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event:**
 - a. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations;**
 - b. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Munz Lift Station;**
 - c. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Lake Line at Big Sandy Creek;and**
 - d. **Professional Services Agreement with Gunda Corporation for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations;****and Authorize the Mayor to Execute Any Necessary Documentation**

Pages 66-121
14. **Discuss and Possibly Act Upon the Rejection of Bid No. 17-004 for the Fabrication and Installation of Wayfinding Signage and Authorize the Mayor to Execute Any Necessary Documentation**

Page 122
15. **Discuss and Possibly Act Upon Bid No. 17-005 for the Purchase of Refuse Bags for the Sanitation Department and Bin Liners for the Parks Department and Authorize the Mayor to Execute Any Necessary Documentation**

Pages 123-126
16. **Discuss and Possibly Act Upon a Request for a Noise Variance from Jesus Christ is the Answer for a Church Gathering on March 24, 2017 from 5:00 p.m. – 10:00 p.m. at Fireman's Park and Authorize the Mayor to Execute Any Necessary Documentation**

Pages 127-128
17. **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.

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 March 2, 2017 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on February 27, 2017 at **12:50 PM**.

Kacey A. Weiss

Deputy City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2017 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on February 2, 2017 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 Gloria Nix
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Keith Herring
Councilmember Mary E. Barnes-Tilley
Councilmember Weldon Williams, Jr.

Members absent:

None

Others present:

City Manager Terry Roberts, Assistant City Manager of General Government Ryan Rapelye, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Assistant City Manager – Chief Financial Officer Carolyn Miller, Stacy Hardy, Susan Nienstedt, Sara Parker, Kaci Konieczny, Director of Community Services Wende Ragonis, Fire Chief Ricky Boeker, Police Chief Craig Goodman, Chris Jackson, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Debbie Gaffey, Development Services Director Erik Smith, Kim Hodde, Lori Lakatos, Darlene Konieczny, Kevin Boggus and Stephen Draehn

Citizens present:

Perry Thomas, Callie Korth, David Korth and Jon Hodde

Media Present:

Arthur Hahn, Brenham Banner Press; and Noelle Buffam, KWHI

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

3. **Service Recognitions**
- **Debra Gaffey, Public Utilities** **10 Years**
 - **Cody Neutzler, Sanitation** **10 Years**

4. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

5. **Statutory Consent Agenda**

5-a. **Minutes from the December 15, 2016 Regular City Council Meeting**

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve the Statutory Consent Agenda with a minor grammatical correction on Page 2.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

WORK SESSION

6. **Presentation and Discussion on the Possible Placement of Stop Signs on S. Chappell Hill Street at Its Intersection with Niebuhr Street**

Public Works Director Dane Rau presented this item. Rau explained that over the last year, the City of Brenham has received numerous concerns over the limited visibility and safety at this intersection. Rau stated that within the last few months City Staff has received a petition of approximately 400 signatures requesting the City consider placing additional stop signs at this intersection in order to make it safer. Rau advised that the petition did not comply with the requirements of the City Charter and was not sufficient to involve the city to provide an initiative at the current time.

Rau explained that City Staff has been monitoring the intersection and looking at options in order to improve this intersection as it relates to traffic exiting off of Niebuhr Street. Rau noted that the overall issue is that the fence with rock columns blocks the full view from traffic exiting off of Niebuhr Street.

Rau explained that Staff has considered two options that will make this intersection safer. The first option would be to make this intersection a controlled intersection by placing 2 additional stop signs on Chappell Hill Street. Rau noted this will make an all way stop at the intersection, requiring traffic along Chappell Hill Street to stop before continuing through. Rau explained that the second option is to possibly obtain some of the property adjacent to the intersection and relocate the existing fence in order to ease the visibility at this intersection. Rau advised that this option would come with some expense, which at this time, the fence relocation is estimated at \$8,500-\$10,000.

Citizen Mark Rose, a resident at 1608 Ellen Street, is the pastor at Christ Lutheran Church and stated that he is concerned about the safety of their day school families that are using that intersection at the busiest times.

It was decided by Council to put temporary stop signs in place for now and to monitor the area. If this does not resolve the problem or causes further issues, then permanent signs could be placed or removal of the fence may be needed.

REGULAR SESSION

7. Discuss and Possibly Act Upon Bid No. 17-002 for Generator Maintenance and Inspection for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation

Maintenance Supervisor Stephen Draehn presented this item. Draehn stated that on January 18, 2017, the Purchasing Department opened bids related to the Annual Generator Maintenance and Inspection Contract. Draehn advised that seven bids were received for review and LJ Power submitted the lowest bid. Draehn explained that currently there are ten locations that have generators that will fall under this contract and the services provided are for a bi-annual visit to each generator.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve a one year contract with LJ Power in the amount of \$9,800.00 for the generator maintenance and inspections for various City facilities 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

8. **Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event:**
- a. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Wastewater and Water Treatment Plants;**
 - b. **Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to Alamo Street, Schulte Boulevard, and Gun & Rod Road;**
 - c. **Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; and**
 - d. **Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to the Raw Water Intake Structure at Lake Somerville;**
- and Authorize the Mayor to Execute Any Necessary Documentation**

This item was passed.

9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Design Standard Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 374 (WCAD), 0.265604 Acres of Land, Out of the Phillip Coe Survey, A-31, Located at 1118 West Main Street, Brenham, Washington County, Texas**

Development Services Director Erik Smith presented this item. Smith explained that David W. Korth owns a 0.265604 acre tract of land located at 1118 West Main Street. Smith stated that the subject property does not have road frontage, but has access via a platted private road. Smith advised that the applicant would like to plat this property and is specifically asking for a variance to remove the requirement to have property frontage on a City right-of-way. Smith noted the Planning and Zoning Commission recommended approval of this request.

Councilmember Williams expressed concern that the private road could create issues for the City in the future if there were new property owners. City Attorney Cary Bovey stated that if the variance is granted, Mr. Korth can develop his property legally and it would not be a liability for the City.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve an Ordinance on its first reading authorizing a variance to Design Standard Requirements, as outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a tract of land being described as Tract 374, 0.265604 acres of land, out of the Phillip Coe Survey, A-31 located at 1118 West Main Street, Brenham, Washington County, Texas.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

10. Discuss and Possibly Act Upon a Ground Space Lease Agreement with Bob Handley for Hangar Space at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Planning Technician Kim Hodde presented this item. Hodde explained that John Startz sold his hangar (3307 Aviation Way) to Bob Handley and therefore, a new lease agreement needs to be executed for Mr. Handley. Hodde advised that execution of this lease agreement with Mr. Handley will cancel the previous agreement with John Startz.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve a Ground Space Lease Agreement with Bob Handley for hangar space at the Brenham Municipal Airport and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

11. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Washington County Day at the Capitol is February 21st

Director of Community Services Wende Ragonis reported on the following:

- Texas Historical Commission representative will be speaking at the Barnhill Center at 5:30 today about tax credits
- *CNN Travel* featured an article about Brenham and Washington County
- The city's website has been updated with parks and animal shelter information
- Bids for wayfinding signage will be opened on February 14th

Police Chief Craig Goodman reported on the following:

- Sgt. Seth Klehm was selected as a "100 Club Officer of the Year" and will be recognized May 17th in Houston

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on February 16, 2017 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 Gloria Nix
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Mary E. Barnes-Tilley
Councilmember Weldon Williams, Jr.

Members absent:

Councilmember Keith Herring

Others present:

City Manager Terry Roberts, Assistant City Manager of General Government Ryan Rapelye, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Assistant City Manager – Chief Financial Officer Carolyn Miller, Susan Nienstedt, Sara Parker, Director of Community Services Wende Ragonis, Crystal Locke, Fire Chief Ricky Boeker, Police Chief Craig Goodman, Dant Lange, Chris Jackson, Public Works Director Dane Rau, Leslie Kelm, Bobby Branham, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Director Erik Smith, Lori Lakatos, Stephen Draehn, John Snowden and Kevin Boggus

Citizens present:

David Korth, Kevin Burnett, John Brieden, Kristi Stamnes, Joy Fuchs, Jon Devin, Lawrence Lin, David Viade, Bob Schmidt, Jason Reimer, Susan Cantey, Page Michel, Lu Hollander, Courtney Powell, Jenny Mills, Clint Kolby and James Franke

Media Present:

Arthur Hahn, Brenham Banner Press; and Noelle Buffam, KWHI

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

3. **Citizens Comments**

There were no citizen comments.

4. **Special Introduction**

- **Director of 9-1-1 Communications**

Washington County Judge John Brieden introduced Kristi Stamnes the new Director of 9-1-1 Communications for the County.

CONSENT AGENDA

5. **Statutory Consent Agenda**

5-a. **Minutes from the January 12, 2017 and January 19, 2017 Regular City Council Meetings**

5-b. **Ordinance No. O-17-002 on Its Second Reading Authorizing a Variance to Design Standard Requirements, as Outlined in Section 23-22(5)(a) of the City of Brenham's Code of Ordinances, on a Tract of Land Being Described as Tract 374 (WCAD), 0.265604 Acres of Land, Out of the Phillip Coe Survey, A-31, Located at 1118 West Main Street, Brenham, Washington County, Texas**

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to approve the Statutory Consent Agenda Items 5-a. and 5-b. as presented.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

WORK SESSION

6. Presentation of the First Quarter Report by the Washington County Convention and Visitors Bureau

Lu Hollander with the Washington County Convention and Visitors Bureau presented this report. Hollander focused on the highlights featured in the *First Quarter Report: Oct - Dec 2016*, pointing out the visitor statistics, major tourism events, advertising placements and editorial coverage.

7. Presentation and Discussion Related to the Creation of a Neighborhood Commercial (B4) Zoning District

Development Services Director Erik Smith presented this item. Smith explained that property owners approached city staff about looking into a new zoning district for the downtown area. The new zoning area would be the Downtown Brenham Master Plan Southside Overlay District (B4 District). Smith stated that many of the existing structures and lots in this area of downtown have compliance issues and variances and special exceptions would be the only course of action for a property owner interested in redeveloping their property.

Smith advised that permitted uses in the new B-4 District would be similar to those listed in the B-3 Historical Central Business District and B-1 Local Business/Residential Mixed Use District and would include restaurants, retail, arts and crafts, amusement and entertainment, bakeries and offices. Smith also explained that the land area regulations would be similar to the current B-3 District where there is no limit on lot coverage, structure height requirement is 45 feet and no parking requirements in lieu of fee paid. Smith explained that the parking fees paid would help fund future satellite parking areas in the new District.

Smith explained that a new land use will also be included in a portion of the new B-4 District. The new land use would allow for single family detached homes, townhouses, two-family dwellings or duplexes, and multifamily dwellings. Smith stated there would be parking and setback requirements for all residential uses.

Smith advised the goals of the new B-4 District would be to help alleviate a number of potential variances and special exception requests from applicants wanting to revitalize their property; create parking requirements that fit the District and create a fund to earmark money for future satellite parking to serve the District; create a walkable community; and for revitalization of the south end of downtown.

Councilmember Goss stated that he would like staff to look into the various entertainment and amusement uses that will be allowed in the District since it will also be a residential area.

Smith advised Council that the next step in the process would be to hold Town Hall meetings so that interested citizens could come and ask questions about the new District and how it may affect their property. Smith said that the Planning and Zoning Commission (P&Z) will also have to have a series of public hearings and open meetings to discuss the new B-4 District. After the Town Hall meetings and further review and discussion by P&Z, a draft ordinance will be brought to Council for their approval.

PUBLIC HEARING

8. Proposed Annexation of Approximately 86.664 Acres of Land Situated in Washington County, Texas, out of the Phillip Coe Survey, Abstract No. A0031 Generally Consisting of Tracts with Frontage Along State Highway 36 North; Land Located West of and Adjacent to Dixie Street that is not Currently within the City Limits and Approximately 1,500 Feet from the “Cloverleaf” Intersection of Highway 290 West and State Highway 36 North

Mayor Tate opened the Public Hearing

Development Services Director Erik Smith explained that Staff has been working with Stylecraft Builders on a planned development project for the past year. Smith noted that the property itself is roughly 87 acres and is located near the intersection of Highway 290 West and State Highway 36. Smith advised that Stylecraft Builders has submitted a petition for annexation into the city limits.

There were no citizens heard during the Public Hearing.

REGULAR SESSION

- 9. Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event:**
- a. Professional Services Agreement with O’Malley Strand Associates, Inc. for Storm Damage Repairs to the Wastewater and Water Treatment Plants; and**
 - b. Professional Services Agreement with Gunda Corporation, LLC for Storm Damage Repairs to the Raw Water Intake Structure at Lake Somerville;**
- and Authorize the Mayor to Execute Any Necessary Documentation**

City Engineer Lori Lakatos presented this item. Lakatos explained that during the May 2016 Flood Event multiple sites were damaged throughout the City and that FEMA declared Washington County as an eligible area for Federal assistance.

Lakatos advised that as part of the recovery relief, FEMA provides kind-in assistance and hazard mitigation, should the projects meet the benefit cost analysis, and will help reduce the risk of these types of damages occurring in the future. Lakatos explained that Staff has been working with FEMA to include the storm damage in the funding for eligible projects and has also been working with engineering firms to help the City's recovery and possibly mitigate potential risks in the future.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve Professional Services Agreements related to storm disaster recovery work from the May 2016 Storm Event as follows:

- a. Professional Services Agreement with O'Malley Strand Associates, Inc. in the amount of \$360,100 for Storm Damage Repairs to the Wastewater and Water Treatment Plants;
- b. Professional Services Agreement with Gunda Corporation in the amount of \$285,888 for Storm Damage to the Raw Water Intake at Lake Somerville

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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

10. Discuss and Possibly Act Upon Bid No. 17-003 for Janitorial Services for Various City Facilities and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau stated that on January 24, 2017, the Purchasing Department opened bids for janitorial services for various city facilities. Rau noted that there were 4 completed bids received. Rau advised that for the past three years, Ambassador Higher Cleaning Solutions has been the janitorial service provider. Rau explained that there have been issues with Ambassador and their service has been subpar.

Rau stated that Ambassador did submit the lowest bid at \$80,227.20; however, based off of the "best value" language included in the bid packet, past experiences with Ambassador and reference checks, Staff feels that the City cannot stay with Ambassador as the janitorial provider. Rau explained that Staff has reviewed the second lowest bidder, Lim Service Industries, and recommends that the Council awarding the janitorial bid to them.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to award Bid No. 17-003 to Lim Service Industries in the amount of \$96,912.00 for janitorial services in various city facilities, as it represents the best value for the City, 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

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

Public Works Director Dane Rau presented this item. Rau explained that during the 2016-17 budget process, Staff shared with Council major equipment needs according to multiple departments' 5 year capital plans. Rau stated that in accordance with the 5 year capital plans, Staff would like to purchase 11 pieces of equipment from 8 different vendors.

Vendor	Equipment	Purchase Price
Mustang CAT	Loader	\$ 213,900.00
Mustang CAT	Paving Machine	200,635.00
R.B. Everett	Compactor	109,577.00
R.B. Everett	Double Drum	126,381.00
Altec Industries	Bucket Truck	128,292.00
Lonestar Freightliner	Tandem Dump	98,150.00
Art's Truck and Equip.	Water Truck	46,723.86
Interstate Trailers	Street Equip. Trailer	25,673.58
Mustang CAT	Trackhoe	194,700.00
Bane Machinery	Tub Grinder	607,649.00
		\$ 1,751,681.44

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the purchase of 11 pieces of equipment in the amount of \$1,751,681.44 for various City departments 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

12. Discuss and Possibly Act Upon an Equipment Financing Proposal with JPMorgan Chase Bank for the Purchase of Equipment for Various City Departments and Authorize the Mayor to Execute Any Necessary Documentation

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller stated that this is a companion item for the financing of major equipment as presented by Dane Rau, Public Works Director. Miller explained that JPMorgan Chase Bank and Bank of Brenham submitted proposals. Miller advised that another financing option would be for the City to issue 7-Year Limited Tax Notes (LTN) in the open market through our financial advisor, Garry Kimball of Specialized Public Finance. Miller stated that the pro-forma annual payments for 7-Year LTN would be equal to the JPMorgan Chase proposal; therefore, staff is recommending that the equipment financing be done through a financing agreement with JPMorgan Chase Bank.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve a 7 year equipment financing contract, as approved by the City Attorney, with JPMorgan Chase Bank for the purchase of equipment for various city departments at an interest rate of 2.20% with annual payments of principal and interest, each in arrears, equal to \$298,649.27 beginning on March 1, 2018 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

13. Discuss and Possibly Act Upon an Addendum to the Contract for Participation in the City of Brenham's Rotation Log for Non-Consent Tows and Authorize the City Manager to Execute Any Necessary Documentation

Police Chief Craig Goodman presented this item. Goodman explained that in March 2016, staff met with the Non-Consent Tow Task Force members and representatives from all of the towing companies currently on the City and County non-consent tow contract. Goodman stated it was determined during that meeting that there were some issues that needed to be reviewed and possible changes made to the contract. Goodman advised that after several meetings with members of the Task Force, it was the overall consensus that an Addendum to the Non-Consent Tow Contract was needed to address some of the issues. Goodman noted that Commissioner Hueske is a member of the Task Force and has been involved in all of the discussions related to these changes.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve an addendum to the contract for participation in the City of Brenham's rotation log for non-consent tows and authorize the City Manager to execute any necessary documentation.

Kevin Burnett, owner of B&B Automotive, addressed the Council. Burnett stated that he is very unhappy with the contract and believes the rules are unfair in that companies are not treated fairly. Burnett stated that he would like for the contract to be removed and that citizens should be allowed to choose their own tow service provider.

City Attorney Cary Bovey advised that the contract states that if a tow company wants to do non-consent tows in the City, then those companies must abide by the terms and conditions of the contract.

Councilmember Barnes-Tilley stated that she would like to get more information on the issues and concerns before Council votes on the item.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to table agenda item 13

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

14. Discuss and Possibly Act Upon the Acceptance of a Donation in the Amount of \$15,000.00 to the Brenham Pet Adoption Center and Authorize the Mayor to Execute Any Necessary Documentation

Police Chief Craig Goodman presented this item. Goodman explained that Angela and Bob Knauss have offered a donation to the Brenham Pet Adoption Center for \$15,000 to provide funding for material to build frames for donated swings, material to cover portions of the outdoor kennels with \$1,500 specifically being allotted to the cat room. Goodman stated that the remainder of the donated funds will be allocated for the purchase of a security camera system.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Goss to accept a donation in the amount of \$15,000 to the Brenham Pet Adoption Center 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

15. Discuss and Possibly Act Upon Resolution No. R-17-003 Authorizing the Submission of a Grant Application Through the Criminal Justice Division of the Governor's Office for Conversion to the National Incident-Based Reporting System

Police Chief Craig Goodman presented this item. Goodman explained that Uniform Crime Reporting gathers crime data from law enforcement agencies for statistical analysis. Goodman stated that there are two methods for reporting data, Summary Reporting and Incident Reporting. Goodman advised that the Texas Legislature has mandated that all agencies move away from Summary Reporting to Incident Based Reporting. Goodman explained that Office of the Governor, Criminal Justice Division is accepting applications from local law enforcement agencies to upgrade technology infrastructure to allow for and support Incident-Based Reporting to the Texas Department of Public Safety. Goodman noted that there is no match required for this grant.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve Resolution No. R-17-003 for the submission of a grant application through the Criminal Justice Division of the Governor's Office for conversion to the National Incident-Based Reporting System.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

16. Discuss and Possibly Act Upon the Purchase of Rifle Equipment for the Police Department Using Seized Narcotic Funds and Authorize the Mayor to Execute Any Necessary Documentation

Police Chief Craig Goodman presented this item. Goodman explained that the police department is seeking approval to order twenty (20) Magpul flip-up rear sights and twenty (20) Aimpoint patrol rifle optics to complete the outfitting of the remaining rifles in the department. Goodman stated that Staff is requesting the use of narcotic seizure funds to purchase these items.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve the purchase of twenty (20) Magpul flip-up rear sights and twenty (20) Aimpoint patrol rifle optics from GT Distributors, Inc. in the amount of \$8,806.10 for the police department 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 Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Weldon Williams	Yes

17. Discuss and Possibly Act Upon a Recommendation for Appointments to the Brenham-Washington County Hotel Occupancy Tax (HOT) Board

City Manager Terry Roberts presented this item. Roberts explained that the Brenham-Washington County HOT Board consists of nine (9) members: seven (7) members are appointed by the City Council and two (2) members are appointed by the Washington County Commissioners. Roberts stated that currently there are three (3) city-appointee vacancies on the HOT Board and staff is recommending that Mary Barnes-Tilley and Sharon Brass be appointed to fill two of the city's three spots on this Board. Roberts noted that the third member appointment will be brought back to Council at a later date.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the appointment of Mary Barnes-Tilley and Sharon Brass to the Brenham-Washington County Hotel Occupancy Tax (HOT) Board.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Mary E. Barnes-Tilley	Abstain
Councilmember Weldon Williams	Yes

19. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Chamber Business After Hours will be February 23rd at the Barnhill Center
- Washington County Day at the Capitol is February 21st

Public Works Director Dane Rau reported on the following:

- New basketball goals are in place at Jackson Street Park
- New scoreboard is in place at Fireman's Park

Council adjourned into Executive Session at 2:28 p.m.

EXECUTIVE SESSION

18. Section 551.072 – Texas Government Code – Deliberation Regarding Real Property – Deliberation Regarding the Possible Lease, Sale or Exchange of a City-Owned Building and Associated Real Property Located at 110 W. Vulcan Street, Brenham, Texas

Executive Session adjourned at 2:55 p.m.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary



AGENDA ITEM 7

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Erik Smith	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☒ PUBLIC HEARING ☐ CONSENT ☐ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Proposed Annexation of Approximately 86.664 Acres of Land Situated in Washington County, Texas, out of the Phillip Coe Survey, Abstract No. A0031 Generally Consisting of Tracts with Frontage Along State Highway 36 North; Land Located West of and Adjacent to Dixie Street that is not Currently within the City Limits and Approximately 1,500 Feet from the “Cloverleaf” Intersection of Highway 290 West and State Highway 36 North		
SUMMARY STATEMENT: Staff has been working with Stylecraft Builders on a planned development for the past year. The property itself is roughly 87 acres. The property is currently not located inside the city limits. The applicant has submitted a petition for voluntary annexation into the city limits. This is just a public hearing to begin the annexation process. There will be an ordinance that the will come to City Council in the future along with the proposed rezoning to a Planned Development District.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Petition for Annexation; (2) Rubenstein and Jenkins Estate Survey; (3) Metes and Bounds; and (4) Aerial Exhibit		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: None – Public Hearing Only		
APPROVALS: Terry K. Roberts		

Petition for Annexation

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, A HOME RULE MUNICIPALITY:

The undersigned, Doug French, Owner(s) of the hereinafter described tract of land, hereby petitions the governing body to extend the present city limits so as to include and annex as part of the City of Brenham, Texas (pursuant to Texas Local Government Code, Chapter 43 and the Brenham Home Rule Charter) the following described territory, to wit:

All that 86.664 acre tract or parcel of land situated in Washington County, Texas out of the Phillip Coe Survey A-31 and being all or a portion of the tract of land called 88.12 acres in an executor's deed dated January 1, 2001 from Cheryl Jean Rubenstein Jenkines, Independent Executrix of the Estate of David P. Rubenstein, to Cheryl Jean Rubenstein Jenkines, Individually as recorded in Volume 980, Page 473 of the Official Records of Washington County and in an executor's deed dated May 8, 2002 from Adella Rubenstein, Independent Executrix of the Estate of Matthews Rubenstein to Adella Rubenstein, Individually as recorded in Volume 1032, Page 533 of the Official Records of Washington County, said 86.664 acre tract being more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes.

The undersigned Owner certifies that the hereinabove described land adjoins the existing corporate limits of the City of Brenham, there are no qualified voters residing in the territory to be annexed, and the person signing this petition represents that CTX Land Investments owns the land in the area to be annexed.

The undersigned Owner acknowledges that the hereinabove described land is the subject of a "Section 43.035 Texas Local Government Code Development Agreement" dated March 21, 2014 and recorded in Volume 1472, Page 403 of the Official Records of Washington County, Texas (the "Agreement") and the Owner hereby waives any and all rights Owner may have pursuant to said Agreement, and voluntarily requests the hereinabove described land be annexed by and into the corporate limits of the City of Brenham, Texas.

Owner:  M.P.

Doug French President
Printed Name:
Title:

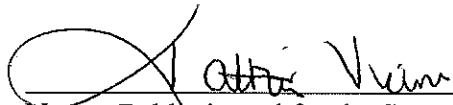
THE STATE OF TEXAS

§
§
§

COUNTY OF WASHINGTON

Before me, the undersigned authority, on this day personally appeared Doug French, President, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument and acknowledged to me that he/they executed the same for the purposes and consideration therein expressed.

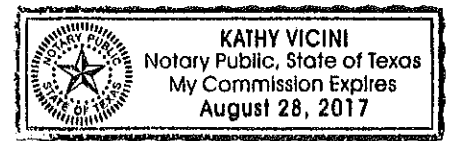
Given under my hand and seal of office, this 17th day of January, 2017,
20 .



Notary Public in and for the State of Texas

Printed Name:

Commission Expires:



B-3269



Phillip Coe Survey
A-31
Washington County, Texas

Skewert L. Brown and
Bobby Sue Brown
Called 294.28 Ac.
206638 D.R.M.C.

Eugene G. Baker, et al
Called 61.42 Ac.
822/204 D.R.M.C.

36.664 Ac.

Called 55.12 Ac.
980/473 D.R.M.C. &
1052/559 D.R.M.C.

Tom A. Brown, et al
Called 1.78 Ac.
124/055 D.R.M.C.

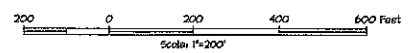
L. L. Jantz, et al
Called 0.856 Ac.
512/265 D.R.M.C.

Lorena Hyrick
Called 4.04 Ac.
1057/535 D.R.M.C.

Charlotte Bath Woods Smith
Trust II, Called 28.6/11 Ac.
585/061 D.R.M.C.

State Highway 36

Buyer: Wolff Interests, LTD. L.L.P.



Flood Hazard Statement
According to the Flood Hazard Boundary Map compiled by the U.S. Department of Housing and Urban Development F.I.A., Community Flood No. 48180-0006A Washington County, Texas, dated May 24, 1971, it appears that the subject tract does not fall within the Special Flood Hazard Area.

Surveyor Certification
TO THE LIENHOLDERS AND/OR THE OWNERS OF THE PREMISES SURVEYED AND TO THE STEWART TITLE GUARANTY COMPANY,
The undersigned does hereby certify that this survey was this day made on the ground of the property legally described hereon and is correct, and that there are no discrepancies, conflicts, shortages in area, boundary line conflicts, overlapping of improvements, encroachments or rights of way, except as shown hereon.

This survey was performed in connection with the transaction described in G.F. No. 5060524 of Washington County Abstract Company.

USE OF THIS SURVEY FOR ANY OTHER PURPOSE OR BY OTHER PARTIES SHALL BE AT THEIR RISK AND UNDERSIGNED IS NOT RESPONSIBLE TO OTHERS FOR ANY LOSS RESULTING THEREFROM.

John E. Pledger, III
D-16
Registered Professional Land Surveyor No. 2183



Estate of Adella Rubenstein, Deceased, and
Cheryl Jean Rubenstein Jenkins



Pledger and Associates
Land Surveyors
1500 North Day Street
P.O. Box 1798 Breckenridge, Texas 77822
Tele (817) 638-8821 Fax (817) 638-6828

Surveyor	County	Survey	Field Date	L.P.
John E. Pledger, III	Washington	A-31		
2183	Survey	Phillip Coe Survey	Completed	W.P.
5/08/06	City		Drafting	W.P.
Washington County, Texas	Address		Work Order	15565

Exhibit "A"
Property Description

ALL THAT TRACT OR PARCEL OF LAND situated in Washington County, Texas out of the Phillip Coe Survey A-31 and being all or a portion of the tract of land called 88.12 acres in an executor's deed dated January 1, 2001 from Cheryl Jean Rubenstein Jenkins, Independent Executrix of the Estate of David P. Rubenstein, to Cheryl Jean Rubenstein Jenkins, Individually as recorded in Volume 980, Page 473 of the Official Records of Washington County and in an executor's deed dated May 8, 2002 from Adella Rubenstein, Independent Executrix of the Estate of Matthews Rubenstein to Adella Rubenstein, Individually as recorded in Volume 1032, Page 533 of the Official Records of Washington County, said 86.664 acre tract being more particularly described as follows:

BEGINNING at a found concrete monument marking the intersection of the Northwest line of State Highway 36 with the West line of Dixie Street for the upper Southeast corner of this tract;

THENCE with the West or Northwest line of State Highway 36 and the East or Southeast line of this tract, S 26° 54' 01" W, 636.99 ft. to a found concrete monument and S 18° 03' 55" W, 210.68 ft. to a found concrete monument marking the beginning of a curve to the left;

THENCE continuing with the West line of State Highway 36 and the East line of this tract in a curve to the left having a radius of 3,417.56 ft., a distance of 1,593.10 ft. (chord S 04° 42' 40" W, 1,578.72 ft.) to a set 1/2" iron for Northeast corner of the Charlotte Beth Woods Smith Tract II called 26.691 acres (588/861 O.R.W.C.) and lower Southeast corner of this tract;

THENCE with the North line of the Smith tract and the South line of this tract,

S 74° 46' 35" W, 396.64 ft. to a tree and fence angle;
S 88° 09' 33" W, 29.76 ft. to a found 1/2" iron pin;
N 80° 37' 49" W, 109.96 ft. to a found 1/2" iron pin and

N 77° 07' 42" W, 168.40 ft. to a found 1/2" iron pin and fence corner for Southeast corner of the Lorea Myrick tract called 4.09 acres (1037/335 O.R.W.C.) and Southwest corner of this tract;

THENCE with the East line of the Lorea Myrick tract called 4.09 acres (1037/335 O.R.W.C.), the L. L. Jantz, et ux tract called 0.886 acres (372/263 D.R.W.C.), the Tom A. Brown, et ux tract called 1.718 acres (1124/093 O.R.W.C.) and the Stewart L. Brown and Betty Sue Brown tract called 219.28 acres (206/531 D.R.W.C.), also the West line of this tract,

N 13° 47' 13" W, 213.28 ft. to a found 1/2" iron pin and fence angle;
N 14° 38' 29" W, 817.40 ft. to a found 1/2" iron pin and fence corner;
N 13° 42' 23" W, 474.95 ft. to a marked tree and fence angle and

N 14° 47' 54" W, 1,386.42 ft. to a set 1/2" iron pin and fence corner for Southwest corner of the Eugene G. Baker, et ux tract called 61.42 acres (322/209 D.R.W.C.) and Northwest corner of this tract;

THENCE with the South line of the Baker tract and the North line of this tract, N 75° 24' 50" E, 1,823.51 ft. to a found 1/2" iron pin and fence corner for Northeast corner;

THENCE departing the South line of the Baker tract with the East line of this tract, S 19° 03' 26" E, 33.37 ft. to a tree and fence angle; S 14° 23' 49" E, 63.06 ft. to a found 1/2" iron pin and fence angle lying in the West line of Dixie Street;

THENCE with the West line of Dixie Street and continuing with the East line of this tract,

S 02° 51' 34" E, 24.61 ft. to a found 1/2" iron pin and fence angle;
S 00° 51' 49" W, 73.56 ft. to a found 1/2" iron pin and fence angle;
S 04° 23' 41" E, 97.51 ft. to a found 1/2" iron pin and fence angle;
S 13° 09' 07" E, 68.34 ft. to a tree and fence angle;
S 14° 20' 25" E, 222.50 ft. to a found concrete monument and

S 04° 23' 30" E, 298.42 ft. to the PLACE OF BEGINNING and containing 86.664 acres of land.



CTX Land Investment, LLC
R12310, Philip Coe, Tract 53, Ac 86.664

1 inch = 778 feet





AGENDA ITEM 8

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 20, 2017															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
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	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: City Secretary's Certification of Unopposed Candidates for the City of Brenham's May 6, 2017 General Election																
SUMMARY STATEMENT: As outlined in Section 2.052 of the Election Code, the authority responsible for having the official ballot prepared shall certify in writing that candidates are unopposed. This certification shall be delivered to the governing body as soon as possible after the filing deadline.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Certification of Unopposed Candidates																
FUNDING SOURCE (Where Applicable):																
RECOMMENDED ACTION: Accept the City Secretary's Certification of Unopposed Candidates for the City of Brenham's May 6, 2017 General Election																
APPROVALS: Terry K. Roberts																



FORMULARIO DE AGENDA 8

FECHA DE REUNION: 2 de marzo, 2017		FECHA DE PRESENTACIÓN: 20 de febrero, 2017
DEPT. DE ORIGIN: Administration		PRESENTADA POR: Jeana Bellinger
TIPO DE REUNION:	CLASIFICACIÓN:	ORDENANZA:
☒ REGULAR	☐ AUDIENCIA PUBLICA	☐ 1 ^{RA} LECTURA
☐ ESPECIAL	☐ CONSENTIMIENTO	☐ 2 ^{DA} LECTURA
☐ SESSION EJECUTIVA	☒ REGULAR	☐ RESOLUCIÓN
	☐ SESSION DE TRABAJO	
DESCRIPCIÓN DE ASUNTO EN LA AGENDA: Certificación de Candidatos Sin Oposición por la Secretaria de la Ciudad de el Municipio de Brenham		
DECLARACIÓN DE RESUMEN: Como se indica en la Sección 2.052 del Código Electoral, la autoridad responsable de preparar la boleta electoral deberá certificar por escrito que los candidatos están sin oposición. Esta certificación será entregada al cuerpo gobernante lo más pronto posible después de la fecha límite para solicitar lugar en la boleta.		
ANALISIS DE PERSONAL (Para Ordenanzas o Asuntos regulares de la Agenda):		
A. PROS		
B. CONTRAS		
ALTERNATIVAS (EN ORDEN DE PREFERENCIA SUGERIDA POR EL PERSONAL):		
ADJUNTAMIENTOS: (1) Certificación de Candidatos Sin Oposición		
PROCEDENCIA DE FONDOS (CUANDO APLICABLE):		
ACCIÓN RECOMENDADA: Aceptar la Certificación de Candidatos Sin Oposición por la secretaria de la Ciudad para la Elección General del 6 de mayo, 2017 de la Ciudad de Brenham		
APROBACIONES: Terry K. Roberts		



**Certification of Unopposed Candidates
By the City Secretary**

I, Jeana Bellinger, certify that I am the City Secretary of the City of Brenham and the authority responsible for preparing the ballot for the May 6, 2017 City election. I further certify that no person has made a declaration of write-in candidacy, and all of the following candidates are unopposed:

Candidate

Keith Herring
Andrew Ebel
Charlie Pyle
Susan Cantey

Office Sought

Councilmember Place One (1), Ward One (1)
Councilmember Place Three (3), Ward Three (3)
Councilmember Place Five (5), At Large
Councilmember Place Six (6), At Large

City Secretary, City of Brenham

Dated this 2nd day of March, 2017.

**Certificación de Candidatos Sin Oposición
Por la Secretaria de la Ciudad**

Yo, Jeana Bellinger, certifico que yo soy la secretaria de la ciudad de el municipio de Brenham y la autoridad responsable de preparar la boleta electoral para le elección de esta ciudad. Además certifico que ninguna persona ha hecho una declaración de candidatura por escrito, y que los siguientes candidatos están sin oposición:

Candidato

Keith Herring
Andrew Ebel
Charlie Pyle
Susan Cantey

Cargo Solicitado

Concejal Lugar Uno (1), Distrito Electoral Uno (1)
Concejal Lugar Tres (3), Distrito Electoral Tres (3)
Concejal Lugar Cinco (5), Distrito Abierto
Concejal Lugar Seis (6), Distrito Abierto

Secretaria de la Ciudad de Brenham

Fecha hoy de 2^{ndo} día de Marzo, 2017.



AGENDA ITEM 9

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 20, 2017															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
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☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Order Declaring Unopposed Candidates for the Position of Councilmember Place 1 - Ward 1, Councilmember Place 3 - Ward 3, Councilmember Place 5 - At Large, and Councilmember Place 6 - At Large Elected to Office and Canceling the City of Brenham May 6, 2017 General Election																
SUMMARY STATEMENT: As outlined in the Election Code, upon receipt of the City Secretary's Certification of Unopposed Candidates, the City Council must, by order or ordinance, declare each unopposed candidate elected to office. The Elections Division of the Secretary of State's office interprets the unopposed candidates as being elected when they are issued the certificate of election after the prescribed election day of May 6, 2017. Unopposed candidates declared elected to office cannot take office until the regular canvassing of the election would have taken place. Therefore, the unopposed candidates will not take office and begin their official duties as Councilmembers until they are sworn into office at the May 18, 2017 Council meeting.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Election Order																
FUNDING SOURCE (Where Applicable):																

RECOMMENDED ACTION: Approve an Order Declaring Unopposed Candidates for the Position of Councilmember Place 1 - Ward 1, Councilmember Place 3 - Ward 3, Councilmember Place 5 - At Large, and Councilmember Place 6 - At Large Elected to Office and Canceling the City of Brenham May 6, 2017 General Election

APPROVALS: Terry K. Roberts



FORMULARIO DE AGENDA 9

FECHA DE REUNION: 2 de marzo, 2017		FECHA DE PRESENTACIÓN: 20 de febrero, 2017
DEPT. DE ORIGIN: Administración		PRESENTADA POR: Jeana Bellinger
TIPO DE REUNION:	CLASIFICACIÓN:	ORDENANZA:
☒ REGULAR	☐ AUDIENCIA PUBLICA	☐ 1 ^{RA} LECTURA
☐ ESPECIAL	☐ CONSENTIMIENTO	☐ 2 ^{DA} LECTURA
☐ SESSION EJECUTIVA	☒ REGULAR	☐ RESOLUCIÓN
	☐ SESSION DE TRABAJO	
DESCRIPCIÓN DE ASUNTO EN AGENDA: Considerar y en consecuencia actuar una Orden Declarando Candidatos Sin Oposición Para el Puesto de Concejal para Lugar 1 – Distrito Electoral 1, Concejal para Lugar 3 – Distrito Electoral 3; Concejal para Lugar 5 – Distrito Abierto; Concejal para Lugar 6-Distrito Abierto Elegidos a su Puesto y Cancelando la Elección General de la Ciudad de Brenham para el 6 de mayo, 2017		
DECLARACIÓN DE RESUMEN: Como se indica en el Código Electoral, sobre el recibo de la Certificación de Candidatos Sin Oposición por la Secretaria de la ciudad, el ayuntamiento debe, por orden o ordenanza, declarar cada candidato sin oposición elegido a su puesto. La División de Elecciones de la oficina de la Secretaria del Estado interpreta los candidatos sin oposición como elegidos cuando se le les emite el certificado de elección después de la fecha de elección prescrita del 6 de mayo, 2017. Los candidatos sin oposición que se les declara elegidos no pueden tomar su puesto hasta qu el escrutinio de las elecciones había tenido lugar. Así que los candidatos sin oposición no tomaran su puesto y comenzaran sus deberes oficiales como concejales hasta que sean jurados a su puesto en la junta del ayuntamiento que se efectuara el 18 de mayo, 2017.		
ANÁLISIS POR EL PERSONAL (DE ORDENANZAS O ASUNTOS REGULARES DE AGENDA): A. PROS: B. CONTRAS:		
ALTERNATIVAS (EN ORDEN DE PREFERENCIA SUGERIDA POR EL PERSONAL):		
ADJUNTAMIENTOS: (1) Orden electoral		
PROCEDENCIA DE FONDOS (CUANDO APLICABLE):		

ACCIÓN RECOMENDADA: Aprobar la Orden Declarando Candidatos Sin Oposición Para el Puesto de Concejal para Lugar 1 – Distrito Electoral 1, Concejal para Lugar 3 – Distrito Electoral 3; Concejal para Lugar 5 – Distrito Abierto; Concejal para Lugar 6-Distrito Abierto Elegidos a su Puesto y Cancelando la Elección General para el 6 de Mayo, 2017.

APROBACIONES: Terry K. Roberts

ORDER

AN ORDER DECLARING UNOPPOSED CANDIDATES IN THE MAY 6, 2017 CITY OF BRENHAM GENERAL ELECTION, ELECTED TO OFFICE; CANCELING THE ELECTION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brenham, Texas is a home rule municipality located in Washington County, operating in accordance with the provisions of the Local Government Code and created pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City Secretary has certified in writing that no person has made a declaration of write-in candidacy, and that each candidate on the ballot is unopposed for election to office; and

WHEREAS, under these circumstances, Section 2.053, Subchapter C, Chapter 2, Texas Election Code, authorizes the City Council to declare the candidates elected to office and cancel the election;

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

Section 1: The following candidates, who are unopposed in the May 6, 2017 general City election, are declared elected to office, and shall be issued certificates of election following the time the election would have been canvassed:

Councilmember	Place One – Ward One	Keith Herring
Councilmember	Place Three - Ward Three	Andrew Ebel
Councilmember	Place Five – At Large	Charlie Pyle
Councilmember	Place Six – At Large	Susan Cantey

Section 2: The May 6, 2017 general City election is canceled, and the City Secretary is directed to cause a copy of this Order to be posted on Election Day at each polling place that would have been used in the election.

Section 3: It is declared to be the intent of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Order are severable, and if any phrase, clause, sentence, paragraph, or section of this Order is declared invalid by the judgment or decree of a court of competent jurisdiction, the invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Order since the City Council would have enacted them without the invalid portion.

Section 4: This Order shall take effect upon its final passage, and it is so ordered.

Passed and approved on the 2nd day of March, 2017.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

ORDEN

UNA ORDEN DECLARANDO CANDIDATOS SIN OPOSICIÓN PARA LA ELECCIÓN GENERAL DE LA CIUDAD PARA EL 6 DE MAYO, 2017, LOS ELEGIDOS A SU PUESTO; CANCELANDO LA ELECCIÓN; PROVEYENDO CLÁUSULA DE DISTINCIÓN; Y PROVEYENDO UN FECHA DE VIGENCIA

MIENTRAS QUE, la Ciudad de Brenham, Texas es una municipalidad gobernada por si, localizada en el Condado de Washington, operando en acuerdo con la provisiones de código Gubernamental Local y creado según la legislación que habilita el Estado de Tejas; y

MIENTRAS QUE, la secretaria de la ciudad ha certificado por escrito, que ninguna persona ha hecho una declaración de candidatura por escrito, y que cada candidato en la votación esta sin oposición para elección a cargo; y

MIENTRAS QUE, bajo estas circunstancias, Sección 2.053, Subcapítulo C, Capitulo 2, Código Electoral de Texas, autoriza el ayuntamiento para declarar a los candidatos elegidos a cargo y cancelar la elección:

AHORA, POR LO TANTO, SEA ORDENADO POR EL AYUNTAMIENTO DE LA CIUDAD DE BRENHAM:

Sección 1: Los candidatos siguientes, que están sin oposición para la elección general de la ciudad del 6 de Mayo, 2017, están declarados elegidos a cargo y se les suministrara certificados de elección después del tiempo que la elección se había terminado se solicitar votaciones:

Concejal	Lugar Uno - Distrito Electoral Uno	Keith Herring
Concejal	Lugar Tres - Distrito Electoral Tres	Andrew Ebel
Concejal	Lugar Cinco - Distrito Abierto	Charlie Pyle
Concejal	Lugar Seis - Distrito Abierto	Susan Cantey

Sección 2: La elección general de la ciudad del 6 de Mayo, 2017, esta cancelada y la secretaria de la ciudad está dirigida a causar que una copia de esa orden este puesta en cada lugar de votación que se hubiera usado en el día de elección.

Sección 3: Esta declarado que es el intento del ayuntamiento que frases, cláusulas, acciones, párrafos, y secciones de esta orden son separables, y si cualquier frase, cláusula, oración, párrafo, o sección de esta orden es declarada invalida por el juicio de una corte de jurisdicción competente, la invalidez no afectara ninguna de las frases, cláusulas, oraciones, párrafos, o secciones que permanezcan porque el ayuntamiento podría haber promulgado esto sin la porción invalidada.

Sección 4: Esta orden tomara efecto sobre su pasaje final, y es tan ordenado.

PASADO Y APROBADO EL 2º DIA DE Marzo, 2017.

Milton Y. Tate, Jr.
Alcalde

ATESTAR:

Jeana Bellinger, TRMC, CMC
Secretaria de la Ciudad



AGENDA ITEM 10

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017															
DEPT. OF ORIGIN: Finance	SUBMITTED BY: Carolyn D. Miller															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
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	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Acceptance of the Audit from Seidel Schroeder for Fiscal Year 2016																
SUMMARY STATEMENT: State law requires that all general-purpose local governments publish, within six months of the close of the fiscal year, a complete set of financial statements presented in conformity with generally accepted accounting principles (GAAP) and audited in accordance with generally accepted auditing standards by a firm of licensed certified public accountants. Pursuant to that requirement, and on behalf of the Finance Department, I am proud to issue the comprehensive annual financial report (CAFR) of the City of Brenham for the fiscal year ended September 30, 2016. At Thursday's council meeting, Michele Kwiatkowski, audit partner with Seidel Schroeder, will present the annual audit. A bound copy of the CAFR was distributed to Mayor and City Council Members. This report will be on file for review in the City Secretary's Office. A copy can also be downloaded from the City of Brenham's website at www.cityofbrenham.org.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):																
A. PROS:																
B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference): N/A																
ATTACHMENTS: None																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: Accept the audit from Seidel Schroeder for Fiscal Year 2016																
APPROVALS: Terry K. Roberts																



AGENDA ITEM 11

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017															
DEPT. OF ORIGIN: Finance	SUBMITTED BY: Carolyn D. Miller															
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☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Acceptance of the 2016 Audit of Washington County Appraisal District by Seidel Schroeder																
SUMMARY STATEMENT: The City has received a copy of the Washington County Appraisal District's (WCAD) audited financial statement for the fiscal year ending August 31, 2016. A copy is in the CFO's office for your review. I have attached the transmittal letter from Mr. Willy Dilworth which explains that the WCAD audit was performed by Seidel Schroeder and no discrepancies were found. Mr. Dilworth reported that there were budget savings of \$46,279 for FY15-16. Once the best use of these excess funds has been determined, the appraisal district will return to council for approval before proceeding.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Transmittal letter from Willy Dilworth, Chief Appraiser																
FUNDING SOURCE (Where Applicable):																
RECOMMENDED ACTION: Approve the acceptance of the 2016 audit of the Washington County Appraisal District by Seidel Schroeder																
APPROVALS: Terry K. Roberts																

WASHINGTON COUNTY APPRAISAL DISTRICT

**1301 NIEBUHR
P. O. BOX 681
BRENHAM, TX 77834-0681
(979) 277-3740**

February 8, 2017

City of Brenham
Mr. Terry Roberts
PO Box 1059
Brenham, TX 77834-1059

Dear Mr. Roberts,

The audit for our fiscal year 2015-2016 has been completed by Seidel, Schroeder, & Co. A copy is attached for your review. There were no discrepancies found during this time period. The audit revealed that the appraisal district stayed \$47,279 under budget.

I am going to meet with the Budget Committee formed from representatives from the taxing entities to discuss the best way to use these taxpayer dollars. Once some ideas have been formulated we will request you permission to use it accordingly.

Please examine and accept this audit if you find it to be agreeable.

Thank you for your consideration in this matter. As always please feel free to contact me with any questions or input.

Sincerely;



Willy Dilworth
Chief Appraiser



AGENDA ITEM 12

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017
DEPT. OF ORIGIN: Police	SUBMITTED BY: Craig U. Goodman

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

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to the Contract for Participation in the City of Brenham’s Rotation Log for Non-Consent Tows and Authorize the City Manager to Execute Any Necessary Documentation

SUMMARY STATEMENT: In March 2016, staff met with the Non-Consent Tow Task Force members and representatives from all of the towing companies currently on the City and County non-consent tow contract. It was determined during that meeting that there were some issues that needed to be reviewed and possible changes made to the contract.

After several meetings with members of the Task Force, it was the overall consensus that an Addendum to the Non-Consent Tow Contract was needed to address some of the issues. The Addendum being presented to the Council for approval is making the following changes to the current contract:

- Section II. Definitions:** Added language to “Additional time on scene” to allow for law enforcement to have a vehicle moved to an alternate site for further processing.
- Section II. Definitions:** Corrected the wording “Department” to read “Washington County 9-1-1”
- Section V. A. Operation:** Expanded the definition of “Professional Conduct” to address behaviors of tow truck drivers and/or operators that could tarnish, damage or negatively affect the City.
- Section V. C. Penalties:** Amended the reinstatement amount to be \$250 instead of \$500. It was the opinion of the Task Force that this amount should have been changed on the last amendment in 2014 and was simply overlooked.
- Section VI. B. Sale:** Changed the notification requirement for change in ownership from thirty (30) days to five (5) business days
- Section XVI. Fees:** Amended the wording in the table to match the new language added to the definition of “Additional time of scene” in Section II.
- Section XVIII. Legal Compliance:** Corrected the Texas Administration Code reference.

Commissioner Hueske is a member of the Task Force and has been involved in all of the discussions related to these changes. Several of these have already been amended in the County's contract and those that have not yet been adopted, will be presented to the Commissioners Court for approval.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: To establish a professional standards clause and to clarify several ambiguities within the Non-Consent Tow Contract for the City of Brenham.

B. CONS: None identified

ALTERNATIVES (In Suggested Order of Staff Preference): None suggested

ATTACHMENTS: (1) Addendum to and Modification of Non-Consent Tow Contract for the City of Brenham; and (2) Redlined version of Non-Consent Tow Contract showing all the changes.

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve an addendum to the contract for participation in the City of Brenham's rotation log for non-consent tows and authorize the City Manager to execute any necessary documentation

APPROVALS: Terry K. Roberts

ADDENDUM TO AND MODIFICATION OF:

NON-CONSENT TOW CONTRACT FOR THE CITY OF BRENHAM

This “Addendum to and Modification of Non-Consent Tow Contract for the City of Brenham” (“Addendum”) is made by and between the **City of Brenham** (hereinafter referred to as CITY) and _____ (hereinafter referred to as OPERATOR), in consideration of the mutual undertakings and obligations expressed herein and the “Non-Consent Tow Contract for the City of Brenham” (“Contract”), as an addendum and modification to the existing Contract between the parties and having an effective date of _____, 2017.

SECTION II. DEFINITIONS is modified to read as follows:

- B. “Additional time on scene” means any time on scene or at an alternate site, as approved by law enforcement, exceeding one (1) hour (time traveling to or from the scene and time traveling to the storage facility is not included in this definition).
- T. “Rotation log” shall mean a sequential list, as maintained by Washington County 9-1-1, of Towing Companies duly qualified and authorized pursuant to the provisions of this Contract to receive and respond to calls from Washington County 9-1-1, when the owner, operator, or person with possession, custody, and control of a vehicle does not or cannot express a preference or consent for such services from a specific Towing Company.
 - Rotation Log A will be used for towing services in regard to impounded and disabled vehicles as hereinafter provided.
 - Rotation Log B will be used for towing services in regard to abandoned vehicles, junked vehicles and motor assist calls.
 - Rotation Log C will be used for all towing services involving “Medium and Heavy Vehicle Tows.

SECTION V. A. OPERATION, subsection 5) Professional Conduct, is modified to read as follows:

- 5) *Professional Conduct.* OPERATOR and its owner(s), employees, agents and/or drivers shall conduct themselves in a reasonable, safe, professional, courteous, honorable and lawful manner at all times. Further, OPERATOR and its owner(s), employees, agents and/or drivers shall conduct themselves with due regard to public conventions and morals and shall not commit any act or do anything which might reasonably be considered: (i) to be immoral, unprofessional, discourteous, dishonorable, unlawful, deceptive, scandalous or obscene; or (ii) to injure, tarnish, damage or otherwise negatively affect the CITY or its reputation in any way. Notwithstanding any other provision of this Contract, should OPERATOR or any of its owner(s), employees, agents and/or drivers violate this provision, including but not limited to being arrested for or convicted of a criminal law violation, the CITY may terminate this Contract immediately, and provide OPERATOR written notice of the termination within ten (10) business days of the date of termination.

SECTION V. C. PENALTIES, is modified to read as follows:

2. After a suspension has been ordered, in order to be reinstated to the Rotation Logs after the period of suspension has elapsed, the OPERATOR must pay to the CITY a reinstatement fee of two hundred fifty and no/100 dollars (\$250.00). The Department may only reinstate a suspended Towing Company after it has been determined that the Towing Company is in compliance with all regulations and the terms of this Contract, and after the reinstatement fee has been paid.

SECTION VI. B. SALE, is modified to read as follows:

- 1.) In the event that OPERATOR sells, transfers, conveys, or assigns its business, the CITY must be given notice of the sale, transfer, conveyance, or assignment within five (5) days or this Contract may be terminated by the City. Delay in exercise of this termination option does not constitute a waiver.

SECTION XVI. FEES, is modified to read as follows:

Additional time on scene or at another site as approved by law enforcement	\$50.00 - per 30 minutes, per wrecker in excess of the first hour.	\$75.00 – per 30 minutes, per wrecker in excess of the first hour	\$175.00 – per 30 minutes, per wrecker in excess of the first hour	Time is calculated as defined for “Time at Scene”. This does not include the time traveling to and from the scene. At every accident, OPERATOR and/or their employees must pick up glass, metal, plastic debris and properly dispose of such at storage facility.
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SECTION XVIII. LEGAL COMPLIANCE, is modified to read as follows:

OPERATOR shall comply with all provisions of Federal and Texas laws and regulations and the applicable sections of the Brenham Municipal Code (specifically including but not limited to, Title 16 Part 4 Chapter 85 "Vehicle Storage Facilities" of the Texas Administrative Code and Chapters 2303 and 2308 of the Texas Occupation Code) and all other laws and regulations regarding the licensing and registration of tow vehicles. Additionally, when removing a wrecked or damaged vehicle from a street or public right-of-way OPERATOR must pick up and remove broken glass and debris from the street or public right-of-way and properly dispose of it at the storage facility. Failure to comply with this paragraph is grounds for a penalty in accordance with Section V of this Contract.

This Addendum is agreed to and accepted by both parties to the Contract and shall be effective as of the _____ day of _____, 2017.

OPERATOR:

Printed Name: _____

Title: _____

CITY:

Terry K. Roberts
City Manager

NON-CONSENT TOW CONTRACT FOR THE CITY OF BRENHAM

This Non-Consent Tow Contract for the City of Brenham, hereinafter referred to as "Contract," is entered into by and between the City of Brenham, a Texas home rule municipality situated in Washington County, Texas, hereinafter referred to as "CITY," and _____ Company (which shall include all owners, employees, agents and/or drivers), a Texas _____, hereinafter referred to as "_____" upon the following terms and conditions performable in Washington County, Texas:

SECTION I. PURPOSE

The purpose of this Contract is to establish acceptable standards and criteria for the provision of Towing Services by _____ participating on the CITY'S Rotation Logs; provided, however, nothing herein shall obligate the CITY to use _____ on the Rotation Logs as the sole or exclusive means of providing Towing Services and the CITY reserves the right to control, independently of the provisions of this Contract, Towing Services for any particular situation it deems appropriate. Towing Services procured pursuant to the provisions of this Contract shall be administered by the Brenham Police Department through its representatives, who shall have authority to promulgate reasonable rules and regulations in furtherance and implementation of this Contract so long as they do not conflict with any provision hereof.

SECTION II. DEFINITIONS

For the purposes of this Contract, the following terms and words are defined as follows:

- A. "Abandoned Vehicle", means a motor vehicle as defined in Section 683.002, Texas Transportation Code. An "Abandoned Vehicle" tow request shall occur during "Normal Business Hours" unless the Department determines the "Abandoned Vehicle" should be removed as soon as possible due to safety concerns, such determination being within the sole discretion of the Department.
- B. "Additional time on scene" means any time on scene or at an alternate site, as approved by law enforcement, exceeding one (1) hour (time traveling to or from the scene and time traveling to the storage facility is not included in this definition).
- C. "Call" or "Dispatch" means a request for Towing Services from Washington County 9-1-1 resulting in a Towing Company being required to perform services pursuant to the provisions of this Contract.

Deleted: for all tows

- D. "CITY" means the City of Brenham, a Texas home rule municipality situated in Washington County.
- E. "Consent Tow" means a tow of any vehicle initiated by the owner, operator, or person with possession, custody, and control of said vehicle. If the Department notifies Washington County 9-1-1 of Towing Services at the request of an owner, operator, or person with possession, custody, and control of said vehicle, said tow is considered a Consent Tow.
- F. "Department" means the City of Brenham Police Department, its Chief and/or designee(s).
- G. "Disabled Vehicle" means a vehicle, other than an Abandoned Vehicle or Impounded Vehicle, which as a result of an accident or equipment failure, or both, is incapable of safe or legal operation, or both, and is requested or required by the Department to be removed from a public street or alley.
- H. "Day" means a period of twenty-four (24) continuous hours unless otherwise specified.
- I. "Heavy Tow" means a vehicle with a gross vehicle weight of more than 25,000 pounds. For the purposes of this Contract, a vehicle's weight shall be determined by the Gross Vehicle Weight Rating indicated by the manufacturer's label on the vehicle itself. If the vehicle does not have a manufacturer's label, then the gross vehicle weight shall be the registered weight of the vehicle.
- J. "Holiday(s)" mean New Year's Day, Easter Sunday, Fourth of July, Veteran's Day, Thanksgiving Day and Christmas Day.
- K. "Impounded Vehicle" means a vehicle, other than an Abandoned Vehicle or Disabled Vehicle, involved in a parking violation, a vehicle whose driver is arrested, or a vehicle which is taken into custody during the investigation of a crime. An Impounded Vehicle is considered a Non-Consent Tow.
- L. "Inclement weather" means unpleasant or harsh weather which creates unsafe or hazardous conditions, including but not limited to freezing conditions, ice, snow, sleet, heavy rain, hail, lightning, tornados, and/or high winds. All determinations regarding whether "inclement weather" conditions exist shall be made by the Department, in its sole discretion.

- M. "Junked Vehicle" means a motor vehicle as defined in Section 683.071, Texas Transportation Code. Junked Vehicles are considered Non-Consent Tows and shall be removed during "Normal Business Hours" unless the Department determines the "Junked Vehicle" should be removed as soon as possible due to safety concerns, such determination being within the sole discretion of the Department.
- N. "Medium Tow" means a vehicle with a gross vehicle weight between 10,000 and 25,000 pounds. For the purposes of this Contract, a vehicle's weight shall be determined by the Gross Vehicle Weight Rating indicated by the manufacturer's label on the vehicle itself. If the vehicle does not have a manufacturer's label, then the gross vehicle weight shall be the registered weight of the vehicle.
- O. "Motorist Assist" means any service to a motorist whose vehicle has been disabled or rendered unusable. Examples include but are not limited to fixing flat tires, providing gasoline, or gaining entry to locked cars. Motorist Assist does not include towing.
- P. "Non-Consent Tow" means any tow of a vehicle requested by the Department. Signature by the owner, operator, or person with possession, custody, and control of said vehicle on any documents provided by the Towing Company does not constitute a Consent Tow.
- Q. "Normal Business Hours" shall mean the hours of 8 a.m. to 5 p.m., Monday through Friday, excluding Holidays as that term is defined in this Contract.
- R. "Regular Tow" means a vehicle with a gross vehicle weight of less than 10,000 pounds. For the purposes of this Contract, a vehicle's weight shall be determined by the Gross Vehicle Weight Rating indicated by the manufacturer's label on the vehicle itself. If the vehicle does not have a manufacturer's label, then the gross vehicle weight shall be the registered weight of the vehicle.
- S. "Recovery" means the removal or towing of any vehicle(s) involved in an incident or accident.
- T. "Rotation Log" shall mean a sequential list, as maintained by Washington County 9-1-1, of Towing Companies duly qualified and authorized pursuant to the provisions of this Contract to receive and respond to calls from Washington County 9-1-1, when the owner, operator, or person with possession, custody, and control of said vehicle has not or cannot express a preference or consent for such services from a specific Towing Company.
- Rotation Log A will be used for "Regular Tow" services in regard to impounded and disabled vehicles as hereinafter provided.

Deleted: the Department

Deleted: the Department

- Rotation Log B will be used for “Regular Tow” services in regard to abandoned vehicles, junked vehicles and motorist assist calls.
 - Rotation Log C will be used for all towing services involving “Medium Tows”.
 - Rotation Log D will be used for all towing services involving “Heavy Tows”.
- U. “Shift Supervisor” means a Department employee with a rank of Corporal or above.
- V. “Security Fence” means an enclosure of wood, chain link, iron, concrete or masonry, placed around an area used for storage of vehicles and designed to prevent intrusion and escape, which is at least six feet (6’) high, with a gate that is locked at all times when the Towing Company’s owners, employees and agents are not present. The Security Fence must be compliant with the Texas Department of Licensing and Regulation (TDLR) regulations governing Vehicle Storage Facilities.
- W. “Time on Scene” means the amount of time beginning when a Towing Company arrives on scene in response to a dispatch to the time the Towing Company has secured the vehicle, cleaned debris, and finished an environmental cleanup. The time driven to and from the scene is not included in “Time on Scene.”
- X. “Tow” means the removal of any vehicle(s) that was **not** involved in an incident or accident.
- Y. “Towing Company(ies)” means any person, firm or entity owning or operating a Texas licensed wrecker service, including its employees, agents, and drivers. If a person, firm or entity owns an interest in more than one licensed Towing Company, then each and every Towing Company in which the person, firm, or entity owns an interest shall be collectively considered as a single Towing Company for the purpose of position on the CITY’S Rotation Logs.
- Z. “Towing Service(s)” means any service provided by a Towing Company under the terms of this Contract.

SECTION III. TERM

This Contract shall be effective for an initial term beginning on the ____ day of _____, 20____ and will automatically terminate on the 31st day of December, 2016. Thereafter, this Contract shall automatically be renewed on the 1st day of January each year, for a term of one (1) year, under the terms and conditions then in effect, unless otherwise terminated as provided herein.

SECTION IV. CONSIDERATION

In consideration of the CITY'S administration, regulation and operation of the rotation system and the CITY'S permission to participate in non-consent tows within the city limits, and specifically for a place on the applicable Rotation Logs, _____ agrees to pay the CITY an annual fee of two hundred and fifty dollars (\$250.00) for inclusion on the Regular Tow Rotation Log, two hundred and fifty dollars (\$250.00) for inclusion on the Medium Tow Rotation Log and two hundred and fifty dollars (\$250.00) for inclusion on the Heavy Tow Rotation Log.

All payments by _____ to the CITY under this Contract must be mailed or delivered to the City Secretary for the City of Brenham, P.O. Box 1059 (200 W. Vulcan Street, Suite 206), Brenham, Texas 77834-1059. Payments must be in the form of a check, cashier's check or money order, and must state the following on the face of the check or money order: TOWING SERVICE FOR [year]. Payment is due on or before January 1st of each year. _____ will not be permitted to participate in the CITY's Rotation Logs until payment is received by the CITY.

SECTION V. RULES AND PROCEDURES FOR _____'S PARTICIPATION ON CITY'S ROTATION LOGS

The following section includes provisions, rules, regulations, and procedures that are applicable to _____ and any Towing Companies who contract with the CITY for a place on the CITY's Rotation Logs. The City Manager, or his designee, shall have the authority to interpret, implement and enforce the terms of this Contract.

A. OPERATION

The following conditions shall govern the conduct of Towing Companies on the Rotation Logs:

- 1) *Washington County 9-1-1 dispatch necessary, exception.* Except for private requests for Towing Services by the owner or operator of a vehicle, or the person who has possession, custody and control of the vehicle, _____ shall not proceed to an incident or accident scene without being called or dispatched.
- 2) *Acknowledgment time period.* _____ must acknowledge receipt of all Washington County 9-1-1 calls/dispatches for Towing Services within five (5) minutes. After the five (5) minute acknowledgment time period has expired, Washington County 9-1-1 shall notify the next Towing Company on the applicable Rotation Log. Failure to acknowledge receipt of a call/dispatch shall forfeit _____'s turn and said call/dispatch will be considered a declined call/dispatch as outlined in this Contract.

- 3) *Interference.* _____ shall not interfere with any law enforcement officer(s) while they are in charge of, or investigating the scene of a motor vehicle accident or other incident requiring Towing Services.
- 4) *Solicitation.* _____ shall not solicit business while on an incident or accident scene.
- 5) *Professional Conduct.* _____ and its owner(s), employees, agents and/or drivers shall conduct themselves in a reasonable, safe, professional, courteous, honorable and lawful manner at all times. Further, _____ and its owner(s), employees, agents and/or drivers shall conduct themselves with due regard to public conventions and morals and shall not commit any act or do anything which might reasonably be considered: (i) to be immoral, unprofessional, discourteous, unlawful, deceptive, scandalous or obscene; or (2) to injure, tarnish, damage or otherwise negatively affect the CITY or its reputation in any way. Notwithstanding any other provision of this Contract, should _____ or any of its owner(s), employees, agents and/or drivers violate this provision, including but not limited to being arrested for or convicted of a criminal law violation, the CITY may terminate this Contract immediately, and provide _____ written notice of the termination within ten (10) business days of the date of termination.
- 6) *Obedience to traffic laws.* _____ shall obey all state and municipal traffic laws when responding to a request for Towing Services.
- 7) *Submission of telephone numbers.* _____ shall furnish the Department's Administrative Captain and/or designee with one (1) telephone number to be used by Washington County 9-1-1 as a call/dispatch number. Any changes in the aforementioned telephone number shall be immediately transmitted to the Administrative Captain. No pagers or answering machines are permitted as call out/dispatch numbers.
- 8) *Twenty-four-hour service.* _____ shall maintain and be fully capable of providing Towing Services twenty-four hours/day, seven days/week.
- 9) *Availability.* _____ shall not accept a call/dispatch for Towing Services from a Rotation Log unless _____ has a wrecker and the necessary equipment immediately available to perform the services.

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_____ shall conduct themselves in a reasonable, safe, professional, and courteous manner at all times while on an incident or accident scene

- 10) *Response with own wreckers.* _____ shall respond to all incidents or accident scenes with its own wrecker(s) and shall not send another Towing Company in response to a Rotation Log call/dispatch. Any wrecker responding to incidents or accident scenes must have the CITY's Non-Consent Tow Contract decal affixed to the wrecker in the lower right hand corner of the front windshield so that it can be easily viewed by the public and Department personnel.
- 11) *Assistance needed for tow.* If _____ is not capable to perform the required Towing Services or needs additional assistance, _____ may request, with the Department's approval, that another Towing Company from the appropriate Rotation Log be called/dispatched.
- 12) *Response while impaired prohibited.* _____ shall not respond to a dispatch under the influence of alcoholic beverages, controlled substances or otherwise impaired physically or mentally so as to be a danger to self or others, or incapable of performing Towing Services.
- 13) *Proficiency.* _____ shall provide drivers who are proficient and competent in the operation of such wrecker and the securing and movement of towed vehicles, and that are in compliance with the rules and regulations as provided by the Texas Department of Licensing and Regulation (TDLR) and any other State and/or Federal law that may apply to Towing Companies and Towing Services.
- 14) *Reflective wear required.* At all times, _____ shall wear reflective vests, coats or shirts as defined by Federal regulation 23-CFR-634 (ANSI/ISEA 107-2004) while on the scene of any incident or accident scene.
- 15) *Consent Tow Service.* In addition to the Non-Consent Tows, _____ may also be called upon by the CITY to conduct Consent Tows of municipal vehicles, vehicle seizures as directed by the Department, and towing and storage of vehicles needed for evidentiary purposes as directed by the Department.
- 16) All Towing Company vehicles dispatched to an incident or accident scene shall park at least one hundred feet (100') away in a safe position until instructed by the Department to begin the towing process.

- 17) _____ is required to immediately notify Washington County 9-1-1 when Consent Tow services are requested by an owner, operator, or person with possession custody, and control of a vehicle if _____ believes that a criminal act involving said vehicle may have occurred prior to receiving said request for a Consent Tow.

B. ROTATION LOGS

- 1) _____ shall promptly respond to a dispatched incident or accident scene with a wrecker within the time limits provided in Section VIII of this Contract. If _____ is not able to respond, it shall immediately notify Washington County 9-1-1. _____ will be passed over for that call and Washington County 9-1-1 will go to the next Towing Company on the applicable Rotation Log.
- 2) If _____ responds to a dispatch, but renders no Towing Services, the response will not be considered a turn on the applicable Rotation Log and _____'s position will not be forfeited. It is the Department's responsibility to notify Washington County 9-1-1 that no services were rendered.
- 3) _____ must arrive on scene with a wrecker within the time limits provided in Section VIII of this Contract. If _____ does not arrive on the scene on time or if the public health, safety and welfare necessitate more expeditious action, the Department reserves the right to request the services of the next Towing Company on the applicable Rotation Log for that turn. Any Towing Company that is late in responding to dispatches for Towing Services without an acceptable reason may be subject to penalties as provided herein.
- 4) _____ will provide the Department a copy of its annual inspection record(s) as completed by the Texas Department of Licensing and Regulation (TDLR) within thirty (30) calendar days after receipt.
- 5) When emergency conditions necessitate, the CITY reserves the right to request the services of the Towing Company who, in the CITY'S sole opinion, is best able to handle the situation and/or can reach the scene most expeditiously, regardless of that Towing Company's position on any Rotation Log. For the purposes of this subsection, the Department will make the determination that emergency conditions exist. If a call/dispatch is made under these circumstances, the Towing Company that would have otherwise been called/dispatched will not forfeit its respective position on the applicable Rotation Logs.

- 6) Upon written request and within ten (10) business days, Washington County 9-1-1 will provide Towing Companies with a monthly report of the rotation call-out activity.
- 7) The Department has the right to inspect any of _____'s equipment at any time to ascertain if it is being properly maintained and that all required equipment is in proper operating order.
- 8) _____ shall have its wrecker(s) and equipment inspected annually by the Department.
- 9) Participation in the Rotation Log system shall be considered personal to _____. Participation on any Rotation Log shall not constitute a property interest, but is rather a license.
- 10) _____ is permitted only a single position on each Rotation Log regardless of the number of wreckers owned by _____. If _____ is a parent entity or a subsidiary of another Towing Company, that Towing Company is not entitled to separately contract with the CITY for a position on any of the Rotation Logs.
- 11) If _____ is dispatched from any of the Rotation Logs and declines for any reason, _____ shall forfeit its next turn on the applicable Rotation Log.
- 12) If _____ is dispatched off the Motorist Assist Rotation Log and declines for any reason, _____ will forfeit its next turn on the Regular Rotation Log A (Impounded).

C. PENALTIES

- 1) Violation of any rule, regulation or provision of this Contract, depending on the nature or frequency of the violation(s), is cause for a written warning, suspension or removal of _____ from all Rotation Logs. The Department shall notify _____ in writing of a violation and the applicable penalty.

- a. Upon receipt of notification of a violation, _____ may, within fifteen (15) calendar days thereof, deliver a written request to the Department for a hearing to be held before the Wrecker Service Contract Review Board, hereinafter referred to as "Review Board." The Review Board shall consist of a representative from the Department, the Chief of Police, a City Council member appointed by the Mayor, and a representative from the local towing industry appointed by the City Manager. The City Manager shall also appoint an alternate representative from the local towing industry who shall serve in the event that there is a conflict of interest with the original representative. The receipt of a timely written request by the Department for a hearing shall stay the penalty pending final disposition unless it is determined by the Chief of Police that it would endanger public safety to allow _____ to continue on the Rotation Logs.
- b. A hearing shall be held within fourteen (14) calendar days after receipt by CITY of a written request. The Department's representative shall notify _____, in writing, of the time, date, and place of the hearing. Written notification of said hearing must be postmarked at least five (5) business days before the date of the hearing. At such hearing, _____ shall be provided an opportunity to be heard. The Review Board may hear from CITY representatives and others who may have relevant information.
- c. The Review Board shall render a decision in writing within three (3) business days from the date of the hearing setting forth the reasons for its decision. The Review Board may affirm, modify, or overrule a finding or penalty issued by the Department.
- 2) After a suspension has been ordered, in order to be reinstated to the Rotation Logs after the period of suspension has elapsed, _____ must pay to the CITY a reinstatement fee of two hundred fifty dollars (\$250.00). The Department may only reinstate a suspended Towing Company after it has been determined that the Towing Company is in compliance with all regulations and the terms of this Contract, and after the reinstatement fee has been paid.
- 3) If any violations of the regulations or provisions of this Contract are deemed by the CITY or the Department to be of such nature as to endanger public safety, the _____ Department shall immediately suspend _____ from all Rotation Logs and then provide written notice pursuant to the provisions above.

Comment [JB1]: In past contracts, the reinstatement fee was the same amount as the contract fee. Staff believes this was simply an oversight when the fees were amended in 2014.

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- 4) Except as otherwise provided in this Contract, the following penalties shall be assessed for violations of this Contract and prior Non-Consent Tow Contracts with the CITY:

First Violation:	Written Warning
Second Violation:	Forty-five Day Suspension
Third Violation :	One-Year Suspension
Fourth Violation :	Permanent Removal and Termination of Contract

- 5) Penalties for violations involving failure to timely submit quarterly reports in accordance with Section XII(B)(1), failure to arrive on the scene of a dispatched call, charging in excess of the rates established herein or any infraction which jeopardizes the safety of the public, depending upon the severity thereof as determined by the Department, may result in a penalty in a higher class regardless of the number of prior violations up to and including permanent removal without following the above progressive penalty steps. There shall be no written warnings for violations described in this subsection and the minimum penalty for a violation described in this subsection shall be a forty-five (45) day suspension.
- 6) Except as otherwise provided in this Contract, the progressive penalty steps set forth in subsection V(C)(4) shall be used in determining the applicable penalty for violations committed by _____. In determining the penalty applicable to a violation about which _____ has been notified, violations that were committed more than twelve (12) months prior to the date of the violation under consideration shall not be included in calculating the number of violations committed by _____.
- 7) _____ will be immediately removed from all Rotation Logs and this Contract terminated if during the term of this Contract, _____ declines a cumulative total of eight (8) calls/dispatches on any and all of the Rotation Logs without prior notification to Washington County 9-1-1 that it is out of service.

SECTION VI. ASSIGNMENT AND SALE

A. ASSIGNMENT

- 1) The rights, duties, obligations, and privileges under this Contract, including but not limited to a position on any of the Rotation Logs, is non-transferable, and are exclusively granted to the undersigned. _____ may not sell, transfer, convey, or assign an ownership or any other interest in _____'s rights, duties, obligations, and privileges under this Contract, including but not limited to a position on any of the Rotation Logs to a Towing Company that has had its position on the Rotation Logs suspended or terminated.

B. SALE

- 1) In the event that _____ sells, transfers, conveys, or assigns its business, the CITY must be given notice of the sale, transfer, conveyance, or assignment within five (5) business days or this Contract may be terminated by the City. Delay in exercise of this termination option does not constitute a waiver.
- 2) If notice of a sale, transfer, conveyance, or assignment is properly given to the City, the new Towing Company may apply for reinstatement to the Rotation Logs before the end of the suspension period, but only if the sale, transfer, conveyance, or assignment was the result of a bona fide exchange of a majority of the assets of the business for a reasonable consideration. All documents demonstrating the same, including but not limited to the contract for sale and any filings with the Texas Secretary of State, must be provided to the Department's representative.

Comment [JB2]: Staff recommends this change. Feels that 30 days is too long for the City to notified of a change in ownership.

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SECTION VII. AUTHORIZED PERSONS

_____ hereby agrees to provide Towing Services when requested by the Department on behalf of any CITY organization for the towing and storage of junked, abandoned, impounded and disabled vehicles as those terms are defined herein. Only response to requests for Towing Services received from Washington County 9-1-1 are authorized under this Contract and response to requests from any other source may subject _____ to penalties as provided in Section V of this Contract.

SECTION VIII. RESPONSE TIME

_____ agrees to respond promptly to any and all requests made by the Department through Washington County 9-1-1. In this section, "promptly" shall mean within twenty (20) minutes between the hours of 6:00 a.m. and 10:00 p.m. and thirty (30) minutes between the hours of 10:01 p.m. and 5:59 a.m. provided, however, if _____ notifies Washington County 9-1-1 of a delay not attributable to _____ (e.g. traffic near the scene, inclement weather, etc.) and of a reasonable time of arrival on the scene, _____ may be allowed fifteen (15) additional minutes to arrive.

SECTION IX. EQUIPMENT AND PERSONNEL

_____ must own or lease adequate equipment and vehicles to perform all the requirements of this Contract. _____ shall provide experienced, trained, properly licensed, qualified, and trustworthy personnel to safely and expediently operate the equipment and vehicles in performing work under this Contract. _____ shall be responsible for and in sole control of the acts and omissions of said personnel.

SECTION X. SUPERVISORY RELEASE WITHOUT COST

_____ shall release any vehicle towed pursuant to this Contract without charge if requested to do so in writing by the Chief of Police or Department personnel with the rank of Captain.

SECTION XI. VEHICLE STORAGE FACILITY

A. STORAGE REQUIRED

- 1) _____ shall provide licensed storage facilities and a primary place of business within Washington County, Texas. The vehicle storage facility shall meet the requirements of state law and any applicable County regulations regarding vehicle storage facilities.
- 2) _____ shall meet all requirements of both State and Federal law regarding the towing and storage of vehicles carrying material classified as "Hazardous in Nature".

B. SECURITY

- 1) Every storage facility shall be adequately secured against theft and vandalism and have Security Fencing. _____ will be responsible for each vehicle and its contents while in its care, custody and control. The storage facility premises and office area must be kept clean and orderly. All vehicles in the storage facility shall be stored in such a manner that there exists a minimum of three feet (3') on the side of each vehicle to allow for access to the interior of the vehicle in order to check the vehicle's identification numbers.

C. ALTERNATIVE STORAGE

- 1) All vehicles towed by _____ pursuant to this Contract shall be taken to _____'s storage facility, unless the owner, operator, or person with possession, custody, and control of said vehicle authorizes in writing that the vehicle be taken to another location. It is sufficient that the other location is written on the _____ towing receipt or ticket at the scene. The location requested by an owner, operator, or person with possession, custody, and control of said vehicle **does not** constitute a Consent Tow; therefore, all charges will be applicable to a Non-Consent Tow pursuant to this Contract.

SECTION XII. RECORDS

A. RETENTION

- 1) _____ shall maintain during the term of this Contract, and for three (3) years following the expiration or termination of this Contract, complete and accurate copies of all books, records, receipts and tickets generated under or related to this Contract. _____ agrees to make its books and records, regarding the performance of this Contract, available to CITY'S duly authorized representatives at _____'s place of business during normal business hours for inspection, copying and auditing. Failure to maintain the records described above or failure to provide access to the records will be a basis for termination of this Contract. Audits shall be performed by the CITY on an as needed basis solely determined by the CITY.

B. QUARTERLY REPORTS

- 1) _____ shall submit quarterly reports to the City Secretary, City of Brenham, P.O. Box 1059 (200 W. Vulcan Street, Suite 206), Brenham, Texas 77834-1059. The reports must include a cover page and copies of all the invoices, and supporting documents, for non-consent tows from the preceding calendar quarter. The cover page shall contain the total amount of all fees charged pursuant to this Contract, the number of non-consent tows conducted pursuant to this Contract, the number of motorist assists performed pursuant to this Contract, and the number of vehicles towed pursuant to this Contract that remain unclaimed. These reports are due by January 10th, April 10th, July 10th and October 10th. If one or more quarterly reports are not timely or properly submitted to the City Secretary, such failure constitutes a violation of this Contract and the CITY may assess penalties against _____ as provided in Section V(C).

SECTION XIII. NOTICES AND AUCTION

Vehicles which are left at _____'s storage facility for more than ten (10) days after notice is sent by registered or certified mail, return receipt requested, to the owner to pick up the vehicle in accordance with Subchapter C of Chapter 683, Texas Transportation Code, shall be disposed of according to the provisions of such statute, as amended. _____ shall dispose of junked vehicles according to state law and shall retain the proceeds of such disposal as provided by law.

SECTION XIV. CITY EXEMPT

CITY shall never be held responsible for any wrecker or towing fees, storage fees or any other charges for non-consent tows requested by the Department and incurred as a result of this Contract. _____'s sole source of revenue and recourse for services performed under this Contract, in every case, shall be from and against title owner or operator of vehicles or a third party in privity with those. An exception exists if the Department request towing services for evidentiary purposes under Article 18.23 of the Texas Code of Criminal Procedure.

_____ may charge the CITY a one-time fee of one hundred dollars (\$100.00), per investigation, for Regular Tows requested by the Department in order to properly secure a vehicle for evidentiary purposes as authorized under Article 18.23 of the Texas Code of Criminal Procedure.

_____ may charge the CITY a one-time fee of one hundred fifty dollars (\$150.00), per investigation, for Medium or Heavy Tows requested by the Department to properly secure a vehicle for evidentiary purposes as authorized under Article 18.23 of the Texas Code of Criminal Procedure.

_____ may charge the CITY no more than one hundred dollars (\$100.00) per occurrence for Regular Tows and storage of any CITY owned vehicle.

_____ may charge the CITY no more than one hundred fifty dollars (\$150.00) per occurrence for Medium or Heavy Tows and of any CITY owned vehicle.

SECTION XV. INDEMNITY

_____, INCLUDING ITS OWNERS, OFFICERS, PARTNERS, MANAGERS, HEIRS, ASSIGNS, AND SUCCESSORS, AGREES TO HOLD CITY HARMLESS FROM AND INDEMNIFY THE CITY, ITS OFFICERS, ELECTED OFFICIALS, EMPLOYEES, VOLUNTEERS, AGENTS, AND REPRESENTATIVES AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, DAMAGES, COSTS, ATTORNEY'S FEES, AND INTEREST, RELATING TO ANY AND ALL PERSONAL INJURIES, DEATHS, AND/OR PROPERTY DAMAGE BY WHOMSOEVER SUFFERED, ARISING OUT OF, RESULTING FROM, OR IN ANY MANNER CONNECTED WITH ANY ACT OR OMISSION BY _____, ITS OWNERS, PARTNERS, MANAGERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, WORKMEN, AND OTHER PERSONS USED BY IT OR OTHERWISE UNDER ITS DIRECTION IN THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT.

SECTION XVI. FEES

_____ shall neither charge nor attempt to collect any other fees or charges of any kind or character for the towing, waiting, debris removal, storage, security, or release of any vehicles except those fees authorized by this Contract. Any additional services and their associated fees specifically authorized in writing by the scene commander or the on-scene supervisor will be considered as authorized fees. Storage charges shall cease when a properly completed request for release is made.

All DEPARTMENT initiated requests for Towing Services shall be considered Non-Consent tows pursuant to the terms of this Contract. The signature of an owner, operator, or person with possession, custody, and control of said vehicle on any documents or forms provided by _____ does not constitute said tow as a Consent Tow.

The following are the maximum fees _____ can charge for any vehicle or service under this Contract:

Permissible Charges	Regular Tow (0 – 9,999 lbs.)	Medium Tow (10,000 - 25,000 lbs.)	Heavy Tow (Above 25,001 lbs.)	Notes
Towing	\$175.00 – first hour on scene, per unit	\$225.00 – first hour on scene, per unit	\$500.00 – first hour on scene, per unit	Unit is defined as the registered vehicle (car, truck, trailer, etc.)
Additional time on scene <u>or at another site as approved by law enforcement.</u>	\$50.00 – per 30 minutes, per wrecker in excess of the first hour	\$75.00 – per 30 minutes, per wrecker in excess of the first hour	\$175.00 – per 30 minutes, per wrecker in excess of the first hour	Time is calculated as defined for “Time at Scene”. This does not include the time traveling to and from the scene. At every accident, _____ and/or their employees must pick up glass, metal, plastic debris and properly dispose of such at storage facility.
Winching	\$100.00 – flat fee per wrecker	\$175.00 – flat fee per wrecker	See separate fee schedule for Heavy Tows	Winching charges apply to off road recoveries only. This fee may not be charged to pull apart vehicles involved in an incident or accident.
Up-righting	\$50.00 flat fee	\$200.00 flat fee	See separate fee schedule for Heavy Tows	Any additional equipment/charges/ personnel must have been utilized at scene with prior approval from the Department.
Additional wrecker fee	\$100.00 per wrecker utilized at scene	\$150.00 per wrecker utilized at scene	See separate fee schedule for Heavy Tows	Any additional equipment/charges/ personnel must have been utilized at scene with prior approval from the Department.

Additional Truck and Trailer for clean-up	\$75.00 – per wrecker utilized at scene	\$75.00 per wrecker utilized at scene	See separate fee schedule for Heavy Tows	Any additional equipment/charges/personnel must have been utilized at scene with prior approval from the Department.
Storage Fee	Not to exceed State allowable	Not to exceed State allowable.	Not to exceed State allowable.	Shall not charge in excess of one day's storage for a vehicle, which remains in storage less than twelve (12) hours notwithstanding the passage of midnight. Also, does not apply to additional wreckers or additional truck and trailer.
Mileage Fee <i>A mileage fee may only be charged in special circumstances such as a pursuit</i>	\$4.00 per mile <i>Initiated in Brenham and stops in Chappell Hill, mileage may then be charged from</i>	\$5.00 per mile <i>The city limits of Brenham to the location where the pursuit ended,</i>	\$7.00 per mile <i>And then the mileage back to the city limits.</i>	Starts and ends at City limit line (outbound and inbound). There is no mileage allowance for a point-to-point tow within the City.
Impoundment Fee	Not to exceed State allowable	Not to exceed State allowable	Not to exceed State allowable	
Certified Letter Fee	Not to exceed State allowable	Not to exceed State allowable	Not to exceed State allowable	
Motorist Assist	Not more than \$65.00 flat fee	Not more than \$75.00 flat fee	Not more than \$125.00 flat fee	Motorist Assist fees will be waived if towing services are required.
Extra Person	\$35.00 per 30 minutes	\$35.00 – per 30 minutes	See separate fee schedule for Heavy Tows.	Any additional equipment/charges/personnel must have been utilized at scene with prior approval from the Department. Also, does not apply to additional wreckers or additional truck and trailer.

Tractor/Forklift/Skid Steer Fee	\$150.00 flat fee	\$350.00 – flat fee	See separate fee schedule for Heavy Tows.	Any additional equipment/charges/personnel must have been utilized at scene with prior approval from the Department.
Tie-up Axle	N/A	\$100.00 – flat fee	N/A	Any additional equipment/charges/personnel must have been utilized at scene with prior approval from the Department.
Inclement Weather	\$25.00 - flat fee	\$25.00 – flat fee	See separate fee schedule for Heavy Tows	Approved by the Department
Holidays	\$25.00 – flat fee	\$25.00 – flat fee	*See separate fee schedule for Heavy Tows	Approved by the Department

Fees for Heavy Tows and Recoveries	Price Per Pound	Empty	Loaded
Contained Recovery/Winching	2.5 cents	Registered gross weight of the vehicle	Manifest weight
Salvage/Debris Recovery	3 cents	N/A	Manifest weight
Inclement Weather (as approved by the Department)	1 cent	Registered gross weight of the vehicle	Manifest weight
Holidays	1 cent	Registered gross weight of the vehicle	Manifest weight
Rollover/Up-righting	2.5 cents	Registered gross weight of the vehicle	Manifest weight
Embankment or inclines	1 cent	Registered gross weight of the vehicle	Manifest weight
Back door open – unloading	2.5 cents	Registered gross weight of the vehicle	Manifest weight
Suspension Damage	4 cents	Registered gross weight of the vehicle	Manifest weight

Fees for additional trucks or drivers may only be charged if approval for additional truck or driver is obtained, in advance, by the Department. The term “loaded trailer” includes flatbeds, van trailers, and oversized loads put on axles. The determination of whether a trailer is a “loaded trailer” will be made by the Department.

SECTION XVII. INQUIRIES

On all bills, invoices, receipts, tickets, etc. issued by _____ for services rendered under this Contract, _____ shall notify customers of the fees specified in Section XVI of this Contract and, the mailing address for the Department's Administrative Captain, P.O. Box 682, Brenham, TX 77834 and telephone number (979) 337 – 7327 for purpose of directing questions regarding fees or services.

_____ shall give customers an itemized receipt that reflects the services and fees as specified above. This notice must be pre-printed on the forms used by _____ or a legible sticker or rubber stamp may be used to convey the required information. The required information must be in Times New Roman font of not less than ten (10) points. A notice containing this same information shall also be posted on a sign prominently displayed to the public at the place of payment, in letters at least one inch (1") high, with a contrasting background. This sign shall be posted within fifteen (15) calendar days after Contract is executed.

SECTION XVIII. LEGAL COMPLIANCE

_____ shall comply with all provisions of Federal and Texas laws and regulations (specifically including but not limited to, Title 16, Part 4, Chapter 85, "Vehicle Storage Facilities" of the Texas Administrative Code and Chapters 2303 and 2308 of the Texas Occupations Code), the applicable provisions of the Brenham Code of Ordinances, and all other laws and regulations regarding the licensing and registration of tow vehicles. Additionally, when removing a wrecked or damaged vehicle from a street or public right-of-way _____ must pick up and remove broken glass and debris from the street or public right-of-way and properly dispose of it at the storage facility. Failure to comply with this paragraph is grounds for a penalty in accordance with Section V of this Contract.

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SECTION XIX. COMPLAINTS AND OVERCHARGES

Complaints concerning _____'s performance of this Contract received by the CITY shall be forwarded to and promptly investigated by _____ and a satisfactory written explanation made to CITY within five (5) business days after the date _____ is notified verbally and/or in writing of the complaint by the CITY. _____ agrees to promptly and without delay take whatever action is necessary to correct any and all complaints. _____'s failure to timely investigate or to promptly correct errors, overcharges or complaints shall constitute a breach of this Contract and authorize CITY to penalize _____ as provided in Section V of this Contract. Overcharges for towing or storage or both shall be promptly refunded. When a complaint is initiated, all charges will stop until such time as the complaint has been resolved in writing and signed by all parties involved. All complaints by the public, or other Towing Companies, must be received in writing by the CITY. Oral complaints will not be acted upon in any way. A complaint form will be provided by the CITY.

SECTION XX. VEHICLE RELEASE

_____ shall release vehicles in its custody twenty-four (24) hours per day. Vehicles must be released within one (1) hour of a request. _____ shall release personal property during normal business hours free of charge.

SECTION XXI. POLICE HOLD

_____ must provide a uniquely numbered receipt (a card stub) to the CITY on impounded vehicles that describes the vehicle to be impounded and designates whether or not there is a police hold on the vehicle. Before releasing a vehicle with a police hold marked on the stub GOODMAN WRECER will ensure that any law enforcement hold has been canceled. Holds may only be placed by a Department officer with the rank of Sergeant or above and must be in writing. The CITY is not responsible for additional storage fees that are the result of an improperly placed law enforcement hold.

SECTION XXII. INSURANCE

_____ shall provide insurance coverage in amounts that are at minimum in compliance with State and Federal law, prior to the execution of this Contract and maintain such coverage, without interruption for the full term of this Contract. All policies shall be issued by an insurer with a Best Rating of B+ or better, authorized to write such coverage in Texas. A certificate of insurance must be filed with the City Secretary of the CITY prior to the execution of this Contract. The policy must list the City of Brenham as an "additional insured" and require the company to give CITY forty-five (45) days advance notice of non-renewal, cancellation or other material changes by the carrier.

SECTION XXIII. SAVINGS

In case of any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal, or unenforceable, in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof, and this Contract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION XXIV. TERMINATION

Either party shall have the right to terminate this Contract, without cause, upon thirty (30) days written notice.

SECTION XXV. NOTICES

Notices required by this Contract shall be deemed delivered upon the earlier of: 1) three (3) days after the notice is deposited in the U.S. mail properly addressed and with sufficient postage; or 2) upon actual receipt by the party to whom notice is sent. All notices required hereunder shall be delivered by a commercial carrier/delivery service or mailed by certified or registered U.S. mail, return receipt requested, as follows:

CITY OF BRENHAM: City Secretary
City of Brenham
P.O. Box 1059
200 W. Vulcan Street, Suite 206
Brenham TX 77834-1059

TOWING COMPANY:

Company Name: _____
Attn: _____
Address: _____
City: _____ State: _____ Zip Code: _____
Telephone: _____ Cellular: _____
Fax: _____ E-Mail: _____

SECTION XXVI. WAIVER OR AMENDMENT AND ESTOPPEL

Waiver, alternation, or modification of any of the provisions of this Contract shall not be binding unless such waiver, alteration, or modification is in writing and signed by an authorized representative of the parties. Failure by either party to enforce a breach of this Contract on one or more occasions shall not constitute a waiver of further breaches or estoppel enforcement on the subsequent occasions. The terms of this Contract are exclusively applicable to _____ and the CITY and it is the intent of the parties that no third parties are intended beneficiaries of this Contract.

SECTION XXVII. INDEPENDENT CONTRACTOR

The parties intend that the relationship created between them by this Contract shall be that of CITY and independent contractor. No owner, agent, employee, or sub-operator of _____ shall be or shall be deemed to be the employee, agent or servant of CITY. CITY is interested only in the results obtained under this Contract. The manner and means of conducting the work are under the sole control of _____. None of the benefits provided by CITY to its employees, including, but not limited to compensation insurance, hospitalization insurance, or unemployment insurance are available from CITY to the employees, agents, servants or sub-operators of _____.

SECTION XXVIII. SECTION TITLES

The titles for each section are for convenience only and are non-substantive, and do not expand or limit the text of the section.

SECTION XXIX. GOVERNING LAW

The validity and interpretation of any of the terms and provisions of this Contract or of the rights and duties of the parties hereunder shall be governed by the laws of the State of Texas. Any action arising out of this Contract shall be filed in any appropriate Court having jurisdiction in Washington County, Texas.

Executed on this the _____ day of _____, 20_____.

CITY OF BRENHAM

Terry K. Roberts
City Manager

Title: _____

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



AGENDA ITEM 13

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017
DEPT. OF ORIGIN: Engineer Services Department	SUBMITTED BY: Lori Lakatos

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

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Following Professional Services Agreements Related to Storm Disaster Recovery Work from the May 2016 Storm Event:

- a. Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations;
- b. Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Munz Lift Station;
- c. Professional Services Agreement with O'Malley Strand Associates, Inc. for Storm Damage Repairs to the Lake Line at Big Sandy Creek; and
- d. Professional Services Agreement with Gunda Corporation, LLC. for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations;

and Authorize the Mayor to Execute Any Necessary Documentation

SUMMARY STATEMENT: During the May 2016 Flood Event multiple sites were damaged throughout the City. FEMA declared Washington County as part of DR-4272 for public assistance. As part of the recovery relief FEMA provides kind-in assistance and hazard mitigation, should the projects meet the benefit cost analysis and will help reduce the risk of these types of damages occurring in the future. Staff has been working with FEMA to include the storm damage under the DR-4272 funding for eligible projects. Staff has also been working with engineering firms to help the City recovery and possibly mitigate potential risks in the future.

This item is to enter into professional services agreements with O'Malley Strand and Gunda to continue with the recovery and mitigation of multiple projects throughout the City. Item a and d were on the February 2, 2017 agenda, but after consideration the professional services agreements were renegotiated. Staff worked closely with the firms during this process. The agreements being considered are for Various City Infrastructure Improvements at Multiple Locations (2), Munz Lift Station, and Lake Line at Big Sandy Creek. These agreements capture most of the remaining damages, but there may be additional agreements to be considered in the future.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference): N/A
ATTACHMENTS: (1) Professional Services Agreement with O'Malley Strand Associates, Inc. with scope of work for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; (2) Professional Services Agreement with O'Malley Strand Associates, Inc. with scope of work for Storm Damage Repairs to the Munz Lift Station; (3) Professional Services Agreement with O'Malley Strand Associates, Inc. with scope of work for Storm Damage Repairs to the Lake Line at Big Sandy Creek; and (4) Professional Services Agreement with Gunda Corporation, Inc. with scope of work for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations
FUNDING SOURCE (Where Applicable): Reserves. The funding will split among the general fund, water fund, and wastewater fund. It is anticipated that 75% of the funding will be reimbursed through the disaster relief. All of the damages have been identified, but the eligibility and project costs have not been determined by FEMA.
RECOMMENDED ACTION: Approve Professional Services Agreements related to storm disaster recovery work from the May 2016 Storm Event as follows: a. Professional Services Agreement with O'Malley Strand Associates, Inc. in the amount, not to exceed, of \$287,356 for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; b. Professional Services Agreement with O'Malley Strand Associates, Inc. in the amount, not to exceed, of \$52,300 for Storm Damage Repairs to the Munz Lift Station c. Professional Services Agreement with O'Malley Strand Associates, Inc. in the amount, not to exceed, of \$34,150 for Storm Damage Repairs to the Lake Line at Big Sandy Creek; and d. Professional Services Agreement with Gunda Corporation, LLC. in the amount, not to exceed, of \$295,841 for Storm Damage Repairs to Various City Infrastructure Improvements at Multiple Locations; and authorize the Mayor to execute any necessary documentation
APPROVALS: Terry K. Roberts

O'Malley Strand Associates, Inc.

Multiple Storm Damage Repair Projects

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. 2017-03
CITY OF BRENHAM
MULTIPLE STORM DAMAGE REPAIR PROJECTS**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Strand Associates, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to repair storm damage to drainage facilities and the locations listed below: (the "Project"); and

- A. Project No. 1–Jackson Street Park, Hog Branch, Locations 17 and 18
- B. Project No. 2–Walnut Street, Ralston Creek, Locations 19 and 20
- C. Project No. 3–Industrial Boulevard, Meeting Branch, Location 25
- D. Project No. 4–Wood Ridge Boulevard, Tributary Adjacent to U.S. Highway 290
- E. Project No. 5–Alamo Street, Schulte Boulevard, Gun and Rod Road Locations 11, 22, 23, and 24

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

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

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

**SECTION I
SCOPE OF AGREEMENT**

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

SECTION II CHARACTER AND EXTENT OF SERVICES

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

SECTION III OWNERSHIP OF WORK PRODUCT

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

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 150 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

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

SECTION VI INDEMNIFICATION

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

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$287,356, including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

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

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

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

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833
Attn: Mr. Jason Reimer, P.E.

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

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X LIMIT OF APPROPRIATION

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

SECTION XI SUCCESSORS AND ASSIGNS

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

SECTION XII MODIFICATIONS

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

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer,

as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

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

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

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

SECTION XVI INSURANCE

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

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

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

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

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

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

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

O'MALLEY STRAND ASSOCIATES, INC.

By: _____
Name: Matthew S. Richards
Title: Corporate Secretary

CITY OF BRENHAM, TEXAS

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES

Engineer will provide design services including preparation of construction drawings and specifications for the following items:

Project No. 1

Jackson Street Park

Jackson Street (Location No. 17) at Hog Branch Project Description:

- A. Widen and deepen the existing channel section of approximately 500 linear feet.
- B. Repair channel banks.
- C. Repair channel invert degradation and scour holes.
- D. Repair erosion/slope at transition locations.
- E. Sod over channel improvement section.
- F. Reinforce newly established banks.

Jackson Street Park

Mansfield Street at Morgan Street (Location No. 18) Unnamed Tributary to Hog Branch Project Description:

- A. Repair scour around downstream storm sewer pipe outlet headwall.
- B. Repair scour around upstream inlet and roadway of approximately 30 linear feet.
- C. Repair concrete apron around upstream inlet.
- D. Repair curb inlet and storm pipe outlet to channel (west of cross-culvert on north road curb line).

Project No. 2

Walnut Street

At Allison Street (Location No. 19) Ralston Creek Project Description:

- A. Repair the scour of channel banks approximately 20 linear feet downstream.
- B. Repair the scour around concrete lining.
- C. Repair rock riprap downstream (20 feet) of concrete for protection.
- D. Repair rock riprap upstream (10 feet) of concrete.
- E. Repair pavement/base along eroded locations (approximately 25 feet left and right of headwall edge).

Channel Reach

From Walnut Street to Chappell Hill Street (Location No. 20) Ralston Creek Project Description:

- A. Repair various location along channel of approximately 1,000 linear feet.
- B. Repair scour of channel banks.
- C. Repair scour around and under concrete drop structures.
- D. Repair concrete drop structures.
- E. Repair eroded areas 10 feet upstream and 20 feet downstream of drop structures for protection.
- F. Repair channel flowline downstream of Chappell Hill Street.

Project No. 3

Industrial Boulevard (Location No. 25) Meeting Branch Project Description:

- A. Repair channel erosion and restore side slopes approximately 30 linear feet upstream and downstream of Industrial Boulevard.
- B. Repair channel invert degradation and scour hole downstream and upstream of culvert.
- C. Replace damaged cross-culverts with box culverts.
- D. Replace culvert headwalls.
- E. Replace cross-culverts and headwalls to location east of existing crossing.
- F. Excavate/widen south roadside ditch from new crossing to channel.
- G. Replace metal beam guard rail.
- H. Repair roadway pavement.
- I. Restore roadway embankment.
- J. Clean-out concrete rubble from channel.
- K. Install rock riprap downstream of culvert at channel scour transition location for channel scour protection.

Project No. 4

Tributary Adjacent to U.S. Hwy 290 Upstream of Wood Ridge Boulevard Project Description:

- A. Repair channel erosion and evaluate existing open channel hydraulics.
- B. Evaluate impact of scour on channel erosion control
- C. Evaluate proposed erosion control devices.

Project No. 5

Alamo Street (Location No. 11) Project Description:

- A. Repair approximately 100 feet of channel erosion.
- B. Regrade/reestablish approximately 100 feet of channel flowline.
- C. Remove silt and debris within channel.
- D. Replace drainage flumes.
- E. Replace existing drainage inlets at bridge ends.
- F. Investigate exposure of culvert toe and wastewater main line support columns.
- G. Install culvert headwall footing concrete and wastewater main line support columns footing concrete (if needed).
- H. Investigate road subgrade at curb line at channel crossing.
- I. Repair road subgrade and pavement at channel crossing (if needed).

Gun and Rod Road (Location No. 22) Project Description:

- A. Repair approximately 50 feet of channel erosion.
- B. Regrade/reestablish approximately 50 feet of channel flowline.
- C. Remove silt and debris within channel.
- D. Repair scour behind culvert headwall and wingwalls.
- E. Repair approximately 80 feet of road shoulder embankment.

- F. Repair/replace approximately 12 guard rail supports.
- G. Repair channel invert at culvert toe.
- H. Install approximately 10 feet of rock riprap protection downstream of storm pipe outlet.

Schulte Boulevard (Location Nos. 23 and 24) Project Description:

- A. Repair approximately 180 feet of channel erosion.
- B. Regrade/reestablish approximately 180 feet of channel flowline.
- C. Remove silt and debris within channel.
- D. Install culvert extensions.
- E. Install culvert headwalls with concrete aprons or safety end treatments.
- F. Install rock riprap downstream of headwall aprons or safety end treatments.
- G. Repair utility line crossing in channel.
- H. Install utility line protection and/or adjust utility line below channel flowline.

Scope of Services

Project Nos. 1-5

All services will be provided in accordance with City of Brenham standards.

Task included in this scope are as follows:

A. General

Project Management, Coordination, and Meetings: Engineer will be the primary contact for the proposed project and assist with activities relative to the project with City, subconsultants, and applicable approval agencies. The City shall be notified in advance of all correspondence with other agencies and/or third party stakeholders; documentation of said correspondence will be provided to the City.

Engineer and necessary subconsultants will prepare for and attend meetings with City as needed throughout the project. Meeting minutes will be prepared for all meetings and submitted to City within three business days to document purpose, attendees, discussion topics, relevant decisions, and action items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company correspondence for private facilities determined to be in conflict with construction of the proposed improvements.

Review current Federal Emergency Management agency (FEMA) and City of Brenham hydraulic modeling, reports, and plans previously prepared by others and provide potential for modifications to the City.

B. Design Services

Prepare construction drawings, specifications, and opinions of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in project descriptions in accordance with FEMA and City of Brenham defined standards. Services also include: performing field survey for design

services, nine soil borings (by a subconsultant), construction materials testing (by a subconsultant), and archaeological and historical review will be provided (by a subconsultant).

C. Bidding and Award Recommendation

Assist the City with the bidding and award process including preparation of advertisements, assistance with and/or facilitation of a pre-bid bid meeting, response to bidder questions, preparation of addenda, attendance at bid opening, bid review, and award recommendation for five projects identified in this Scope of Services.

D. Construction-Related Services

Provide construction contract administration services including shop drawing reviews, review of contractor requests for information and recommended response, attendance at construction progress meetings, periodic site visits, contractor pay request, attendance at final inspection, preparation of list of items to be completed or corrected, record drawings, and project close-out.

E. Agency Coordination and Permitting

Assist City with obtaining permitting approval which may include, but limited to, United States Army Corps of Engineers, and Texas Commission on Environmental Quality. This assistance does not include Application for Grant Funding. City shall be responsible for permit fees.

F. Drainage Review and Design

Perform drainage review, analysis, and design tasks including riprap design details and standards, shear stress calculations, historic water levels review, and upper channel slope drainage design.

Deliverables

- A. Construction Documents will include plans, project manual with bid documents and specification references, and opinions of probable construction costs. Submission at 50 percent, 90 percent, and final milestones. Prepare Bidding Documents using Engineers Joint Contract Documents Committee C-700 Standard General Conditions of the Construction Contract, 2013 edition, technical specifications, and engineering drawings.

Additional Services

Engineer will provide the following services upon written authorization from City.

- A. Part-Time Resident Project Representative (RPR)
 - a. Provide an RPR on-site one hour a day, two days a week, for the estimated 50 calendar days of construction. In furnishing observation services, Engineer's efforts will be directed toward determining for the City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety

- precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.
 - b. Provide weekly written reports of the contractor activity.
- B. Survey
 - a. Perform construction stake-outs.

Services Not Provided

- A. Land/easement procurement
- B. Design revisions after approval
- C. Services related to buried waste and contamination

City's Responsibilities

- A. City agrees that the Contract Documents will require the contractor to name the Engineer as an additional insured on contractor's General Liability and Automobile liability insurance policies and to indemnify Engineer to the same extent that the contractor insures and indemnifies City.
- B. Approve all utility work plans and issue notice to start work and provide all utility agreements by others.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES MULTIPLE STORM DAMAGE REPAIR PROJECTS

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

Basic services to be performed for a fee not to exceed \$263,236 as indicated in the attached table. Additional Services to be approved by the City not to exceed \$24,120. Subcontract Items shall be billed at invoice cost plus 10 percent, estimated cost of \$53,196.

Multiple Storm Damage Repair Projects - Proposed Engineering Fees

Fee Schedule		Project 1		Project 2		Project 3		Project 4		Project 5		Task Totals	
		Hog Branch at Jackson Street Park		Ralston Creek at Walnut Street		Meeting Branch at Industrial Boulevard		Unnamed Tributary at Hwy. 290 & Wood Ridge Boulevard		Alamo St, Schulte Blvd., and Gun & Rod Rd.			
Basic Services													
Design Phase Services													
1.	Initial kick off meeting and data collection and review for each of the sites.	\$	800.00	\$	800.00	\$	800.00	\$	800.00	\$	310.00	\$	3,510.00
2.	Design surveys.	\$	2,500.00	\$	2,500.00	\$	2,500.00	\$	2,000.00	\$	2,500.00	\$	12,500.00
3.	Geotechnical investigation (includes 10% subcontractant carrying fee).	\$	2,376.00	\$	2,376.00	\$	2,376.00	\$	1,331.00	\$	4,000.00	\$	11,414.00
4.	Develop and submit 50% design plans for proposed drainage structures and erosion control devices including opinion of probable costs and review with City staff. This effort also includes H&H analysis.	\$	10,000.00	\$	10,000.00	\$	12,000.00	\$	10,000.00	\$	4,400.00	\$	46,400.00
5.	Develop and submit 90% design plans, specifications, bid form, and final opinion of probable costs to review with City staff.	\$	3,500.00	\$	3,500.00	\$	6,000.00	\$	5,000.00	\$	6,000.00	\$	24,000.00
6.	Provide regulatory assistance, USACE, FEMA, and/or TCEQ, required documentation for permitting, including Categorical Exclusion (with Archeological & Historical Review), and Nationwide permit documents (Contingency Budget Includes 10% subcontractant carrying fee).	\$	15,000.00	\$	15,000.00	\$	8,000.00	\$	8,000.00	\$	22,000.00	\$	68,000.00
7.	Finalize project documents for bidding including required regulatory documentation and permits.	\$	4,500.00	\$	4,500.00	\$	6,000.00	\$	5,500.00	\$	5,880.00	\$	26,380.00
8.	Advertise bid and make recommendation for award to the City.	\$	2,000.00	\$	2,000.00	\$	3,000.00	\$	3,000.00	\$	730.00	\$	10,730.00
Construction Phase (Estimated 90 calendar days for construction)													
1.	Hold preconstruction conference with contractor, required project coordination including site visits, review of contractor submittals and pay estimates.	\$	2,400.00	\$	2,400.00	\$	8,000.00	\$	6,000.00	\$	5,065.00	\$	23,865.00
2.	Construction materials testing (includes 10% subcontractant carrying fee).	\$	6,743.00	\$	6,743.00	\$	5,324.00	\$	4,972.00	\$	6,000.00	\$	29,782.00
3.	Perform pre-final and final inspections and prepare record drawings.	\$	1,000.00	\$	1,000.00	\$	2,000.00	\$	1,200.00	\$	1,455.00	\$	6,655.00
Total Basic Services "Not to Exceed" Fee		\$	50,819.00	\$	50,819.00	\$	55,455.00	\$	47,803.00	\$	58,340.00	\$	263,236.00
Additional Services													
1.	Part-time resident project representative.	\$	2,500.00	\$	2,500.00	\$	4,500.00	\$	2,500.00	\$	1,620.00	\$	13,620.00
2.	Construction staking	\$	1,000.00	\$	1,000.00	\$	2,000.00	\$	1,000.00	\$	1,500.00	\$	6,500.00
3.	Boundary survey for easement/ROW acquisition.	\$	-	\$	-	\$	4,000.00	\$	-	\$	-	\$	4,000.00
Total Additional Services		\$	3,500.00	\$	3,500.00	\$	10,500.00	\$	3,500.00	\$	3,120.00	\$	24,120.00
Total All Services													
		\$	54,319.00	\$	54,319.00	\$	65,955.00	\$	51,303.00	\$	61,460.00	\$	287,356.00

Notes:

1. **Categorical Exclusion (CatEx)** assumed for each site.
2. Construction SWPPP to be responsibility of contractor per construction documents (as per past projects with City).
3. Erosion Control Plan with BMP details will be prepared and provided by Engineer in the project documents.
4. Geosner Engineering to provide both Geotechnical Investigation and Construction Materials Testing services.
5. Cultural Resource Analysis (CRA) to provide Archeological and Historical review services.

Subconsultant Fees (all projects including 10% subconsultant carrying fee):	
1. Geotechnical Investigation (Gessner)	\$ 11,414.00
2. Archeological & Historical Review (CRA)	\$ 12,000.00
3. Construction Materials Testing (Gessner)	\$ 29,782.00
Total	\$ 53,196.00

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$240.00
Senior Project Manager	185.00
Project Manager	155.00
Engineer	120.00
Graduate Engineer	100.00
Engineering Technician	95.00
NACE Certified Project Representative (Tank Construction)	90.00
Project Representative	90.00
CADD Operator	85.00
Secretary	70.00

Compensation for surveying services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Registered Professional Land Surveyor.....	\$155.00
Surveying Technician	95.00
3-Man Field Party.....	210.00
2-Man Field Party.....	140.00
1-Man Field Party.....	90.00
Global Positioning System (GPS) Equipment	50.00
Robotic Total Station.....	30.00

Subcontract costs shall be billed at invoice cost plus fifteen percent (15%) for handling.

SCHEDULE OF CHARGES 0716

ATTACHMENT "B"

INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/27/2017

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

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

PRODUCER Ansay & Associates, LLC. MSN 702 N High Point Road Suite 201 Madison WI 53717		CONTACT NAME: Susan Simoneau PHONE (A/C, No, Ext): 800-643-6133 E-MAIL ADDRESS: sue.simoneau@ansay.com	
		FAX (A/C, No): 608-831-4777	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A :CNA Insurance Companies	35289
INSURED Strand Associates, Inc. 910 W. Wingra Drive Madison WI 53715		STRAASS-01	
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER: 207714304

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Blkt. Contractua ☒ XCU cov. incl. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC			5099170076	1/1/2017	1/1/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$900,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			5099170062	1/1/2017	1/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			5099170059	1/1/2017	1/1/2018	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N ☐ N / A			WC595126844	1/1/2017	1/1/2018	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	PROFESSIONAL & POLLUTION LIAB.			AEH113974097	7/11/2016	7/11/2017	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

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

PROJECT: City of Brenham Multiple Storm Damage Repair Projects
AGREEMENT: 3900.059

CERTIFICATE HOLDER

CANCELLATION

City of Brenham Attn: City Engineer 200 W. Vulcan Street Brenham TX 77833	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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O'Malley Strand Associates, Inc.

Munz Lift Station

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. 2017-05
CITY OF BRENHAM MUNZ LIFT STATION**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Strand Associates, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to construct a new submersible pump lift station near the site of the existing Munz Lift Station, located approximately 285 feet northwest of the corner of Edward Lane and North Drumm Street. The new lift station is to replace the existing Munz Lift Station (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide design and construction phase services for the design of a submersible pump lift station, and

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

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

**SECTION I
SCOPE OF AGREEMENT**

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

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or

similar circumstances and professional license. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

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

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 360 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

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

SECTION VI INDEMNIFICATION

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

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$52,300.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

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

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

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

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833
Attn: Mrs. Kelly M. Hajek, P.E.

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

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X LIMIT OF APPROPRIATION

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

SECTION XI SUCCESSORS AND ASSIGNS

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

SECTION XII MODIFICATIONS

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

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

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

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

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

SECTION XVI INSURANCE

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

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

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

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

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to

the United States, or (b) authorized by law to be employed in that manner in the United States.

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

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

O'MALLEY STRAND ASSOCIATES, INC.

By: _____
Name: Matthew S. Richards
Title: Corporate Secretary

CITY OF BRENHAM, TEXAS

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES

Basic services to be provided for Munz Lift Station:

Design Services

1. Meet with City to review project scope and location for new lift station.
2. Review service area and design pumping flows.
3. Identify permanent and temporary easements and order design surveys.
4. Draw-up background drawings and check accuracy.
5. Perform hydraulic design of the pumping station.
6. Perform electrical and structural design of the pumping station.
7. Prepare 50 percent design plans and specifications and meet with City.
8. Respond to and incorporate City comments into the 50 percent design plans and specifications as appropriate.
9. Prepare 90 percent design plans and specifications and meet with City.
10. Respond to and incorporate City comments into 90 percent design plans and specifications.
11. Submit Summary Transmittal Letter to Texas Commission on Environmental Quality for review and approval.
12. Provide final plans and project manual for bidding purposes.
13. Perform topographic design survey to gather data necessary for the design of the lift station and preparation of background drawings

Construction-Related Services

1. Prepare and submit advertisement to run in the local newspaper. Respond to bidder questions, prepare any addenda, attend bid opening, prepare bid tabulation and review bids, and make Recommendation of Award.
2. Prepare and review Contract Documents including review of bonding and insurance requirements for the contractor.
3. Conduct preconstruction conference and issue Notice to Proceed.
4. Provide construction-related services including review of shop drawings, responding to contractor requests for information, conducting periodic site visits, and reviewing contractor pay requests.
5. Perform final inspection and prepare list of items to be completed or corrected.
6. Prepare record drawings based on the contractor's red lines and perform project close-out.

Additional services to be provided if approved by City:

1. Perform boundary survey for any easements necessary for the new location.
2. Perform construction staking and prepare cut sheets when necessary for construction of the improvements.
3. Provide part-time Project Representative to observe construction work and testing in addition to periodic site visits by Engineer.

Sub agreements:

1. Subcontracting will be necessary for a geotechnical investigation of the site.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES

MUNZ LIFT STATION PROJECT NO. 2017-05

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

Basic services to be performed for a Fee not to exceed \$40,100.00. Additional Services to be approved by the City not to exceed \$4,700.00. Subcontract Item 1 shall be billed at invoice cost plus 10%, estimated cost of \$7,500.

TASK		COSTS
Design Services		
1	Design services through 50 percent plan review meeting (Scope Items 1 - 7 Defined in Part A)	\$13,000.00
2	Design services through 90 percent plan review meeting (Scope Items 8 - 9 Defined in Part A)	\$10,400.00
3	Design services through final plans (Scope Items 10 - 12 Defined in Part A)	\$2,600.00
4	Perform Topographic/Design Survey (Scope Item 13 Defined in Part A)	\$1,000.00
	Total	\$27,000.00

Construction-Related Services		
1	Construction-related services through execution of contract documents (Scope Items 1 - 2 Defined in Part A)	\$4,100.00
2	Construction-related services prior to the final inspection (Scope Items 3 - 4 Defined in Part A)	\$6,300.00
3	Construction-related services through project closeout (Scope Items 5 - 6 Defined in Part A)	\$2,700.00
	Total	\$13,100.00

Additional Services		
1	Perform Boundary Survey	\$1,000.00
2	Perform Construction Staking	\$1,000.00
3	Part-Time Project Representative	\$2,700.00
	Total	\$4,700.00

Sub Agreements*		
1	Geotechnical Investigation	\$7,500.00

	Total All Services	\$52,300.00
--	---------------------------	--------------------

*Estimated costs

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$240.00
Senior Project Manager.....	185.00
Project Manager	155.00
Engineer	120.00
Graduate Engineer	100.00
Engineering Technician	95.00
NACE Certified Project Representative (Tank Construction).....	90.00
Project Representative	90.00
CADD Operator	85.00
Secretary	70.00

Compensation for surveying services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Registered Professional Land Surveyor.....	\$155.00
Surveying Technician	95.00
3-Man Field Party	210.00
2-Man Field Party	140.00
1-Man Field Party	90.00
Global Positioning System (GPS) Equipment	50.00
Robotic Total Station	30.00

Subcontract costs shall be billed at invoice cost plus ten percent (10%) for handling.

ATTACHMENT “B”

INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/20/2017

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

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PRODUCER Ansay & Associates, LLC. MSN 702 N High Point Road Suite 201 Madison WI 53717		CONTACT NAME: Susan Simoneau PHONE (A/C, No, Ext): 800-643-6133 E-MAIL ADDRESS: sue.simoneau@ansay.com	
		FAX (A/C, No): 608-831-4777	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A :CNA Insurance Companies	35289
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 1370971775 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Blkt. Contractua ☒ XCU cov. incl. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC			5099170076	1/1/2017	1/1/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$900,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ☒ NON-OWNED AUTOS			5099170062	1/1/2017	1/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000			5099170059	1/1/2017	1/1/2018	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	WC595126844	1/1/2017	1/1/2018	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	PROFESSIONAL & POLLUTION LIAB.			AEH113974097	7/11/2016	7/11/2017	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

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

PROJECT: Munz Lift Station, City of Brenham

CERTIFICATE HOLDER

City of Brenham
Attn: City Engineer
200 W. Vulcan Street
Brenham TX 77833

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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O'Malley Strand Associates, Inc.

Raw Water Transmission Line Lowering at Big Sandy Creek

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. 2017-06
CITY OF BRENHAM
24-INCH RAW WATER TRANSMISSION LINE LOWERING AT BIG SANDY CREEK**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and O'Malley Strand Associates, Inc. ("Engineer").

WITNESSETH:

WHEREAS, the City desires to realign and lower an existing 24-inch raw water transmission line that is currently exposed in Big Sandy Creek just west of State Highway 36 (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

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

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

**SECTION I
SCOPE OF AGREEMENT**

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

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or

similar circumstances and professional license. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

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

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 250 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

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

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to

pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$34,150.00, including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

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

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

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

O'Malley Strand Associates, Inc.
203 South Jackson Street
Brenham, Texas 77833
Attn: Robert C. Schmidt, P.E.

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

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X LIMIT OF APPROPRIATION

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

SECTION XI SUCCESSORS AND ASSIGNS

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

SECTION XII MODIFICATIONS

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

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

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

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

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

SECTION XVI INSURANCE

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

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

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

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

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to

the United States, or (b) authorized by law to be employed in that manner in the United States.

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

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

O'MALLEY STRAND ASSOCIATES, INC.

By: _____
Name: Matthew S. Richards
Title: Corporate Secretary

CITY OF BRENHAM, TEXAS

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, City Secretary

ATTACHMENT "A"

PART A - SCOPE OF SERVICES

Scope of Services:

The scope of services is to prepare drawings and specifications, and obtain necessary permits, provide construction related services, provide project representation during construction, and required field and construction surveys to realign and lower existing 24-inch cast iron raw water transmission line.

Basic Services:

Design Services

1. Attend initial kick-off meeting and data collection and review for each of the sites.
2. Perform topographic field survey and prepare background drawings required for design services.
3. Develop and submit 50 percent design plans for proposed replacement of existing 24-inch raw water transmission line including opinion of probable costs and review with City.
4. Develop and submit 90 percent design plans, specifications, bid form, and final opinion of probable costs to review with City. Define preliminary regulatory permit requirements for the Texas Department of Transportation (TxDOT), United States Army Corps of Engineers (USACE), and Texas Commission on Environmental Quality (TCEQ), and meet with the City to review.
5. Finalize project documents for bidding including required regulatory documentation and permits, including Erosion Control Plan.
6. Prepare and submit USACE, TCEQ, and TxDOT application and assist with obtaining the permits.
7. Advertise bid and make recommendation for award to the City.

Construction-Related Services

1. Hold preconstruction conference with contractor, and provide required project coordination including site visits and review of contractor submittals and pay estimates.
2. Perform pre-final and final inspections.
3. Prepare record drawings.

Additional Services:

Project Representative

1. Provide a part-time resident project representative (RPR) an average of one hour a day, three days a week, for the estimated 15 calendar days of construction. In

furnishing observation services, Engineer's efforts will be directed toward determining for the City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.

2. Provide written reports of the contractor activity.

Survey

1. Perform boundary surveys for right of way/easements.
2. Perform construction staking.

Geotechnical Investigation:

1. Provide at least two borings on each side of Sandy Creek near the existing 24-inch transmission line.

Services Not Provided:

1. Construction Storm Water Pollution Prevention Plan (to be responsibility of the contractor).

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES
24-INCH RAW WATER TRANSMISSION LINE LOWERING AT BIG SANDY CREEK
PROJECT NO. 2017-06

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

Basic services to be performed for a Fee not to exceed \$19,150.00. Additional Services to be approved by the City not to exceed \$11,500.00. Subcontract Item 1 shall be billed at invoice cost plus 10%, estimated cost of \$7,500.00.

TASK		COSTS
Design Services		
1	Attend kick-off meeting with City to define project goals.	\$650.00
2	Design Survey	\$2,500.00
3	Prepare 50 percent plans and specifications, including opinion of probable cost for City's review.	\$4,000.00
4	Prepare final plans and specifications for bidding.	\$3,000.00
5	Obtaining the required regulatory permits from TxDOT, USACE, and TCEQ.	\$3,000.00
6	Advertise, bid, and open bids, prepare bid tabulation and make recommendation for award	\$2,000.00
	Total	\$15,150.00

Construction-Related Services		
1	Hold preconstruction conference with Contractor, required project coordination including site visits, review Contractor submittals and pay request. Perform pre-final and final inspections. Prepare record drawing.	\$4,000.00
	Total	\$4,000.00

Additional Services		
1	Construction Survey	\$2,500.00
2	Part-Time Project Representative	\$5,000.00
3	Survey and prepare easement documents if required	\$4,000.00
	Total	\$11,500.00

Sub Agreements		
1	Provide geotechnical services	\$7,500.00

	Total All Services	\$38,150.00
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SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Principal	\$240.00
Senior Project Manager.....	185.00
Project Manager	155.00
Engineer	120.00
Graduate Engineer	100.00
Engineering Technician	95.00
NACE Certified Project Representative (Tank Construction).....	90.00
Project Representative	90.00
CADD Operator	85.00
Secretary	70.00

Compensation for surveying services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Registered Professional Land Surveyor.....	\$155.00
Surveying Technician	95.00
3-Man Field Party	210.00
2-Man Field Party	140.00
1-Man Field Party	90.00
Global Positioning System (GPS) Equipment	50.00
Robotic Total Station	30.00

Subcontract costs shall be billed at invoice cost plus ten percent (10%) for handling.

ATTACHMENT “B”

INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/24/2017

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

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

PRODUCER Ansay & Associates, LLC. MSN 702 N High Point Road Suite 201 Madison WI 53717		CONTACT NAME: Susan Simoneau PHONE (A/C, No, Ext): 800-643-6133 E-MAIL ADDRESS: sue.simoneau@ansay.com	
		FAX (A/C, No): 608-831-4777	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A :CNA Insurance Companies	35289
		INSURER B :	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

INSURED STRAASS-01Strand Associates, Inc.
910 W. Wingra Drive
Madison WI 53715**COVERAGES****CERTIFICATE NUMBER:** 1714245759**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Blkt. Contractua ☒ XCU cov. incl. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC	Y		5099170076	1/1/2017	1/1/2018	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$900,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			5099170062	1/1/2017	1/1/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$10,000	Y		5099170059	1/1/2017	1/1/2018	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N ☐ N / A		N / A	WC595126844	1/1/2017	1/1/2018	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	PROFESSIONAL & POLLUTION LIAB.			AEH113974097	7/11/2016	7/11/2017	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

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

PROJECT: City of Brenham 24-Inch Raw Water Transmission Line Lowering at Big Sandy Creek
PROJECT NO. 2017-06**CERTIFICATE HOLDER**City of Brenham
Attn: City Engineer
200 W. Vulcan Street
Brenham TX 77833**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

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Gunda Corporation, LLC

Storm Damage Repairs

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
PROJECT NO. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 2017 entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Gunda Corporation, LLC ("Engineer").

WITNESSETH:

WHEREAS, the City desires to repair storm damages to drainage facilities, said damages being at various locations within the corporate boundary of the City of Brenham (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

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

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

**SECTION I
SCOPE OF AGREEMENT**

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

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Work with the professional skill and care ordinarily provided by competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed

that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same.

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Work is 180 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City may grant time extensions to the extent of any delays caused by the City or other agencies with which the work must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

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

SECTION VI INDEMNIFICATION

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

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual work performed under the Scope of Work, on the basis set forth in Attachment "A," up to an amount not to exceed \$295,841.00 including reimbursable expenses as identified in Attachment "A."

SECTION VIII TERMINATION

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

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

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

Gunda Corporation, LLC
32731 Egypt Lane, Suite 501
Magnolia, TX 77354
Attn: Kyle A. Bertrand, P.E.

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

City of Brenham
200 W. Vulcan St.
Brenham, TX 77833
Attn: City Engineer

SECTION X LIMIT OF APPROPRIATION

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

SECTION XI SUCCESSORS AND ASSIGNS

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

SECTION XII MODIFICATIONS

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

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the Owner on the basis set forth in Attachment "A," up to the amount authorized in writing by the City.

SECTION XIV CONFLICTS OF INTEREST

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

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City.

SECTION XVI INSURANCE

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

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2250 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the work covered by such invoice.

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

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

D. Contractor further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the City Manager of said City and attested by the City Secretary and Gunda Corporation, LLC, acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 2017.

ENGINEER:

Gunda Corporation, LLC

By: _____
Name: Rajesh Tanwani, P.E.
Title: Vice President

CITY OF BRENHAM, TEXAS

Milton Tate, Mayor

ATTEST:

Jeana Bellinger, City Secretary

ATTACHMENT "A"
PART A - SCOPE OF SERVICES
City of Brenham
Project No. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS

Description of Project

The project proposed by the City of Brenham includes design of storm related damages sustained in April/May 2016 rain events. The anticipated repairs will generally be designed and implemented in accordance with recommendations provided in an engineering investigation previously prepared for the City of Brenham, (summary attached). It is also understood that the planned repairs will receive grant funding through FEMA. The proposed repairs will be prepared in 7 construction packages as follows:

Package 1

Location 2 - SH36 (Park Street) - Henderson Park - Higgins Branch (Mitigated Option)

Package 2

Location 5 - Burselson Street at MLK Parkway Hattie Flowers Park - Higgins Creek (PW COB005C, Site #6)
Mitigation Option 2 – Culvert Replacement

Location 6 - Hattie Flowers Park Pleasant View Avenue Outlet - Higgins Creek (PW COB0017C, Site #7) In-Kind

Location 7 - Hattie Flowers Park Hillside Drive Outlet - Higgins Creek (PW COB0017G, Site #7) In-Kind

Location 8 - MLK Parkway Outlet at Wilken Street- Higgins Creek (PW COB0017C, Site #7) In-Kind

Location 9 - Jefferson Street at MLK Parkway Hattie Flowers Park - Higgins Creek (PW COB00_C, Site #8)
Mitigation Option 2 – Culvert Replacement

Location 27 - West Main Street (BU90) at Blinn Blvd - Higgins Creek (PW COB009C, Site #27) In-Kind

Package 3

Location 12 - Barbee Street at Sycamore Street - Unit to Hog Branch (PW COB006C, Site #13) Option 4

Scope of Services

The scope of services for this project will include professional engineering and land surveying services necessary for the design and preparation of construction documents suitable for public bid for construction of the proposed improvements.

Task included in this scope include:

A. General

Project Management, Coordination, and Meetings - Gunda will be the primary contact for the proposed project and coordinate all activities relative to the project with City Staff, subconsultants, and applicable approval agencies. The City, shall be notified in advance of all correspondence with other agencies and/or third party stake holders and documentation of said correspondence shall be provide to the City.

Gunda and necessary subconsultants shall prepare for and attend meetings with City staff as needed throughout the project. Meeting minutes shall be prepared for all meetings and submitted to City within 3 business days to document purpose, attendees, discussion topics, relevant decisions, and actions items.

Review and update private utility research in the vicinity of the project and illustrate findings on the construction documents accordingly. Assist the City with utility company coordination for private facilities determined to be in conflict with construction of the proposed improvements.

Review of most current hydraulic modeling, reports, and plans previously prepared and provide recommendations for modifications to the City.

B. Design (Phase II Engineering Design)

Prepare construction plans, specifications, and estimates of probable construction costs for facilities designed and/or prepared for the proposed repairs as identified in this scope of services.

C. Bidding & Award Recommendation

Assist the City with the bidding and award process to include preparation of advertisements, assistance and/or facilitating a pre-bid meeting, response to bidder questions, addenda, bid opening, bid review, and award recommendation.

D. Phase III Construction Services

Provide Phase III construction services to include shop drawing reviews, review of contractor request for information (RFI) and recommended response, attendance at construction progress meetings, periodic site visits, attendance of final inspection and punch list preparation, project close-out. *This scope of does not include full or part time inspection services. However, those services can be added by supplemental if desired.*

E. Agency Coordination & Permitting

Assist City of Brenham with coordination and obtaining permitting approval which may include, but limited to, USACE, TCEQ, TWDB. This coordination does not include Application for Grant Funding.

F. Land Survey (Sub consultant proposal attached)

Conduct field survey to obtain as-built and/or new topographic survey of the subject area necessary for final design of the facility. Survey tasks will include; preparation of Survey Control sheets necessary for construction bid documents, detail of the pump station slab, stairway, gabions, gabion failure locations and end caps, intake location, and adjacent slopes.

G. Geotechnical Investigation & Materials Testing during Construction

(Sub consultant proposal attached)

Conduct necessary field and laboratory investigations, testing, and recommendations of repairs to establish slope stability implementation methods such as slope, compaction, slurry, grouting, etc.

H. Drainage Investigation & Design (Sub consultant proposal attached)

Drainage investigation, analysis, and design tasks will include, but are not limited to: scour assessment, culvert sizing, slope protection recommendations, standards, historic water levels investigation, and upper slope drainage design.

I. Storm Water Pollution Prevention Plan (SW3P) - Preparation of a storm water pollution prevention plan required during construction activities. Deliverable includes plan sheet(s) and standard details for BMP's for construction only.

J. Environmental Studies (Sub consultant proposal attached) -

Deliverables

1. Construction Documents to include plans, project manual with bid documents and specification references, and estimates of probable construction costs. Submission at 50%, 70%, 90%, and Final milestones.
2. Geotechnical Report (Draft and Final Reports)
3. Drainage Analysis Letter Report – Summarizing findings and recommendations investigated in this scope of services.

PART B – BASIS OF COMPENSATION AND REIMBURSABLE EXPENSES
Project No. E2017-01
CITY OF BRENHAM STORM DAMAGE REPAIRS

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

The recommended budget for this scope of services is:

Summary Package 1-3 Recommended Budget				
	Estimate of Probable Construction Costs		\$ 1,279,272.21	
A. thru D.	PM, Design, Bidding, Construction Phase Services	\$ 102,343.00	\$ -	\$ 102,343.00
	E. Agency Coordination & Permitting	\$ 7,500.00	\$ -	\$ 7,500.00
	F. Land Survey	\$ 22,500.00	\$ 2,250.00	\$ 24,750.00
	G. Geotechnical Investigation & Materials Testing	\$ 42,450.00	\$ 4,245.00	\$ 46,695.00
	H. H&H Investigation & FEMA Modeling	\$ 61,000.00	\$ 6,100.00	\$ 67,100.00
	I. SW3P	\$ 6,750.00	\$ -	\$ 6,750.00
	J. Environmental Assessment/Permit *	\$ 32,230.00	\$ 3,223.00	\$ 35,453.00
	Reimbursable Expenses	\$ 5,250.00	\$ -	\$ 5,250.00
	Subtotal Packages (1-7) - Recommended Budget	\$ 280,023.00	\$ 15,818.00	\$ 295,841.00
	* Includes budget for Burleson Road Crossing			

Notes: 1. Reimbursable Expenses shall be invoiced and paid based on cost of service provided plus 10% markup. These services include travel, deliveries, postage, graphical reproduction, etc.

ATTACHMENT “B”

INSURANCE



AGENDA ITEM 14

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017															
DEPT. OF ORIGIN: Purchasing	SUBMITTED BY: Sara Parker															
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AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Rejection of Bid No. 17-004 for the Fabrication and Installation of Wayfinding Signage and Authorize the Mayor to Execute Any Necessary Documentation																
SUMMARY STATEMENT: Bid No. 17-004 for the Wayfinding Signage Project was scheduled for opening with a submission deadline of 10:30 A.M. on February 14, 2017. On that day, Brenham and surrounding areas experienced severe weather and as a result, only one bid was received. At least two other bidders had attempted to submit bids but were delayed by weather and missed the deadline. Still another was sent by overnight courier service and did not arrive until the following day. Due to the importance of this project for the promotion of the City of Brenham and the efforts already invested by the Main Street Board, Wayfinding Committee and City personnel, staff recommends that Council reject the bid received to allow Purchasing Services to rebid the project as soon as possible.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Receipt of competitive bids for project. B. CONS: Delay of project.																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: None																
FUNDING SOURCE (Where Applicable):																
RECOMMENDED ACTION Approve the rejection of Bid No. 17-004 for the fabrication and installation of wayfinding signage and authorize the Mayor to execute any necessary documentation																
APPROVALS: Terry K. Roberts																



AGENDA ITEM 15

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 24, 2017
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau

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

AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Bid No. 17-005 for the Purchase of Refuse Bags for the Sanitation Department and Bin Liners for the Parks Department and Authorize the Mayor to Execute Any Necessary Documentation

Summary Statement: On February 21, 2017 bids were opened for the purchase of refuse bags and bin liners. There were 10 bids received. By specification items may be awarded together or separately.

Evaluation of all bids and the sample bags submitted resulted in Staff's recommendation to award the two items separately and on a Best Value basis. Examination of the sample bags for the lowest bids revealed deficiencies in size, thickness and general durability that would not meet the City's needs. The next lowest bid for each item was found to meet specifications in all respects.

Houston Poly Bag was the next low bidder on the 14,000 refuse bags at \$5.97/roll. Houston Poly Bag has been awarded this contract in the past and they have provided a very durable bag that has proven to hold up to the conditions in which we use them. The last award of this Contract, in 2015 was for \$6.70 per roll. The new contract price represents anticipated savings of approximately \$7,420 versus the budget amount of \$91,000.

Bin Liners are used in the parks system and downtown area on a weekly basis for the larger trash bins. We are recommending awarding the bid, also on a Best Value basis, to BMC Supply whose bid was \$20.50 per carton. This is slightly under the 2015 bid which was \$20.52/roll. BMC has also supplied bags for the City in the past.

We respectfully ask council to approve these bids and award the refuse bags to Houston Poly Bag and the bin liners to BMC Supply as shown on the bid tabulation.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Have used both companies in the past and both bags meet bid specifications. Also, lower prices than 2015 bids.

B. CONS: None

ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Bid Information Sheet
FUNDING SOURCE (Where Applicable): 106-5-142-219.00 and Inventory Account
RECOMMENDED ACTION: Award Bid No. 17-005 for the purchase of 14,000 rolls of refuse bags to Houston Poly Bag in the amount of \$5.97 per roll; and the purchase of bin liners from BMC Supply in the amount of \$20.50 per carton and authorize the Mayor to execute any necessary documentation
APPROVALS: Ryan Rapelye



Bid Information Sheet

February 21, 2017

IFB No. 17-005

For: Contract for Garbage Bags/Bin Liners

Not to exceed budgeted funds.

Number of completed bids returned to Purchasing: 6

CONTRACT FOR GARBAGE BAGS IFB NO 17-005										
Item	Central Poly	Unipak	Waste Zero	Houston Poly Bag	BMC Supply	Interboro A	Interboro B	Interboro C	Interboro D	Interboro E
Item 1										
Trash Bags										
Unit Price	\$6.60	\$7.30	\$6.90	\$5.97	No Bid	\$7.82	\$7.24	\$6.24	\$5.34	\$5.34
Ext. Price	\$92,400.00	\$102,200.00	\$96,600.00	\$83,580.00		\$109,480.00	\$101,360.00	\$87,360.00	\$74,760.00	\$74,760.00
Item 2										
Bin Liners										
Unit Price	\$21.40	\$21.80	No Bid	\$20.69	\$20.50	\$25.48	\$23.34	\$20.34	\$18.82	\$16.82
Ext. Price	\$5,350.00	\$5,450.00		\$5,172.50	\$5,125.00	\$6,370.00	\$5,835.00	\$5,085.00	\$4,705.00	\$4,205.00
Item 3										
Pallet Chg	\$18.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00



AGENDA ITEM 16

DATE OF MEETING: March 2, 2017	DATE SUBMITTED: February 20, 2017															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Kacey Weiss															
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AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Request for a Noise Variance from Jesus Christ is the Answer for a Church Gathering on March 24, 2017 from 5:00 p.m. – 10:00 p.m. at Fireman’s Park and Authorize the Mayor to Execute Any Necessary Documentation																
SUMMARY STATEMENT: Martha Villasana from Jesus Christ is the Answer has requested a noise variance to hold a church gathering on March 24, 2017 from 5:00 p.m. – 10:00 p.m. at Fireman’s Park. Their church band will be there performing. They will be using sound amplification equipment. Both the Police Department and the Fire Department have approved the noise variance request.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Noise Variance Request																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: Approve a request for a noise variance from Jesus Christ is the Answer for a church gathering to be held on March 24, 2017 from 5:00 p.m. – 10:00 p.m. at Fireman’s Park and authorize the Mayor to execute any necessary documentation																
APPROVALS: Terry K. Roberts																

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Jesus Christ is the Answer
2. Name and address of individual making application on behalf of sponsoring organization: Martha Villasana 1606 Oil Field Rd.
Bellville Tx. 77418
3. Purpose of the Event: Church Gathering
4. Location of Event: Fireman's Park Pavilion
5. Date of the event: March 24th
6. Time of Event: 5:00 pm - 10:00 pm

- Event Clean-up: From: 10:00 pm To: _____
8. You are required to describe the following: Event Set-up: From: 3:00pm To: 5:00pm
- a) Types of Activities Planned and any additional information specific to this event: live music - ~~speakers~~, ~~drums~~, ~~keyboard~~, ~~guitar~~
worship
- b) Bands/Musical Instruments: drums, keyboard, guitar, bass
- c) Sound amplification equipment: amplifier & speakers
- d) Cleanup provisions: church people (members)

Martha Villasana
Name of Applicant (Printed or Typed)

Martha Villasana
Applicant or Authorized Person's Signature

Date: 1-20-17

Phone: 979-877-5292

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

Paid 01/23/17
check # 823 \$10.00
KW