



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JANUARY 16, 2020 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN ST.
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Cantey**
- 3. Special Presentation**
 - **Washington County Veterans Association**
- 4. Special Recognition**
 - Retirement**
 - **Rhonda Kuehn, Municipal Court 23 Years**
- 5. Service Recognitions**
 - **Dwayne Grayson, Maintenance 5 Years**
 - **Elisette Mariscal, Utility Billing 5 Years**
 - **Jordan Prigge, Public Utilities 10 Years**
 - **Joshua Sebastian, Fire 10 Years**
 - **Justin Schroeder, Fire 10 Years**
 - **Brett Church, Electric 25 Years**
- 6. Citizens Comments**

CONSENT AGENDA

7. Statutory Consent Agenda

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

- 7-a. Minutes from the December 5, 2019 Special City Council Meeting and December 5, 2019 Regular City Council Meeting**
- 7-b. Ordinance No. O-20-001 on Its Second Reading Authorizing the Placement of Stop Signs on Cantey Street at Its Intersection with Gun and Rod Road**
- 7-c. Approve a Noise Variance from Margaret Crowson for a Wedding Reception to be Held on February 8, 2020 from 7:00 p.m. – 8:00 p.m. in Alamo Alley and Authorize the Mayor to Execute Any Necessary Documentation**
- 7-d. Approve the Final Payment to Solid Bridge Construction for Project No. 2017-02 Related to the 2017 Wastewater Treatment Plant Storm Damage Repairs and Authorize the Mayor to Execute Any Necessary Documentation**

Pages 1-27

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

- 8. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Combination of Residential District (R-1) and Commercial, Research and Technology District (B-2) to a Planned Development District (PDD) on Approximately 76.9 Acres of Land Located East of the Intersection of State Highway 36 and W. Blue Bell Road (aka FM 577), Being Further Described as a Portion of Tract 35 of the Phillip Coe Survey, A-31, and a Portion of Tract 219 and Tract 278 of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas (Case Number P-19-046)**

Pages 28-56

REGULAR SESSION

- 9. Discuss and Possibly Act Upon Approval of an Ordinance of the City of Brenham, Texas, Authorizing the Issuance and Sale of City of Brenham, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2020; Levying a Tax in Payment Thereof; Authorizing the Execution and Delivery of a Purchase Agreement and a Paying Agent/Registrar Agreement; Approving the Official Statement; and Enacting Other Provisions Relating Thereto**
- 10. Discuss and Possibly Act Upon Change Order No. 1, Change Order No. 2 and Final Payment to M&C Fonseca Construction for the 2018 Downtown Drainage and Sidewalk Project and Authorize the Mayor to Execute Any Necessary Documentation**

Pages 57-104

Pages 105-117

11. Discuss and Possibly Act Upon the Purchase and Installation of a Splashpad for Henderson Park Using BuyBoard Contract No. 592-19 and Authorize the Mayor to Execute Any Necessary Documentation **Pages 118-143**
12. Discuss and Possibly Act Upon Resolution No. R-20-001 Approving an Advance Funding Agreement Between the City of Brenham and the Texas Department of Transportation (TxDOT) for Road Improvements at the Intersection of Chappell Hill Street and U. S. Highway 290 Feeder **Pages 144-165**
13. Discuss and Possibly Act Upon Resolution No. R-20-002 Adopting a New Fee Schedule for the City of Brenham Parks and Recreation Department **Pages 166-168**
14. Discuss and Possibly Act Upon Resolution No. R-20-003 Authorizing the Submission of a Grant Application to Texas Parks and Wildlife Department for the Recreational Trail Grant Program for Improvements to the Nature Trail at Hohlt Park **Pages 169-181**
15. Discuss and Possibly Act Upon a Notice of Termination Related to the Commercial Sanitation Contract Between the City of Brenham and Frontier Access, LLC and Authorize the Mayor to Execute Any Necessary Documentation **Page 182**
16. Administrative/Elected Officials Report

EXECUTIVE SESSION

17. Sections 551.071 and 551.072 – Texas Government Code – Consultation with Attorney and Deliberation Regarding Real Property – Consultation with the City Attorney and Discussion Regarding the Termination of an Agreement with Roy Burger (dba RB Film Productions) for the Lease of Approximately 108.9 Acres of the Old Landfill Property **Page 183**
18. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Appointment of a Brenham Municipal Court Presiding Judge For the Remainder of the Term Ending on December 31, 2020 **Page 184**

RE-OPEN REGULAR AGENDA

19. Discuss and Possibly Act Upon the Termination of an Agreement with Roy Burger (dba RB Film Productions) for the Lease of Approximately 108.9 Acres of the Old Landfill Property and Authorize the Mayor to Execute Any Necessary Documentation **Page 185**
20. Discuss and Possibly Act Upon the Appointment of a Brenham Municipal Court Presiding Judge For the Remainder of the Term Ending on December 31, 2020 **Page 186**

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

Adjourn

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

CERTIFICATION

I certify that a copy of the January 16, 2020 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 January 13, 2020 at **12:40 PM**.

Kacey A. Weiss, TRMC

Deputy City Secretary I

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2020 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A special meeting of the Brenham City Council was held on December 5, 2019 beginning at 11:00 a.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Councilmember Susan Cantey
Councilmember Adonna Saunders
Councilmember Keith Herring
Councilmember Albert Wright
Councilmember Clint Kolby

Members absent:

Mayor Pro Tem Andrew Ebel

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Assistant City Manager – Chief Financial Officer Carolyn Miller, Interim Police Chief Rusty Pancoast, Dant Lange, Economic Development Director Susan Cates.

Citizens present:

None.

Media Present:

Alyssa Faykus, Brenham Banner Press.

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Attorney Cary Bovey**

3. **Discuss and Possibly Act Upon the Appointment of a Board Member to Serve as Chairman of the Tax Increment Reinvestment Zone No. 1 Board of Directors for a Period of One Year Beginning January 1, 2020 and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that when the Zone was created in December 2018 (Ordinance No. O-18-019) the member appointed to Place 1 was also appointed as Chairman of the TIRZ Board. At that time, Mayor Tate was appointed by the Council to Place 1; therefore, he served as Chairman of the Board for 2019.

As mandated in the Texas Tax Code, the City Council must appoint a Chairman to the TIRZ Board every year. The Council can appoint any member of the Board to serve as Chairman and his/her term would be for a period of one year, beginning on January 1, 2020.

A motion was made by Councilmember Kolby and seconded by Councilmember Herring that Mayor Tate be appointed as Chairman of the Tax Increment Reinvestment Zone (TIRZ) No. 1 Board.

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

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

4. **Discuss and Possibly Act Upon the Appointment of Place 8 and Place 9 Members to the Tax Increment Reinvestment Zone (TIRZ) No. 1 Board of Directors and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that when the Zone was created in December 2018, the Ordinance No. O-18-019 also created a TIRZ Board consisting of nine members with two members being appointed by the City Council.

Miller advised the Council that staff recommends the appointment of Gary Crocker, BCDC Board Member, and Tom Whitehead, Main Street Board Member, to Places 8 and 9 of the TIRZ Board. Miller stated that she has visited with both Crocker and Whitehead and they willing to serve and look forward to working with our community regarding public improvements and private development that occurs in the Zone.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve the appointment of Gary Crocker to Place 8 and Tom Whitehead to Place 9 of the Tax Increment Reinvestment Zone (TIRZ) No. 1 Board of Directors and authorize the Mayor to execute any necessary documentation.

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

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

5. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Ordinance No. O-18-019, Subsections 3.1 and 3.2, Related to the Board of Directors of Tax Increment Reinvestment Zone No. 1, City of Brenham, Texas

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that due to Washington County not participating in the TIRZ, Subsections 3.1 and 3.2 of Ordinance No. O-18-019 need to be amended to represent that Positions 8 and 9 on the TIRZ Board of Directors shall be appointed by the City Council instead of the County Commissioners.

A motion was made by Councilmember Cantey and seconded by Councilmember Herring to approve an Ordinance on its first reading amending Ordinance No. O-18-019, Subsections 3.1 and 3.2, related to the Board of Directors of the Tax Increment Reinvestment Zone No. 1, City of Brenham, Texas

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

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

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 December 5, 2019 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Councilmember Susan Cantey
Councilmember Adonna Saunders
Councilmember Keith Herring
Councilmember Albert Wright
Councilmember Clint Kolby

Members absent:

Mayor Pro Tem Andrew Ebel

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary I Kacey Weiss, Deputy City Secretary II Karen Stack, Assistant City Manager – Chief Financial Officer Carolyn Miller, Comptroller Stacy Hardy, Strategic Budget Analyst Debbie Gaffey, Kaci Konieczny, Cynthia Longhofer, Crystal Locke, Melinda Gordon, Tammy Jaster, Fire Chief Ricky Boeker, Fire Marshal Roger Williams, Interim Police Chief Rusty Pancoast, Dant Lange, Todd Ashorn, Lloyd Powell, Public Works Director Dane Rau, Daniel McCracken, Alton Sommerfield, Development Services Director Stephanie Doland, Shauna Laauwe, Economic Development Director Susan Cates, Mark Pierce, Steven Eilert, Seth Klehm, Kevin Mertz, Curtiss Schoen, Darlene Konieczny, Nancy Stafford, Christi Korth, Angeline Howard, Tara Wellmann, Kristi Jackson, Alyson Tofel, Kevin Boggus and JoAnn Hynes

Citizens present:

Jerry Schwake, Tres Masser, Robert G. Wright, Pat Gruner, Vanessa Meacham, Katherine Meacham, Courtney Botts, Faith Botts, Jo Ann Brittain, Lee Panko, Stephen Meacham, Lennis Richardson, John Young, Ann Brunn, Kirk Hanath, Amanda Klehm, Jim Kruse, Joy Fuchs, Hunter Andras, Kristi Schiller and Rob Aguilar

Media Present:

Alyssa Faykus, Brenham Banner Press; and Josh Blaschke, KWHI

1. **Call Meeting to Order**
2. **Invocation and Pledges to the US and Texas Flags – Councilmember Wright**
3. **Proclamation**
 - **K9 Ronny**
4. **Special Recognition**
 - **Nancy Carol Roberts Memorial Library Teen Writing Contest Winners**
5. **Service Recognition**
 - **JoAnne Hynes, Public Works** **5 Years**
6. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

7. **Statutory Consent Agenda**
 - 7-a. **Minutes from the November 7, 2019 Regular City Council Meeting**
 - 7-b. **Ordinance No. O-19-042 on Its Second Reading Amending Chapter 26, Utilities, of the Code of Ordinances of the City of Brenham Establishing a Municipal Drainage Utility System, Providing for the Establishment and Calculation of Municipal Drainage Utility Charges and Credits, and Providing Penalties and Remedies for Nonpayment of Charges**
 - 7-c. **Award Bid No. 19-007, Including Alternate No. 1, Related to Outdoor Leisure Furniture for the Blue Bell Aquatic Center to Lone Star Patio & Outdoor Living, in the Amount of \$56,816.58 and Authorize the Mayor to Execute Any Necessary Documentation**
 - 7-d. **Purchase of a Mini Bucket Truck for the City of Brenham Electric Department from Grande Truck Center, Through Buyboard Contract No. 521-16, in the Amount of \$182,100.00 and Authorize the Mayor to Execute Any Necessary Documentation**
 - 7-e. **Approve Expending Seized Narcotic Funds for Specialized Training for the City of Brenham Police Department**
 - 7-f. **Approval of Amendment No. 1 to the Professional Services Agreement with Strand Associates, Inc. Related to Project No. 2017-05 for Storm Damage Repairs to the Munz Lift Station and Authorize the Mayor to Execute Any Necessary Documentation**

- 7-g. **Approve an Ordinance on Its First Reading Amending the FY2018-19 Adopted Budget**
- 7-h. **Award RFP No. 19-008 Related to Financing for Vehicle and Equipment Replacement to Brenham National Bank with an Annual Percentage Rate (APR) of 2.03% for Three, Five and Seven Year Financing and Authorize the Mayor to Execute Any Necessary Documentation**
- 7-i. **Award Contract No. 2017-11 Related to Fireman's Park Stone Bridge Rehabilitation to Dudley Construction, Ltd., in the Amount of \$99,500.00 and Authorize the Mayor to Execute Any Necessary Documentation**
- 7-j. **Acceptance of a Donation from The Dorothy Elaine O'Connor Living Trust in the Amount of \$25,000.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation**
- 7-k. **Approve the Bylaws of the Tax Increment Reinvestment Zone (TIRZ) No. 1 Board and Authorize the Mayor to Execute Any Necessary Documentation**
- 7-l. **Approve a Professional Services Agreement with Strand Associates, Inc. Related to Engineering Services for the Ralston Creek Lift Station in an Amount Not to Exceed \$60,500.00 and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Cantey and seconded by Councilmember Kolby to approve the Statutory Consent Agenda Items 7-a. through 7-l. with a change to Item 7-h. to reflect the annual percentage rate of 2.3% instead of 2.03% as reflected on the agenda.

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

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

REGULAR SESSION

8. Discuss and Possibly Act Upon an Ordinance on Its First Reading Annexing the Hereinafter Described Territory into the City of Brenham and Adopting a Service Plan:

Section 2019-1: Approximately 44.068 Acres of Land Situated in Washington County, Texas, Out of the Phillip Coe Survey, A-31, Consisting of a Single Tract of Land with Frontage Along Industrial Blvd., FM 332 and FM 389

Section 2019-2: Approximately 0.643 Acres of Land Situated in Washington County, Texas, Part of the A. Harrington Survey, A-55, Consisting of Portions of Multiple Tracts of Land with Frontage Along the West Side of Old Masonic Road

Section 2019-3: Approximately 194.762 Acres of Land Situated in Washington County, Texas, Part of the A. Harrington Survey, A-55, Consisting of Multiple Tracts of Land with Frontage Along the East Side of Farmers Road Between FM 389 and Old Mill Creek Road, and the North Side of Old Mill Creek Road Between the Current City Limit Line and Jackson Creek

City Manager James Fisher presented this item. Fisher reported that City staff held two Town Hall Meetings in October, during which staff heard from many concerned citizens. Fisher also reported that the consensus of those meetings was that citizens living in Section 2019-3 do not wish to be annexed by the City. Fisher advised that the service plan for Section 2019-3 has not been completed. Fisher stated that staff's recommendation is that Council proceed with the annexation of Section 2019-1 and 2019-2, but postpone the annexation of Section 2019-3 until costs can be accurately calculated. Fisher said that the Ordinance being presented to Council for approval provides for the annexation of only Section 2019-1 and Section 2019-2. Fisher explained that if Council would like to proceed with annexing Section 2019-3, an amended ordinance can be provided for second reading.

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve an ordinance on its first reading annexing Section 2019-1 and Section 2019-2 and adopting a service plan.

Councilmember Wright stated that citizens have expressed concerns regarding the roads in the Sections to be annexed. Fisher stated the annexation process includes the roads and the City would maintain the roads, with the exception of state roads which would be maintained by the State.

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

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

PUBLIC HEARINGS AND ASSOCIATED ACTION ITEMS

9. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading to Amend Appendix A – “Zoning” of the Code of Ordinances to Assign Zoning District Classifications to the Properties Being Considered for Annexation into the City Limits of the City of Brenham, Texas, and Being More Specifically Described Below (Case Number P-19-042):

Section 2019-1: Approximately 44.068 Acres of Land Situated in Washington County, Texas, Out of the Phillip Coe Survey, A-31, Consisting of a Single Tract of Land with Frontage Along Industrial Blvd., FM 332 and FM 389

Section 2019-2: Approximately 0.643 Acres of Land Situated in Washington County, Texas, Part of the A. Harrington Survey, A-55, Consisting of Portions of Multiple Tracts of Land with Frontage Along the West Side of Old Masonic Road

Section 2019-3: Approximately 194.762 Acres of Land Situated in Washington County, Texas, Part of the A. Harrington Survey, A-55, Consisting of Multiple Tracts of Land with Frontage Along the East Side of Farmers Road Between FM 389 and Old Mill Creek Road, and the North Side of Old Mill Creek Road Between the Current City Limit Line and Jackson Creek

Mayor Tate opened the Public Hearing.

Development Services Director Stephanie Doland presented this item. Doland stated that during the Planning and Zoning Commission meeting on November 25, 2019, the Commission voted to recommend to City Council the adoption of Industrial Zoning for Section 2019-1 and Residential Single-Family (R1) Zoning for Section 2019-2. Doland reported that the Commission recommended postponing consideration of annexation and zoning with respect to Section 2019-3. Doland stated the recommendations of the Commission are consistent with the policies and guidelines in the Future Land Use Map and Comprehensive Plan.

There were no citizen comments.

Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Cantey and seconded by Councilmember Saunders to approve an ordinance on its first reading amending the Official Zoning Map of the Code of Ordinances to assign zoning district classifications to the properties being considered for annexation into the City Limits of the City of Brenham, Texas.

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

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

10. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Mixed Residential Use District (R-2) to Commercial, Research and Technology Use District (B-2) on a 0.186 Acre Tract of Land Located at 406 Church Street and Further Described as Lot 4A, Block 93, of the Original Town Addition, Brenham, Washington County, Texas (Case Number P-19-041)

Mayor Tate opened the Public Hearing.

Project Planner Shauna Laauwe presented this item. Laauwe stated that the property at issue, 406 Church Street, was recently acquired by Bank of Brenham and is zoned as R-2, Mixed Residential Use Zoning District. Laauwe noted the bank owns the adjacent property to the west and plans to develop the subject tract as a parking lot with driveway access to Church Street for additional employee and patron off-street parking. Laauwe said Bank of Brenham has requested that the subject site be rezoned to B-2 to be contiguous with the current zoning of the adjacent bank property. Laauwe stated the rezoning request is in accordance with the Future Land Use Map adopted in the Comprehensive Plan. Laauwe further stated that the Planning and Zoning Commission unanimously voted to recommend approval of the rezoning request.

City Manager James Fisher noted that Mayor Tate could not participate in this item due to a conflict. Fisher explained that in the absence of Mayor Pro Tem Ebel, Council would need to select a Temporary Mayor Pro Tem for this item. Council selected by consensus Councilmember Kolby to serve as Temporary Mayor Pro Tem.

A citizen asked what would happen to the old house on the site. Jim Kruse, of Bank of Brenham, stated the building would be either moved or demolished. The citizen expressed concern over the trend of demolishing old buildings to build new ones.

Temporary Mayor Pro Tem Kolby closed the Public Hearing.

A motion was made by Councilmember Saunders and seconded by Councilmember Wright to approve an ordinance on its first reading amending the Official Zoning Map of the Code of Ordinances to change the zoning from a mixed residential use District (R-2) to a Commercial, Research and Technology use district (B-2) on an approximately 0.186 acre tract of land located at 406 Church Street and further described as Lot 4A, Block 93, of the Original Town Addition, Brenham, Washington County, Texas.

Temporary Mayor Pro Tem Kolby called for a vote. The motion passed with Council voting as follows:

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

11. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Establishing the Drainage Utility Rate Tariff Schedules for the City of Brenham's Municipal Drainage Utility System

Mayor Tate opened the Public Hearing.

Public Works Director Dane Rau presented this item. Rau stated that during the Fiscal Year 2019-20 Budget Workshops, the Council received briefings from City staff concerning the January 1, 2020 implementation of a drainage utility system and charges for addressing storm water issues. Rau said Council chose to include the drainage utility system with revenue estimates from drainage utility charges in the 2019-20 adopted budget. Rau advised that the City has complied with notice and publication requirements established under Texas Local Government Code Chapter 552. Rau presented details of the proposed system, including how the fees are calculated, which entities are exempt, how the funds will be used, and the process through which the calculation of fees can be appealed. Rau stated the charges would go into effect January 1, 2020.

Citizen John Young stated he is a commercial property owner and may have to increase rent amounts to cover the new fees. Young stated he doesn't understand why this fee is

necessary now when it has never been necessary in the past. City Manager Fisher said there are challenges with drainage and that the City needs to be proactive by establishing a dedicated and reliable source of funding.

Citizen Lennis Richardson stated she has a drainage problem at her property and has contacted the City on several occasions about the issue. Richardson stated she is concerned that someday a substantial rain will cause her to lose her home. Rau noted that one of the first projects expected to be completed using the proposed new funds is a project that would dramatically help her drainage issue.

Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve an ordinance on its first reading establishing the Drainage Utility Charge rate tariff schedules for the City of Brenham's Municipal Drainage Utility System.

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

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

12. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Boundaries of Tax Increment Reinvestment Zone Number One, City of Brenham, Texas to Include Additional Property Containing Approximately 199 Acres Generally Located Along the US Highway 290, South Market Street and West Main Street Corridors and Being Wholly Located Within the Corporate Limits of the City of Brenham, Texas

Mayor Tate opened the Public Hearing.

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained the public hearing is to allow interested parties to speak regarding the amendment of TIRZ Number One to include an additional 199 acres. Miller noted that the notice of the Public Hearing was published in the Brenham Banner Press on November 22, 2019.

There were no citizen comments.

Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Saunders and seconded by Councilmember Kolby to approve an ordinance on its first reading amending the boundaries of Tax Increment Reinvestment Zone Number One, City of Brenham, Texas to include additional property containing approximately 199 acres generally located along the US Highway 290, South Market Street and West Main Street corridors and being wholly located within the corporate limits of the City of Brenham, Texas.

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

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

RE-OPEN REGULAR SESSION

13. Discuss and Possibly Act Upon an Ordinance on Its First Reading Approving the Tax Increment Reinvestment Zone Number One, City of Brenham, Texas Final Project and Finance Plan

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller stated that the City of Brenham’s Tax Increment Reinvestment Zone Number One (TIRZ) was created by Ordinance O-18-019. Miller stated the previous item amended the boundary of the TIRZ, and this item sets the final project and finance plan for the TIRZ.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve an ordinance on its first reading approving the Tax Increment Reinvestment Zone Number One, City of Brenham, Texas Final Project and Finance Plan.

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

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

14. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Prevention and Protection, of the Code of Ordinances, City of Brenham, Texas

Fire Marshal Roger Williams presented this item. Williams stated that in 2019, Council adopted the 2015 International Building and Fire Code set for the City of Brenham by passing Ordinance O-19-036. Williams stated that at that time, Chapter 6 of the Code of Ordinances was updated, but Chapter 8 was not. Williams said that for consistency Chapter 8 should also have been updated. Williams advised this item is an amendment that will also apply the 2015 International Code to Chapter 8 of the Code of Ordinances.

A motion was made by Councilmember Kolby and seconded by Councilmember Saunders to approve an ordinance on its first reading amending Chapter 8, Fire Prevention and Protection, of the Code of Ordinances, City of Brenham, Texas.

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

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

15. Discuss and Possibly Act Upon an Ordinance on Its First Reading to:

- a. **Amend Chapter 2, Administration, Article III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-20(d) Related to the Fees and Court Costs Associated with the Municipal Court Security Fund;**
- b. **Amend Chapter 2, Administration, Article III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-21, Municipal Court Technology Fund, and Providing for a New Section, Reserved, for Future Amendments to Chapter 2; and**
- c. **Amend Chapter 2, Administration, Article III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-23, Municipal Court Juvenile Case Manager Fund, and Providing for a New Section, Reserved, for Future Amendments to Chapter 2**

Municipal Court Administrator Rhonda Kuehn presented this item. Kuehn explained that this amendment was necessary due to recent changes made by the State Legislature.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to Approve and an Ordinance on its first reading to: (a) amend Chapter 2, Administration, Article

III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-20(d) Related to the Fees and Court Costs Associated with the Municipal Court Security Fund; (b) amend Chapter 2, Administration, Article III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-21, Municipal Court Technology Fund, and Providing for a New Section, Reserved, for Future Amendments to Chapter 2; and (c) amend Chapter 2, Administration, Article III, Municipal Court, of the Code of Ordinances of the City of Brenham for the Purpose of Repealing Section 2-23, Municipal Court Juvenile Case Manager Fund, and Providing for a New Section, Reserved, for Future Amendments to Chapter 2.

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

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

16. Administrative/Elected Officials Report

City Manager James Fisher reported on the following:

- Rusty Pancoast will be serving as the Interim Police Chief
- Christmas Stroll and Lighted Parade will be this weekend
- Blue Bell Aquatic Center will have an open house on December 10th at 8:30 a.m.

Council adjourned into Executive Session at 2:26 p.m.

EXECUTIVE SESSION

- 17. Section 551.071 – Texas Government Code – Consultation with City Attorney and Section 551.072 – Texas Government Code – Real Property Regarding the Barnhill Center at the Historic Simon Theater**
- 18. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Deliberation Regarding the Appointment and Compensation of an Additional Municipal Court Associate Judge**

Executive Session adjourned at 3:15 p.m.

RE-OPEN REGULAR AGENDA

19. Discuss and Possibly Act Upon the Appointment and Compensation of an Additional Municipal Court Associate Judge

A motion was made by Councilmember Herring and seconded by Councilmember Wright to appoint Pat Gruner as an Additional Municipal Court Associate Judge for a term to become effective December 5, 2019 and ending December 31, 2020 and authorize the City Manager and City Attorney to finalize the contract details.

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

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

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-20-001

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS REQUIRING THE PLACEMENT OF CERTAIN STOP SIGNS IN THE CITY OF BRENHAM, TEXAS; ESTABLISHING THE LOCATION OF SAID STOP SIGNS; REGULATING THE TRAFFIC AT SAID STOP SIGNS; PROVIDING FOR A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to place stop signs at certain locations in the City of Brenham to prevent accidents, collisions and damages; to promote the flow of traffic along and into such streets; and to regulate the same;

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

Section 1. That there shall be established and installed two (2) stop signs on Cantey Street regulating northbound and southbound vehicular traffic, at its intersection with Gun and Rod Road.

The stop signs shall be erected at the top of a standard pole, installed in the ground on the right-hand side of the streets identified herein in accordance with the most recent edition of the Texas Manual on Uniform Traffic Control Devices.

Section 2. That every person, firm or corporation, operating a motor vehicle or other vehicle of any kind, in, on, along and into the streets or street intersections designated in Section 1 hereof, upon reaching a stop sign at the location so designated, shall bring said vehicle to a full and complete stop in compliance with the provisions of applicable state law, before proceeding further along said street or into or on said street intersection.

Section 3. That any person, firm or corporation, violating Section 2 hereof, shall be fined a sum of not less than \$1.00 and not more than \$200.00, plus applicable court costs.

Section 4. This Ordinance shall take full force and effect from and after its passage, approval and publication as required by applicable law.

PASSED and APPROVED on its first reading this the 19th day of December 2019.

PASSED and APPROVED on its second reading this the 16th day of January 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Margaret Crowson Wedding Reception
2. Name and address of individual making application on behalf of sponsoring organization: Margaret Crowson, 1317 Eberhard St., Houston, TX, 77019
3. Purpose of the Event: Wedding
4. Location of Event: Barnhill Center - Bullock Ballroom
5. Date of the event: 02/08/2020
6. Time of Event: 7:00 PM
7. Event Set-up: From: 6:00 PM To: 7:00 PM
Event Clean-up: From: 8:00 PM To: 8:30 PM
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: Cocktail hour of wedding reception from 7:00 PM to 8:00 PM. Quartet of instruments playing in Alamo Alley.
 - b) Bands/Musical Instruments: Saxophone, Guitar, Singer
 - c) Sound amplification equipment: Speaker
 - d) Cleanup provisions: Band to cleanup by ~~8:30 PM~~ 9:00 PM at latest.

Margaret Crowson

Name of Applicant (Printed or Typed)

Date: 12/16/2019

Phone: 979-451-0614

M Crowson

Applicant or Authorized Person's Signature

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):



Memo

To: Mayor Milton Tate
City Council
City Manager

From: Nancy Stafford

Date: January 7, 2020

Re: Consent Agenda

On February 7, 2019 City Council awarded Solid Bridge Construction, LLC the bid in the amount of \$1,487,910 for Storm Damage Repairs to the Wastewater Treatment Plant.

The repairs have been completed. The project involved one Change Order in the amount of \$20,685 due to a quantity change on four items, making the final construction cost \$1,508,595.

Attachments: Application for Payment No. 6 & Final
Change Order No. 1
Certificate of Final Completion
Certificate of Payment to Subcontractors and Suppliers
Consent of Surety to Final Payment

APPLICATION FOR PAYMENT NO. 6 & Final

TO OWNER: CITY OF BRENHAM, 200 WEST VULCAN, BRENHAM, TEXAS 77833
 FROM CONTRACTOR: SOLID BRIDGE CONSTRUCTION, LLC, 1204 SAM HOUSTON AVENUE, SUITE 1, HUNTSVILLE, TX 77340
 PROJECT: 2017 WASTEWATER TREATMENT PLANT STORM DAMAGE REPAIRS
 STRAND PROJECT NO. 3900.059/071

CONTRACT AWARDED: February 7, 2019
 PERIOD FROM: October 29, 2019
 CONST. TIME ALLOTTED: 180

NOTICE TO PROCEED: April 15, 2019
 PERIOD TO: November 27, 2019
 TIME USED: 227

ITEM	BASE BID	CONTRACT QUANTITY	UNIT	PREVIOUS PERIOD	CURRENT PERIOD	TOTAL	UNIT PRICE	TOTAL VALUE OF WORK COMPLETED
1	Mobilization	1	LS	1	0	1	\$ 60,000.00	\$ 60,000.00
2	Rock filter Dam (Type 4)	35	LF	35	0	35	\$ 80.00	\$ 2,800.00
3	Storm drain inlet protection	200	LF	200	0	200	\$ 15.00	\$ 3,000.00
4	Silt fence	700	LF	700	0	700	\$ 1.50	\$ 1,050.00
5	Cofferdam	1	LS	1	0	1	\$ 20,000.00	\$ 20,000.00
6	Dewatering pump system	1	LS	1	0	1	\$ 25,000.00	\$ 25,000.00
7	Remove and dispose of existing 24-inch CMP	160	LF	160	0	160	\$ 25.00	\$ 4,000.00
8	Remove and dispose of existing 24-inch RCP	30	LF	30	0	30	\$ 60.00	\$ 1,800.00
9	Remove chain link fencing	280	LF	540	0	540	\$ 4.00	\$ 2,160.00
10	Channel cleaning (includes debris removal)	700	LF	700	0	700	\$ 134.00	\$ 93,800.00
11	Embankment (eroded/undermined areas within site)	100	CY	100	0	100	\$ 18.00	\$ 1,800.00
12	Embankment (sheet pile)	275	CY	425	0	425	\$ 30.00	\$ 12,750.00
13	Excavation (channel)	50	CY	50	0	50	\$ 15.00	\$ 750.00
14	Sheet piling wall with concrete cap	13815	SP	13815	0	13815	\$ 78.00	\$ 1,077,570.00
15	18-inch reinforced concrete pipe	21	LF	21	0	21	\$ 125.00	\$ 2,625.00
16	24-inch reinforced concrete pipe	18	LF	18	0	18	\$ 150.00	\$ 2,700.00
17	Type X inlets (throat)	3	EA	3	0	3	\$ 4,750.00	\$ 14,250.00
18	Repair WWTP headwall outlet pipe erosion	1	EA	1	0	1	\$ 7,500.00	\$ 7,500.00
19	Broadcast seeding	2300	SY	2300	0	2300	\$ 1.20	\$ 2,760.00
20	Block sodding	500	SY	500	0	500	\$ 7.00	\$ 3,500.00
21	Riprap (concrete)(5-inch)	5	CY	45	0	45	\$ 150.00	\$ 6,750.00
22	Riprap (stone type R)(grouted)(18-inch)	250	CY	250	0	250	\$ 150.00	\$ 37,500.00
23	Chain link fencing (6-foot barbed wire top)	245	LS	340	0	340	\$ 31.00	\$ 16,740.00

ITEM	ALTERNATE BID	CONTRACT QUANTITY	UNIT	PREVIOUS PERIOD	CURRENT PERIOD	TOTAL	UNIT PRICE	TOTAL VALUE OF WORK COMPLETED
1	Excavation (perimeter swales within site)	200	CY	200	0	200	\$ 15.00	\$ 3,000.00
2	15-inch reinforced concrete pipe	108	LF	108	0	108	\$ 65.00	\$ 7,020.00
3	18-inch reinforced concrete pipe	328	LF	328	0	328	\$ 90.00	\$ 29,520.00
4	24-inch reinforced concrete pipe	176	LF	176	0	176	\$ 125.00	\$ 22,000.00
5	Type X inlets (throat)	4	EA	4	0	4	\$ 3,750.00	\$ 15,000.00
6	Curb Inlet	1	EA	1	0	1	\$ 5,500.00	\$ 5,500.00
7	Junction Box	3	EA	3	0	3	\$ 7,500.00	\$ 22,500.00
8	Riprap (concrete)(5-inch)	10	CY	10	0	10	\$ 85.00	\$ 850.00
9	Broadcast seeding	1200	SY	1200	0	1200	\$ 2.00	\$ 2,400.00

Original Contract: \$ 1,487,910.00
 Plus Additions: \$ 20,685.00
 Less Deductions: \$ -
 Adjusted Contract: \$ 1,508,595.00

Value of Work Performed to Date \$ 1,508,595.00
 Plus Materials Stored at Close of Period \$ -
 Net Amt Earned to Date \$ 1,508,595.00
 Less 5% Retainage \$ -
 Subtotal \$ 1,508,595.00
 Less Previous Pay Applications \$ 1,464,230.25
 Amount \$ 44,364.75

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

STATE OF TEXAS Walker
 COUNTY OF Travis

WHEREAS, the undersigned, Travis Hanus, who being duly sworn, on oath, says that he is the legal representative of Solid Bridge Construction, LLC, has been employed by City of Brenham to furnish labor and materials for the installation of the 2017 Wastewater Treatment Plant Storm Damage Repairs in Brenham, Texas.

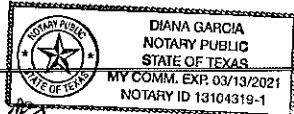
The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title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

BY: S22 DATE: 12-16-19

PRINTED NAME: Travis Hanus SOLID BRIDGE CONSTRUCTION, LLC TITLE: V.P.

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 16th DAY OF December, 20 19

NOTARY PUBLIC IN AND FOR
 THE STATE OF TEXAS.



RECOMMENDED BY: Holly Januta STRAND ASSOCIATES, INC.

DATE: 12-16-19

APPROVED BY:

CITY OF BRENHAM

DATE:



Strand Associates, Inc.®

1906 Niebuhr Street

Brenham, TX 77833

(P) 979-836-7937

December 13, 2019

CHANGE ORDER NO. 1

PROJECT: 2017 Wastewater Treatment Plant Storm Damage Repairs
OWNER: City of Brenham, Texas
CONTRACT: 2017-02
CONTRACTOR: Solid Bridge Construction, LLC

Description of Change

1a	Cost adjustment due to change in quantity of Bid Item No. 9—"Remove chain link fencing" from 280 LF to 540 LF	ADD	\$1,040.00
1b	Cost adjustment due to change in quantity of Bid Item No. 12—"Embankment (sheet pile)" from 275 CY to 425 CY	ADD	\$4,500.00
1c	Cost adjustment due to change in quantity of Bid Item No. 21—"Riprap (concrete)(5-inch)" from 5 CY to 45 CY	ADD	\$6,000.00
1d	Cost adjustment due to change in quantity of Bid Item No. 23—"Chain link fencing (6-foot barbed wire top)" from 245 LF to 540 LF	ADD	\$9,145.00
TOTAL VALUE OF THIS CHANGE ORDER:			ADD \$20,685.00

Contract Price Adjustment

Original Contract Price	\$1,487,910.00
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	\$20,685.00
Current Contract Price including this Change Order	\$1,508,595.00

Contract Final Completion Date Adjustment

Original Contract Final Completion Date	October 25, 2019
Contract Final Completion Date Adjustments due to previous Change Orders	0
Contract Final Completion Date Adjustments due to this Change Order	0
Current Final Contract Completion Dates including all Change Orders	October 25, 2019

City of Brenham, Texas–Solid Bridge Construction, LLC
Contract 2017-02, Change Order No. 1
Page 2
December 13, 2019

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

RECOMMENDED

Hollie Janceka 12-16-19
ENGINEER–Strand Associates, Inc.® Date

APPROVED

SBC 12-16-19
CONTRACTOR–Solid Bridge Construction, LLC Date

APPROVED

OWNER–City of Brenham, Texas Date

CITY OF BRENHAM
STORM DAMAGE REPAIRS

CERTIFICATE
OF FINAL COMPLETION

Document 00641

CERTIFICATE OF FINAL COMPLETION

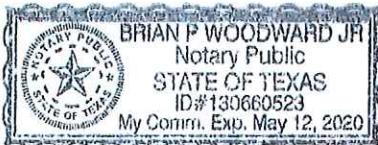
CERTIFICATE OF FINAL COMPLETION OF: 2017 Wastewater Treatment Plant
Storm Damage Repairs
City of Brenham Project No.: 2017-02
Contract Dated: _____

BEFORE ME, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Travis Henry who, being by me duly sworn, on his oath says that he or she represents Solid Bridge Construction the Contractor who has performed a contract with the City of Brenham for the construction of the Work described above, and is duly authorized to make this affidavit; that he or she has personally examined the Work described above as required by the Contract documents; that said Work and items thereof have been completed and known defects made good; that all surplus material, refuse, dirt and rubbish have been cleaned up and removed or disposed of; that parts of Work are in a neat, tidy, finished condition and ready in respects for acceptance by the City; that gravel or shell roadway surfaces removed during the course of the Work have been replaced in accordance with the Specifications, that rates of pay for labor employed on said Work have not been below the minimum set out in "Labor Classification and Minimum Wage Scale" in the Contract documents and that within the knowledge of affiant just bills for labor and material and for the rental or use of any equipment or apparatus, used in, on, or in connection with the Work have been paid in full by the Contractor.

[Signature]
Affiant's Signature

SWORN AND SUBSCRIBED before me on

12-4-19
Date



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

Brian P. Woodward
Print or type name

My Commission Expires: 5/12/2020
Expiration Date

THIS IS TO CERTIFY that I have inspected the Work performed by the above named Contractor on the above described Contract and it is our knowledge and belief that things are in accordance with the Contract documents governing this Work.

Inspector

[Project Manager or Construction Manager]

Approved:

[Title of Approval Authority], [Contracting Department]

END OF DOCUMENT

00641-1
04-01-2017

CITY OF BRENHAM
STORM DAMAGE REPAIRS

CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS

Document 00642

CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS

The undersigned, Travis Hanus, states that he is the V.P.,
of Solid Bridge Construction
Affiant Contractor Title

and that he is duly authorized to execute this Certification of Payment to Subcontractors and Suppliers; that Contractor has made payments to Subcontractors and Suppliers for all labor, materials, equipment, and services furnished to date for Work on Project No. 2017-02 in the amounts for which Contractor has been paid; that the labor, materials, equipment, and services covered by this Certificate of Payment have been furnished in accordance with and all in compliance with the Contract Documents; that no sums have been withheld by Contractor for Subcontractors and Suppliers as a result of any allegations of deficiencies in the Work; and that such payments were made in accordance with the Contract Documents and with the laws of the State of Texas.

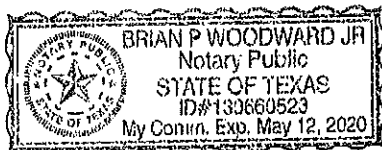
[Signature]

Affiant's Signature

SWORN AND SUBSCRIBED before me on

12-4-19

Date



Brian P Woodward

Notary Public in and for the State of TEXAS

Brian P Woodward

Print or type name

My Commission Expires: 5/12/2020

Expiration Date

END OF DOCUMENT

00642-1
04-01-2017

**CONSENT OF
SURETY COMPANY
TO FINAL PAYMENT**

AIA DOCUMENT G707

OWNER
ARCHITECT
CONTRACTOR
SURETY
OTHER

☐
☐
☐
☒
☐

PROJECT: 2017 Wastewater Treatment Plant Storm Damage
(name, address)

TO (Owner)

City of Brenham
200 West Vulcan St Ste 206
Brenham, TX 77833

ARCHITECT'S PROJECT NO:

CONTRACT FOR: 2017 Wastewater Treatment Plant

CONTRACT DATE: 02/27/2019

CONTRACTOR: Solid Bridge Construction LLC.

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the SURETY COMPANY, (here insert name and address of Surety Company)

Travelers Casualty and Surety Company of America,

on bond of CONTRACTOR, (here insert name and address of Contractor)

Solid Bridge Construction LLC PO BOX 9201 Huntsville, TX 77340,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety Company of any of its obligations to OWNERS, (here insert name and address of Owner)

City of Brenham 200 West Vulcan St Ste 206 Brenham, TX 77833,

as set forth in the said Surety Company's bond.

IN WITNESS WHEREOF,
the Surety Company has hereunto set its hand this 6th day of December 2019.

Travelers Casualty and Surety Company of America
Surety Company

Signature of Authorized Representative

Attest:
(Seal):

Attorney-In-Fact
Title

NOTE: This form is to be used as a companion document to AIA DOCUMENT G706, CONTRACTOR'S AFFIDAVIT OF PAYMENT OF DEBTS AND CLAIMS, Current Edition

TRAVELERS

Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Shelly Murski** of **Magnolia, Texas**, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this 3rd day of February, 2017.



State of Connecticut

City of Hartford ss.

By: Robert L. Raney
Robert L. Raney, Senior Vice President

On this the 3rd day of February, 2017, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the 30th day of June, 2021



Marie C. Tetreault
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this 6th day of December, 2019



Kevin E. Hughes
Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney-in-Fact and the details of the bond to which the power is attached.



AGENDA ITEM 8

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 10, 2020	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Stephanie Doland	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☒ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☒ 1ST READING ☐ 2ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Combination of Residential District (R-1) and Commercial, Research and Technology District (B-2) to a Planned Development District (PDD) on Approximately 76.9 Acres of Land Located East of the Intersection of State Highway 36 and W. Blue Bell Road (aka FM 577), Being Further Described as a Portion of Tract 35 of the Phillip Coe Survey, A-31, and a Portion of Tract 219 and Tract 278 of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas (Case Number P-19-046)		
SUMMARY STATEMENT: The subject property is an approximate 76.9-acre tract of vacant land generally located adjacent to Blue Bell Road, Burleson Street and State Highway 36 North. The property currently consists of a combination of two zoning districts including, Commercial Research and Technology District (B-2) and Residential District (R-1). The applicant, Philip Bargas on behalf of DR Horton homebuilders is requesting the 76.9-acres be rezoned to Planned Development District for the development of a single-family home subdivision. The applicants are requesting the rezoning to a PD district in order to establish alternative standards to the City's typical zoning and subdivision development standards. The proposed PD, to be named Liberty Village PD, would establish the underlying base zoning district as Residential (R-1) for the construction of single-family dwellings. The applicants are proposing development standards for the Liberty Village PD that include reductions in some City standards such as lot size and setbacks in exchange for amenities that intend to improve the quality of life within the new subdivision for instance, sidewalks, a centralized park, and trails. The complete PD proposal and exhibits are enclosed within the Staff Report and Exhibit D. The proposed rezoning request is in accordance with the future land use map adopted in Historic Past, Bold Future: Plan 2040, the City of Brenham Comprehensive Plan which suggests that Residential uses are appropriate at this location. In addition, several of the quality of neighborhood design objectives outlined in Plan 2040 are reflected in the proposed Liberty Village PD to include, among others; a central park, pedestrian and vehicular circulation, variety of compatible dwelling types for a range of needs, access to schools, appealing streetscapes, and setting-aside open-space to encourage leisure and healthful living.		

No public comments concerning this proposed rezoning were received prior to the Planning and Zoning Commission meeting, or during the Public Hearing for this item. Staff did receive support from BISD Superintendent Dr. Jackson.
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: The proposed rezoning request would be in keeping with the 2040 Comprehensive Plan that encourages a quality neighborhood design with many of the “time-honored elements of what makes a neighborhood appealing and sustainable for the long term.” B. CONS: No cons are foreseen at this time.
ALTERNATIVES (In Suggested Order of Staff Preference): 1. Approve the requested zoning change, as recommended by the Planning and Zoning Commission; 2. Deny the requested zoning change.
ATTACHMENTS: (1) Ordinance for first reading; and (2) Staff Report
FUNDING SOURCE (Where Applicable): N/A
RECOMMENDED ACTION: Approve an Ordinance on its first reading amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Combination of Residential District (R-1) and Commercial, Research and Technology District (B-2) to a Planned Development District (PDD) on approximately 76.9 acres of land located East of the intersection of State Highway 36 and W. Blue Bell Road (aka FM 577), being further described as a Portion of Tract 35 of the Phillip Coe Survey, A-31, and a Portion of Tract 219 and Tract 278 of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas (Case Number P-19-046)
APPROVALS: James Fisher

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FROM A COMBINATION OF COMMERCIAL, RESEARCH AND TECHNOLOGY DISTRICT (B-2) AND RESIDENTIAL DISTRICT (R-1) TO PLANNED DEVELOPMENT DISTRICT (PD) ON AN APPROXIMATELY 76.9 ACRE TRACT OF LAND BEING A PORTION OF TRACT 35 OF THE PHILLIP COE SURVEY, A-31 AND A PORTION OF TRACT 219 AND TRACT 278 OF THE A. HARRINGTON SURVEY, A-55 LOCATED GENERALLY EAST OF THE INTERSECTION OF STATE HIGHWAY 36 N. AND W. BLUE BELL ROAD, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the owners of the 76.9 acres of land generally located east of the intersection of State Highway 36 N and W Blue Bell Road, being further described as a portion of Tract 35 of the Phillip Coe Survey, A-31, and a portion of Tract 219 and Tract 278 of the A. Harrington Survey, A-55, in Brenham, Washington County, Texas, (the "Property"), have requested that the Property be rezoned; and

WHEREAS, the owners have presented an application to the City for a PD District to allow the construction of a single-family residential development; and

WHEREAS, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of the public hearing and at least ten (10) days written notice of that hearing to the owners of the land within two hundred feet (200') of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the proposal to rezone the Property to a Planned Development District; and

WHEREAS, the Planning & Zoning Commission recommended on December 16, 2019 that City Council grant such proposal to rezone the Property to a Planned Development District; and

WHEREAS, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT APPENDIX A – "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED AS FOLLOWS:

SECTION I.

PURPOSE AND INTENT. The Liberty Village Planned Development District (“Liberty Village PD”) is intended to guide land use and physical development of the subject property. This development plan is enacted as a means to provide the City and the Developer with alternative standards set forth by the City for their mutual benefit. This Liberty Village PD is intended to improve property utilization by facilitating the highest and best uses, strengthen the area economy, and promote the general welfare of the surrounding community. The Liberty Village PD reflects the goals of the City’s adopted Comprehensive Plan - Historic Past, Bold Future: Plan 2040 which establishes recommendations for developing quality neighborhood design. To this end, the Liberty Village Subdivision shall include public amenities such as, but not limited to, sidewalks, multimodal trails, landscaping and parkland which exceed City of Brenham subdivision standards and are intended to provide a valuable product for the Brenham community. The Liberty Village PD shall allow only single-family residential uses on approximately 76.9 acres of land out of the Arrabella Harrington Survey, being generally east of the intersection of FM 577 and State Highway 36 (Planning Area Exhibit 1).

SECTION II.

DEFINITIONS. Terms that are not expressly defined herein below shall have the meanings set forth in the City of Brenham Code of Ordinances. Terms not defined in either this Liberty Village PD or the City of Brenham Code of Ordinances shall have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster’s Unabridged Dictionary.

- A. Liberty Village Residential Association, Inc. (“Residential Association”) – shall mean the residential homeowners’ association formed for the purpose of the enforcement and administering of the provisions of the Declaration of Covenants, Conditions and Restrictions for the Liberty Village Subdivision (Residential Property), including, but not limited to, maintenance of Common Areas, Centralized Park, Landscaping and Regional Hike and Bike Trails, to be recorded in the Real Property Records of Washington County, Texas.
- B. Liberty Village Declaration of Covenants, Conditions and Restrictions – shall mean the Declaration of Covenants, Conditions and Restrictions promulgated by the board of directors of the Residential Association and recorded in the Official Records of Washington County, Texas, as may be amended and/or supplemented from time to time.
- C. Front elevation – shall mean the front exterior appearance (façade) of a home.
- D. Pedestrian Peninsula – shall mean a curb extension that shortens the distance of crosswalks to enhance pedestrian safety.
- E. Play Activities – shall mean the activities included on playground equipment including, but not limited to, slides, fire pole, cargo net, and similar features.

SECTION III.

LAND USE AND PHYSICAL DEVELOPMENT. Unless stated otherwise herein, the physical development in this PD district shall comply with all development standards, codes, regulations and limitations of the City of Brenham Code of Ordinances that apply to a Residential (R-1) zoning district, and subject to additions, modifications or exceptions described herein below:

- A. As required by the Liberty Village Declaration of Covenants, Conditions and Restrictions, the front elevation of each home shall have a minimum of 20% masonry exclusive of windows, doors, gables, walls above roof lines and porches and patios greater than thirty-two (32) square feet in size.
- B. No front elevations shall be repeated more than every third lot. Each home must have a different front elevation from the home across the street.
- C. Minimum square footage of each home shall be 1,225 square feet, exclusive of garages, porches, patios, and areas of the home that are not air-conditioned.
- D. Each single-family dwelling shall include, at a minimum, a two-car private, enclosed garage.
- E. Each lot shall be landscaped and irrigated, at minimum, with a fully sodded yard. Within each front yard, at least one (1), 2-inch caliper hardwood shade tree as measured at six inches (6") above the tree base, and at least five (5), 1-gallon shrubs shall be planted prior to the issuance of the certificate of occupancy.
- F. Public sidewalks shall be constructed on both sides of public right-of-way within the development and shall be four inches (4") in thickness to ensure long-term durability and shall have a minimum width of five feet (5'). Sidewalk segments shall be installed concurrently throughout the development as shown on Sidewalk and Trails Exhibit 3.
- G. To promote safety and help reduce vehicular traffic, the developer shall coordinate a pedestrian access point to the Brenham Independent School District (BISD) property to the southeast which shall be maintained by the Residential Association. The location of this access point will be coordinated with BISD and will terminate at the common property line.
- H. Common Areas and Detention Areas, as shown on Planning Area Exhibit 2, shall serve as public access passive parks to be maintained by the Residential Association. On the perimeter of the drainage detention facilities, sports equipment such as soccer goals, frisbee golf and/or other open space activity equipment, shall be provided to supplement these areas. Additionally, a minimum of 4,000 linear feet, concrete, five foot (5') wide all-weather trail(s) shall be constructed around the Common Areas cumulatively and shall connect to the public sidewalk system proposed throughout the subdivision.
- I. A stained, capped and trimmed, wooden perimeter fence with masonry columns spaced every 150 feet shall be installed by the developer adjacent to and along Blue Bell Road, State Highway 36, and Burleson Street rights-of-way (Sidewalk and Trails Exhibit 3). Said perimeter fence shall be maintained by the Residential Association. All other perimeter fencing shall be stained 6-foot wooden, privacy fence.

- J. A standalone, centralized public park, to be maintained by the Residential Association, shall be provided within the development (Planning Area Exhibit 2). Within the park, there shall be a looped five-foot (5') wide all-weather trail, playground equipment facilities with at least five (5) play activities, and a minimum 20-foot x 20-foot covered pavilion. Construction of the centralized park shall be completed prior to issuance of the first Certificate of Occupancy in Phase 2.
- K. A main entry monument sign and landscaping shall be provided at the entrance on Blue Bell Road; a secondary monument sign and landscaping shall be provided on the entrance from Burleson Street. Said sign and landscaping shall comply with the City of Brenham Sign Ordinance, and shall be maintained by the Residential Association.
- L. Prior to the first Certificate of Occupancy being issued for each phase of the development, trees shall be planted throughout the community at a ratio of ½ the number of lots in each phase reflected on the plat. Required trees shall be placed in Common Areas, Parks, along trails and sidewalks, or visible from Blue Bell Road, State Highway 36 and Burleson Street. Fifty percent (50%) of the required trees shall be hardwood shade trees. All required trees shall measure six feet (6') tall and two inches (2") in caliper when measured six inches (6") from the ground.

SECTION IV.

SUBDIVISION OF LAND. The subdivision of land within the Liberty Village PD shall be in accordance with subdivision standards for properties in a Residential (R-1) zoning district with the following exceptions or additions to ordinary standards:

- A. Front yards shall have a minimum depth of 25 feet as per current city ordinance.
- B. Side yards shall have a minimum depth of 7.5 feet unless adjacent to a side street in which case the minimum side yard shall be 15 feet.
- C. Rear yards shall have a minimum depth of 20 feet.
- D. The average lot depth shall not be less than 115 feet as per current city ordinance.
- E. The minimum lot width shall be 55 feet.
- F. The minimum lot area shall be 6,325 square feet.
- G. At least 40% of all platted lots within the development shall be a minimum of 7,000 square feet or greater.
- H. At least 60% of all platted lots within the development shall be a minimum of 6,600 square feet or greater.
- I. The minimum right-of-way standards shall be a 50 feet wide dedicated right-of-way with 30-foot wide pavement, measured from back-of-curb to back-of-curb.
- J. Three (3) pedestrian peninsulas as shown on Planning Area Exhibit 2 shall be provided as traffic calming measures to break up longer than average block lengths. Pedestrian crossings shall be provided at the pedestrian peninsula locations.

SECTION V.

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

SECTION VI.

This Ordinance shall in no manner amend, change, supplement or revise any portion of any ordinance of the City, save and except the change in zoning classification for the Property provided herein subject to the regulations, restrictions, terms and conditions of the Planned Development District provided for herein.

PASSED and APPROVED on its first reading this the ____ day of _____, 2020.

PASSED and APPROVED on its first reading this the ____ day of _____, 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT “A”

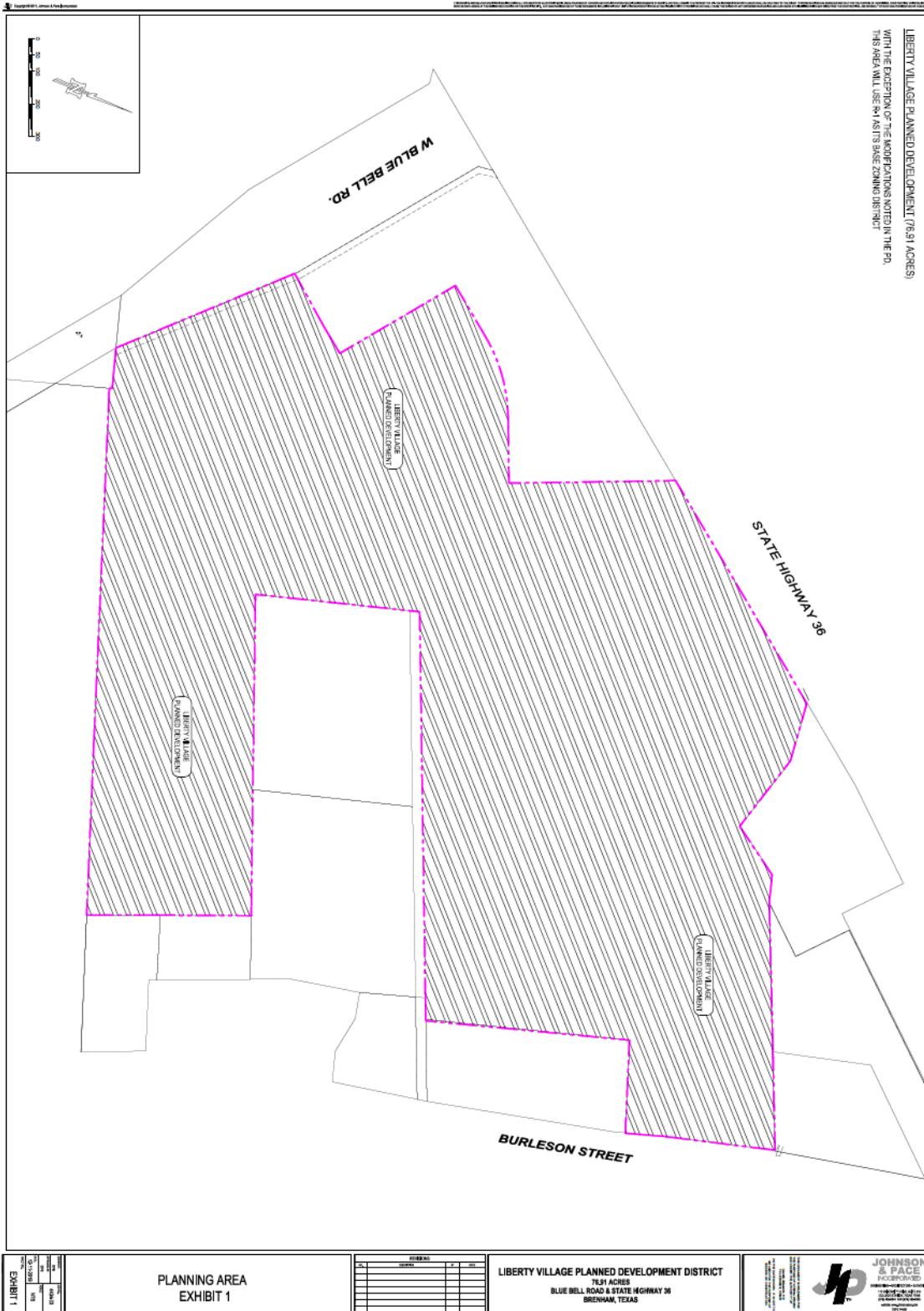


EXHIBIT “B”

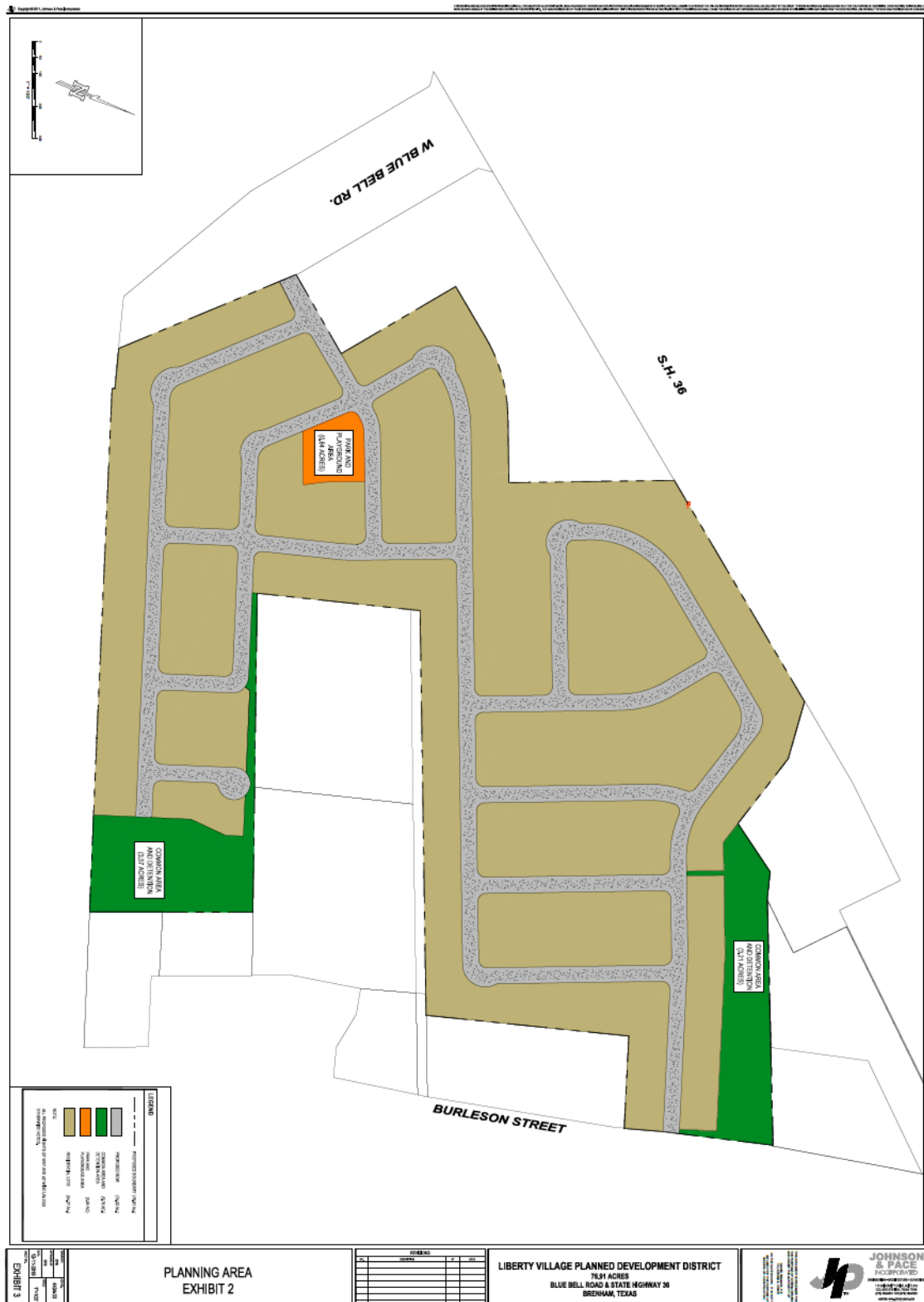
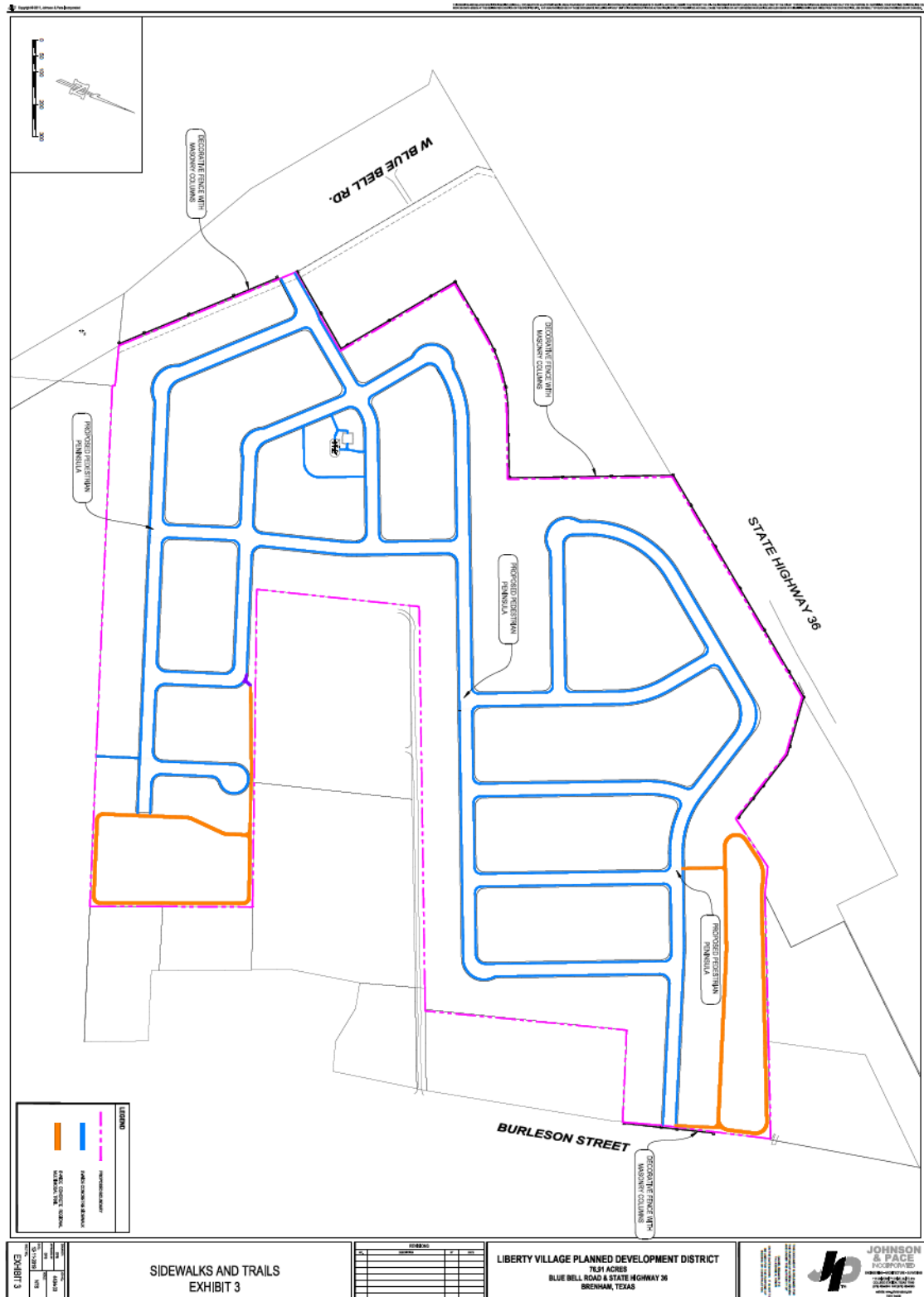


EXHIBIT "C"





CASE NUMBER P-19-026

ZONE CHANGE REQUEST – Establishing a Planned Development District on 76.9 acres of land east of the intersection of SH 36 and FM 577

STAFF CONTACT:	Stephanie Doland, Development Services Director
OWNERS:	Pierre Roberts Jr., Charles Duncan, Jr., Donald Roberts, Gary Roberts, and Herbert J. Faske
APPLICANT:	Philip Bargas on behalf of DR Horton
ADDRESS/LOCATION:	East of the intersection of State Highway 36 and W. Blue Bell Road (Exhibit A).
LEGAL DESCRIPTION:	A portion of Tract 35 of the Phillip Coe Survey, A-31, and a portion of Tract 219 and Tract 278 of the A. Harrington Survey, A-55
LOT AREA:	Approximately 76.9 acres of land
ZONING DISTRICT/USE:	Commercial Research and Technology District (B-2) and Residential District (R-1) / Vacant undeveloped land (Exhibit B)
FUTURE LAND USE:	Combination of Commercial -Retail and Single-Family Residential
REQUEST:	A request to change the zoning classification to Planned Development District (PD) for the development of a single-family home subdivision (Exhibit C).

BACKGROUND:

The subject property is located generally east of the intersection of State Highway 36 N and W Blue Bell Road. The above referenced 76.9 acre tract of land is adjacent to Blue Bell Road, Burleson Street and State Highway 36 N. The property is currently vacant land and contains a combination of two zoning districts including, Commercial Research and Technology District (B-2) and Residential District (R-1). The applicant, Philip Bargas on behalf of DR Horton homebuilders is requesting the subject 76.9 acres be rezoned to Planned Development District for the development of a single-family home subdivision.

PROPOSED PLANNED DEVELOPMENT (PD) DISTRICT “LIBERTY VILLAGE PD”

The applicants are requesting rezoning of the property to PD district to establish alternative standards to the City’s typical zoning and subdivision development standards. The proposed PD establishes the underlying base zoning district as the Residential (R-1) district for the construction of single-family dwellings. The applicants are proposing the following development standards for the Liberty Village PD. The complete PD proposal and exhibits are enclosed (Exhibit D).

Physical Development:

- Sidewalks 5-feet in width shall be included on each side of streets within the development.

- A looped trail system and sports equipment (ie. soccer goals or frisbee golf) shall be provided in detention/common areas.
- A centralized public park shall be constructed during phase 1 of the subdivision and include a looped walking path, playground facilities and a pavilion.
- Protected pedestrian crossings (pedestrian peninsulas) shall be provided at three locations within the development to mitigate against increased vehicle speeds on residential streets.
- A sidewalk connection shall be included (and coordinated with BISD) to Brenham Elementary.
- Each lot shall include a fully irrigated yard and a 2" caliper tree and shrubs in each front yard.
- Prior to the first certificate of occupancy for each phase, trees shall be planted throughout the community at a ratio of ½ the number of lots in each phase. Fifty percent of the required trees shall be canopy trees and shall be 2" caliper.
- A stained, capped, and trimmed fence with masonry columns shall be provided along the perimeter of the subdivision where visible from rights-of-way.
- Minimum two car garage provided for each dwelling.
- Minimum house size of 1,225 square feet.
- No house elevations shall be repeated more than every 3rd lot.
- 20% masonry requirement for the front elevation of each dwelling.
- A subdivision entry monument sign shall be located along Blue Bell and Burleson Road.

Subdivision of Land:

- 25-foot front setback
- 7.5-foot side setback
- 20-foot rear setback
- 115-foot lot depth
- 55-foot lot width
- Minimum right-of-way width of 50' with 30' of pavement
- Minimum lot area of 6,325 square feet
 - 40% of lots shall be 7,000 square feet or greater
 - 60% of lots shall be 6,600 square feet or greater

RELATION TO THE BRENHAM COMPREHENSIVE PLAN, PLAN 2040: HISTORIC PAST, BOLD FUTURE

Plan 2040 was adopted as the City of Brenham Comprehensive Plan on September 19, 2019 and serves as the City's guiding document in determining zoning and land uses decisions. Adopted with the Comprehensive Plan is the Future Land Use Plan and the establishment of use-specific land use policies, general city-wide land use policies, and standards which produce a quality neighborhood design. Staff finds the following excerpt from Plan 2040 (page 37-38) is relevant for consideration of this request:

Typical features of a quality neighborhood design include:

- Some focal point, whether a park or central green, school, community center, place of worship, or small-scale commercial activity, that enlivens the neighborhood and provides a gathering place.
- Equal importance of pedestrian and vehicular circulation. Street design accommodates, but also calms, necessary automobile traffic. Sidewalks along or away from streets, and/or a network of off-street trails, provide for pedestrian and bicycle circulation (especially for school children) and promote interconnectivity of adjacent neighborhoods.
- A variety of compatible dwelling types to address a range of needs among potential residents (based on age, income level, household size, etc.).
- Access to schools, recreation and daily conveniences within relatively close proximity to the neighborhood, if not within or at its edges (such as along bordering major streets).

- An effective street layout that provides multiple paths to external destinations (and critical access for emergency vehicles) while also discouraging non-local or cut-through traffic.
- Appealing streetscapes, whether achieved through street trees or other design elements, which “soften” an otherwise intensive atmosphere and draw residents to enjoy common areas of their neighborhood. This should include landscape designs consistent with local climate and vegetation.
- Compatibility of fringe or adjacent uses, or measures to buffer the neighborhood from incompatible development.
- Evident definition of the neighborhood “unit” through recognizable identity and edges, without going so far (through walls and other physical barriers) as to establish “fortress” neighborhoods.
- Set-aside of conservation areas, greenbelts or other open space as an amenity, to encourage leisure and healthful living, and to contribute to neighborhood buffering and definition.
- Use of local streets for parking to reduce the lot area that must be devoted to driveways and garages, and for the traffic calming benefits of on-street parking.

ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance (Part 1, Section 4 of Appendix A – “Zoning” of the Brenham Code of Ordinances). They are as follows:

- (1) The city's zoning should recognize and seek to preserve the small town attributes that make Brenham a special place for its citizens to live, work and play.

The subject property is located east of the intersection of State Highway 36 and FM 577 and generally north of Brenham Elementary School. Property to the north and west is zoned for Commercial/Retail development and is primarily vacant land. Property to the east along Burleson Road is zoned Residential District (R-1) and is developed with rural residential uses. Approval of the proposed rezoning would allow the subject property to develop as a single-family home subdivision.

The applicant proposes 300+ single-family homes to be built in three phases. The proposed development plan deviates from City of Brenham standard zoning by including a mixture of lot sizes, approximately 40% of which will be 6,325 square feet or greater, an additional 40% at 7,000 square feet (city standard) and the remaining 20% at or greater than 6,600 square feet. Additionally, the development plan includes a reduction to the side building setback from 10-foot side yards to 7.5-foot side yards and to the rear setback from 25-foot to a 20-foot rear yard. In exchange for the reductions to the lot standards, the applicant proposes to provide amenities that provide open space, landscaping and public amenities through the development of sidewalks, trails, a centralized park with play equipment and two “passive” parks with trails and sport equipment.

The City of Brenham Subdivision and Zoning Ordinances seek to establish standards which provide for the orderly, safe and healthful development of the community and protect the morals and general welfare of residents and citizens while protecting small town character as reflected in the Comprehensive Plan. Staff finds that the proposed Liberty Ridge PD meets the intent of the development standards by providing neighborhood design characteristics and elements which make a subdivision attractive and valuable for the long-term.

- (2) The city's zoning should be guided by the future land use plan and other applicable guidelines found in the Comprehensive Plan.

The future land use map portion of Plan 2040: Historic Past, Bold Future, suggests the subject

acres may be appropriate for a combination of commercial/retail uses along State Highway 36 and single-family residential uses behind (to the south) the business uses. The applicant proposes to allow an approximately 10+ acre portion of land at the immediate eastern corner of the SH 36 and FM 577 intersection for Commercial/Retail development. If the requested zone change were approved, the subject property would allow for development in keeping with the Future Land Use Plan and polices by allowing business uses along the highly visible rights-of-way and a single-family home subdivision with a system of local streets adjacent to businesses uses.

Furthermore, the proposed Liberty Village PD includes amenities and subdivision design characteristics that exceed the City's standard subdivision and zoning standards as recommended in Plan 2040. Plan 2040 includes an excerpt which highlights what neighborhood attributes contribute to a sustainable and attractive subdivision. The applicants are proposing to meet a majority of these guidelines by providing features such as, traffic calming measures, street scaping, a central park, a design with equal importance to pedestrian and vehicular traffic, and pedestrian access to Brenham Elementary. Staff finds that the proposed request is aligned with the goals and land use policies established in the Comprehensive Plan.

- (3) The city's zoning should be designed to facilitate the more efficient use of existing and future city services and utility systems in accordance with the Comprehensive Plan.

The subject property has access to City of Brenham water, gas and sanitary sewer along FM 577 as well as access to additional water services along Burleson Road. The applicant plans to extend services located at the property throughout the development. The 76.9 acres are located in the Bluebonnet electric service area and the applicant has been in contact with this provider for extension of services. Staff finds that utilities in the area can be extended to serve the subject property and the proposed development.

- (4) The city's zoning should be organized and as straight forward as possible to minimize use problems and enforcement problems.

The proposed zone change, if approved, will be reflected on the City of Brenham zoning map available for citizen viewing on the City of Brenham homepage.

- (5) The city's zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.

Property owners within 200 feet of the project site were mailed notifications of this request on December 5, 2019. The Notice of Public Hearing was published in the Brenham Banner on December 4, 2019. Any public comments submitted to staff will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

- (6) The city's zoning should ensure that adequate open space is preserved as residential and commercial development and redevelopment occur.

If approved, the subject property will be required to adhere to site development standards established in the proposed Liberty Village PD, all applicable ordinances adopted by the City of Brenham for the R-1 zoning district and not specified in the PD document. Furthermore, adherence to adopted building codes, maximum impervious coverage requirements, and drainage standards for property zoned R-1 shall apply to the subject tract. Additionally, the proposed Liberty Village PD includes development of open space throughout the development to account for a mixture of lot sizes in the development, specifically those which fall below the adopted minimum lot size of 7,000

square feet. To account for substandard lot size, the applicant proposes sidewalks throughout the development, a 0.84 acre central park, and 6.78 acres of common area containing 4,000 linear feet of trail systems. Staff finds that the public green space requirements will ensure that adequate open spaces are maintained throughout the proposed subdivision.

- (7) The city's zoning should insure Brenham's attractiveness for the future location of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.

Staff believes that the requested zoning and associated land uses are appropriate in this location given adjacent zoning designations, existing development in the vicinity, and conformance with the City's adopted future land use map.

- (8) The city's zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community's plan for the development and/or redevelopment of its neighborhoods.

The applicant proposes a variety of subdivision standards that contribute to quality neighborhood culture and promote land development consistent with adopted development standards and the adopted Comprehensive Plan. For example, the City of Brenham subdivision ordinance does not currently require the development of sidewalks or parks within a single-family home subdivision. However, the applicant proposes to provide 5-foot wide sidewalks on both sides of the street as well as a centralized park, common areas and trails. While smaller than normal lot sizes are proposed, the aforementioned amenities meet the intent of the ordinance in terms of preserving open spaces within the development.

Additionally, the applicant proposes landscaping on each platted lot and throughout the development. Also proposed in the development is the construction of a fence with masonry columns and a capped, trimmed and stained wooden fence to delineate the neighborhood identity and contribute to neighborhood buffering. The City's development standards do not require the aforementioned fence or landscaping standards for residential development and staff finds that these offerings (and the additional proposed standards) will ensure the long term viability of the subdivision as well as preserve the view of the development from the City's major thoroughfares, State Highway 36 and FM 577. In summary, staff finds that the proposed Liberty Village PD, if approved will allow for the development of a single-family neighborhood in accordance with the adopted development standards and Plan 2040 in terms of promoting land uses consistent with the community's plan.

- (9) The city's zoning should protect existing and future residential neighborhoods from encroachment by incompatible uses.

The subject property is adjacent to vacant land, commercial uses (veterinary clinic), and existing rural single-family uses. The proposed development plan includes buffering the existing commercial uses with a common area/detention pond, and additional buffer requirements shall be applied to any subsequent commercial development adjacent to the residential use. Existing rural single-family homes are located adjacent to the subject property with access to Burleson Street from a private access easement. While the density of the existing residential is significantly lower than the proposed residential development, a screening fence is proposed along the proposed neighborhood boundary.

- (10) The city's zoning should assist in stabilizing property values by limiting or prohibiting the

development of incompatible land uses or uses of land or structures, which negatively impact adjoining properties.

Staff is unable to determine any destabilizing effects on the neighboring properties should this rezoning request be approved.

- (11) The city's zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.

If approved, the proposed rezoning will allow for the development of a single-family home subdivision. The proposed rezoning includes changing the zoning classification from a commercial use to a residential use on property located south of State Highway 36. However, staff finds that the proposed rezoning if approved will still allow for commercial, retail, office and general business uses along a majority of the highly visible highway. Furthermore, approval of the proposed zoning change, will allow for commercial development which could serve the proposed residential subdivision and land in the general vicinity.

- (12) The city's zoning should give reasonable accommodation to legally existing incompatible uses, but it should be fashioned in such a way that over time, problem areas will experience orderly change through redevelopment that gradually replaces the nonconforming uses.

The property is currently undeveloped, vacant land. Staff is not aware of any hindrances on the property created by legally existing incompatible uses. The proposed rezoning will allow for compatible, legally conforming development.

- (13) The city's zoning should provide for orderly growth and development throughout the city.

Staff finds that the proposed rezoning change will allow for the orderly growth and development in the general vicinity and throughout the city. Furthermore, the proposed rezoning is in accordance with the City's adopted Future Land Use Map and Comprehensive Plan.

PLANNED DEVELOPMENT DISTRICT GENERAL GUIDELINES:

In addition to the zoning policies above, Planned Development Districts must also meet the following guidelines:

- (1) A Planned Development District shall conform to applicable regulations and standards established by this ordinance.

The zoning regulations that the Liberty Village PD deviates from do not undermine the density requirements or intent of the single-family residential zoning district. Furthermore, modifications to lot size, setbacks, and right-of-way widths are accommodated by quality neighborhood design standards as specified in the Comprehensive Plan, Plan 2040.

- (2) A Planned Development District should be compatible with existing or permitted uses on abutting sites, in terms of use, building height, bulk and scale, setbacks and open spaces, landscaping, drainage, or access and circulation features.

This proposed single-family residential development is compatible with the surrounding land uses, including rural residential and commercial uses. The proposed Liberty Village PD includes the underlying R-1 zoning district standards and does not deviate from building

height, drainage, access or impervious coverage requirements. As mentioned above, the smaller than standard lot sizes proposed are mitigated by the additional open spaces and trail system proposed within the development.

- (3) A Planned Development District shall not create unfavorable effects or impacts on other existing or permitted uses on abutting sites that cannot be mitigated by the provisions of the planned development.

There are no foreseen unfavorable effects or impacts on the area.

- (4) A Planned Development District shall not adversely affect the safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed development and other uses reasonably anticipated in the area considering existing zoning and land uses in the area.

This property abuts two major transportation corridors, SH 36 and FM 577 and has a secondary access to Burleson Road. State Highway 36 and FM 577 are classified as a freeway and arterial roadway, respectively, on the City of Brenham Thoroughfare Plan. These roadways are capable of accommodating large volumes of traffic and providing connectivity to road systems throughout Brenham. Furthermore, the applicant has submitted a traffic impact analysis which shows the subdivision at build out generating 2,584 vehicle trips per day on to FM 577 and 456 vehicles per day on to Burleson Road. The applicant has been in discussions with TXDOT about the possibility of a signalized intersection at the subdivision entrance. Staff contends that at the time of platting traffic movements will be further studied to ensure vehicular circulation through and around the development.

Additionally, a feature of quality neighborhood design listed in Plan 2040 includes placing equal importance on vehicular and pedestrian traffic. The provided TIA accounts for approximately 1,200+ vehicle movements within the neighborhood at the busiest location. To mitigate against cut-through traffic and protect pedestrians, three pedestrian peninsulas are proposed within the development to ensure vehicles abide by posted speeds and pedestrians feel safe walking within the subdivision.

Staff finds the proposed Liberty Village PD accounts for the safety and convince of vehicular and pedestrian traffic generated with the development of 300+ dwellings at this location.

- (5) A Planned Development District must reasonably protect persons and property from erosion, flood or water damage, fire, noise, glare, and similar hazards or impacts.

Drainage information will be required at the time of platting and a Homeowners Association will be created with bylaws and governing documents pertaining to the maintenance of the proposed detention areas.

- (6) A Planned Development District shall not adversely affect traffic control or adjacent properties by inappropriate location, lighting, or types of signs.

Staff is unable to determine any adverse impacts caused by inappropriate lighting or types of signs. The applicant proposes two subdivision entry monument signs which will be located adjacent to FM 577 and Burleson Street. The proposed signage shall meet the City's adopted sign ordinance which accounts for size, lighting and landscaping around residential

entry monument signage. As previously mentioned, vehicular and pedestrian traffic will be accounted for and discussed with TXDOT should the proposed PD be approved.

- (7) A Planned Development District must protect the public health, safety, or welfare, and shall not be materially injurious to properties or improvements in the vicinity.

This request should not have any adverse impact on the public health, safety or welfare of adjacent property or property in the general vicinity. Furthermore, the proposed amenities within the subdivision will enhance the public health and welfare of the Liberty Village homeowners and City of Brenham residents in general.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed rezoning to Planned Development District (PD) for the subject 76.9-acre tract known as the Liberty Village PD.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Future Land Use Map
- D. Proposed Planned Development District and Exhibits
- E. Site photos

EXHIBIT "A"
AERIAL MAP



EXHIBIT "B"
ZONING MAP

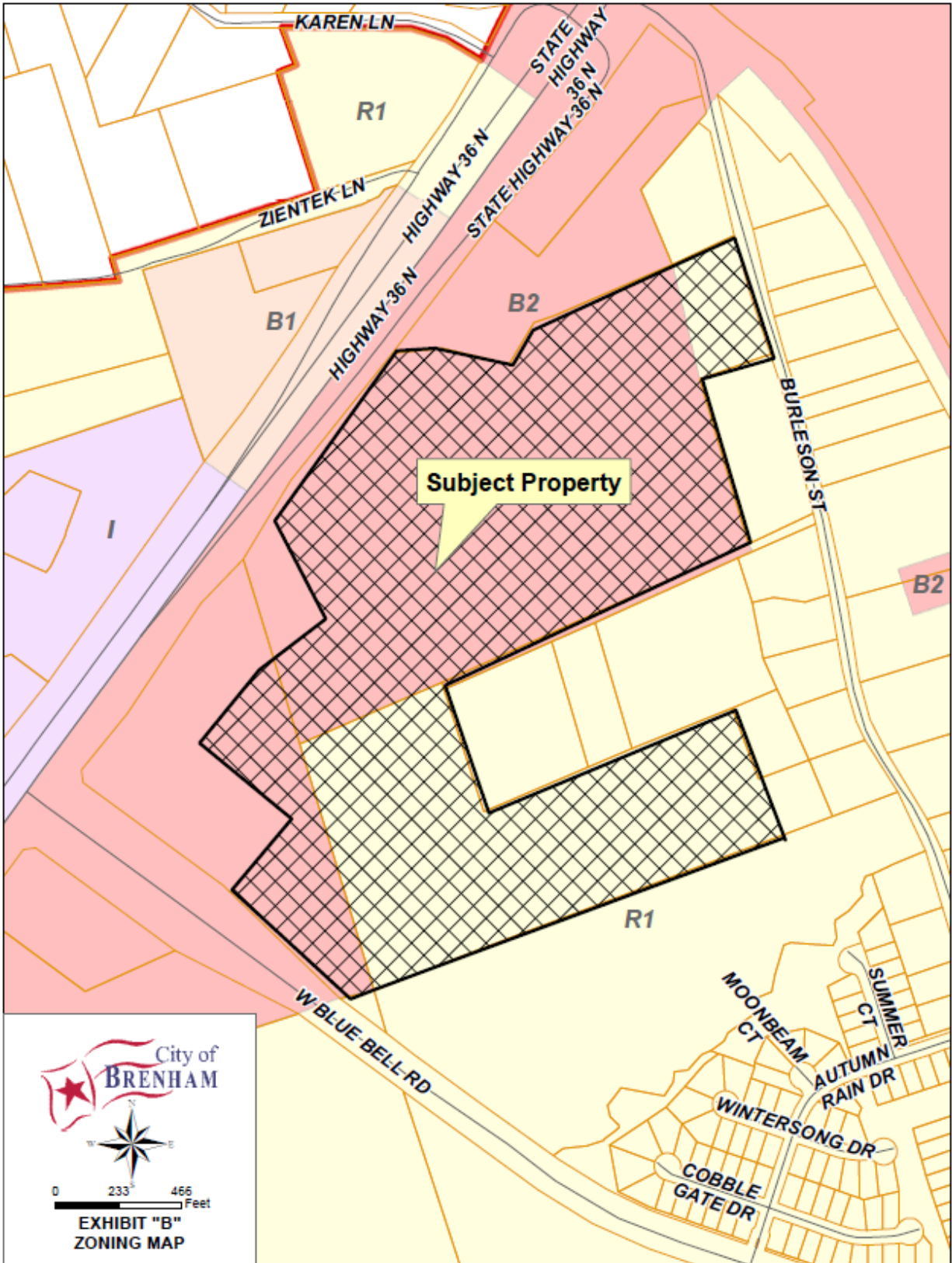


EXHIBIT "C"
FUTURE LAND USE MAP

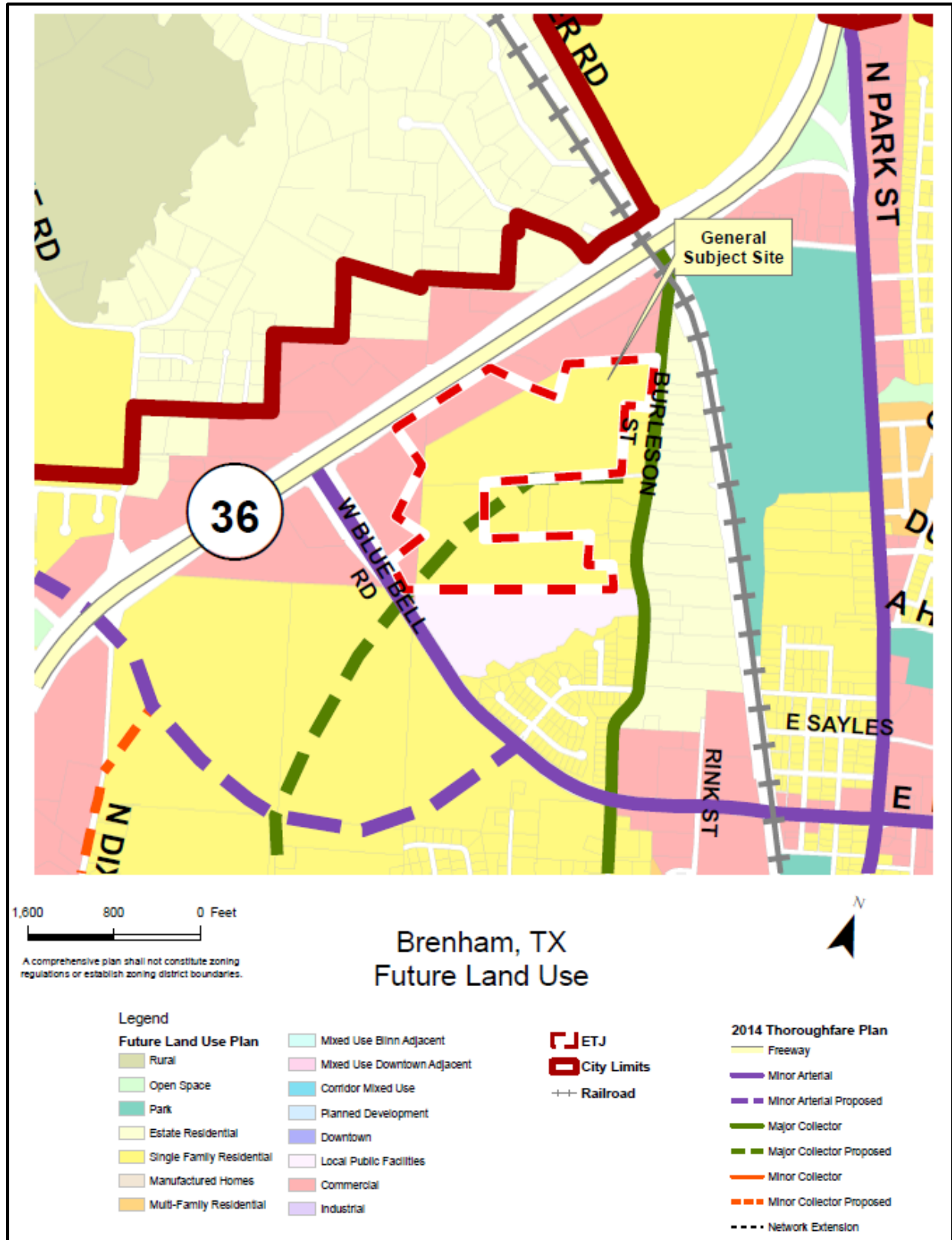


EXHIBIT “D”
PROPOSED PLANNED DEVELOPMENT DISTRICT AND EXHIBITS

Development Requirements for the Liberty Village Planned Development (PD) District

I. Purpose and Intent:

The Liberty Village Planned Development District (“Liberty Village PD”) is intended to guide land use and physical development of the subject property. This development plan is enacted as a means to provide the City and the Developer with alternative standards set forth by the City for their mutual benefit. This Liberty Village PD is intended to improve property utilization by facilitating the highest and best uses, strengthen the area economy, and promote the general welfare of the surrounding community. The Liberty Village PD reflects the goals of the City’s adopted Comprehensive Plan - Historic Past, Bold Future: Plan 2040 which establishes recommendations for developing quality neighborhood design. To this end, the Liberty Village Subdivision shall include public amenities such as, sidewalks, trails, landscaping and parkland which exceed City of Brenham subdivision standards and are believed to provide a valuable product for the Brenham Community. The Liberty Village PD shall allow single-family residential uses on approximately 76.9 acres of land out of the Arrabella Harrington Survey, being generally east of the intersection of FM-577 and State Highway 36 (Planning Area Exhibit 1).

II. Definitions:

Terms that are not expressly defined below shall have the meanings set forth in the City of Brenham Code of Ordinances. Terms not defined in either this Liberty Village PD or the City of Brenham Code of Ordinances shall have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster’s Unabridged Dictionary.

- A. Liberty Village Residential Association, Inc. (“Residential Association”) – shall mean the residential homeowner’s association formed for the purpose of the enforcement and administering of the provisions of the Declaration of Covenants, Conditions and Restrictions for the Liberty Village Subdivision (Residential Property), including maintenance of Common Areas, Centralized Park, Landscaping and Regional Hike and Bike Trails to be recorded in the Real Property Records of Washington County, Texas.
- B. Liberty Village Residential Guidelines – shall mean the guidelines promulgated by the board of directors of the Residential Association and recorded in the Real Property Records of Washington County, Texas, as may be amended and/or supplemented from time to time.
- C. Front elevation – shall mean the front exterior appearance (façade) of a dwelling visible from the street.
- D. Pedestrian Peninsula – shall mean a curb extension that shortens the distance of crosswalks to enhance pedestrian safety.
- E. Play Activities – shall mean the activities included on playground equipment including, but not limited to, slides, fire pole, cargo net, etc.

III. Land Use and Physical Development:

Unless stated otherwise, the physical development in this PD district shall comply with development standards and limitations of the City of Brenham Code of Ordinances that generally apply to the Residential (R-1) zoning district, and subject to additions, modifications or exceptions described herein:

- A. As stipulated by the Liberty Village Residential Guidelines, the front elevation of each home shall have a minimum 20% masonry requirement exclusive of windows, doors, gables, walls above roof lines and porches and patios greater than 4-foot x 8-foot.
- B. No house elevations shall be repeated more than every third lot. Each home must have a different front elevation from the house across the street.
- C. Minimum house square footage shall be 1,225 Square Feet.
- D. Each single-family dwelling shall include, at a minimum, a two-car private garage.
- E. Each lot shall be landscaped and irrigated, at minimum, with a fully sodded yard. Within each front yard, one, 2-inch caliper hardwood shade tree as measured at 6-inches above the tree base, and five, 1-gallon shrubs shall be planted prior to the issuance of the certificate of occupancy.
- F. Public sidewalks shall be constructed on both sides of public right-of-way within the development and shall be constructed of sufficient thickness to ensure long-term durability and shall have a minimum width of 5-feet. Sidewalk segments shall be installed concurrently throughout the development as shown on Sidewalk and Trails Exhibit 3.
- G. To promote safety and help reduce vehicular traffic, the developer shall coordinate a pedestrian access point to the Brenham Independent School District (BISD) property to the southeast and shall be maintained by the Residential Association. The location of this access point will be coordinated with BISD and will terminate at the common property line.
- H. Common Areas and Detention Areas, as shown on Planning Area Exhibit 2, shall serve as public access passive parks to be maintained by the Residential Association. On the perimeter of the drainage detention facilities, sports equipment, such as soccer goals, frisbee golf and/or other open space activity equipment, shall be provided to supplement these areas. Additionally, a minimum of 4,000 linear feet, concrete, 5-foot wide All-Weather Trail(s) shall be constructed around the Common Areas cumulatively and shall connect to the public sidewalk system proposed throughout the subdivision.
- I. A stained, capped and trimmed, wooden perimeter fence with masonry columns spaced every 150-feet shall be maintained by the Residential Association, adjacent to Blue Bell Road, State Highway 36, and Burleson Street rights-of-way (Sidewalk and Trails Exhibit 3). All other perimeter fencing shall be stained 6-foot wooden, privacy fence.
- J. A standalone, public centralized park to be maintained by the Residential Association, shall be provided within the development (Planning Area Exhibit 2). Within the park, there shall be a looped 5-foot wide All-Weather Trail, playground equipment facilities with 5 play activities, and a minimum 20-foot x 20-foot pavilion. Construction of the centralized park shall be completed prior to issuance of the first Certificate of Occupancy in Phase 2.
- K. In accordance with the City of Brenham Sign Ordinance and maintained by the Residential Association, a main entry monumentation and landscaping shall be provided at the entrance on Blue Bell Road. A secondary monument and landscaping shall be provided on the entrance from Burleson Street.
- L. Prior to the first Certificate of Occupancy being issued for each phase of the development, trees shall be planted throughout the community at a ratio of ½ the number of lots in each phase reflected on the plat. Required trees shall be placed in Common Areas, Parks, along trails and sidewalks, or visible from Blue Bell Road, State Highway 36 and Burleson Street. Fifty percent of the required trees shall be canopy trees measuring 6-feet tall and 2-inches in caliper when measured 6-inches from the ground.

IV. Subdivision of Land:

The subdivision of land within the Liberty Village PD shall be in accordance with subdivision standards for properties in the Residential (R-1) zoning district with the following exceptions or additions to ordinary standards:

- A. Front yard shall have a minimum depth of 25-feet as per current city ordinance.
- B. Side yards shall have a minimum depth of 7.5-feet unless adjacent to a side street in which case the minimum side yard shall be 15-feet.
- C. Rear yards shall have a minimum depth of 20-feet.
- D. The average lot depth shall not be less than 115-feet as per current city ordinance.
- E. The minimum lot width shall be 55-feet.
- F. The minimum lot area shall be 6,325 square feet.
- G. A minimum of 40% of all platted lots within the development shall be a minimum of 7,000 square feet or greater.
- H. A minimum of 60% of all platted lots within the development shall be a minimum of 6,600 square feet or greater.
- I. The minimum right-of-way standards shall be a 50-foot wide dedicated right-of-way with 30-foot wide pavement, measured from back-of-curb to back-of-curb.
- J. Three pedestrian peninsulas as shown on Planning Area Exhibit 2 shall be provided as traffic calming measures to break up longer than average block lengths. Pedestrian crossings shall be provided at the pedestrian peninsula locations.

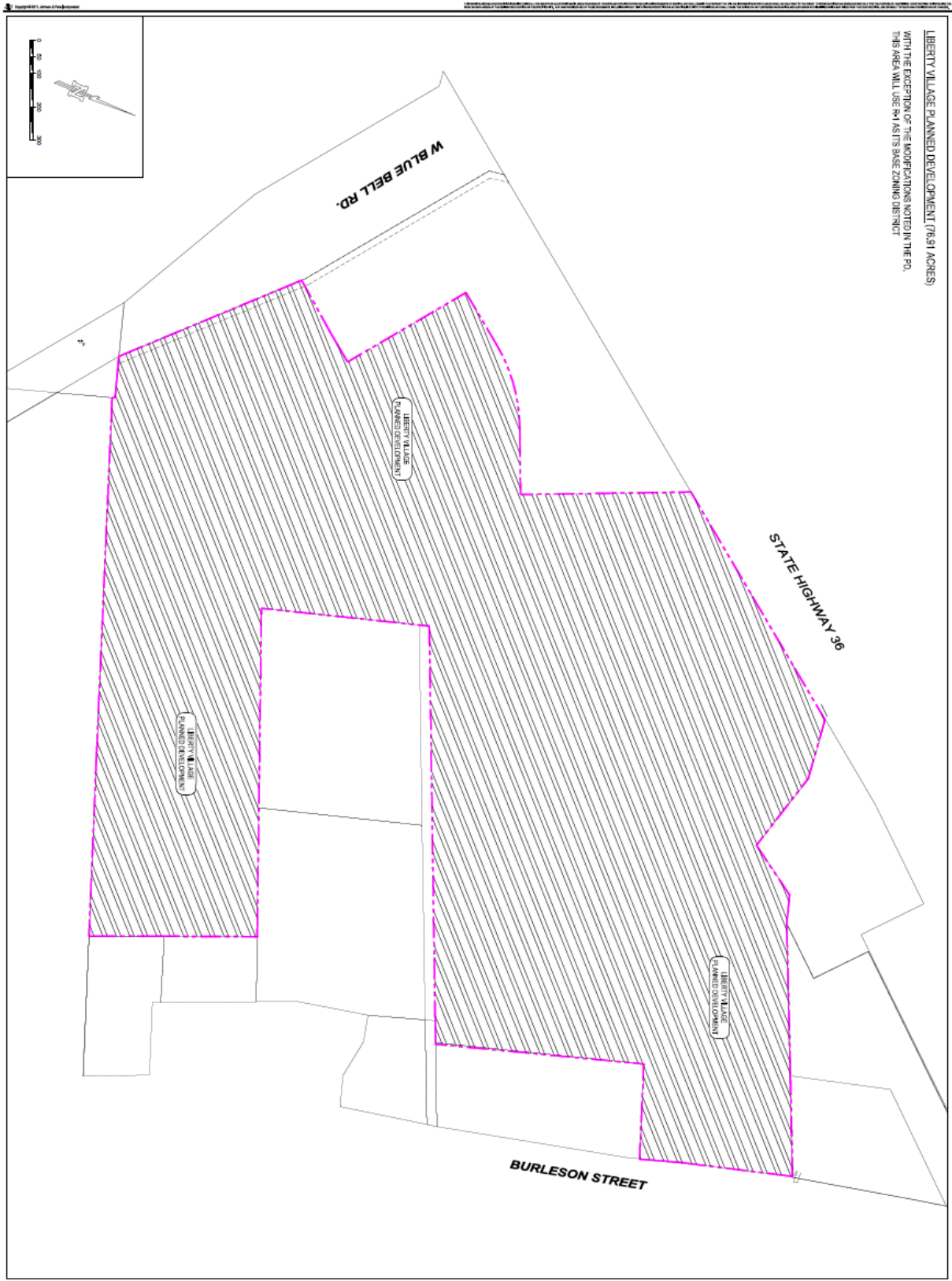
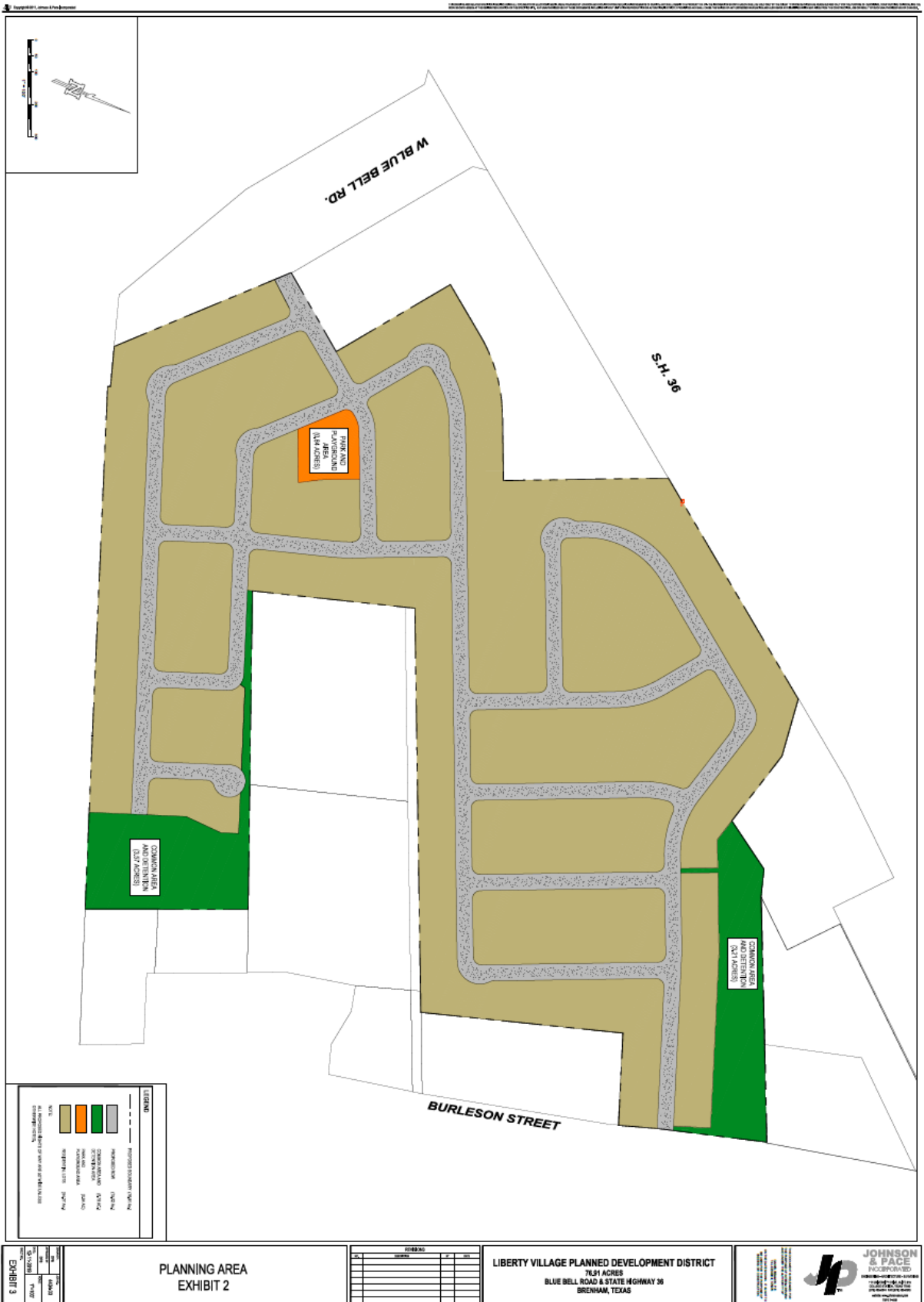


EXHIBIT 1 PLANNING AREA EXHIBIT 1	LIBERTY VILLAGE PLANNED DEVELOPMENT DISTRICT 76.31 ACRES BLUE BELL ROAD & STATE HIGHWAY 36 BROWNS, TEXAS	JOHNSON & PACE INCORPORATED 10000 N. MICHIGAN AVE. SUITE 100 DALLAS, TEXAS 75243 (214) 343-1100 WWW.JPACCONSULTING.COM
	PREPARED BY: [] CHECKED BY: [] DATE: []	APPROVED BY: [] DATE: []



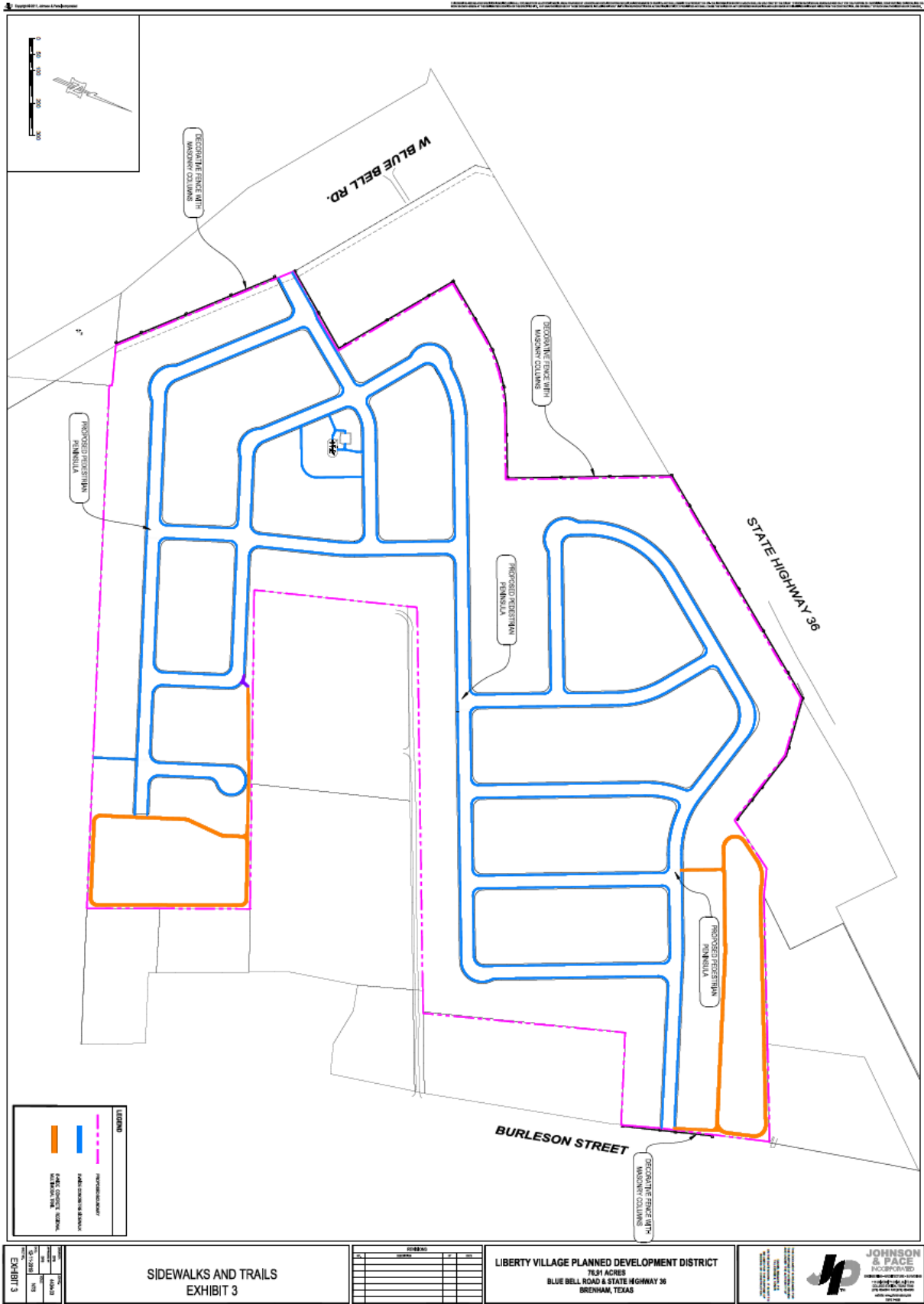
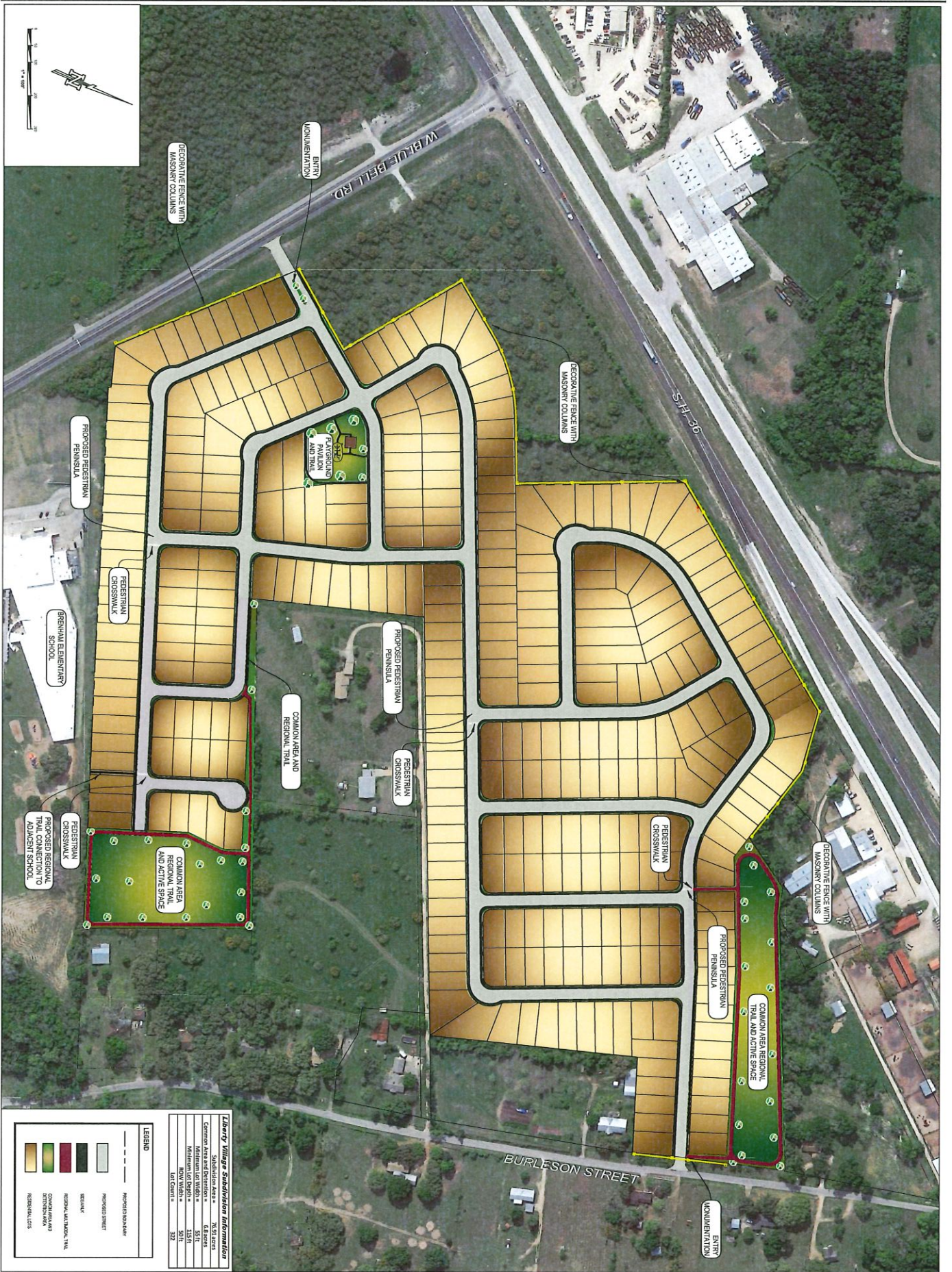


EXHIBIT "E"
SITE PHOTOS





Liberty Village Subdivision Information

Subdivision Area	78.91 acres
Common Area and Development	6.8 acres
Minimum Lot Size	3,500 sq. ft.
Maximum Lot Size	50,000 sq. ft.
Minimum Lot Width	50 ft.
Minimum Lot Depth	30 ft.
Lot Count	322

LEGEND

PROPOSED SUBDIVISION	PROPOSED STREET
EXISTING	REGIONAL AND LOCAL TRAIL
COMMON AREA	REGIONAL TRAIL AND ACTIVE SPACE
RESIDENTIAL LOTS	



AGENDA ITEM 9

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 10, 2020
DEPT. OF ORIGIN: Finance	SUBMITTED BY: Carolyn D. Miller
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☒ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Approval of an Ordinance of the City of Brenham, Texas, Authorizing the Issuance and Sale of City of Brenham, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2020; Levying a Tax in Payment Thereof; Authorizing the Execution and Delivery of a Purchase Agreement and a Paying Agent/Registrar Agreement; Approving the Official Statement; and Enacting Other Provisions Relating Thereto	
SUMMARY STATEMENT: The City Council approved Resolution No. R-19-036 on November 21, 2019 giving notice of intention to issue Certificates of Obligation at the meeting today. The Notice was published for two consecutive weeks in the local newspaper and has been posted continuously on the City's website for at least forty-five (45) days before the passage of the ordinance authorizing the issuance of Certificates. The City has complied with all public notices and the Council can consider action of this item. The proceeds from the sale of these Certificates of Obligation in the amount not to exceed \$5.695 million will be used for the following purposes: (a) (i) renovation of and improvements to the City's water and wastewater utility systems and facilities; (ii) construction of street and drainage improvements and the acquisition of land and rights-of-ways in connection therewith; and (iii) professional services of attorneys, engineers, financial advisors and other professionals in connection with the Project; and (b) to pay the costs associated with the issuance of the Certificates. The City's financial advisors, Garry Kimball and Jennifer Ritter, of Specialized Public Finance, will bring a presentation summarizing the official bids for the sale of the bonds. Our bond counsel, Bracewell, LLP, will also have the Ordinance complete with pricing. <u>An ordinance involved with financing only requires a single reading.</u>	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	

ATTACHMENTS: (1) Resolution No. R-19-036; and (2) Ordinance
FUNDING SOURCE (Where Applicable): Debt Service Fund, Water and Wastewater Funds
RECOMMENDED ACTION: Approve An Ordinance of the City of Brenham, Texas, Authorizing the Issuance and Sale of City of Brenham, Texas, Certificates of Obligation, Series 2020
APPROVALS: James Fisher

RESOLUTION NO. R-19-036

A RESOLUTION AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City Council of the City of Brenham, Texas (the “City”), deems it advisable to issue certificates of obligation (the “Certificates”) of the City in accordance with the notice hereinafter set forth;

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

Section 1. The findings, definitions and recitations set out in the preamble to this resolution are found to be true and correct and are hereby adopted by City Council and made a part hereof for all purposes.

Section 2. The City Secretary is hereby authorized and directed to cause to be published in the manner required by law and in substantially the form attached hereto as Exhibit A, a notice of the City’s intention to issue the Certificates (the “Notice”).

Section 3. The Notice shall be published once a week for two (2) consecutive weeks in a newspaper which is of general circulation in the City, the date of the first publication to be at least forty-six (46) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates. In addition, the Notice shall be posted continuously on the City’s website for at least forty-five (45) days before the date tentatively set in the Notice for the passage of the ordinance authorizing the issuance of the Certificates.

Section 4. For the purposes of the Notice, the City hereby designates as self-supporting those public securities listed in the attached Exhibit B, the debt service on which the City currently pays from sources other than ad valorem tax collections. The City plans to continue to pay these public securities based on this practice; however, there is no guarantee this practice will continue in future years.

Section 5. The Chief Financial Officer and all other appropriate officials of the City, the City’s financial advisor, Specialized Public Finance, Inc., and bond counsel, Bracewell LLP, are authorized and directed to proceed with the preparation of all necessary documents and to make all necessary arrangements for the authorization and sale of the Certificates at a future meeting of the City Council of the City.

Section 6. The Mayor, the Chief Financial Officer, City Secretary, and all other officers and agents of the City are hereby authorized and directed to do any and all things necessary or desirable to carry out the provisions of this resolution.

Section 7. This resolution shall take effect immediately from and after its passage by the City Council of the City.

PASSED AND APPROVED this 21st day of November, 2019.



Milton Y. Tate, Jr.
Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeanne Bellinger
Jeanne Bellinger, TRMC, CMC
City Secretary

EXHIBIT A

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Brenham, Texas (the "City"), will meet at 200 W. Vulcan, Brenham, Texas at 1:00 p.m. on the 16th day of January, 2020, which is the time and place tentatively set for the passage of an ordinance and such other action as may be deemed necessary to authorize the issuance of the City's certificates of obligation (the "Certificates"), in the maximum aggregate principal amount not to exceed FIVE MILLION SIX HUNDRED AND NINETY-FIVE THOUSAND DOLLARS (\$5,695,000), payable from ad valorem taxes and from a limited pledge of certain surplus revenues of the City's combined utility system in an amount not to exceed \$1,000, bearing interest at any rate or rates not to exceed the maximum interest rate authorized by law, as shall be determined within the discretion of the City Council of the City at the time of issuance of the Certificates, and maturing over a period not to exceed forty (40) years from the date of issuance, for the purposes of evidencing the indebtedness of the City for all or any part of the costs associated with the (1) construction and acquisition of, and improvements to, City streets, traffic control systems, sidewalks, landscaping, street lighting and drainage, including in each case the acquisition of land and rights-of-way in connection therewith; (2) improvements to City sanitary sewer facilities, including in each case the acquisition of land and rights-of-way in connection therewith; (3) improvements to the City's waterworks system, including in each case the acquisition of land and rights-of-way in connection therewith; and (4) professional services incurred in connection with items (1) through (3), and to pay the costs incurred in connection with the issuance of the Certificates. The estimated combined principal and interest required to pay the Certificates on time and in full is \$7,996,776. Such estimate is provided for illustrative purposes only, and is based on an assumed interest rate of 3.5%. Market conditions affecting interest rates vary based on a number of factors beyond the control of the City, and the City cannot and does not guarantee a particular interest rate associated with the Certificates. As of the date of this notice, the aggregate principal amount outstanding of tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting a resolution adopted by City Council on November 21, 2019, which resolution is available from the City upon request) is \$15,703,801, and based on the City's expectations, as of the date of this notice the combined principal and interest required to pay all of the outstanding tax-supported debt obligations of the City (excluding public securities secured by an ad valorem tax but designated by the City as self-supporting) on time and in full is \$19,424,535.

WITNESS MY HAND, this ____ day of _____, 2019.

Jeana Bellinger, TRMC, City Secretary
City of Brenham, Texas

EXHIBIT B

SELF-SUPPORTING DEBT

**Principal Amount
Designated as Self
Supporting**

Series Designation

\$12,956,199

Series 2006, 2016, 2017 and 2019 Certificates of Obligation, Series
2010, 2011, 2014 and 2016 General Obligation Refunding Bonds

ORDINANCE

AUTHORIZING THE
ISSUANCE OF

CITY OF BRENHAM, TEXAS
COMBINATION TAX AND REVENUE
CERTIFICATES OF OBLIGATION,
SERIES 2020

Adopted: January 16, 2020

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01. Definitions.....	2
Section 1.02. Findings.....	4
Section 1.03. Table of Contents, Titles and Headings	4
Section 1.04. Interpretation.....	4

ARTICLE II

SECURITY FOR THE CERTIFICATES; INTEREST AND SINKING FUND

Section 2.01. Tax Levy	5
Section 2.02. Interest and Sinking Fund	6

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE CERTIFICATES

Section 3.01. Authorization	6
Section 3.02. Date, Denomination, Maturities and Interest	7
Section 3.03. Medium, Method and Place of Payment.....	7
Section 3.04. Execution and Registration of Certificates	8
Section 3.05. Ownership	9
Section 3.06. Registration, Transfer and Exchange	9
Section 3.07. Cancellation	10
Section 3.08. Temporary Certificates	10
Section 3.09. Replacement Certificates	11
Section 3.10. Book-Entry Only System.....	12
Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry Only System	13
Section 3.12. Payments to Cede & Co.....	13

ARTICLE IV

REDEMPTION OF CERTIFICATES BEFORE MATURITY

Section 4.01. Limitation on Redemption	13
Section 4.02. Optional Redemption	13
Section 4.03. Mandatory Sinking Fund Redemption.....	14
Section 4.04. Partial Redemption.....	14

Section 4.05. Notice of Redemption to Owners	15
Section 4.06. Payment Upon Redemption	15
Section 4.07. Effect of Redemption	16

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01. Appointment of Initial Paying Agent/Registrar	16
Section 5.02. Qualifications	16
Section 5.03. Maintaining Paying Agent/Registrar	16
Section 5.04. Termination	17
Section 5.05. Notice of Change to Owners	17
Section 5.06. Agreement to Perform Duties and Functions	17
Section 5.07. Delivery of Records to Successor	17

ARTICLE VI

FORM OF THE CERTIFICATES

Section 6.01. Form Generally	17
Section 6.02. Form of the Certificates	18
Section 6.03. CUSIP Registration	24
Section 6.04. Legal Opinion	25
Section 6.05. Statement of Insurance	25

ARTICLE VII

SALE AND DELIVERY OF CERTIFICATES; DEPOSIT OF PROCEEDS; OFFICIAL STATEMENT

Section 7.01. Sale of Certificates	25
Section 7.02. Deposit of Proceeds	25
Section 7.03. Control and Delivery of Certificates	26
Section 7.04. Official Statement	26

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments	27
Section 8.02. Investment Income	27

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01. Payment of the Certificates	27
---	----

Section 9.02. Other Representations and Covenants	27
Section 9.03. Federal Income Tax Matters	28
Section 9.04. Qualified Tax-Exempt Obligations	29

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default	30
Section 10.02. Remedies for Default	30
Section 10.03. Remedies Not Exclusive	30

ARTICLE XI

DISCHARGE

Section 11.01. Discharge	31
--------------------------------	----

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01. Annual Reports	31
Section 12.02. Event Notices	31
Section 12.03. Limitations, Disclaimers and Amendments	33

ARTICLE XIII

AMENDMENTS TO ORDINANCE

Section 13.01. Amendments of Ordinance	34
Section 13.02. Notice and Adoption of Amendment	35
Section 13.03. Consent of Owner Irrevocable	35
Section 13.04. Nonsubstantive Changes	35

ARTICLE XIV

ADDITIONAL MATTERS

Section 14.01. Effective Immediately	35
Section 14.02. Governing Law	35
Section 14.03. Severability	36
Section 14.04.	Error! Bookmark not defined.

Exhibit A - Description of Annual Disclosure of Financial Information	A-1
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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AUTHORIZING THE ISSUANCE AND SALE OF CITY OF BRENHAM, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2020; LEVYING A TAX IN PAYMENT THEREOF; AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT AND A PAYING AGENT/REGISTRAR AGREEMENT; APPROVING THE OFFICIAL STATEMENT; AND ENACTING OTHER PROVISIONS RELATING THERETO

WHEREAS, under the provisions of Subchapter C, Chapter 271, Texas Local Government Code, as amended, the City of Brenham, Texas (the “City”), is authorized to issue certificates of obligation for the purposes specified in this Ordinance and for the payment of all or a portion of the contractual obligations for professional services, including that of engineers, attorneys, and financial advisors in connection therewith, and to sell the same for cash as herein provided; and

WHEREAS, the City is authorized to provide that such obligations will be payable from and secured by the levy of a direct and continuing ad valorem tax against all taxable property within the City, in combination with all or a part of certain surplus revenues of the City’s combined utility system remaining after payment of any obligations of the City payable in whole or in part from a lien or pledge of such revenues that would be superior to the obligations to be authorized herein as authorized by Chapter 1502, Texas Government Code; and

WHEREAS, the City Council has found and determined that it is necessary and in the best interest of the City and its residents that it issue such certificates of obligation authorized by this Ordinance; and

WHEREAS, pursuant to a resolution heretofore passed by this governing body, notice of intention to issue certificates of obligation of the City payable as provided in this Ordinance was published in a newspaper of general circulation in the City and posted on the City’s website in accordance with the laws of the State of Texas; and

WHEREAS, no petition of any kind has been filed with the City Secretary, any member of the City Council or any other official of the City, protesting the issuance of such certificates of obligation; and

WHEREAS, this City Council is now authorized and empowered to proceed with the issuance of said certificates of obligation and to sell the same for cash; and

WHEREAS, the meeting at which this Ordinance is considered is open to the public as required by law, and the public notice of the time, place and purpose of said meeting was given as required by Chapter 551, Texas Government Code, as amended;

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

ARTICLE I

DEFINITIONS AND OTHER PRELIMINARY MATTERS

Section 1.01. Definitions.

Unless otherwise expressly provided or unless the context clearly requires otherwise in this Ordinance, the following terms shall have the meanings specified below:

“Business Day” means any day which is not a Saturday, Sunday or legal holiday, or day on which banking institutions in the State of Texas or the city in which the Designated Payment/Transfer Office is located are generally authorized or obligated by law or executive order to close.

“Certificate” means any of the Certificates.

“Certificates” means the City’s obligations authorized to be issued by Section 3.01 of this Ordinance and designated as “City of Brenham, Texas, Combination Tax and Revenue Certificates of Obligation, Series 2020.”

“City” means the City of Brenham, Texas.

“Closing Date” means the date of the initial delivery of and payment for the Certificates.

“Code” means the Internal Revenue Code of 1986, as amended, and, with respect to a specific section thereof, such reference shall be deemed to include (a) the Regulations promulgated under such section, (b) any successor provision of similar import hereafter enacted, (c) any corresponding provision of any subsequent Internal Revenue Code and (d) the regulations promulgated under the provisions described in (b) and (c).

“Dated Date” means the date of the Certificates designated in Section 3.02(a).

“Designated Payment/Transfer Office” means, with respect to the initial Paying Agent/Registrar named herein, its office in Dallas, Texas, or at such other location designated by the Paying Agent/Registrar and (ii) with respect to any successor Paying Agent/Registrar, the office of such successor designated and located as may be agreed upon by the City and such successor.

“DTC” means The Depository Trust Company of New York, New York, or any successor securities depository.

“DTC Participant” means brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC Participants.

“Event of Default” means any event of default as defined in Section 10.01 of this Ordinance.

“Financial Obligation” means a (i) debt obligation, (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (iii) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“Fiscal Year” means such fiscal year as shall from time to time be set by the City Council.

“Initial Certificate” means the Initial Certificate authorized by Section 3.04 of this Ordinance.

“Interest and Sinking Fund” means the interest and sinking fund established by Section 2.02 of this Ordinance.

“Interest Payment Date” means the date or dates on which interest on the Certificates is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being February 15 and August 15, commencing August 15, 2020.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Revenues” means the gross revenues of the System less the expenses of operation and maintenance as said expenses are defined by Chapter 1502, Texas Government Code, as amended.

“Owner” means the person who is the registered owner of a Certificate or Certificates, as shown in the Register.

“Paying Agent/Registrar” means initially, The Bank of New York Mellon Trust Company, National Association, Dallas, Texas, or any successor thereto as provided in this Ordinance.

“Prior Lien Bonds” means any and all bonds or other obligations of the City presently outstanding or that may be hereafter issued, payable from and secured by a first lien on and pledge of the Net Revenues or by a lien on and pledge of the Net Revenues subordinate to a first lien and pledge of such Net Revenues but superior to the lien and pledge of the Surplus Revenues made for the Certificates.

“Project” means the purposes for which the Certificates are issued as set forth in Section 3.01.

“Purchaser” means the purchaser of the Certificates identified in Section 7.01(a).

“Record Date” means the last Business Day of the month next preceding an Interest Payment Date.

“Register” means the bond register specified in Section 3.06(a) of this Ordinance.

“Regulations” means the applicable proposed, temporary or final Treasury Regulations promulgated under the Code or, to the extent applicable to the Code, under the Internal Revenue Code of 1954, as such regulations may be amended or supplemented from time to time.

“Rule” means SEC Rule 15c2-12, as amended from time to time.

“SEC” means the United States Securities and Exchange Commission.

“Special Payment Date” means the Special Payment Date prescribed by Section 3.03(b) of this Ordinance.

“Special Record Date” means the Special Record Date prescribed by Section 3.03(b) of this Ordinance.

“Surplus Revenues” means the Net Revenues of the System in an amount equal to \$1,000 remaining after payment of all debt service, reserve, and other requirements in connection with the City’s Prior Lien Bonds.

“System” as used in this Ordinance means the City’s combined utility system, including all present and future additions, extensions, replacements, and improvements thereto.

“Unclaimed Payments” means money deposited with the Paying Agent/Registrar for the payment of principal of or interest on the Certificates as the same come due and payable or money set aside for the payment of Certificates duly called for redemption prior to maturity and remaining unclaimed by the Owners of such Certificates after the applicable payment or redemption date.

Section 1.02. Findings.

The declarations, determinations and findings declared, made and found in the preamble to this Ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

Section 1.03. Table of Contents, Titles and Headings.

The table of contents, titles and headings of the Articles and Sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Ordinance or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.04. Interpretation.

(a) Unless the context requires otherwise, words of the masculine gender shall be construed to include correlative words of the feminine and neuter genders and vice versa, and words of the singular number shall be construed to include correlative words of the plural number and vice versa.

(b) Any action required to be taken on a date which is not a Business Day shall be taken on the next succeeding Business Day and have the same effect as if taken on the date so required.

(c) This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of this Ordinance.

(d) Article and section references shall mean references to articles and sections of this Ordinance unless otherwise designated.

ARTICLE II

SECURITY FOR THE CERTIFICATES; INTEREST AND SINKING FUND

Section 2.01. Tax Levy.

(a) Pursuant to the authority granted by the Texas Constitution and the laws of the State of Texas, there shall be levied and there is hereby levied for the current year and for each succeeding year thereafter while any of the Certificates or any interest thereon is outstanding and unpaid, an ad valorem tax on each one hundred dollars valuation of taxable property within the City, at a rate sufficient, within the limit prescribed by law, to pay the debt service requirements of the Certificates, being (i) the interest on the Certificates, and (ii) a sinking fund for their redemption at maturity or a sinking fund of two percent per annum (whichever amount is greater), when due and payable, full allowance being made for delinquencies and costs of collection.

(b) The ad valorem tax thus levied shall be assessed and collected each year against all property appearing on the tax rolls of the City most recently approved in accordance with law, and the money thus collected shall be deposited as collected to the Interest and Sinking Fund.

(c) Said ad valorem tax, the collections therefrom, and all amounts on deposit in or required hereby to be deposited to the Interest and Sinking Fund are hereby pledged and committed irrevocably to the payment of the principal of and interest on the Certificates when and as due and payable in accordance with their terms and this Ordinance.

(d) The amount of taxes to be provided annually for the payment of principal of and interest on the Certificates shall be determined in the manner provided in this Section 2.01.

(e) The City's annual budget shall reflect (i) the amount of debt service requirements to become due on the Certificates in the next succeeding Fiscal Year, (ii) the amount on deposit in the Interest and Sinking Fund, as of the date such budget is prepared (after giving effect to any payments required to be made during the remainder of the then current Fiscal Year), and (iii) the amount of Surplus Revenues estimated and budgeted to be available for the payment of such debt service requirements on the Certificates during the next succeeding Fiscal Year.

(f) The amount required to be provided in the succeeding Fiscal Year from ad valorem taxes shall be the amount, if any, the debt service requirements to be paid on the Certificates in the next succeeding Fiscal Year exceeds the sum of (i) the amount shown to be on

deposit in the Interest and Sinking Fund (after giving effect to any payments required to be made during the remainder of the then current Fiscal Year) at the time the annual budget is prepared, and (ii) the Surplus Revenues shown to be budgeted and available for payment of said debt service requirements.

(g) Following the final approval of the annual budget of the City, the governing body of the City shall, by ordinance, set an ad valorem tax at a rate sufficient to produce taxes in the amount determined in paragraph (b) above, to be utilized for purposes of paying the principal of and interest on the Certificates in the next succeeding Fiscal Year.

(h) The City hereby covenants and agrees that the Surplus Revenues are hereby irrevocably pledged equally and ratably to the payment of the principal of and interest on the Certificates, as the same become due.

Section 2.02. Interest and Sinking Fund.

(a) The City hereby establishes a special fund or account to be designated the “City of Brenham, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020, Interest and Sinking Fund” (the “Interest and Sinking Fund”), said fund or account to be maintained at an official depository bank of the City separate and apart from all other funds and accounts of the City.

(b) Money on deposit in or required by this Ordinance to be deposited to the Interest and Sinking Fund shall be used solely for the purpose of paying the interest on and principal of the Certificates when and as due and payable in accordance with their terms and this Ordinance.

ARTICLE III

AUTHORIZATION; GENERAL TERMS AND PROVISIONS REGARDING THE CERTIFICATES

Section 3.01. Authorization.

The City’s certificates of obligation to be designated “City of Brenham, Texas Combination Tax and Revenue Certificates of Obligation, Series 2020,” are hereby authorized to be issued and delivered in accordance with the laws of the State of Texas, specifically Subchapter C, Chapter 271, Texas Local Government Code. The Certificates shall be issued in the aggregate principal amount of \$_____ for the purpose of paying contractual obligations to be incurred for the following purposes, to wit: (a)(1) construction and acquisition of, and improvements to, City streets, traffic control systems, sidewalks, landscaping, street lighting and drainage, including in each case the acquisition of land and rights-of-way in connection therewith; (2) improvements to City sanitary sewer facilities, including in each case the acquisition of land and rights-of-way in connection therewith; (3) improvements to the City’s waterworks system, including in each case the acquisition of land and rights-of-way in connection therewith (collectively, the “Project”); and (4) professional services incurred in connection with items (1) through (3), and to pay the costs incurred in connection with the issuance of the Certificates.

Section 3.02. Date, Denomination, Maturities and Interest.

(a) The Certificates shall be dated February 18, 2020. The Certificates shall be issued in fully registered form, without coupons, in authorized denominations of \$5,000 or any integral multiple thereof, and shall be numbered separately from one (1) upward or such other designation acceptable to the City and the Paying Agent/Registrar, except the Initial Certificate, which shall be numbered T-1.

(b) The Certificates shall mature on August 15 in the years and in the principal amounts and shall bear interest at the per annum interest rates set forth in the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2020	\$ _____	_____ %	2031	\$ _____	_____ %
2021		_____ %	2032		_____ %
2022		_____ %	2033		_____ %
2023		_____ %	2034		_____ %
2024		_____ %	2035		_____ %
2025		_____ %	2036		_____ %
2026		_____ %	2037		_____ %
2027		_____ %	2038		_____ %
2028		_____ %	2039		_____ %
2029		_____ %	2040		_____ %
2030		_____ %			

(c) Interest shall accrue and be paid on each Certificate respectively until its maturity or prior redemption, from the later of the Closing Date or the most recent Interest Payment Date to which interest has been paid or provided for at the rates per annum for each respective maturity specified in the schedule contained in subsection (b) above. Such interest shall be payable on each Interest Payment Date until maturity or prior redemption. Interest on the Certificates shall be calculated on the basis of a three hundred sixty (360) day year composed of twelve (12) months of thirty (30) days each.

Section 3.03. Medium, Method and Place of Payment.

(a) The principal of and interest on the Certificates shall be paid in lawful money of the United States of America.

(b) Interest on the Certificates shall be payable to the Owners as shown in the Register at the close of business on the Record Date; provided, however, that in the event of nonpayment of interest on a scheduled Interest Payment Date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which date shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) Business Days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Owner of a Certificate

appearing in the Register at the close of business on the last Business Day next preceding the date of mailing of such notice.

(c) Interest on each Certificate shall be paid by check, dated as of the Interest Payment Date, and mailed on or before such Interest Payment Date, by first class United States mail, postage prepaid, by the Paying Agent/Registrar to each Owner at the address of each Owner as it appears in the Register, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the Owner; provided, however, that such Owner shall bear all risk and expense of such other customary banking arrangements.

(d) The principal of each Certificate shall be paid to the Owner thereof on the due date (whether at the maturity date or the date of prior redemption thereof) upon presentation and surrender of such Certificate at the Designated Payment/Transfer Office of the Paying Agent/Registrar.

(e) If the date for the payment of the principal of or interest on the Certificates is not a Business Day, the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date payment was due and no additional interest shall be due by reason of nonpayment on the date on which such payment is otherwise stated to be due and payable.

(f) Unclaimed Payments of amounts due hereunder shall be segregated in a special account and held in trust, uninvested by the Paying Agent/Registrar, for the account of the Owner of the Certificates to which such Unclaimed Payments pertain. Subject to Title 6 of the Texas Property Code, any Unclaimed Payments remaining unclaimed by the Owners entitled thereto for three (3) years after the applicable payment or redemption date shall be applied to the next payment or payments on the Certificates thereafter coming due and, to the extent any such money remains after the retirement of all outstanding Certificates, such money shall be paid to the City to be used for any lawful purpose. Thereafter, neither the City, the Paying Agent/Registrar nor any other person shall be liable or responsible to any holders of such Certificates for any further payment of such unclaimed moneys or on account of any such Certificates, subject to Title 6 of the Texas Property Code.

Section 3.04. Execution and Registration of Certificates.

(a) The Certificates shall be executed on behalf of the City by the Mayor and the City Secretary, by their manual or facsimile signatures, and the official seal of the City shall be impressed or placed in facsimile thereon. Such facsimile signatures on the Certificates shall have the same effect as if each of the Certificates had been signed manually and in person by each of said officers, and such facsimile seal on the Certificates shall have the same effect as if the official seal of the City had been manually impressed upon each of the Certificates.

(b) In the event that any officer of the City whose manual or facsimile signature appears on the Certificates ceases to be such officer before the authentication of such Certificates or before the delivery thereof, such manual or facsimile signature nevertheless shall be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Certificate shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Certificate of Paying Agent/Registrar substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. It shall not be required that the same officer or authorized signatory of the Paying Agent/Registrar sign the Certificate of Paying Agent/Registrar on all of the Certificates. In lieu of the executed Certificate of Paying Agent/Registrar described above, the Initial Certificate delivered at the Closing Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller of Public Accounts of the State of Texas, or by his duly authorized agent, which certificate shall be evidence that the Initial Certificate has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and that it has been registered by the Comptroller of Public Accounts of the State of Texas.

(d) On the Closing Date, one Initial Certificate representing the entire principal amount of all Certificates, payable in stated installments to the Purchaser, or its designee, executed by the manual or facsimile signature of the Mayor and City Secretary of the City, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, will be delivered to the Purchaser or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver to DTC on behalf of the Purchaser one registered definitive Certificate for each year of maturity of the Certificates in the aggregate principal amount of all Certificates for such maturity bearing interest at the same per annum rate, registered in the name of Cede & Co., as nominee of DTC.

Section 3.05. Ownership.

(a) The City, the Paying Agent/Registrar and any other person may treat the person in whose name any Certificate is registered as the absolute owner of such Certificate for the purpose of making and receiving payment of the principal thereof and for the further purpose of making and receiving payment of the interest thereon, and for all other purposes (except interest will be paid to the person in whose name such obligation is registered on the Record Date or Special Record Date, as applicable), whether or not such Certificate is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary.

(b) All payments made to the Owner of a Certificate shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Certificate to the extent of the sums paid.

Section 3.06. Registration, Transfer and Exchange.

(a) So long as any Certificates remain outstanding, the City shall cause the Paying Agent/Registrar to keep at the Designated Payment/Transfer Office a register (the "Register") in which, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Certificates in accordance with this Ordinance.

(b) The ownership of a Certificate may be transferred only upon the presentation and surrender of the Certificate at the Designated Payment/Transfer Office with such endorsement or

other evidence of transfer as is acceptable to the Paying Agent/Registrar. No transfer of any Certificate shall be effective until entered in the Register.

(c) The Certificates shall be exchangeable upon the presentation and surrender thereof at the Designated Payment/Transfer Office of the Paying Agent/Registrar for a Certificate or Certificates of the same maturity and interest rate and in any denomination or denominations of any integral multiple of \$5,000 and in an aggregate principal amount equal to the unpaid principal amount of the Certificates presented for exchange. The Paying Agent/Registrar is hereby authorized to authenticate and deliver Certificates exchanged for other Certificates in accordance with this Section.

(d) Each exchange Certificate delivered by the Paying Agent/Registrar in accordance with this Section shall constitute an original contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such exchange Certificate is delivered.

(e) No service charge shall be made to the Owner for the initial registration, subsequent transfer, or exchange for a different denomination of any of the Certificates. The Paying Agent/Registrar, however, may require the Owner to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection with the registration, transfer or exchange of a Certificate.

(f) Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer, or exchange any Certificate called for redemption, in whole or in part, within forty-five (45) calendar days prior to the date fixed for redemption; provided, however, such limitation shall not be applicable to an exchange by the Owner of the uncalled principal balance of a Certificate.

Section 3.07. Cancellation.

All Certificates paid or redeemed before scheduled maturity in accordance with this Ordinance, and all Certificates in lieu of which exchange Certificates or replacement Certificates are authenticated and delivered in accordance with this Ordinance, shall be cancelled and proper records shall be made regarding such payment, redemption, exchange or replacement. The Paying Agent/Registrar shall dispose of cancelled Certificates in accordance with the record retention policies of the Paying Agent/Registrar.

Section 3.08. Temporary Certificates.

(a) Following the delivery and registration of the Initial Certificate and pending the preparation of definitive Certificates, the proper officers of the City may execute and, upon the City's request, the Paying Agent/Registrar shall authenticate and deliver, one or more temporary Certificates that are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Certificates in lieu of which they are delivered, without coupons, and with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such temporary Certificates may determine, as evidenced by their signing of such temporary Certificates.

(b) Until exchanged for Certificates in definitive form, such Certificates in temporary form shall be entitled to the benefit and security of this Ordinance.

(c) The City, without unreasonable delay, shall prepare, execute and deliver to the Paying Agent/Registrar the Certificates in definitive form; thereupon, upon the presentation and surrender of the Certificates in temporary form to the Paying Agent/Registrar, the Paying Agent/Registrar shall cancel the Certificates in temporary form and shall authenticate and deliver in exchange therefor Certificates of the same maturity and series, in definitive form, in the authorized denomination, and in the same aggregate principal amount, as the Certificates in temporary form surrendered. Such exchange shall be made without the making of any charge therefor to any Owner.

Section 3.09. Replacement Certificates.

(a) Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Certificate, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding. The City or the Paying Agent/Registrar may require the Owner of such Certificate to pay a sum sufficient to cover any tax or other governmental charge that is authorized to be imposed in connection therewith and any other expenses connected therewith.

(b) In the event that any Certificate is lost, apparently destroyed or wrongfully taken, the Paying Agent/Registrar, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Certificate has been acquired by a bona fide purchaser, shall authenticate and deliver a replacement Certificate of like tenor and principal amount, bearing a number not contemporaneously outstanding, provided that the Owner first:

(i) furnishes to the Paying Agent/Registrar satisfactory evidence of his or her ownership of and the circumstances of the loss, destruction or theft of such Certificate;

(ii) furnishes such security or indemnity as may be required by the Paying Agent/Registrar to save it and the City harmless;

(iii) pays all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that is authorized to be imposed; and

(iv) satisfies any other reasonable requirements imposed by the City and the Paying Agent/Registrar.

(c) If, after the delivery of such replacement Certificate, a bona fide purchaser of the original Certificate in lieu of which such replacement Certificate was issued presents for payment such original Certificate, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Certificate from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

(d) In the event that any such mutilated, lost, apparently destroyed or wrongfully taken Certificate has become or is about to become due and payable, the Paying Agent/Registrar, in its discretion, instead of issuing a replacement Certificate, may pay such Certificate if it has become due and payable or may pay such Certificate when it becomes due and payable.

(e) Each replacement Certificate delivered in accordance with this Section shall constitute an original additional contractual obligation of the City and shall be entitled to the benefits and security of this Ordinance to the same extent as the Certificate or Certificates in lieu of which such replacement Certificate is delivered.

Section 3.10. Book-Entry Only System.

The definitive Certificates shall be initially issued in the form of a separate typewritten fully registered Certificate for each of the maturities thereof bearing interest at the same per annum rate. Upon initial issuance, the ownership of such Certificates shall be registered in the name of Cede & Co., as nominee of DTC, and except as provided in Section 3.11 hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any DTC Participant or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than an Owner, as shown on the Register, of any notice with respect to the Certificates, including any notice of redemption, or (iii) the payment to any DTC Participant or any other person, other than an Owner, as shown in the Register of any amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Register as the absolute owner of such Certificate for the purpose of payment of principal of and interest on the Certificates, for the purpose of all matters with respect to such Certificate, for the purpose of registering transfer with respect to such Certificate, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective owners, as shown in the Register as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of and interest on the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Register, shall receive a certificate evidencing the obligation of the City to make payments of amounts due pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Section 3.11. Successor Securities Depository; Transfer Outside Book-Entry Only System.

In the event that the City or the Paying Agent/Registrar determines that DTC is incapable of discharging its responsibilities described herein and in the representations letter of the City to DTC, or in the event DTC discontinues the services described herein, the City or the Paying Agent/Registrar shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Register in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names Owners transferring or exchanging Certificates shall designate, in accordance with the provisions of this Ordinance.

Section 3.12. Payments to Cede & Co.

Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificates are registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of and interest on such Certificates, and all notices with respect to such Certificates, shall be made and given, respectively, in the manner provided in DTC's then current operational procedures.

ARTICLE IV

REDEMPTION OF CERTIFICATES BEFORE MATURITY

Section 4.01. Limitation on Redemption.

The Certificates shall be subject to redemption before their scheduled maturity only as provided in this Article IV.

Section 4.02. Optional Redemption.

(a) The City reserves the option to redeem Certificates maturing on and after August 15, 20__, in whole or in part in principal amounts of \$5,000 or any integral multiple thereof before their respective scheduled maturity dates, on August 15, 20__, or on any date thereafter, such redemption date or dates to be fixed by the City, at a price equal to the principal amount of the Certificates so called for redemption plus accrued interest to the date of redemption.

(b) If less than all of the Certificates are to be redeemed pursuant to an optional redemption, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Certificates, or portions thereof, within such maturity or maturities and in such principal amounts for redemption.

(c) The City, at least forty-five (45) days before the redemption date, unless a shorter period shall be satisfactory to the Paying Agent/Registrar, shall notify the Paying Agent/Registrar of such redemption date and of the principal amount of Certificates to be redeemed.

Section 4.03. Mandatory Sinking Fund Redemption.

(a) The Certificates stated to mature on August 15, 20__ (the "Term Certificates") are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on August 15 in the years and in the respective principal amounts as set forth in the following schedule:

Term Certificates Maturing August 15, 20__

Redemption Date (August 15)	Principal Amount
20__	\$ _____
20__*	

* Stated maturity.

(b) At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Certificates equal to the aggregate principal amount of such Term Certificates to be redeemed, shall call such Term Certificates for redemption on such scheduled mandatory redemption date, and shall give notice of such redemption, as provided in Section 4.05.

(c) The principal amount of the Term Certificates required to be redeemed on any redemption date pursuant to subparagraph (a) of this Section 4.03 shall be reduced, at the option of the City, by the principal amount of any Term Certificates which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to the optional redemption provisions hereof and not previously credited to a mandatory sinking fund redemption.

Section 4.04. Partial Redemption.

(a) A portion of a single Certificate of a denomination greater than \$5,000 may be redeemed, but only in a principal amount equal to \$5,000 or any integral multiple thereof. If such a Certificate is to be partially redeemed, the Paying Agent/Registrar shall treat each \$5,000 portion of the Certificate as though it were a single Certificate for purposes of selection for redemption.

(b) Upon surrender of any Certificate for redemption in part, the Paying Agent/Registrar, in accordance with Section 3.06 of this Ordinance, shall authenticate and

deliver an exchange Certificate or Certificates in an aggregate principal amount equal to the unredeemed portion of the Certificate so surrendered, such exchange being without charge, notwithstanding any provision of Section 3.06 to the contrary.

Section 4.05. Notice of Redemption to Owners.

(a) The Paying Agent/Registrar shall give notice of any redemption of Certificates by sending notice by United States mail, first class, postage prepaid, not less than 30 days before the date fixed for redemption, to the Owner of each Certificate (or part thereof) to be redeemed, at the address shown in the Register at the close of business on the Business Day next preceding the date of mailing such notice.

(b) The notice shall state the redemption date, the redemption price, the place at which the Certificates are to be surrendered for payment, and, if less than all the Certificates outstanding are to be redeemed, an identification of the Certificates or portions thereof to be redeemed.

(c) The City reserves the right to give notice of its election or direction to redeem Certificates under Section 4.02 conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificates subject to a conditional notice of redemption where redemption has been rescinded shall remain Outstanding, and the rescission shall not constitute an Event of Default. Further, in the case of a conditional notice of redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an Event of Default.

(d) Any notice so mailed shall be conclusively presumed to have been duly given, whether or not the registered owner receives such notice. Notice having been so given and subject, in the case of an optional redemption, to any rights or conditions reserved by the City in the notice, the Certificates called for redemption shall become due and payable on the specified redemption date, and notwithstanding that any obligation or portion thereof has not been surrendered for payment, interest on such obligation or portion thereof shall cease to accrue.

Section 4.06. Payment Upon Redemption.

(a) Before or on each redemption date, the City shall deposit with the Paying Agent/Registrar money sufficient to pay all amounts due on the redemption date and the Paying Agent/Registrar shall make provision for the payment of the Certificates to be redeemed on such date by setting aside and holding in trust an amount from the Interest and Sinking Fund or

otherwise received by the Paying Agent/Registrar from the City and shall use such funds solely for the purpose of paying the principal of, and accrued interest on the Certificates being redeemed.

(b) Upon presentation and surrender of any Certificate called for redemption at the Designated Payment/Transfer Office of the Paying Agent/Registrar on or after the date fixed for redemption, the Paying Agent/Registrar shall pay the principal of, redemption premium, if any, and accrued interest on such Certificate to the date of redemption from the money set aside for such purpose.

Section 4.07. Effect of Redemption.

(a) Notice of redemption having been given as provided in Section 4.05 of this Ordinance, and subject to the provisions of Section 4.05(c), the Certificates or portions thereof called for redemption shall become due and payable on the date fixed for redemption and, unless the City fails to make provision for the payment of the principal thereof or accrued interest thereon, such Certificates or portions thereof shall cease to bear interest from and after the date fixed for redemption, whether or not such Certificates are presented and surrendered for payment on such date.

(b) If the City shall fail to make provision for payment of all sums due on a redemption date, or rescinds the notice of redemption, then any Certificate or portion thereof called for redemption shall continue to bear interest at the rate stated on the Certificate until due provision is made for the payment of same by the City.

ARTICLE V

PAYING AGENT/REGISTRAR

Section 5.01. Appointment of Initial Paying Agent/Registrar.

The Bank of New York Mellon Trust Company, National Association, is hereby appointed as the initial Paying Agent/Registrar for the Certificates.

Section 5.02. Qualifications.

Each Paying Agent/Registrar shall be a commercial bank, a trust company organized under the laws of the State of Texas, or any other entity duly qualified and legally authorized to serve as and perform the duties and services of paying agent and registrar for the Certificates.

Section 5.03. Maintaining Paying Agent/Registrar.

(a) At all times while any Certificates are outstanding, the City will maintain a Paying Agent/Registrar that is qualified under Section 5.02 of this Ordinance. The Mayor is hereby authorized and directed to execute an agreement with the Paying Agent/Registrar specifying the duties and responsibilities of the City and the Paying Agent/Registrar in substantially the form presented at this meeting, the form, terms and provisions of which are hereby approved.

(b) If the Paying Agent/Registrar resigns or otherwise ceases to serve as such, the City will promptly appoint a replacement, provided no such resignation shall be effective until a successor Paying Agent/Registrar has accepted the duties of Paying Agent/Registrar for the Certificates.

Section 5.04. Termination.

The City, upon not less than sixty (60) days' notice, reserves the right to terminate the appointment of any Paying Agent/Registrar by delivering to the entity whose appointment is to be terminated written notice of such termination, provided, that such termination shall not be effective until a successor Paying Agent/Registrar has been appointed and has accepted the duties of Paying Agent/Registrar for the Certificates.

Section 5.05. Notice of Change to Owners.

Promptly upon each change in the entity serving as Paying Agent/Registrar, the City will cause notice of the change to be sent to each Owner by first class United States mail, postage prepaid, at the address in the Register, stating the effective date of the change and the name and mailing address of the replacement Paying Agent/Registrar.

Section 5.06. Agreement to Perform Duties and Functions.

By accepting the appointment as Paying Agent/Registrar and executing the Paying Agent/Registrar Agreement, the Paying Agent/Registrar is deemed to have agreed to the provisions of this Ordinance and that it will perform the duties and functions of Paying Agent/Registrar prescribed thereby.

Section 5.07. Delivery of Records to Successor.

If a Paying Agent/Registrar is replaced, such Paying Agent/Registrar, promptly upon the appointment of the successor, will deliver the Register (or a copy thereof) and all other pertinent books and records relating to the Certificates to the successor Paying Agent/Registrar.

ARTICLE VI

FORM OF THE CERTIFICATES

Section 6.01. Form Generally.

(a) The Certificates, including the Registration Certificate of the Comptroller of Public Accounts of the State of Texas to accompany the Initial Certificate, the Certificate of the Paying Agent/Registrar, and the Assignment form to appear on each of the Certificates, (i) shall be substantially in the form set forth in this Article, with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance, and (ii) may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including any reproduction of an

opinion of counsel) thereon as, consistently herewith, may be determined by the City or by the officers executing such Certificates, as evidenced by their execution thereof.

(b) Any portion of the text of any Certificates may be set forth on the reverse side thereof, with an appropriate reference thereto on the face of the Certificates.

(c) The definitive Certificates shall be typewritten, printed, lithographed, or engraved, and may be produced by any combination of these methods or produced in any other similar manner, all as determined by the officers executing such Certificates, as evidenced by their execution thereof.

(d) The Initial Certificate submitted to the Attorney General of the State of Texas may be typewritten and photocopied or otherwise reproduced.

Section 6.02. Form of the Certificates.

The form of the Certificates, including the form of the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, to accompany the Initial Certificate, the form of Certificate of the Paying Agent/Registrar and the form of Assignment appearing on the Certificates, shall be substantially as follows:

(a) Form of Certificates.

REGISTERED
No. _____

REGISTERED
\$ _____

United States of America
State of Texas

CITY OF BRENHAM, TEXAS
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION
SERIES 2020

INTEREST RATE	MATURITY DATE	CLOSING DATE	DATED DATE	CUSIP NUMBER
_____ %	August 15, 20__	February 18, 2020	February 18, 2020	_____

The City of Brenham, Texas (the "City"), in the County of Washington, State of Texas, for value received, hereby promises to pay to

or registered assigns, on the Maturity Date specified above, the sum of

_____ DOLLARS

unless this Certificate shall have been sooner called for redemption and the payment of the principal hereof shall have been paid or provided for, and to pay interest on such principal amount from the later of the Closing Date specified above or the most recent interest payment date to which interest has been paid or provided for until payment of such principal amount has been paid or provided for, at the per annum rate of interest specified above, computed on the basis of a three hundred sixty (360) day year of twelve (12) thirty (30) day months, such interest to be paid semiannually on February 15 and August 15 of each year, commencing August 15, 2020, until stated maturity or prior redemption.

The principal of this Certificate shall be payable without exchange or collection charges in lawful money of the United States of America upon presentation and surrender of this Certificate at the designated office in Dallas, Texas, of The Bank of New York Mellon Trust Company, National Association, as Paying Agent/Registrar (the "Designated Payment/Transfer Office"), or, with respect to a successor paying agent/registrar, at the Designated Payment/Transfer Office of such successor. Interest on this Certificate is payable by check dated as of the interest payment date, and will be mailed on or before such interest payment date, by first class United States mail, postage prepaid, by the Paying Agent/Registrar to the registered owner at the address shown on the registration books kept by the Paying Agent/Registrar, or by such other customary banking arrangements acceptable to the Paying Agent/Registrar and the person to whom interest is to be paid; provided, however, that such person shall bear all risk and expense of such other customary banking arrangements. For the purpose of the payment of interest on this Certificate, the registered owner shall be the person in whose name this

Certificate is registered at the close of business on the "Record Date," which shall be the last business day of the month next preceding such interest payment date; provided, however, that in the event of nonpayment of interest on a scheduled interest payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "Special Payment Date," which date shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) Business Days (as hereinafter defined) prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each registered owner of a Certificate appearing on the books of the Paying Agent/Registrar at the close of business on the last Business Day next preceding the date of mailing of such notice.

If the date for the payment of the principal of or interest on this Certificate is not a Business Day, the date for such payment shall be the next succeeding day which is not a Saturday, Sunday or legal holiday, or day on which banking institutions in the State of Texas or the city in which the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are generally authorized or obligated by law or executive order to close (a "Business Day"), and payment on such date shall for all purposes be deemed to have been made on the original date payment was due.

This Certificate is one of a series of fully registered obligations specified in the title hereof issued in the aggregate principal amount of \$_____ (herein referred to as the "Certificates"), dated as of February 18, 2020, issued pursuant to a certain ordinance of the City (the "Ordinance") for the purpose of paying contractual obligations to be incurred for authorized public improvements (the "Project"), as described in the Ordinance, and to pay the contractual obligations for professional services of attorneys, financial advisors and other professionals in connection with the Project and the issuance of the Certificates.

The City has reserved the option to redeem the Certificates maturing on or after August 15, 20__ in whole or in part before their respective scheduled maturity dates, on August 15, 20__ or on any date thereafter, at a price equal to the principal amount of the Certificates so called for redemption plus accrued interest to the date fixed for redemption. If less than all of the Certificates are to be redeemed, the City shall determine the maturity or maturities and the amounts thereof to be redeemed and shall direct the Paying Agent/Registrar to call by lot the Certificates, or portions thereof, within such maturity and in such principal amounts, for redemption.

The Certificates stated to mature on August 15, 20__ (the "Term Certificates") are subject to scheduled mandatory redemption and will be redeemed by the City, in part at a price equal to the principal amount thereof, without premium, plus accrued interest to the redemption date, out of moneys available for such purpose in the Interest and Sinking Fund, on August 15 in the years and in the respective principal amounts as set forth in the Ordinance.

At least forty-five (45) days prior to each scheduled mandatory redemption date, the Paying Agent/Registrar shall select for redemption by lot, or by any other customary method that results in a random selection, a principal amount of Term Certificates equal to the aggregate

principal amount of such Term Certificates to be redeemed and shall call such Term Certificates for redemption on such scheduled mandatory redemption date.

The principal amount of the Term Certificates required to be redeemed on any mandatory sinking fund redemption date shall be reduced, at the option of the City, by the principal amount of any Term Certificates which, at least 45 days prior to the mandatory sinking fund redemption date (i) shall have been acquired by the City at a price not exceeding the principal amount of such Term Certificates plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation, or (ii) shall have been redeemed pursuant to an optional redemption and not previously credited to a mandatory sinking fund redemption.

Notice of such redemption or redemptions shall be given by first class mail, postage prepaid, not less than thirty (30) days before the date fixed for redemption, to the registered owner of each of the Certificates to be redeemed in whole or in part. Notice having been so given, the Certificates or portions thereof designated for redemption shall become due and payable on the redemption date specified in such notice; and, from and after such date, notwithstanding that any of the Certificates or portions thereof so called for redemption shall not have been surrendered for payment, interest on such Certificates or portions thereof shall cease to accrue.

In the Ordinance, the City reserves the right, in the case of an optional redemption, to give notice of its election or direction to redeem Certificates conditioned upon the occurrence of subsequent events. Such notice may state (i) that the redemption is conditioned upon the deposit of moneys and/or authorized securities, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar, or such other entity as may be authorized by law, no later than the redemption date, or (ii) that the City retains the right to rescind such notice at any time on or prior to the scheduled redemption date if the City delivers a certificate of the City to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and redemption shall be of no effect if such moneys and/or authorized securities are not so deposited or if the notice is rescinded. The Paying Agent/Registrar shall give prompt notice of any such rescission of a conditional notice of redemption to the affected Owners. Any Certificates subject to a conditional notice of redemption and such redemption has been rescinded shall remain Outstanding, and the rescission of such redemption shall not constitute an Event of Default. Further, in the case of a conditional notice of redemption, the failure of the City to make moneys and/or authorized securities available in part or in whole on or before the redemption date shall not constitute an Event of Default. Any notice so mailed shall be conclusively presumed to have been duly given, whether or not the registered owner receives such notice. Notice having been so given and subject, in the case of an optional redemption, to any rights or conditions reserved by the City in the notice, the certificates called for redemption shall become due and payable on the specified redemption date, and notwithstanding that any obligation or portion thereof has not been surrendered for payment, interest on such obligation or portion thereof shall cease to accrue.

As provided in the Ordinance, and subject to certain limitations therein set forth, this Certificate is transferable upon surrender of this Certificate for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar with such endorsement or other evidence of transfer as is acceptable to the Paying Agent/Registrar; thereupon, one or more new fully

registered Certificates of the same stated maturity, of authorized denominations, bearing the same rate of interest, and for the same aggregate principal amount will be issued to the designated transferee or transferees.

Neither the City nor the Paying Agent/Registrar shall be required to issue, transfer or exchange any Certificate called for redemption where such redemption is scheduled to occur within forty-five (45) calendar days of the transfer or exchange date; provided, however, such limitation shall not be applicable to an exchange by the registered owner of the uncalled principal balance of a Certificate.

The City, the Paying Agent/Registrar, and any other person may treat the person in whose name this Certificate is registered as the owner hereof for the purpose of receiving payment as herein provided (except interest shall be paid to the person in whose name this Certificate is registered on the "Record Date" or "Special Record Date," as applicable) and for all other purposes, whether or not this Certificate be overdue, and neither the City, nor the Paying Agent/Registrar nor any other person shall be affected by notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that the issuance of this Certificate and the series of which it is a part is duly authorized by law and that all acts, conditions and things required to be done precedent to and in the issuance of the Certificates have been properly done and performed and have happened in regular and due time, form and manner, as required by law; and that ad valorem taxes upon all taxable property in the City have been levied for and pledged to the payment of the debt service requirements of the Certificates, within the limit prescribed by law; that, in addition to said taxes, further provisions have been made for the payment of the debt service requirements of the Certificates by pledging to such purpose Surplus Revenues, as defined in the Ordinance, derived by the City from the operation of its water and wastewater system in an amount limited to \$1,000; that when so collected, such taxes and Surplus Revenues shall be appropriated to such purposes; and that the total indebtedness of the City, including the Certificates, does not exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City has caused this Certificate to be executed by the manual or facsimile signature of the Mayor of the City and countersigned by the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed or placed in facsimile on this Certificate.

City Secretary
City of Brenham, Texas

Mayor
City of Brenham, Texas

[SEAL]

(b) Form of Comptroller's Registration Certificate.

The following Comptroller's Registration Certificate may be deleted from the definitive Certificates if such certificate on the Initial Certificate is fully executed.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER §
OF PUBLIC ACCOUNTS § REGISTER NO. _____
OF THE STATE OF TEXAS §

I hereby certify that this Certificate has been examined, certified as to validity, and approved by the Attorney General of the State of Texas and that this Certificate has been registered by the Comptroller of public Accounts of the State of Texas.

Witness my hand and seal of office at Austin, Texas, _____.

Comptroller of Public Accounts
of the State of Texas

[SEAL]

(c) Form of Certificate of Paying Agent/Registrar.

The following Certificate of Paying Agent/Registrar may be deleted from the Initial Certificate if the executed Comptroller's Registration Certificate appears thereon.

CERTIFICATE OF PAYING AGENT/REGISTRAR

The records of the Paying Agent/Registrar show that the Initial Certificate of this series of certificates of obligation was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and that this is one of the Certificates referred to in the within-mentioned Ordinance.

THE BANK OF NEW YORK MELLON
TRUST COMPANY, NATIONAL
ASSOCIATION,
as Paying Agent/Registrar

Dated: _____

By: _____
Authorized Signatory

(d) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto (Print or typewrite name, address and zip code of transferee): _____

(Social Security or other identifying number: (_____))
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____
Signature Guaranteed By: _____

Authorized Signatory

NOTICE: The signature on this Assignment must correspond with the name of the registered owner as it appears on the face of the within Certificate in every particular and must be guaranteed in a manner acceptable to the Paying Agent/Registrar.

(e) The Initial Certificate shall be in the form set forth in paragraphs (a), (b) and (d) of this Section, except for the following alterations:

(i) immediately under the name of the Certificate, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and the words "CUSIP NUMBER" deleted; and

(ii) in the first paragraph of the Certificate, the words "on the Maturity Date specified above, the sum of _____DOLLARS" shall be deleted and the following will be inserted: "on August 15 in each of the years, in the principal installments and bearing interest at the per annum rates set forth with the following schedule:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
(Information to be inserted from schedule in Section 3.02 of this Ordinance)		

Section 6.03. CUSIP Registration.

The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Certificates. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Certificates shall be of no significance or effect as regards the

legality thereof and neither the City nor the attorneys approving said Certificates as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Certificates.

Section 6.04. Legal Opinion.

The approving legal opinion of Bracewell LLP, Bond Counsel, may be attached to or printed on the reverse side of each Certificate over the certification of the City Secretary of the City, which may be executed in facsimile.

Section 6.05. Statement of Insurance.

A statement relating to a municipal bond insurance policy, if any, to be issued for the Certificates may be printed on or attached to each Certificate.

ARTICLE VII

SALE AND DELIVERY OF CERTIFICATES;
DEPOSIT OF PROCEEDS; OFFICIAL STATEMENT

Section 7.01. Sale of Certificates.

(a) The Certificates are hereby sold and awarded and shall be delivered to _____ (the "Purchaser") at the price equal to the principal amount thereof plus a cash premium of \$_____. It is hereby found and determined that the bid of the Purchaser conforms to the requirements of the conditions for sale and produces the lowest true interest cost rate to the City.. The Certificates shall be initially registered in the name of the Purchaser or its designee.

(b) All officers of the City are authorized to execute such documents, certificates and receipts, and to make such elections with respect to the tax-exempt status of the Certificates, as they may deem appropriate in order to consummate the delivery of the Certificates. Further, in connection with the submission of the record of proceedings for the Certificates to the Attorney General of the State of Texas for examination and approval of such Certificates, the appropriate officer of the City is hereby authorized and directed to issue a check of the City payable to the Attorney General of the State of Texas as a nonrefundable examination fee in the amount required by Chapter 1202, Texas Government Code (such amount to be the lesser of (i) 1/10th of 1% of the principal amount of the Certificates or (ii) \$9,500.

(c) The obligation of the Purchaser to accept delivery of the Certificates is subject to the Purchaser being furnished with the final, approving opinion of Bracewell LLP, Bond Counsel for the City, which opinion shall be dated and delivered on the Closing Date.

Section 7.02. Deposit of Proceeds.

Proceeds from the sale of the Certificates shall, promptly upon receipt by the City, be applied as follows:

(a) Certificate proceeds in the amount of \$_____ shall be used for the purposes set forth in Section 3.01.

(b) Certificate proceeds in the amount of \$_____ shall be used to pay the costs of issuance provided that any amount remaining after the payment of paying costs of issuance shall be deposited for the purposes described in subsection (a) above.

(c) Any Certificate proceeds not used for the purposes described in subsections (a) and (b) above shall be deposited to the Interest and Sinking Fund.

Section 7.03. Control and Delivery of Certificates.

(a) The Mayor of the City is hereby authorized to have control of the Initial Certificate and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts of the State of Texas, delivery of the Certificates shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor, against receipt by the City of all amounts due to the City under the terms of sale.

(c) In the event the Mayor or City Secretary is absent or otherwise unable to execute any document or take any action authorized herein, the Mayor Pro Tem and the Assistant City Secretary, respectively, shall be authorized to execute such documents and take such actions, and the performance of such duties by the Mayor Pro Tem and the Assistant City Secretary shall for the purposes of this Ordinance have the same force and effect as if such duties were performed by the Mayor and City Secretary, respectively.

Section 7.04. Official Statement.

The form and substance of the Preliminary Official Statement, and any addenda, supplement or amendment thereto, and the final Official Statement (the "Official Statement") presented to and considered at this meeting, are hereby in all respects approved and adopted, and the Preliminary Official Statement is hereby deemed final as of its date (except for the omission of pricing and related information) within the meaning and for the purposes of paragraph (b)(1) of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended. The Mayor and City Secretary of the City are hereby authorized and directed to execute the same and to deliver or cause to be delivered appropriate numbers of copies thereof to the Purchaser. The Official Statement as thus approved and delivered, with such appropriate variations as shall be approved by the Mayor of the City and the Purchaser, may be used by the Purchaser in the public offering and sale thereof. The use and distribution of the Preliminary Official Statement in the public offering of the Certificates by the Purchaser is hereby ratified, approved and confirmed. The City Secretary is hereby authorized and directed to include and maintain a copy of the Official Statement and any addenda, supplement or amendment thereto thus approved among the permanent records of this meeting. The use and distribution of the Official

Statement and the preliminary public offering of the Certificates by the Purchaser is hereby ratified, approved and confirmed.

ARTICLE VIII

INVESTMENTS

Section 8.01. Investments.

(a) Money in the Interest and Sinking Fund created by this Ordinance, at the option of the City, may be invested in such securities or obligations as permitted under applicable law as in effect on the date of the investment.

(b) Any securities or obligations in which money in the Interest and Sinking Fund is so invested shall be kept and held in trust for the benefit of the Owners and shall be sold and the proceeds of sale shall be timely applied to the making of all payments required to be made from the Interest and Sinking Fund.

Section 8.02. Investment Income.

(a) Interest and income derived from investment of the Interest and Sinking Fund shall be credited to such Fund.

(b) Interest and income derived from the investment of funds deposited pursuant to Section 7.02 hereof shall be credited to the fund or account where deposited until completion of the Project; thereafter, to the extent such interest and income are present, such interest and income shall be deposited to the Interest and Sinking Fund.

ARTICLE IX

PARTICULAR REPRESENTATIONS AND COVENANTS

Section 9.01. Payment of the Certificates.

On or before each Interest Payment Date for the Certificates and while any of the Certificates are outstanding and unpaid, there shall be made available to the Paying Agent/Registrar, out of the Interest and Sinking Fund, money sufficient to pay such interest on and principal of the Certificates as will accrue or mature on the applicable Interest Payment Date, maturity date or date of prior redemption.

Section 9.02. Other Representations and Covenants.

(a) The City will faithfully perform at all times any and all covenants, undertakings, stipulations, and provisions contained in this Ordinance and in each Certificate; the City will promptly pay or cause to be paid the principal of and interest on each Certificate on the dates and at the places and manner prescribed in such Certificate; and the City will, at the times and in the manner prescribed by this Ordinance, deposit or cause to be deposited the amounts of money specified by this Ordinance.

(b) The City is duly authorized under the laws of the State of Texas to issue the Certificates; all action on its part for the creation and issuance of the Certificates has been duly and effectively taken; and the Certificates in the hands of the Owners thereof are and will be valid and enforceable obligations of the City in accordance with their terms.

Section 9.03. Federal Income Tax Matters.

(a) General. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the interest on the Certificates to be includable in gross income for federal income tax purposes. In furtherance thereof, the City covenants to comply with sections 103 and 141 through 150 of the Code and the provisions set forth in the Federal Tax Certificate executed by the City in connection with the Certificates.

(b) No Private Activity Bonds. The City covenants that it will use the proceeds of the Certificates (including investment income) and the property financed, directly or indirectly, with such proceeds so that the Certificates will not be “private activity bonds” within the meaning of section 141 of the Code. Furthermore, the City will not take a deliberate action (as defined in section 1.141-2(d)(3) of the Regulations) that causes the Certificates to be “private activity bonds” unless it takes a remedial action permitted by section 1.141-12 of the Regulations.

(c) No Federal Guarantee. The City covenants not to take any action or omit to take any action that, if taken or omitted, would cause the Certificates to be “federally guaranteed” within the meaning of section 149(b) of the Code, except as permitted by section 149(b)(3) of the Code.

(d) No Hedge Bonds. The City covenants not to take any action or omit to take action that, if taken or omitted, would cause the Certificates to be “hedge bonds” within the meaning of section 149(g) of the Code.

(e) No Arbitrage Bonds. The City covenants that it will make such use of the proceeds of the Certificates (including investment income) and regulate the investment of such proceeds of the Certificates so that the Certificates will not be “arbitrage bonds” within the meaning of section 148(a) of the Code.

(f) Required Rebate. The City covenants that, if the City does not qualify for an exception to the requirements of section 148(f) of the Code, the City will comply with the requirement that certain amounts earned by the City on the investment of the gross proceeds of the Certificates, be rebated to the United States.

(g) Information Reporting. The City covenants to file or cause to be filed with the Secretary of the Treasury an information statement concerning the Certificates in accordance with section 149(e) of the Code.

(h) Record Retention. The City covenants to retain all material records relating to the expenditure of the proceeds (including investment income) of the Certificates and the use of the property financed, directly or indirectly, thereby until three years after the last Certificate is redeemed or paid at maturity (or such other period as provided by subsequent guidance issued by

the Department of the Treasury) in a manner that ensures their complete access throughout such retention period.

(i) Registration. If the Certificates are “registration-required bonds” under section 149(a)(2) of the Code, the Certificates will be issued in registered form.

(j) Favorable Opinion of Bond Counsel. Notwithstanding the foregoing, the City will not be required to comply with any of the federal tax covenants set forth above if the City has received an opinion of nationally recognized bond counsel that such noncompliance will not adversely affect the excludability of interest on the Certificates from gross income for federal income tax purposes.

(k) Continuing Compliance. Notwithstanding any other provision of this Ordinance, the City’s obligations under the federal tax covenants set forth above will survive the defeasance and discharge of the Certificates for as long as such matters are relevant to the excludability of interest on the Certificates from gross income for federal income tax purposes.

(l) Official Intent. For purposes of section 1.150-2(d) of the Regulations, to the extent that an official intent to reimburse has not previously been adopted by the City, this Ordinance serves as the City’s official declaration of intent to use proceeds of the Certificates to reimburse itself from proceeds of the Certificates issued in the maximum amount for certain expenditures paid in connection with the projects set forth herein. Any such reimbursement will only be made (i) for an original expenditure paid no earlier than 60 days prior to the date hereof and (ii) not later than 18 months after the later of (A) the date the original expenditure is paid or (B) the date of with the project to which such expenditure relates is placed in service or abandoned, but in to event more than three years after the original expenditure is paid.

Section 9.04. Qualified Tax-Exempt Obligations.

The City hereby designates the Certificates as “qualified tax-exempt obligations” for purposes of section 265(b) of the Code. In connection therewith, the City represents (a) that the aggregate amount of tax-exempt obligations issued by the City during calendar year 2020, including the Certificates, that have been designated as “qualified tax-exempt obligations” under section 265(b)(3) of the Code does not exceed \$10,000,000, and (b) that the reasonably anticipated amount of its tax-exempt obligations that will be issued by the City during calendar year 2020, including the Certificates, will not exceed \$10,000,000. For purposes of this Section 9.04, the term “tax-exempt obligations” does not include (i) “private activity bonds” within the meaning of section 141 of the Code, other than “qualified 501(c)(3) bonds” within the meaning of section 145 of the Code or (ii) obligations issued to currently refund any obligation to the extent that the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation. In addition, for purposes of this Section 9.04, the City includes all entities that are aggregated with the City under the Code.

ARTICLE X

DEFAULT AND REMEDIES

Section 10.01. Events of Default.

Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

- (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or
- (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, which default materially and adversely affects the rights of the Owners, including but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of sixty (60) days after notice of such default is given by any Owner to the City.

Section 10.02. Remedies for Default.

(a) Upon the happening of any Event of Default, then any Owner or an authorized representative thereof, including but not limited to, a trustee or trustees therefor, may proceed against the City for the purpose of protecting and enforcing the rights of the Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Owners hereunder or any combination of such remedies.

(b) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Owners of Certificates then outstanding.

Section 10.03. Remedies Not Exclusive.

(a) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance.

(b) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

ARTICLE XI

DISCHARGE

Section 11.01. Discharge.

The Certificates may be refunded, discharged or defeased in any manner permitted by applicable law.

ARTICLE XII

CONTINUING DISCLOSURE UNDERTAKING

Section 12.01. Annual Reports.

(a) The City shall provide annually to the MSRB within six (6) months after the end of each Fiscal Year, financial information and operating data with respect to the City of the general type included in the final Official Statement, being the information described in Exhibit A hereto. Any financial statements so to be provided shall be (i) prepared in accordance with the accounting principles described in Exhibit A hereto, and (ii) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide notice that audited financial statements are not available and shall provide unaudited financial statements for the applicable Fiscal Year to the MSRB. Thereafter, when and if audited financial statements become available, the City shall provide such audited financial statements as required to the MSRB.

(b) If the City changes its Fiscal Year, it will notify the MSRB of the change (and of the date of the new Fiscal Year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

(c) The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

Section 12.02. Event Notices.

(a) The City shall provide notice of any of the following events with respect to the Certificates to the MSRB in a timely manner and in not more than 10 business days after the occurrence of the event:

- (i) principal and interest payment delinquencies;
- (ii) nonpayment related defaults, if material;

- (iii) unscheduled draws on debt service reserves reflecting financial difficulties;
- (iv) unscheduled draws on credit enhancements reflecting financial difficulties;
- (v) substitution of credit or liquidity providers, or their failure to perform;
- (vi) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Certificates, or other material events affecting the tax status of the Certificates;
- (vii) modifications to rights of Owners, if material;
- (viii) bond calls, if material and tender offers;
- (ix) defeasance;
- (x) release, substitution, or sale of property securing repayment of the Certificates, if material;
- (xi) rating changes;
- (xii) bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
- (xiii) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
- (xiv) appointment of a successor or additional paying agent/registrar or the change of name of a paying agent/registrar, if material;
- (xv) incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- (xvi) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (A) any event described in the immediately preceding clause (xii) in this Section is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or

governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets of business of the City, and (B) the City intends the words used in the immediately preceding clauses (xv) and (xvi) in this Section and in the definition of Financial Obligation in Section 1.01 to have the meanings ascribed to them in SEC Release No. 34-83885 dated August 20, 2018.

(b) The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with Section 12.01 of this Ordinance by the time required by such Section.

Section 12.03. Limitations, Disclaimers and Amendments.

(a) The City shall be obligated to observe and perform the covenants specified in this Article for so long as, but only for so long as, the City remains an “obligated person” with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Article XI that causes Certificates no longer to be Outstanding.

(b) The provisions of this Article are for the sole benefit of the Owners and beneficial owners of the Certificates, and nothing in this Article, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Article and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Article or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS ARTICLE, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

(c) No default by the City in observing or performing its obligations under this Article shall comprise a breach of or default under the Ordinance for purposes of any other provisions of this Ordinance.

(d) Nothing in this Article is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

(e) The provisions of this Article may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (i) the provisions of this Article, as so amended, would have permitted a purchaser to purchase or sell Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (ii) either (A) the Owners of a majority in aggregate principal amount (or any greater amount required by any other provisions of this Ordinance that authorizes such an amendment) of the Outstanding Certificates consent to such amendment or (B) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Owners and beneficial owners of the Certificates. The provisions of this Article may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent the underwriter of the initial public offering of the Certificates from lawfully purchasing or selling Certificates in such offering. If the City so amends the provisions of this Article, it shall include with any amended financial information or operating data next provided in accordance with Section 12.02 an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

ARTICLE XIII

AMENDMENTS TO ORDINANCE

Section 13.01. Amendments of Ordinance.

The City may, without the consent of or notice to the Owners, from time to time and at any time amend this Ordinance in any manner not detrimental to the interests of the Owners, including the curing of any ambiguity, inconsistency, or formal defect or omission herein. In addition, the City may, with the written consent of the Owners of a majority in aggregate principal amount of the Certificates then outstanding, amend, add to or rescind any of the provisions of this Ordinance; provided, that, without the consent of the Owners of all Certificates then outstanding, no such amendment, addition, or rescission shall:

- (a) affect the rights of the Owners of less than all of the Certificates then outstanding;
- (b) make any change in the maturities of the Certificates;
- (c) reduce the rate of interest borne by any of the Certificates;
- (d) reduce the amount of the principal payable on the Certificates;
- (e) modify the terms of payment of principal of or interest on the Certificates or impose any conditions with respect to such payment; or

(f) change the minimum percentage of the principal amount of Certificates necessary for consent to such amendment.

Certificates owned or held by or for the account of or for the benefit of the City shall not be deemed to be outstanding for the purpose of amending this Ordinance.

Section 13.02. Notice and Adoption of Amendment.

If the City desires to amend this Ordinance and such amendment requires the consent of the Owners pursuant to Section 13.01, the City shall cause notice of the proposed amendment to be given in writing to each Owner of Certificates then outstanding. If, within thirty (30) days, or such longer period as shall be prescribed by the City, following the giving of such notice, the Owners of Certificates then outstanding in the aggregate principal amount required by Section 13.01 shall have consented to the amendment as herein provided, no Owner of a Certificate shall have any right to object to any of the terms and provisions contained therein, or in any manner to question the propriety of the execution thereof, and all the rights of all Owners of Certificates shall thereafter be determined, exercised, and enforced hereunder subject in all respects to such amendment.

Section 13.03. Consent of Owner Irrevocable.

Any consent given by any Owner of a Certificate pursuant to the provisions of this Article shall be irrevocable and binding on all future Owners of the same Certificates from the date of such consent.

Section 13.04. Nonsubstantive Changes.

The Mayor and the City Manager, in consultation with the City's Bond Counsel, is hereby authorized and directed to approve such nonsubstantive changes to this Ordinance as may be required by the Attorney General of Texas in his approval of the Certificates herein authorized.

ARTICLE XIV

ADDITIONAL MATTERS

Section 14.01. Effective Immediately.

Notwithstanding any provision of the City Charter, this Ordinance shall become effective immediately upon its adoption at this meeting pursuant to Section 1201.028, Texas Government Code.

Section 14.02. Governing Law.

This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 14.03. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 14.04.

Open to the Public. It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public and that public notice of the time, place and purpose of said meeting was given as required by law.

PASSED, APPROVED AND ADOPTED this January 16, 2020.

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

ATTEST:

Jeana Bellinger, TRMC, City Secretary
City of Brenham, Texas

EXHIBIT A

DESCRIPTION OF ANNUAL DISCLOSURE OF FINANCIAL INFORMATION

The following information is referred to in Article XII of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Article are as specified (and included in the Appendix or other headings of the Official Statement referred to) below:

1. The portions of the financial statements of the City appended to the Official Statement as Appendix B, but for the most recently concluded Fiscal Year.
2. Statistical and financial data set forth in Tables numbered 1 through 4 and 6 through 9, each inclusive.

Accounting Principles

The accounting principles referred to in such Article are the accounting principles described in the notes to the financial statements referred to in Paragraph 1 above.



AGENDA ITEM 10

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Change Order No. 1, Change Order No. 2 and Final Payment to M&C Fonseca Construction for the 2018 Downtown Drainage and Sidewalk Project and Authorize the Mayor to Execute Any Necessary Documentation	
SUMMARY: On March 7, 2019 Council awarded the Downtown Drainage and Streetscape work to M&C Fonseca Construction related to Park St. and Church St. The value of the contract was \$368,776.25. The majority of the funding for this project came from 2017 Certificates of Obligation with \$150,000 coming from BCDC. We are very happy to say that this project has been completed and the final work looks great. There were many obstacles along the way, but our contractor was very good to work with and stayed the course of reaching final completion by the end of 2019. During the course of the work we did experience two change orders which were approved by staff at the time to move the project forward and complete the work. Change order #1 was due to the addition of a crosswalk and handicap ramps mid-block that would allow pedestrians to cross safely as the area develops. This was not in the original design but will be a great benefit. This added \$8,700 to the project. Change order #2 was due to the addition of a 5' drainage box near the railroad tracks along with the addition of a taller curb in the area of private property which assisted with drainage issues that were not foreseen and will assure that no issues arise in the future. There was also deductive change order due to a change in the scope of work when the contractor had less work on conducting the bore under the railroad on Park St. This was a net value of \$6,390 on Change Order #2. With these modifications to the contract the total project costs including change orders came at \$383,866.25. All invoices have been paid to date except Final Payment (Application for Payment #5) which is \$39,010.31. We would like to ask council to move forward with Final Payment in the amount of \$39,010.31 along with approving this change order #1 and change order #2. Documentation has showed that the contractor has met all financial obligations by returning the Consent of Surety, Power of Attorney and Certification of Payment. The one-year maintenance period has begun on November 19, 2019 when a final walkthrough was conducted. All punch list items were completed, and a one-year walkthrough will be conducted in the Fall of 2020.	

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Another completed project that adds to the walkability of downtown, improves drainage dramatically and will spur growth in the area. B. CONS: Very complicated project dealing with BNSF, AT&T and a few additional costs.
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Application for Payment No. 5 and Final; (2) Final Completion Letter; (3) Change Order #1; (4) Change Order #2; (5) Consent of Surety; (6) Power of Attorney; and (7) Contractor's Affidavit of Final Payment
FUNDING SOURCE (Where Applicable): 217-5-100-815.41
RECOMMENDED ACTION: Approve Change Order No. 1, Change Order No. 2 and Final Payment to M&C Fonseca Construction in the amount of \$39,010.31 for the 2018 Downtown Drainage and Sidewalk Project and authorize the Mayor to execute any necessary documentation
APPROVALS: James Fisher

APPLICATION FOR PAYMENT NO. 5

TO OWNER: CITY OF BRENHAM, 200 WEST VULCAN, BRENHAM, TEXAS 77833
 FROM CONTRACTOR: M&C FONSECA CONSTRUCTION CO., INC., 1901 PRAIRIE CREEK ROAD, GRANITE SHOALS, TX 78654
 PROJECT: 2018 DOWNTOWN DRAINAGE AND SIDEWALK PROJECT
 STRAND PROJECT NO. 3900.209

CONTRACT AWARDED: March 7, 2019
 PERIOD FROM: October 30, 2019
 CONST. TIME ALLOTTED: 180

NOTICE TO PROCEED: May 6, 2019
 PERIOD TO: December 3, 2019
 TIME USED: 212

ITEM	BASE BID	CONTRACT QUANTITY	UNIT	PREVIOUS PERIOD	CURRENT PERIOD	TOTAL	UNIT PRICE	TOTAL VALUE OF WORK COMPLETED
1	Mobilization	1	LS	1		1	\$ 10,000.00	\$ 10,000.00
2	Erosion Control	1	LS	1		1	\$ 4,000.00	\$ 4,000.00
3	Remove and dispose of existing grate inlet	2	EA	2		2	\$ 600.00	\$ 1,200.00
4	Remove and dispose of existing pavement	620	SY	620		620	\$ 40.00	\$ 24,800.00
5	Remove and dispose of existing curb inlet	1	EA	1		1	\$ 600.00	\$ 600.00
6	Remove and dispose of existing junction box	1	EA	1		1	\$ 600.00	\$ 600.00
7	Remove and dispose of existing curb	100	LF	100		100	\$ 17.00	\$ 1,700.00
8	Remove and dispose of existing storm sewer pipe	60	LF	60		60	\$ 35.00	\$ 2,100.00
9	Grout fill and abandon existing storm sewer	60	LF	60		60	\$ 40.00	\$ 2,400.00
10	Excavation safety	575	LF	575		575	\$ 4.25	\$ 2,443.75
11	Jack, boring, or tunneling pipe (24-inch RCP)	62	LF	0	62	62	\$ 325.00	\$ 20,150.00
12	Reinforced Concrete Pipe (18-inch)	30	LF	30		30	\$ 68.00	\$ 2,040.00
13	Reinforced Concrete Pipe (18-inch)	363	LF	363		363	\$ 95.00	\$ 34,485.00
14	Reinforced Concrete Pipe (36-inch)	182	LF	182		182	\$ 115.00	\$ 20,930.00
15	Gravel Subbase Sand	540	CY	540		540	\$ 130.00	\$ 70,200.00
16	Reinforced concrete pavement (6-inch thick)	390	SY	390		390	\$ 148.00	\$ 57,720.00
17	Reinforced Concrete Curb	320	LF	320		320	\$ 30.00	\$ 9,600.00
18	Concrete sidewalk (4-inch thick)	173	SY	173		173	\$ 85.50	\$ 14,962.50
19	Sidewalk ramps	1	EA	1		1	\$ 3,200.00	\$ 3,200.00
20	Curb Inlet (15-foot)	1	EA	1		1	\$ 5,500.00	\$ 5,500.00
21	Curb Inlet (10-foot)	2	EA	2		2	\$ 6,500.00	\$ 13,000.00
22	Curb Inlet (15-foot)	2	EA	2		2	\$ 8,000.00	\$ 16,000.00
23	Grate Inlet	1	EA	1		1	\$ 5,200.00	\$ 5,200.00
24	Reinforced Concrete Junction Box	1	EA	1		1	\$ 5,800.00	\$ 5,800.00
25	Antique Street Lamps	4	EA	4		4	\$ 4,200.00	\$ 16,800.00
26	1-1/2-inch Sch 40 PVC Water Line (incl. Fittings)	263	LF	263		263	\$ 10.00	\$ 2,630.00
27	6-inch x 4-inch Tapping Sleeve and valve	1	EA	1		1	\$ 6,500.00	\$ 6,500.00
28	Plated Trench Drain	31	LF	31		31	\$ 195.00	\$ 6,045.00
29	Broadcast Seeding	8	SY	0	8	8	\$ 20.00	\$ 160.00
30	Handrails	44	LF	0	44	44	\$ 125.00	\$ 5,500.00
31	12-inch Steel Casing on Ex. 6-inch San. Sewer	5	LF	5		5	\$ 78.00	\$ 390.00
32	14-inch Steel Casing on Ex. 8-inch San. Sewer	10	LF	10		10	\$ 88.00	\$ 880.00
33	3-inch Thick Concrete Slope Paving	7.3	SP	7.3		7.3	\$ 16.00	\$ 120.00
1a	Parallel Curb Ramp	1	EA	1		1	\$ 4,200.00	\$ 4,200.00
1b	Curb Ramp w/ Tall Curb	1	EA	1		1	\$ 4,500.00	\$ 4,500.00
2a	Revision to Curb Ramp w/ Tall Curb	1	EA	0	1	1	\$ 1,000.00	\$ 1,000.00
2b	9" Curb Inlet	1	EA	0	1	1	\$ 5,500.00	\$ 5,500.00
2c	10" Steel Casing	40	LF	40		40	\$ 450.00	\$ 18,000.00
2d	24" PVC Pipe by Open Cut	24	LF	24		24	\$ 85.00	\$ 2,040.00
2e	24" RCP Pipe by Jack and Bore	-62	LF	0	-62	-62	\$ 325.00	\$ (20,150.00)

Original Contract: \$ 368,776.25
 Plus Additions: \$ 35,240.00
 Less Deductions: \$ 20,150.00
 Adjusted Contract: \$ 383,866.25

Value of Work Performed to Date \$ 383,866.25
 Plus Materials Stored at Close of Period \$ -
 Net Amt. Earned to Date \$ 383,866.25
 Less 5% Retainage
 Subtotal \$ 383,866.25
 Less Previous Pay Applications \$ 344,855.94
 Amount \$ 39,010.31

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

STATE OF TEXAS
 COUNTY OF Burnet

WHEREAS, the undersigned, Matias Fonseca, who being duly sworn, on oath, says that he is the legal representative of M&C Fonseca Construction Co., Inc., has been employed by City of Brenham to furnish labor and materials for the installation of the 2018 Downtown Drainage and Sidewalk Project in Brenham, Texas;

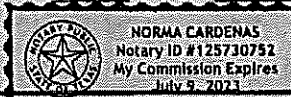
The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title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

BY: [Signature] M&C FONSECA CONSTRUCTION CO., INC.
 PRINTED NAME: Matias Fonseca

DATE: 12/6/19
 TITLE: President

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE

NOTARY PUBLIC IN AND FOR
 THE STATE OF TEXAS



STRAND ASSOCIATES, INC.

RECOMMENDED BY:

DATE: 12/10/19

APPROVED BY:

CITY OF BRENHAM

DATE:



Strand Associates, Inc.[®]
1906 Niebuhr Street
Brenham, TX 77833
(P) 979-836-7937

November 25, 2019

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

Re: 2018 Downtown Drainage and Sidewalk Project
Contract No. 2017-15
City of Brenham, Texas

Dear Dane,

In accordance with Article 15.03 of the General Conditions, the above-referenced project was inspected on November 19, 2019:

Based on these inspections, Strand Associates, Inc.[®] (Strand) has included in this preliminary certificate a date of November 19, 2019 for Substantial Completion of the project.

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

In accordance with Article 15.03 of the General Conditions, at the time of delivery of the Preliminary Certificate of Substantial Completion, ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to the division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, safety, utilities, insurance, and warranties. It is Strand's recommendation that all the requirements of the Contract Documents be followed as to division of responsibilities between OWNER and CONTRACTOR, and it is not our intent to change any of these requirements through the following recommendations.

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

As specified in Article 6.03 of the General Conditions and Supplemental General Conditions, CONTRACTOR shall continue to provide Contractor's Liability Insurance for the complete project until final payment is made and during the correction period when CONTRACTOR is completing its Contract obligations and include completed operations coverage for a period of three years after final payment.

Concerning site security, Strand recommends that OWNER be responsible for overall security of the site. OWNER shall allow CONTRACTOR reasonable access to complete work.

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

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TBPE No. F-8405
TBPLS No. 10030000

Mr. Dane Rau, Director of Public Works
City of Brenham
Page 2
November 25, 2019

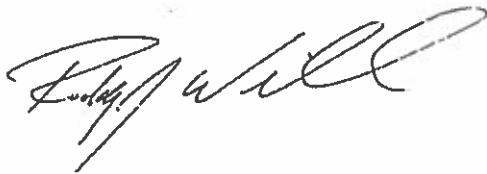
Contract correction period is included in Article 15.08 of the General Conditions and Supplementary Conditions. Beneficial occupancy or use by OWNER does not constitute acceptance.

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

Please contact me at (979) 836-7937 should you have any questions.

Sincerely,

STRAND ASSOCIATES, INC.®

A handwritten signature in black ink, appearing to read "Roddy J. Williams", with a stylized flourish at the end.

Roddy J. Williams, Ph.D., P.E.
Senior Vice President

Enclosures

c/enc: Matias Fonseca, M&C Fonseca Construction Company, Inc.
Jerome Hutzler, Strand Associates, Inc.®



List of Items to be Completed or Corrected
2018 Downtown Drainage and Sidewalk Project
Contract 2017-15
City of Brenham, Texas

Original List Date: November 19, 2019 Updated List Date: _____

A. General

1. Remove rocks from grass area at the Meier's Garage driveway.
2. Add non-shrink grout to the adjustment rings on the junction box near the railroad tracks.
3. Add a crack sealer to the sidewalk crack as discussed. The other hairline sidewalk cracks will be monitored over the next year.
4. Seal the deformed metal strip joints.

c: Jerry Hutzler (via e-mail)

**Strand Associates, Inc.®**

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

July 12, 2019

CHANGE ORDER NO. 1

PROJECT: 2018 Downtown Drainage and Sidewalk Project
OWNER: City of Brenham, Texas
CONTRACT: 2017-15
CONTRACTOR: M&C Fonseca Construction Company, Inc.

Description of Change

1a	ADD parallel curb ramp to list of bid items with a 1 quantity, EA unit, \$4,200 unit cost, and bid item cost of \$4,200	ADD	\$4,200
1b	ADD curb ramp with tall curb to list of bid items with a 1 quantity, EA unit, \$4,500 unit cost, and bid item cost of \$4,500	ADD	\$4,500
TOTAL VALUE OF THIS CHANGE ORDER:			\$8,700

Contract Price Adjustment

Original Contract Price	\$368,776.25
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	\$8,700.00
Current Contract Price including this Change Order	\$377,476.25

Contract Substantial Completion Date Adjustment

Original Contract Substantial Completion Date	November 2, 2019
Contract Substantial Completion Date Adjustments due to previous Change Orders	0
Contract Substantial Completion Date Adjustments due to this Change Order	0
Current Substantial Contract Completion Dates including all Change Orders	November 2, 2019

Contract Final Completion Date Adjustment

Original Contract Final Completion Date	November 2, 2019
Contract Final Completion Date Adjustments due to previous Change Orders	0
Contract Final Completion Date Adjustments due to this Change Order	0
Current Final Contract Completion Dates including all Change Orders	November 2, 2019

City of Brenham, Texas-M&C Fonseca Construction Company, Inc.
Contract 2017-15, Change Order No. 1
Page 2
July 12, 2019

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

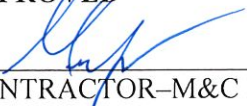
RECOMMENDED



ENGINEER-Strand Associates, Inc.®

7/15/19
Date

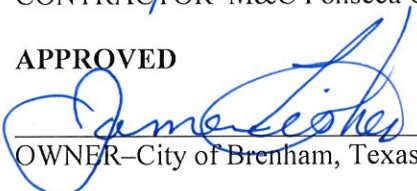
APPROVED



CONTRACTOR-M&C Fonseca Construction Company, Inc.

8/1/19
Date

APPROVED



OWNER-City of Brenham, Texas

8-12-19
Date

**Strand Associates, Inc.®**

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

November 7, 2019

CHANGE ORDER NO. 2

PROJECT: 2018 Downtown Drainage and Sidewalk Project
OWNER: City of Brenham, Texas
CONTRACT: 2017-15
CONTRACTOR: M&C Fonseca Construction Company, Inc.

Description of Change

2a	ADD revision to curb ramp with tall curb to list of bid items with a 1 quantity, EA unit, \$1,000 unit cost, and bid item cost of \$1,000.	ADD	\$1,000.00
2b	ADD 5-foot curb inlet to list of bid items with a 1 quantity, EA unit, \$5,500 unit cost, and bid item cost of \$5,500.	ADD	\$5,500.00
2c	ADD 30-inch casing to list of bid items with a 40 quantity, LF unit, \$450 unit cost, and bid item cost of \$18,000	ADD	\$18,000.00
2d	ADD 24-inch polyvinyl chloride open cut pipe to list of bid items with a 24 quantity, LF unit, \$85 unit cost, and bid item cost of \$2,040.	ADD	\$2,040.00
2e	DEDUCT 24-inch reinforced concrete pipe jack and bore, 62 quantity, LF unit, \$325 unit cost, and bid item cost of \$20,150.	DEDUCT	(\$20,0150)
TOTAL VALUE OF THIS CHANGE ORDER:		ADD	\$6,390.00

Contract Price Adjustment

Original Contract Price	\$368,776.25
Previous Change Order Adjustments	\$8,700.00
Adjustment in Contract Price this Change Order	\$6,390.00
Current Contract Price including this Change Order	\$383,866.25

Contract Substantial Completion Date Adjustment

Original Contract Substantial Completion Date	November 2, 2019
Contract Substantial Completion Date Adjustments due to previous Change Orders	0
Contract Substantial Completion Date Adjustments due to this Change Order	30
Current Substantial Contract Completion Dates including all Change Orders	December 2, 2019

City of Brenham, Texas-M&C Fonseca Construction Company, Inc.
 Contract 2017-15, Change Order No. 2
 Page 2
 November 7, 2019

Contract Final Completion Date Adjustment

Original Contract Final Completion Date	November 2, 2019
Contract Final Completion Date Adjustments due to previous Change Orders	0
Contract Final Completion Date Adjustments due to this Change Order	30
Current Final Contract Completion Dates including all Change Orders	December 2, 2019

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

RECOMMENDED


 ENGINEER-Strand Associates, Inc.®

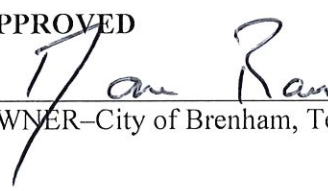
11/14/19
 Date

APPROVED


 CONTRACTOR-M&C Fonseca Construction Company, Inc.

11/11/19
 Date

APPROVED


 OWNER-City of Brenham, Texas

11/18/19
 Date

CONSENT OF SURETY TO FINAL PAYMENT

AIA Document G707

(Instructions on reverse side)

OWNER	☐
ARCHITECT	☐
CONTRACTOR	☐
SURETY	☒
OTHER	☐

TO OWNER:

(Name and address)

The City of Brenham, County of Washington, Texas
200 W Vulcan St.
Brenham, TX 77833

ARCHITECT'S PROJECT NO.: COB Project No. 2017-15

CONTRACT FOR:

Bond No. 4421861

PROJECT:

(Name and address)

2018 Downtown Drainage and Sidewalk Project

CONTRACT DATED:

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

SureTec Insurance Company
9737 Great Hills Trail, Suite 320
Austin, TX 78759

, SURETY,

on bond of

(Insert name and address of Contractor)

M&C Fonseca Construction Co., Inc.
1901 Prairie Creek Rd.
Granite Shoals, TX 78654

, CONTRACTOR,

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of any of its obligations to

(Insert name and address of Owner)

The City of Brenham, County of Washington, Texas
200 W Vulcan St.
Brenham, TX 77833

, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: December 3, 2019

(Insert in writing the month followed by the numeric date and year.)

SureTec Insurance Company

(Surety)

(Signature of authorized representative)

Attest:

(Seal):

Jeremy Farque, Attorney In Fact

(Printed name and title)



CAUTION: You should sign an original AIA document that has this caution printed in red. An original assures that changes will not be obscured as may occur when documents are reproduced. See Instruction Sheet for Limited License for Reproduction of this document.



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INGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copy-
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G707-1994

115

SureTec Insurance Company

LIMITED POWER OF ATTORNEY

Know All Men by These Presents, That SURETEC INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint

Noe Moreno, Tom Mulanax, David Whorton, Raquel Martinez, Pollyanna M. Lengel, Jeremy Farque

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include waivers to the conditions of contracts and consents of surety for, providing the bond penalty does not exceed

Five Million and 00/100 Dollars (\$5,000,000.00)

and to bind the Company thereby as fully and to the same extent as if such bond were signed by the President, sealed with the corporate seal of the Company and duly attested by its Secretary, hereby ratifying and confirming all that the said Attorney-in-Fact may do in the premises. Said appointment shall continue in force until 05/18/2021 and is made under and by authority of the following resolutions of the Board of Directors of the SureTec Insurance Company:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

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

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached. (Adopted at a meeting held on 20th of April, 1999.)

In Witness Whereof, SURETEC INSURANCE COMPANY has caused these presents to be signed by its President, and its corporate seal to be hereto affixed this 26th day of May, A.D. 2017.

State of Texas
County of Harris

ss:

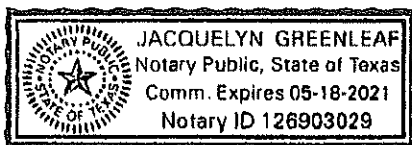


SURETEC INSURANCE COMPANY

By:

John Knox Jr., President

On this 26th day of May, A.D. 2017 before me personally came John Knox Jr., to me known, who, being by me duly sworn, did depose and say, that he resides in Houston, Texas, that he is President of SURETEC INSURANCE COMPANY, the company described in and which executed the above instrument; that he knows the seal of said Company; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Company; and that he signed his name thereto by like order.



Jacquelyn Greenleaf, Notary Public
My commission expires May 18, 2021

I, M. Brent Beaty, Assistant Secretary of SURETEC INSURANCE COMPANY, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Company, which is still in full force and effect; and furthermore, the resolutions of the Board of Directors, set out in the Power of Attorney are in full force and effect.

Given under my hand and the seal of said Company at Houston, Texas this 3rd day of December, 2019, A.D.

M. Brent Beaty, Assistant Secretary

Any instrument issued in excess of the penalty stated above is totally void and without any validity. 4221020

For verification of the authority of this power you may call (713) 812-0800 any business day between 8:00 am and 5:00 pm CST.

CONTRACTOR'S AFFIDAVIT OF FINAL PAYMENT

THE STATE OF TEXAS)
)
COUNTY OF Burnet)

KNOW ALL MEN BY THESE PRESENTS:

BEFORE ME, the undersigned authority, on this day personally appeared Matias Fonseca ("Affidant"), who, after being by me duly sworn, deposes, and says that he is President, a Corporation (corporation, partnership, trade name) of Burnet County, State of Texas (the "Contractor"), which said Contractor was awarded the contract dated the 3rd day of December, 2019, for the construction of 2018 Downtown Drainage and Sidewalk Project at Brenham, TX (the "Work"), for a total consideration of \$383,866.25 Dollars to be paid to the said Contractor (the "Contract"), and that Affidant has full power of authority to make this affidavit.

That City of Brenham (the "Owner") has approved the final estimate on said Work, and that the said Contractor has fully satisfied and paid any and all claims that may be covered by Chapter 53 of the Texas Property Code and Article 5160 of the Revised Civil Statutes of the State of Texas, or any other applicable statutes or charter provisions, and that all just bills for labor and materials have been paid and discharged by said Contractor insofar as they pertain to the work in question.

That in addition to any funds which may have been previously paid by the Owner, the Contractor hereby accepts the amount of \$39,010.31 Dollars as FULL AND FINAL PAYMENT under the aforementioned Contract, and hereby waives and releases any right Affidant and/or the Contractor may have to pursue claims of any nature against the Owner arising out of or in any manner connected with the performance of the Work and/or the Contract, including but not limited to claims of third parties that supplied material and/or labor for the Work for or through the Contractor ("Subcontractors"), as well as claims for delay, additional compensation or for recovery of liquidated damages which may have been withheld by the Owner. The Contractor shall defend, hold harmless and indemnify the Owner from any such claims of such Subcontractors. The Contractor further releases the Owner from any claim or liability arising from any act or neglect of the Owner related to or connected with the Contract. This affidavit is given pursuant to the final payment provisions of the Contract, and shall not be deemed to alter or modify the terms and provisions of said Contract.

M&C Fonseca Construction Co., Inc.

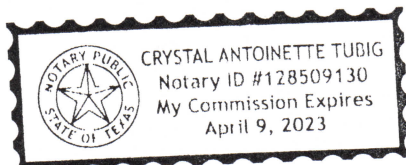
By

(Affidant)

Matias Fonseca

(Printed Name)

SUBSCRIBED AND SWORN TO BEFORE ME, this the 3rd day of December, A.D. 2019



By

(Notary Public in and for the State of Texas)

Crystal Tubig

(Printed Name of Notary)

My commission expires

April 9, 2023



AGENDA ITEM 11

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020															
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
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☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Purchase and Installation of a Splashpad for Henderson Park Using BuyBoard Contract No. 592-19 and Authorize the Mayor to Execute Any Necessary Documentation																
SUMMARY: During the 2019-2020 BCDC funding meeting funds were allocated to purchase and install a splashpad at one of the City Parks. This was also earmarked for 2020 in the Open Spaces Parks Master Plan. Funds of \$300,000 were dedicated for this infrastructure. We are also awaiting the response from HEB regarding a potential grant that would increase and provide for additional amenities in the amount of \$200,000. With a lot of research and site visits to other facilities staff has chosen Vortex as its partner on the design, installation and equipment related to the splashpad. The location which was determined by staff and Parks Board with community input will be Henderson Park. Vortex is a Buy board member. With all equipment, infrastructure and installation Vortex has designed an awesome 4,044 sq. ft splashpad with numerous amenities, a seating wall and a spray area of 2,948 sq. ft. (See Renderings). The total value of the splashpad is estimated at \$250,407.75. This splashpad will be enjoyed by all ages and will boast a large Superwave bucket along with over 17 other spray features including sun sprays, silhouette sprays, water booms, altos, aqua domes, geysers, Luna cannons, sparkles, and a spray loop. Other amenities such as the extension of sidewalks, shade covers, and restrooms will be phased in over the next several years. If the HEB grant is received these amenities beyond the initial splashpad can become reality sooner than later. We would like to ask council to award the design, install, and equipment to Vortex in the amount of \$250,407.75. As soon as the award has been made a purchase order will be issued and a schedule of equipment and install will be arranged. All indications are that when ordered in early February, equipment will arrive in early April and construction will begin with a completion time period of mid- May.																

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):
A. PROS: Awesome addition to a City Park and will follow the Parks Master Plan that was established in 2014. Will be a draw for our residents and visitors.
B. CONS: Will require a phase in of other amenities over a 2 year period.
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Photos of Splashpad; (2) Map of Splashpad location; and (3) Buyboard Price Sheet
FUNDING SOURCE (Where Applicable): BCDC
RECOMMENDED ACTION: Approve the purchase and installation of a Splashpad to Vortex in the amount of \$250,407.75 for Henderson Park using BuyBoard Contract No. 592-19 and authorize the Mayor to execute any necessary documentation
APPROVALS: James Fisher



HENDERSON PARK

TX, USA



OUR WATER PLAY SPACES ARE
MORE THAN ENTERTAINMENT.
THEY BECOME A FOCAL POINT OF YOUR SITE, A PLACE
WHERE VISITING BECOMES A **RITUAL.**

THEY FOSTER **GROWTH, IMAGINATION,**
INTERACTIONS.

ENDLESS **THRILLS.**
MEMORIES.

A **UNIQUELY UNFORGETTABLE**
EXPERIENCE, FOR ALL.

LET'S PLAY!

**IMMERSE
THRILL
REFRESH
COMPLETE
EXPLORE
DISCOVER
IMAGINE**











SPLASHPAD®
12/15

HENDERSON PARK, TX | **VORTEX**
Version A - 32623

-PAGE 6-

VORTEX AQUATIC STRUCTURES INTERNATIONAL INC. VORTEX-INTL.COM 1.877.586.7839 ©2012 VORTEX INTERNATIONAL. ALL RIGHTS RESERVED

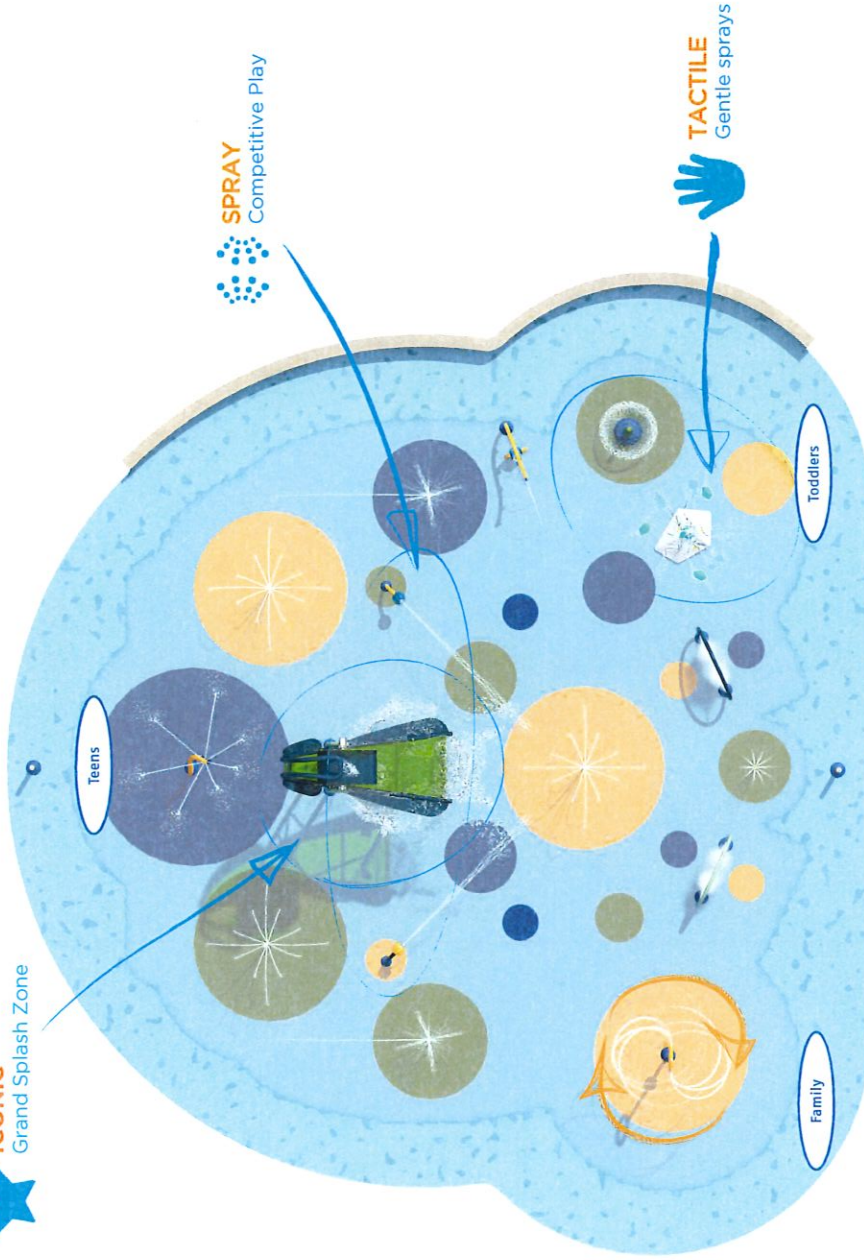
PLAY VALUE PLANNING

TACTILE
Promotes discovery
of water textures

SPRAY
Encourages teamwork
& competition

ICONIC
Features interactive
fun & serves as a
social gathering place

ICONIC
Grand Splash Zone

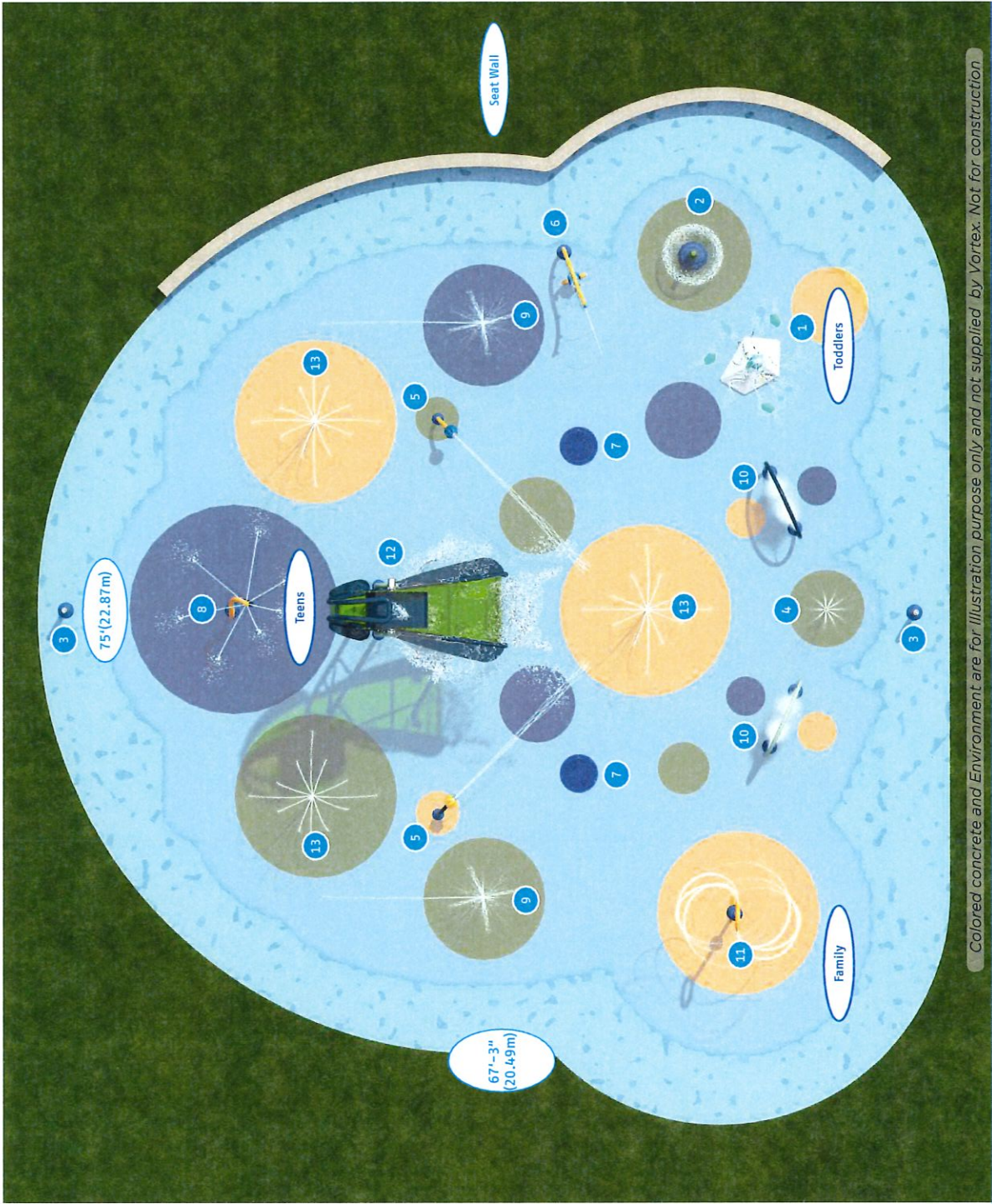


SPLASHPAD® COMPONENTS

Total area: 4044ft² (376m²)
Spray area: 2948ft² (274m²)

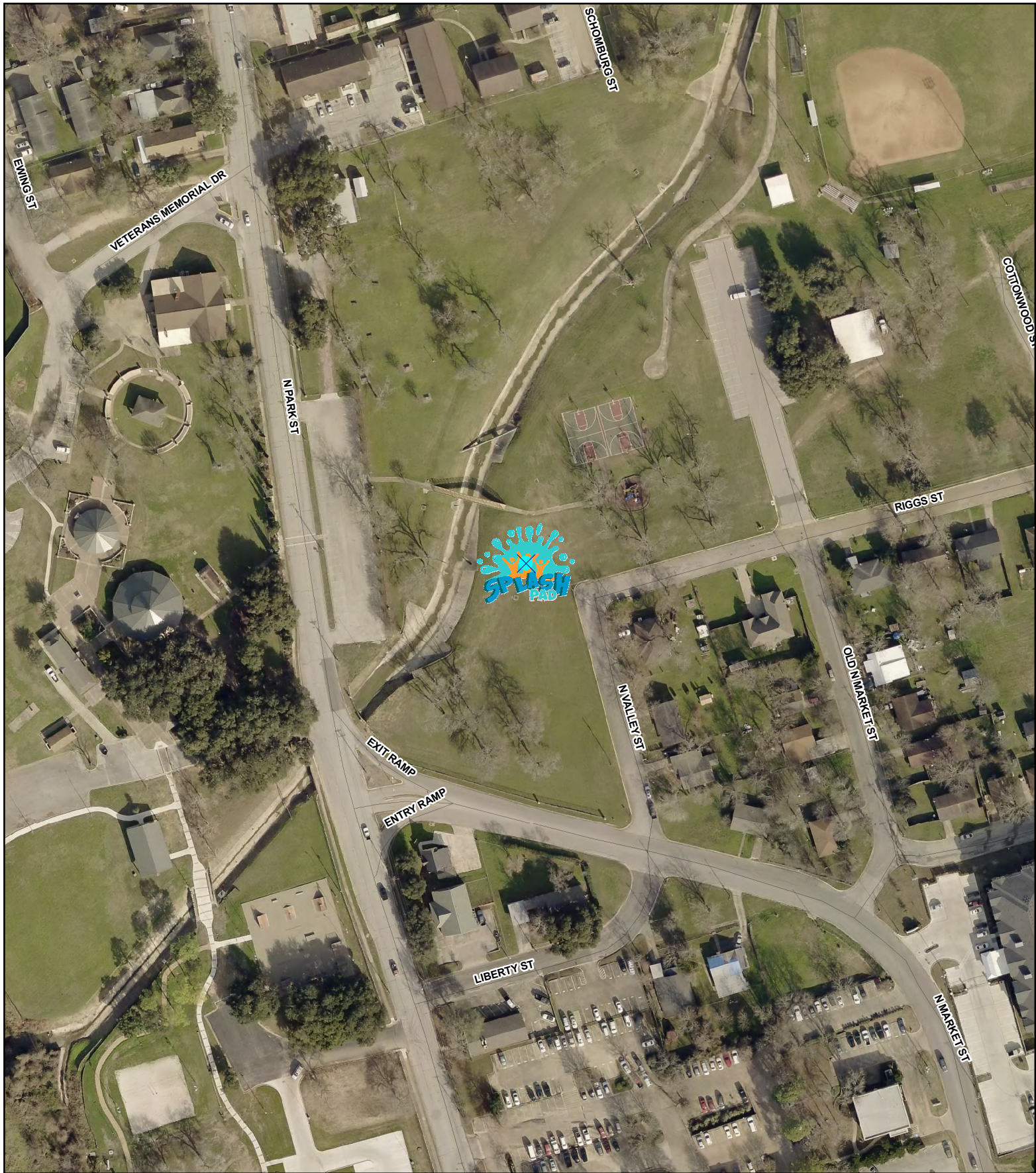
REF	PRODUCT	QTY	GPM	LPM
1	Alto N°3 VOR 7132	1	15.5	58.7
2	Aqua Dome N°1 VOR 0555	1	14	53
3	Bollard Activator N°3 VOR 0611	2	0	0
4	Geyser VOR 0301	1	4.5	17
5	Luna Cannon N°1 VOR 7235	2	13	49.2
6	Luna N°3 VOR 7234	1	6.5	24.6
7	Playsafe Drain N°1 VOR-10014000	2	0	0
8	Silhouette N°5 VOR 7777	1	5.5	20.8
9	Sparkle N°1 VOR 0324	2	5	18.9
10	Spray Loop VOR 0519	2	15	56.8
11	Sunspray N°1 VOR 7578	1	12.5	47.3
12	Superwave VOR 0136	1	30	113.6
13	Water Bloom N°1 VOR 0322	3	27	102.2
TOTAL WATER FLOW		QTY	GPM	LPM
		20	148.5	562.1

Note:
Seat wall length : 58 ft
Seat wall not for construction, conceptual only



 VORTEX

**A CLEAR
SOURCE
OF
FUN**



Henderson Splash Pad Location

1 inch = 154 feet



129

QUOTATION



Account Name	City of Brenham- TX	Created Date	November 28, 2019
Project Name	Henderson Park SP Brenham - TX	Quote Number	00025698
Project ID	32623	Quote Name	Version A
Contact Name		Prepared By	Ryan Egan
Email		Email	regan@vortex-intl.com
Bill To Name	City of Brenham- TX		
Bill To	Brenham, Texas 77833		
	United States		

Quantity	Item No.	Product Description
1	7777 2008R01	Silhouette N°5 (SW, PC)
1	7578 2008R03	SunSpray No 1 (SW,PC)
1	136 2008R05	SUPERWAVE WHEEL
3	322 4000R01	Water Bloom N°1 (EM)
1	7132 2008R01	Alto N°3 (SW, PC)
1	555 2000R01	AQUA DOME N°1 (SW,PC)
1	301 4100R03	GEYSER (EM,LFN)
2	7235 2008R01	Luna Cannon N°1 (SW,PC)
1	7234 2008R02	Luna N°3 (SW,PC)
2	324 4100R01	Sparkle N°1 (EM-LFN)
2	519 2008R01	SPRAY LOOP (SW, PC)
2	611 2008R04	BOLLARD ACTIVATOR No 3(SW, PC)
2	1001 4000R02	PLAYSAFE DRAIN No1
1	D1750.0000R01	Water Distribution System (CCC) - See Description Below
1	255	BUYING GROUP SERVICE DISCOUNT for supply
1	255	BUYING GROUP SERVICE DISCOUNT for install

Custom Product Information

Water Distribution System
Serial Number: 32623D1911R00

ECCC Cabinet Command Center - Flow-Through
Double 2" Inlet
With Pressure Regulator, Backflow Preventer Installed Controller Installed in
Equipment
0 Additional Output
2 Activation Device

8x	1-1/2"	PVC	Solenoid	Valve	Line
7x	1-1/2"	PVC	Solenoid	Valve	Line

1x Maestro Controller, Flow-Through Standard 16 out / 8 in 120V

Buy board membership # 592-19

Terms & Totals

11024 Bailey Road, Suite C
Cornelius, NC 28031
Toll-free: 1-877-586-7839 Fax: +1-514-335-5414
www.vortex-intl.com

Enquire about our cooperative purchasing programs!



QUOTATION



Product

Field Credit Terms

30% Payable at Purchase Order
70% balance before shipment

Subtotal

USD 103,427.75

Installation

Field Credit Terms

Progress Billing Net 30 Days

Installation
Freight
Packaging
Grand Total

USD 140,480.00
USD 4,500.00
USD 2,000.00
USD 250,407.75

Initial Here

11024 Bailey Road, Suite C
Cornelius, NC 28031
Toll-free: 1-877-586-7839 Fax: +1-514-335-5414
www.vortex-intl.com

Enquire about our cooperative purchasing programs!



Purchase Contract Terms & Conditions of Sales

The following terms and conditions (the "Terms and Conditions") form part of the purchase contract (the "Purchase Contract") between yourself (the "Customer, and Vortex Aquatic Structures International and/or Vortex USA Inc. ("Vortex"). The Customer's acceptance and understanding of these Terms and Conditions and all other supporting documentation provided as part of this package is evidenced by signing of the Purchase Contract.

Payment Terms

Unless otherwise specified in the Purchase Contract, payment by the Customer of the purchase price specified in the Purchase Contract (with all applicable taxes, the "Purchase Price") shall be on the following terms: 100% of the Purchase Price to be paid prior to Vortex commencing production on the Customer's order. Any overdue balances are subject to interest charges of 1.5% per month.

Unless otherwise specifically stated, all sales taxes or any other personal property taxes, use taxes, duties, excises, levies or tariffs imposed by any government authority and incurred by Vortex through performance of the Purchase Contract will be the Customer's responsibility and are not included in the Purchase Price. Without limiting the generality foregoing, applicable Canadian taxes will be applied to all taxable goods and services included in the Purchase Contract based on the Canada Revenue Agency's GST/HST Place of Supply rules, as amended from time to time.

Customers are advised to consult with their financial and tax advisors to obtain further information regarding taxes applicable to their purchase. Vortex maintains a no return policy and asks all Customers to determine feature and color selection carefully.

If a Customer cancels an order after production has commenced, Vortex reserves the right to charge (and the Customer agrees to pay) a 40% re-stocking fee.

Cheque, Wire Transfer, Irrevocable Letter of Credit or Credit Card (note: an administrative fee of 3.5% may apply to payments made via Credit Card) are considered acceptable payment methods.

Except where title to the products contained in the Customer's order is explicitly transferred by Vortex to the Customer and the Purchase Price is paid in full, property in, title to and right to possession of such products shall remain in Vortex until the Purchase Price and all sums due or to become due from the Customer are fully paid.

Should the goods comprising the Customer's order be connected with the ground or real property or buildings because of foundations or mechanical parts, then this connection is to be considered as transitory in nature until payment in full of the Purchase Price.

Unless otherwise agreed, for projects where Vortex is supplying goods without installation, risk of loss of the goods, or any part of the goods, shall pass to the Customer when the goods or any part of the goods is delivered to the Customer or its agent or to a carrier for delivery to the Customer or its agent, whichever event shall first occur. In the event of where Vortex is supplying and installing goods, risk of loss of the goods shall pass to the Customer upon completion of the project.

Lead Times & Logistics

Vortex' standard lead times are up to 3-4 weeks for embeds, up to 6-8 weeks for Play Products, up to 10 weeks for Water Recirculation Equipment, up to 16 weeks for Elevations and up to 16 weeks for Waterslides. The lead times are contingent upon receipt of signed purchase contract, approved drawings and all applicable color selections. Expected timing for order completion and shipment from the Vortex factory will be communicated to the Customer at the time the purchase contract is accepted by Vortex.

Vortex reserves the right to refuse a customer's delivery date change request if a delivery date confirmation has been previously confirmed/communicated to the customers. Any and all fees related to the delivery will not be the responsibility of Vortex and will be borne by the customer. Storage fees will be charged if the customer is unable or unwilling to receive the product as per the dates communicated by Vortex. The storage fees are payable before release of the shipment.

All products will be wrapped and packaged to mitigate damage during shipment. All shipments must be inspected upon delivery and any damage, errors or omissions on parts must be reported to Vortex at support@vortex-intl.com and the transport company within 24 hours of receipt of goods. Vortex reserves the right to amend and modify the transportation costs based on the customer's request.

Service & Support

Digital operations and maintenance manuals will be provided at the later of either the delivery of the products or completion of the project installation. Vortex is not responsible for coordinating the installation project unless otherwise specified. The Customer is responsible for coordinating installation schedules with Vortex to ensure that the site is ready for Vortex's products and services upon arrival. Vortex reserves the right to bill the Customer for the cost of the installation project. Enquire about our cooperative purchasing programs!

11024 Bailey Road, Suite C
Cornelius, NC 28031
Toll-free: 1-877-586-7839 Fax: +1-514-335-5414
www.vortex-intl.com



QUOTATION



Customer for (and the Customer agrees to pay) any additional time on site and any additional expenses incurred as a result of the site not being ready for the planned services.

Vortex reserves the right to cancel supervision, installation start-up and commissioning services if Vortex deems the site unsafe or not ready. The Customer is responsible for ensuring a safe working environment for any Vortex or Vortex contracted service technicians. Vortex reserves the right to bill the Customer for (and the Customer agrees to pay) any additional time on site as well as any additional expenses incurred as a result of waiting to rectify an unsafe work condition.

Exclusions

Unless otherwise specified, the following is excluded from Vortex' purchase agreement price and responsibility: Project management and or coordination, loading and unloading, onsite storage, installation services, permits and permit fees, local, state and or health department codes and approvals, OSHA documentation, onsite electrical work, electrical connections, onsite plumbing work and plumbing connections, bonding payment, geotechnical survey work, excavation & removal of materials, concrete surfacing

General Terms & Conditions

The Customer has reviewed local codes/standards as they may apply to the products contained in this order and has noted its acceptance of the design and related product specifications, by signing the Purchase Contract

Where custom features have been Included, the Customer has indicated acceptance of the custom feature by initializing this agreement. Vortex is not responsible for any damages to the Customer's environment and or landscaping as a result of its products. Any design changes requested after purchase order will be subject to additional fees.

For orders including water recirculating equipment, the Customer is responsible for ensuring the accepted system meets local standards and codes and that all appropriate approvals are obtained, unless otherwise noted.

Vortex may refuse to accept any order for any reason without incurring any liability from the customer.

No Change to this Agreement will be enforceable unless the customer has a signed a Vortex Change Order request.

The Customer agrees to pay on demand the amount of all expenses reasonably incurred by Vortex in efforts to collect the Purchase. The Purchaser shall pay reasonable legal costs (fees and disbursements) on a solicitor and own client basis, including fees incurred in both trial and appellate courts or fees incurred without suit and all court costs.

Confidentiality: The design details and specifications of the products included in the Customer's order, including without limitation, fabrication drawings, samples, sketches, photographs, foundation drawings, approval drawings, shipping lists, manuals and any other technical details (collectively, the "Confidential Information") supplied are the property of Vortex and are confidential. The Customer shall not, without prior written consent of Vortex, use the Confidential Information except in connection with the installation and operation of the goods supplied or disclose such Confidential Information to third parties unless compelled by law.

Limitation of Liability: The aggregate liability of Vortex, its affiliates, and their respective employees, directors, officers, agents and contractors for any claim, whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of, connected with, or resulting from the manufacture, sale, delivery, installation, resale, repair, replacement or use of any product will in no case exceed the actual portion of the Purchase Price paid by the Customer for that product, or part thereof, which gives rise to the claim. In no event will the Vortex be liable for special, indirect or consequential damages.

Any and all modifications and alterations made to Vortex's products will automatically void and null all warranties.

The limitation of liability contained herein shall survive the termination or expiration of the Purchase Contract

Pricing is valid for a period of 90 days.

Signature

Title

11024 Bailey Road, Suite C
Cornelius, NC 28031
Toll-free: 1-877-586-7839 Fax: +1-514-335-5414
www.vortex-intl.com

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QUOTATION



Printed Name

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STATEMENT OF WORK

Inclusions General Items

- The installation work includes a maximum of 2 mobilizations for the complete project
- Unloading of Vortex equipment, only if the site is ready for installation when the products are shipped
- Installation of splashpad equipment
- Site layout based on provided Datums for the splashpad area and mechanical room, tank and debris trap if applicable
- Clean-up of the area occupied by Vortex during the construction
- 1 pre-construction site visit by a project or construction manager
- Participation to pre-construction, project updates and safety meetings as required (Via conference calls or webinars)

Piping and Electrical

- All plumbing connections as necessary for the splashpad operation
- Supply and install **PVC SCH80 or PEX** piping for all pressure lines from manifold to features locations
- Supply and install all suction lines for WQMS system if applicable
- Supply and install drain lines for splashpad and drain pit as required (Not for drain pit by others)
- Final connections to water, sewer and storm drain (brought to the specified locations by owner)
- Make final connections for electrical (Power supply brought to mechanical room or cabinet by owner)
- Install all safeswap anchors, ground sprays and piping to final grade, establishing a 2% slope to center drain and 1-2% slope back to drain pit
- Supply and install bonding for all features and pump equipment
- Pressure testing of all pressured lines
- Installation and connection of the manifold in mechanical room or water distribution system
- Installation of filtration equipment if applicable

Concrete Work

- Medium broom finish on all exposed accessible concrete
- Form, place and finish concrete slab of splashpad area as per final design
- Form, place and finish all concrete slabs and collars necessary to support and secure components as system requires (Vault, dome, debris trap, water containment system)
- Expansion joints or saw cuts every 10' for the concrete slab
- Supply drain pit for WMS (Cabinet, Vault, Domepack)
- Form and place drain pit for mechanical room (If building provided by Vortex)
- 6" thick concrete slab for mechanical room with 4000 psi concrete mix, #3 reinforcing bars @ 12" c/c both directions and thickened edges on concrete work as needed (If building provided by Vortex)
- 6" thick concrete slab for splashpad area with 4000 psi concrete mix, #3 reinforcing bars @ 12" c/c both directions and thickened edges on concrete work as needed
- Form, place and finish concrete seal wall if applicable to the dimensions of the plans with 4000 psi concrete mix and #3 reinforcing bars @ 12" c/c both directions

Excavation and Backfill

- Excavation of topsoil at a maximum of 6" below grade, proof compact sub-grade for the splashpad area
- Backfill and compaction of all excavated areas
- Excavation and backfill of trenches for pipe lines as required
- Excavation and backfill for water containment system and debris trap, as per design
- Excavation and proof-compact mechanical room area (If building provided by Vortex)

Water Journey (Applicable only if a Water journey product is purchased)

- Supply and place 3000 psi concrete mix with reinforcing bars 4 x #3 and #3 ties @ 12" c/c for each pilaster (Ø18" at specified depth)
- Supply and place all plumbing connection as necessary for the Water Journey operation
- Supply and place all electrical connections as necessary for Water Journey operation
- Installation of the water journey and caulking of pre-cast slabs

Optional items (All items are excluded by default but can be added to Vortex scope of work upon request)

- Installation of polygon shelter for housing of filtration equipment
- Landscape repairs including replacement of damaged grass

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- On site trash bins
- Temporary restrooms for the duration of the splashpad construction
- On site secure storage
- Temporary fences around the construction area
- Chemicals in necessary amount for the start-up of the WQMS system
- Filter sand to fill the sand filters provided by Vortex.
- Supply and install breakers required for the WMS
- Hose bibs supply and installation
- Back-flow preventer supply and installation
- Pressure regulator supply and installation
- Engineer stamped drawings related to the Splashpad and Equipment Room
- Excess excavated soil haul-off (offsite)

Exclusions (All work not specifically mentioned in this scope of work is excluded unless otherwise specified)

- Prevailing wages and certified payroll
- Demolition of any existing concrete, pass, parking areas, features or structures
- Tracking pads and/or access roads to the construction site
- Removal and handling of contaminated/stained or unsuitable soil, or buried obstructions
- Soil report and materials/compaction testing
- Site survey and location of reference points (Datum) and elevation
- Grading plans, Erosion and control plans, Storm water management plans and landscaping plans
- Final landscaping (grading, seeding, sod, shrubs, silt socks, etc.)
- All necessary permits for the required work unless specified otherwise
- All inspection fees (Rebar, plumbing, electrical, sewer, compaction) unless specified otherwise
- Sewer or water tap fees, if required
- Water or electrical meter fees, if required
- Dry play park products purchase and installation
- Benches, tables and shades purchase and installation
- Drain pit form and place in customer supplied mechanical room
- Additional requirements set forth by the local health department and/or code enforcement not previously agreed upon as of the date of this estimate
- Additional electrical requirements if the existing power supply system is not sufficient to handle the electrical requirements
- Additional plumbing requirements if the existing water supply, waste water line and/or storm drain is not sufficient or within the parameters established

Other clauses that may incur additional expenses to be borne by the client:

- All utilities must be provided at specified location within 30 ft of the mechanical room before Vortex mobilization.
- Laydown area and adequate access to work areas shall be provided to Vortex installers.
- SUB-SURFACE CONDITIONS: Owner shall absorb all costs incurred from unknown conditions such as rock removal, poor digging conditions or poor soil bearing capacity, less than 3000 PSF or a water table higher than 10 ft below finished grade. If material is so large or so large or cumbersome that it cannot be removed with a mini excavator, then that part of excavation that requires other methods of removal or remediation such as, but not limited to, shoring, pneumatic jack hammer, backhoe, hydraulic rock breaker, or dynamite, will be billed on a time and material basis.
- Any location or relocation of underground utilities and/or irrigation piping is the responsibility of the owner or its agent. If any utilities encountered and not identified by the local utility providers requires relocation or modification, it is the responsibility of the owner or its agent and no cost shall be borne by Vortex for such work.
- Installation and construction to occur during normal daytime business hours, not including holidays. It is assumed that there is no restrictions on workdays and work hours.
- This contract includes a definite number of mobilizations (see inclusions), any mobilization beyond the contracted amount mentioned herein is subject to a \$3,500.00 fee for each remobilization thereafter. If for any reason, external factors (other than weather), cause the suspension of work, Vortex USA Inc. may be entitled to additional time and cost associated with demobilization and remobilization, mileage, labor and travel time.
- Vortex USA Inc. maintains comprehensive insurance coverage. This coverage is available upon written request. Any insurance coverage required for specific projects above Cicero's norm is not included in this proposal.
- A Performance and Payment Bond is not included in the price of this contract unless specifically included in the quote. This cost would be determined if bond is a requirement and price or design adjusted accordingly. Bond typically costs 5% of the total project.

Signature Title

Printed Name Date

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Force Majeure Event

Neither Party shall be considered to be in default in performance of any obligation hereunder if failure of performance shall be due to a Force Majeure Event. For the purposes of this Agreement, the term, "Force Majeure Event", shall mean any cause beyond the control of the Party affected, including, but not limited to, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor disturbance (except as excluded herein), sabotage, other "Acts of God", and restraint by court order or public authority, which by exercise of due foresight such Party could not reasonably have been expected to avoid, and which by exercise of due diligence it is unable to overcome. Notwithstanding anything to the contrary, the term Force Majeure Event shall not be deemed to include (a) any labor disturbance affecting either Contractor or any Subcontractor (except Subcontractors that have been selected by Owner), to the extent that such labor disturbance involves direct employees of Contractor or any Subcontractor who are performing Work on the Project, except for a national strike in the United States, (b) the climate for the geographic area of the Project, (c) the occurrence of any manpower or material shortages or (d) any delay, default or failure (direct or indirect) in obtaining materials, or any Subcontractor or worker performing any Work or any other delay, default or failure (financial or otherwise) of a Subcontractor, vendor or supplier. Neither Party shall, however, be relieved of liability for failure of performance if such failure is due to causes arising out of its own acts, omissions or negligence or to removable or remediable causes that it fails to remove or remedy with reasonable dispatch. The Party claiming a Force Majeure Event shall give the other Party prompt written notice of the Force Majeure Event.

Building Permits, Charges and Exactions

Owner will provide and pay for all necessary building permits. Contractor shall not be responsible for any bonds, assessments, hookup charges, fees, taxes, or exactions of any utilities, public agencies, or governments other than herein provided.

Labor and Material

Contractor shall pay all valid charges for labor and material incurred by Contractor and used in the work hereinabove specified.

Contract Price and Payment Thereof

For all services performed by Contractor on this Project, the Owner will pay Contractor the total price in accordance with the schedule of value appended hereto in the proposal.

No Payment in the Event of Default

Owner shall have no obligation to make any payment to Contractor at any time when one of the reasons exist which allow Owner to terminate the Contract for cause as provided in Section "Termination for Default by Contractor" of this Agreement.

Construction Financing

If payment of the contract price is to be made by Owner through a construction lender, Owner hereby represents, affirms, and covenants that the construction loan fund is sufficient to pay the contract price and that Owner shall take all acts necessary to expedite timely payment from the construction lender. Owner hereby irrevocably authorizes the construction lender to make payment of the contract price directly to The Contractor.

Extra Work & Deviations from Original Contract Work

Should Owner, construction lender if any, or any public or governmental agency or inspector direct any deletion from, modification of, or addition to the work as hereinabove specified, the costs of such deletion(s), modification(s), or addition(s) shall be added to or deducted from the contract price, as hereinabove defined, as the circumstances dictate. Any and all deletions from, modifications of, or additions to the scope of work prescribed by this Construction Agreement together with the adjustment to contract price shall be made or otherwise memorialized in a writing signed by Owner and Contractor prior to the arising of any obligation of whatsoever kind or character on the part of the Contractor to recognize, honor, or adhere to such changes.

Allowances

If the contract price, as hereinabove defined, includes allowances of any kind or character, and the cost of performing the work covered by an allowance is either greater or less than the allowance, then this Construction Agreement shall be increased or decreased accordingly. Unless otherwise requested by Owner in writing, Contractor shall use its judgment in accomplishing work covered by an allowance. If Owner requests that work covered by an allowance be accomplished by the Contractor in such a way that the cost will exceed the allowance, Contractor will be obligated to comply with Owner's request only upon payment by Owner of the additional costs in advance.

QUOTATION



Construction Agreement between Owner and Contractor

Agreement made as of November 28, 2019 by and between: CONTRACTOR
VORTEX USA Inc.

11024 Bailey Road, Suite C
Cornelius, NC, 28031

AND OWNER
City of Brenham - TX
Brenham, Texas, 77833

For the installation of the following Project: Henderson Park SP Brenham - TX

The Owner and the Contractor agree as follows:

Engagement of the Contractor by Owner

Owner hereby contracts with the Contractor to provide the labor, services, and/or materials to perform the construction work described on Exhibit "A" appended hereto and made a part hereof by reference, upon that certain real property and more commonly known as (hereinafter "Subject Property"), as more particularly set forth in hereof.

Scope of Work

Contractor will furnish all specifications, labor, equipment, materials, sales taxes, transportation, supervision, coordination, and communication in a workmanlike manner for the work described in the statement of work attached hereto, which is made a part hereof by reference.

Contract, Drawings and Specifications

The work upon the Subject Property will be in accordance with drawings and specifications provided by Contractor, which drawings and specifications are hereby made a part of this Agreement. This Agreement and the drawings hereby are intended to supplement each other. In case of conflict, however, the statement of work shall control the drawings, and the provisions of this Construction Agreement shall control both.

Time for Commencement Work

Owner will have the jobsite ready for commencement of the work to be performed by the Contractor specified herein above, and shall give Contractor written notice to commence such work. Contractor shall commence work within after such notice or within of receipt of all necessary governmental approvals and permits, whichever date shall last occur.

Guarantees of Timely Completion

Time is of the essence in the Contractor's performance of the Work and is a basic consideration of this Agreement. Accordingly, Contractor guarantees that the following event (the "Guaranteed Events") shall occur no later than the date specified (the "Guaranteed Completion Dates"), except if Contractor can show that a Force Majeure Event has occurred as set forth in Section 6 herein.

Guaranteed Completion Dates

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Insurance, Bonds and Indemnity

Contractor shall maintain at its cost the following minimum insurance and coverage throughout the term of the Agreement:

- 1 Comprehensive General Liability or Commercial General Liability: The limits of the liability shall not be less than:
 - a Comprehensive General Liability: \$1,000,000 combined single limit bodily/property damage per occurrence or;
 - b Commercial General Liability: Each occurrence limit \$1,000,000; Personal & Advertising injury limit \$1,000,000; Products completed operations aggregate limit \$1,000,000; General aggregate limit \$2,000,000
- 2 Workers' Compensation: Liability limits to cover statutory requirements and maintain limits of employer's liability; bodily injury by accident \$1,000,000 each accident; injury by disease \$1,000,000 policy limit; bodily injury by disease \$1,000,000 each employee.
- 3 Commercial Auto Coverage: Auto liability limits of \$1,000,000 each accident combined bodily injury and property damage liability insurance, including but not limited to, owned autos, hired or non-hired autos.

Contractor agrees to indemnify and hold harmless Owner from any and all claims, loss, or expense of every kind whatsoever which may arise from Contractor's negligent acts or omissions or breach of its obligations hereunder.

If required by the Owner, the Contractor shall maintain builder's risk property insurance respecting the Property in an amount equal to the full insurable value thereof and the risk of casualty loss or damage to the Property shall be borne by Contractor.

Performance/Payment Bond

If required by the Owner, a Performance Bond and a Payment Bond in a form satisfactory to the Owner shall be furnished in the full amount of the price of the Contract Agreement as set forth herein. If the Owner requires such Bonds after this Agreement, the cost thereof shall be paid by Owner as a change to the Contract Agreement, otherwise it shall be included in the Contract Agreement.

Warranties

Contractor warrants that for a period of one (1) year commencing on the earlier of Final Completion of all the Work ("Primary Warranty Period"), under this Agreement be, in a good and workmanlike manner, and in strict conformity with the terms and conditions of this Agreement, the Design Documents, all applicable Permits, all applicable Laws, and prudent construction practices; and (ii) all materials shall be free of defects and deficiencies, free from any encumbrances or liens and shall be in strict conformity with the terms and conditions of this Agreement.

Remedy

If the warranty set forth in Section 16 is breached within the Primary Warranty Period, Contractor shall correct the defective workmanship and/or material, as the case may be, on an expedited basis, at no cost to Owner and at Contractor's sole cost. Owner shall provide Contractor with full and free access to the work sites to perform its warranty obligations under this Agreement.

Termination for Convenience by Owner

The Owner may, at its option, terminate this Agreement at its convenience. In the event Owner terminates this Agreement, Contractor shall be entitled, at its sole discretion, to institute legal proceedings to recover damages as permitted by law.

Owner acknowledges that Contractor would suffer damages including the loss of profit which Contractor would otherwise have realized upon full performance of this Construction Agreement. It is therefore agreed that in such event Owner will pay Contractor as liquidated damages a sum equal to thirty percent (30%) of the contract price as herein-above defined.

Termination for Default by Owner

The Owner may terminate this Agreement for the Contractor's default by delivering written notice in advance of termination. The Contractor shall be in default under this Agreement upon the occurrence of any of the following events ("Contractor Events of Default"):

- (a) Failure by Contractor to perform fully any material provision of this Agreement, including, without limitation, Contractor's failure to supply sufficient qualified personnel or to perform the Work in accordance with the Guaranteed Completion Dates;
- (b) Contractor contravenes any applicable Law, applicable Permit, ordinance, ruling, regulation or orders of any governmental authority or court which materially impacts the ability of Contractor to perform the Work in accordance with this Agreement;
- (c) Contractor becomes insolvent, or generally does not pay its debts as they become due, or admits in writing its inability to pay its debts, or makes an assignment for the benefit of creditors or insolvency, receivership, reorganization or bankruptcy proceedings are commenced by Contractor; and
- (d) Insolvency, receivership, reorganization or bankruptcy proceedings are commenced against Contractor, and such proceedings are not terminated, stayed or dismissed within sixty (60) Days after the commencement thereof.

Owner shall give Notice of any Contractor Events of Default to Contractor. If (A) any of the defaults described in clauses

(a) and (b) in Section 19 is not cured within thirty (30) Days, (B) corrective action is not commenced within ten (10) Days of receipt of Notice from Owner with respect to nonmonetary defaults which cannot be cured within thirty (30) Days, and such corrective action completed within a reasonable period of time to be mutually agreed upon by Owner and Contractor within ten (10) Business Days after receipt of Notice from Owner or, absent such mutual agreement, completed within the time period proposed by Owner, or (C) upon the occurrence of a default described in clause (d) or (e), then Owner may terminate this Agreement and take possession of all equipment, materials and supplies and complete the Work as Owner deems expedient. The total cost of completing the Work shall be charged to Contractor. Contractor shall pay to Owner the total cost to complete the Work within sixty (60) Days following receipt of Owner's demand for such payment. The remedies set forth in this section shall not be exclusive and Owner shall have the right to pursue any other remedies under this Agreement or at law or in equity. Such termination shall not affect Contractor's representations or warranties.

Termination for Default by Contractor

If Owner fails to perform any material terms of this Agreement and/or pay to Contractor any undisputed payment as required hereunder and such failure continues for thirty (30) Days after Notice has been given to Owner by Contractor, the Contractor may terminate this Agreement immediately. In the event of such a termination by Contractor, the Contractor may institute legal proceedings to recover all costs incurred until the date of termination and any and all damages as permitted by law. Owner acknowledges that Contractor would suffer damages including the loss of profit which Contractor would otherwise have realized upon full performance of this Construction Agreement. It is therefore agreed that in such event Owner will pay Contractor as liquidated damages a sum equal to thirty percent (30%) of the contract price as hereinabove defined.

Delay

Contractor shall be not be liable to Owner or any person, corporation, partnership, or other legal entity claiming by, through, or under Owner for any delays in completion of this Construction Agreement regardless of the cause, source, or nature of such delay.

Concealed Conditions

If Contractor should encounter concealed conditions that were not reasonably anticipated by Contractor at the time of execution of this Construction Agreement, Contractor shall bring the existence and nature of such concealed conditions to the attention of Owner. If such concealed conditions prevent, preclude, or obstruct performance by Contractor of the work herein prescribed, or burden the scope of work as herein defined by requiring additional work by Contractor to address, correct, and/or rectify such concealed defects, then the scope of work and contract price as hereinabove defined shall be adjusted in accordance with account for all courses of action necessary to address, correct, and/or rectify such concealed conditions.

Hazardous Conditions and Materials

Owner hereby warrants that all required inspections have been performed to ascertain the existence of or presence upon the Subject Property of any hazardous conditions or materials, including without limitation asbestos and radon gas, and Owner further hereby agrees to indemnify and hold Contractor harmless from any and all liability for the same. Owner and Contractor hereby acknowledge that Contractor has paid valuable consideration of \$500.00, the receipt and sufficiency of which are hereby acknowledged by Owner, in exchange for Owner's agreement to indemnify Contractor as herein expressed.

Additional Warranties Provided by Law

Contractor shall be obligated to, and Owner shall have the benefit of, all warranties provided by law.

Clean Up

It shall be Contractor's responsibility at regular and appropriate intervals as well as upon completion of the work herein prescribed to clean up the jobsite as described in the scope of work.

Attorney's Fees

In the event that any proceedings of a judicial or quasi-judicial nature are instituted by any party to this Construction Agreement to secure performance of any of the obligations herein set forth, the prevailing party in such a proceeding shall be entitled to recover, in addition to all other relief provided by law, its reasonable attorney's fees.

Governing Law

This Construction Agreement shall in all respects be governed by and construed in accordance with the law of the State. Should any provision of this Construction Agreement become void or voidable by decision of any court or act of any legislative or quasi-legislative body or entity, then such provision shall be regarded as automatically amended to comply with such decision or act in a manner most favorable to Contractor.

Completeness of Agreement

This Construction Agreement comprises the sole, exclusive, and totality covenants, and stipulations to which the parties agree. No of the terms, conditions, other conversations, comments, representations, negotiations, statements, or other communications not specifically provided for herein shall be deemed to have survived execution.

Modification

With respect to all matters not governed by hereof, this Construction Agreement may not be modified except by separate written instrument executed by Owner and Contractor.

Effective Date

This Construction Agreement shall become effective, binding, and enforceable as against all parties upon the last date of execution by any such party.

Initial Here

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AGENDA ITEM 12

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 8, 2020															
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau															
<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 Resolution No. R-20-001 Approving an Advance Funding Agreement Between the City of Brenham and the Texas Department of Transportation (TxDOT) for Road Improvements at the Intersection of Chappell Hill Street and U. S. Highway 290 Feeder																
SUMMARY: This resolution is between the City of Brenham and TxDOT in relation to the intersection of Chappell Hill Street and Highway 290 feeder road. With the expansion of development near this intersection it is of the upmost importance to be proactive and plan for the future by enhancing this intersection and making it a controlled intersection. Currently this intersection only requires vehicles which are on Chappell Hill St. to yield to Highway 290 feeder road traffic, eastbound and westbound. The intersection configuration was only designed for one lane under the 290 overpasses with a designated U-turn lane on each side. With partnering with TxDOT and entering into this advanced funding agreement this will dramatically enhance this intersection by adding 4 signal lights at this intersection along with adding additional lanes under the 290 overpass that will be dedicated turn lanes. There will also be pavement improvements that will better align this intersection up with the new development and provide a safer means of entering and exiting the site. The total cost of this project is expected to be \$633,582. The advanced funding agreement outlines the responsibility of each party with the City of Brenham being responsible for the engineering costs valued at \$82,000. The City of Brenham has planned for expenditures related to this enhancement and we feel that this is a great partnership and enhancement that will benefit all. TxDOT will be responsible for all construction costs and selecting a contractor for the planned work. We are anxious to enter into this advanced funding agreement in order to begin the process of enhancing this intersection. Staff would like to ask Council to approve the advanced funding resolution with TxDOT so that we may begin to work together for the betterment of this area.																

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Will only be responsible for the engineering costs at \$82,000 and will gain a controlled intersection and additional lanes making this intersection safe for our residents and visitors. B. CONS: Will create additional construction work at this intersection and we are hopeful that we can meet the timeline of the new development grand opening.
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Map of Traffic Signals; (2) Resolution No. R-20-001; and (3) TxDOT Advance Funding Agreement
FUNDING SOURCE (Where Applicable): 217-5-100-703.00
RECOMMENDED ACTION: Approve Resolution No. R-20-001 approving an Advance Funding Agreement between the City of Brenham and the Texas Department of Transportation (TxDOT) for road improvements at the intersection of Chappell Hill Street and U. S. Highway 290 Feeder
APPROVALS: James Fisher



1 inch = 120 feet



Traffic Signals

RESOLUTION NO. R-20-001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS (“CITY”) PROVIDING FOR THE APPROVAL OF AN ADVANCED FUNDING AGREEMENT BETWEEN THE CITY AND THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR ROAD IMPROVEMENTS AT THE INTERSECTION OF CHAPPELL HILL STREET AND U.S. HIGHWAY 290 FEEDER

WHEREAS, Chapter 311 of the Transportation Code gives the City exclusive dominion, control and jurisdiction over and under the public streets within its corporate limits and authorizes the City to enter into agreements with the State of Texas to fix responsibilities for maintenance, control, supervision and regulation of State highways within and through its corporate limits; and

WHEREAS, the Texas Transportation Code, Sections 201.103 and 222.052 establish that the State shall design, construct and operate a system of highways in cooperation with local governments; and

WHEREAS, the Texas Transportation Commission passed Minute Order Number 115291, authorizing the State to undertake and complete a highway improvement generally described as the installation of traffic signals and related roadway (pavement) improvements at the intersection of US 290 Frontage Road and Chappell Hill Street project in Brenham, Texas;

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

That an Advanced Funding Agreement between the City of Brenham and the State of Texas for Surface Transportation Program Intersection Improvement Project On-System in Brenham, Texas is hereby approved. Further, the Mayor is hereby authorized to execute said Agreement and any other necessary documentation on behalf of the City of Brenham and to transmit the same to the State of Texas for appropriate action.

PASSED AND APPROVED on this the 16th day of January 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

STATE OF TEXAS §

COUNTY OF TRAVIS §

**ADVANCE FUNDING AGREEMENT
For
Surface Transportation Program
Intersection Improvement Project
On-System**

THIS AGREEMENT (Agreement) is made by and between the State of Texas, acting by and through the **Texas Department of Transportation** called the “State”, and the **City of Brenham**, acting by and through its duly authorized officials, called the “Local Government”. The State and Local Government shall be collectively referred to as “the parties” hereinafter.

WITNESSETH

WHEREAS, federal law establishes federally funded programs for transportation improvements to implement its public purposes, and

WHEREAS, the Texas Transportation Code, Section 201.103 establishes that the State shall design, construct and operate a system of highways in cooperation with local governments, and Section 222.052 authorizes the Texas Transportation Commission to accept contributions from political subdivisions for development and construction of public roads and the state highway system within the political subdivision, and

WHEREAS, federal and state laws require local governments to meet certain contract standards relating to the management and administration of State and federal funds, and

WHEREAS, the Texas Transportation Commission has codified 43 TAC, Rules 15.50-15.56 that describe federal, state, and local responsibilities for cost participation in highway improvement and other transportation projects, and

WHEREAS, the Texas Transportation Commission passed Minute Order Number **115291** authorizing the State to undertake and complete a highway improvement or other transportation project generally described as **the installation of traffic signals and related roadway (pavement) improvements at the intersection of US 290 Frontage Road and Chappell Hill Street**. The portion of the project work covered by this Agreement is identified in the Agreement, Article 3, Scope of Work (Project), and

WHEREAS, the Governing Body of the Local Government has approved entering into this Agreement by resolution, ordinance, or commissioners court order dated _____, which is attached to and made a part of this Agreement as Attachment A, Resolution, Ordinance, or Commissioners Court

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

Order (Attachment A). A map showing the Project location appears in Attachment B, Location Map Showing Project (Attachment B), which is attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties, to be by them respectively kept and performed as set forth in this Agreement, it is agreed as follows:

AGREEMENT

1. Responsible Parties:

For the Project covered by this Agreement, the parties shall be responsible for the following work as stated in the article of the Agreement referenced in the table below:

1.	State	Utilities	Article 8
2.	State	Environmental Assessment and Mitigation	Article 9
3.	Local Government	Architectural and Engineering Services	Article 11
4.	State	Construction Responsibilities	Article 12
5.	N/A	Right of Way and Real Property	Article 14

2. Period of the Agreement

This Agreement becomes effective when signed by the last party whose signing makes the Agreement fully executed. This Agreement shall remain in effect until the Project is completed or unless terminated as provided below.

3. Scope of Work

The scope of work for the Project consists of preliminary engineering, preparation of plans, specifications and estimates (PS&E), and the installation of traffic signals, turn lanes and related roadway (pavement) improvements at the intersection of US 290 Frontage Road and Chappell Hill Street.

4. Project Sources and Uses of Funds

The total estimated cost of the Project is shown in Attachment C, Project Budget (Attachment C) which is attached to and made a part of this Agreement.

- A. If the Local Government will perform any work under this Agreement for which reimbursement will be provided by or through the State, the Local Government must complete training. If federal funds are being used, the training must be completed before federal spending authority is obligated. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled "Local Government Project Procedures and Qualification for the Texas Department of Transportation" and retains qualification in accordance with applicable TxDOT procedures. Upon request, the Local Government shall provide the certificate of qualification to the State. The individual

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

who receives the training certificate may be an employee of the Local Government or an employee of a firm that has been contracted by the Local Government to perform oversight of the Project. The State in its discretion may deny reimbursement if the Local Government has not continuously designated in writing a qualified individual to work actively on or to directly oversee the Project.

- B. The expected cash contributions from the federal government, the State, the Local Government, or other parties are shown in Attachment C. The State will pay for only those Project costs that have been approved by the Texas Transportation Commission. For projects with federal funds, the State and the federal government will not reimburse the Local Government for any work performed before the federal spending authority is formally obligated to the Project by the Federal Highway Administration (FHWA). After federal funds have been obligated, the State will send to the Local Government a copy of the formal documentation showing the obligation of funds including federal award information. The Local Government is responsible for 100% of the cost of any work performed under its direction or control before the federal spending authority is formally obligated.
- C. Attachment C shows, by major cost categories, the cost estimates and the party responsible for performing the work for each category. These categories may include but are not limited to: (1) costs of real property; (2) costs of utility work; (3) costs of environmental assessment and remediation; (4) cost of preliminary engineering and design; (5) cost of construction and construction management; and (6) any other local project costs.
- D. The State will be responsible for securing the federal and State share of the funding required for the development and construction of the local Project. If the Local Government is due funds for expenses incurred, these funds will be reimbursed to the Local Government on a cost basis.
- E. The Local Government will be responsible for all non-federal or non-State participation costs associated with the Project, unless otherwise provided for in this Agreement or approved otherwise in an amendment to this Agreement. For items of work subject to specified percentage funding, the Local Government shall only in those instances be responsible for all Project costs that are greater than the maximum State and federal participation specified in Attachment C and for overruns in excess of the amount specified in Attachment C to be paid by the Local Government.
- F. The budget in Attachment C will clearly state all items subject to fixed price funding, specified percentage funding, and the periodic payment schedule, when periodic payments have been approved by the State.
- G. When the Local Government bears the responsibility for paying cost overruns, the Local Government shall make payment to the State within thirty (30) days from the receipt of the State's written notification of additional funds being due.
- H. When fixed price funding is used, the Local Government is responsible for the fixed price amount specified in Attachment C. Fixed prices are not subject to adjustment unless (1) differing site conditions are encountered; (2) further definition of the Local Government's requested scope of work identifies greatly differing costs from those estimated; (3) work requested by the Local Government is determined to be ineligible

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

for federal participation; or (4) the adjustment is mutually agreed to by the State and the Local Government.

- I. Prior to the performance of any engineering review work by the State, the Local Government will pay to the State the amount specified in Attachment C. At a minimum, this amount shall equal the Local Government's funding share for the estimated cost of preliminary engineering performed or reviewed by the State for the Project. At least sixty (60) days prior to the date set for receipt of the construction bids, the Local Government shall remit its remaining financial share for the State's estimated construction oversight and construction cost.
- J. The State will not execute the contract for the construction of the Project until the required funding has been made available by the Local Government in accordance with this Agreement.
- K. Whenever funds are paid by the Local Government to the State under this Agreement, the Local Government shall remit a check or warrant made payable to the "Texas Department of Transportation" or may use the State's Automated Clearing House (ACH) system for electronic transfer of funds in accordance with instructions provided by TxDOT's Finance Division. The funds shall be deposited and managed by the State and may only be applied by the State to the Project.
- L. The State will not pay interest on any funds provided by the Local Government.
- M. If a waiver for the collection of indirect costs for a service project has been granted under 43 TAC §15.56, the State will not charge the Local Government for the indirect costs the State incurs on the Project, unless this Agreement is terminated at the request of the Local Government prior to completion of the Project.
- N. If the Local Government is an Economically Disadvantaged County (EDC) and if the State has approved adjustments to the standard financing arrangement, this Agreement reflects those adjustments.
- O. Where the Local Government is authorized to perform services under this Agreement and be reimbursed by the State, the Local Government is authorized to submit requests for reimbursement by submitting the original of an itemized invoice, in a form and containing all items required by the State, no more frequently than monthly and no later than ninety (90) days after costs are incurred. If the Local Government submits invoices more than ninety (90) days after the costs are incurred and if federal funding is reduced as a result, the State shall have no responsibility to reimburse the Local Government for those costs.
- P. Upon completion of the Project, the State will perform a final accounting of the Project costs for all items of work with specified percentage funding. Any funds due by the Local Government, the State, or the federal government for these work items will be promptly paid by the owing party.
- Q. The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this Agreement or indirectly through a subcontract under this Agreement. Acceptance of funds directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

- R. Payment under this Agreement beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this Agreement shall be terminated immediately with no liability to either party.

5. Termination of This Agreement

This Agreement shall remain in effect until the Project is completed and accepted by all parties, unless:

- A. The Agreement is terminated in writing with the mutual consent of the parties;
- B. The Agreement is terminated by one party because of a breach, in which case any costs incurred because of the breach shall be paid by the breaching party;
- C. The Local Government elects not to provide funding after the completion of preliminary engineering, specifications, and estimates (PS&E) and the Project does not proceed because of insufficient funds, in which case the Local Government agrees to reimburse the State for its reasonable actual costs incurred during the Project; or
- D. The Agreement is terminated by the State because the parties are not able to execute a mutually agreeable amendment when the costs for Local Government requested items increase significantly due to differing site conditions, determination that Local government requested work is ineligible for federal or state cost participation, or a more thorough definition of the Local Government's proposed work scope identifies greatly differing costs from those estimated. The State will reimburse Local Government remaining funds to the Local Government within ninety (90) days of termination; or
- E. The Project is inactive for thirty-six (36) consecutive months or longer and no expenditures have been charged against federal funds, in which case the State may in its discretion terminate this Agreement.

6. Amendments

Amendments to this Agreement due to changes in the character of the work, terms of the Agreement, or responsibilities of the parties relating to the Project may be enacted through a mutually agreed upon, written amendment.

7. Remedies

This Agreement shall not be considered as specifying the exclusive remedy for any agreement default, but all remedies existing at law and in equity may be availed of by either party to this Agreement and shall be cumulative.

8. Utilities

The party named in Article 1, Responsible Parties, under AGREEMENT shall be responsible for the adjustment, removal, or relocation of utility facilities in accordance with applicable state laws, regulations, rules, policies, and procedures, including any cost to the State of a delay resulting from the Local Government's failure to ensure that utility facilities are adjusted, removed, or relocated before the scheduled beginning of construction. The Local Government will not be reimbursed with federal or State funds for the cost of required utility work. The Local Government must obtain advance approval for any variance from established

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

procedures. Before a construction contract is let, the Local Government shall provide, at the State's request, a certification stating that the Local Government has completed the adjustment of all utilities that must be adjusted before construction is commenced.

9. Environmental Assessment and Mitigation

Development of a transportation project must comply with the National Environmental Policy Act and the National Historic Preservation Act of 1966, which require environmental clearance of federal-aid projects. The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. The identification and assessment of any environmental problems associated with the development of a local project governed by this Agreement.
- B. The cost of any environmental problem's mitigation and remediation.
- C. Providing any public meetings or public hearings required for the environmental assessment process. Public hearings will not be held prior to the approval of the Project schematic.
- D. The preparation of the NEPA documents required for the environmental clearance of this Project.

If the Local Government is responsible for the environmental assessment and mitigation, before the advertisement for bids, the Local Government shall provide to the State written documentation from the appropriate regulatory agency or agencies that all environmental clearances have been obtained.

10. Compliance with Accessibility Standards

All parties to this Agreement shall ensure that the plans for and the construction of all projects subject to this Agreement are in compliance with standards issued or approved by the Texas Department of Licensing and Regulation (TDLR) as meeting or consistent with minimum accessibility requirements of the Americans with Disabilities Act (P.L. 101-336) (ADA).

11. Architectural and Engineering Services

The party named in Article 1, Responsible Parties, under AGREEMENT has responsibility for the performance of architectural and engineering services. The engineering plans shall be developed in accordance with the applicable State's *Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges* and the special specifications and special provisions related to it. For projects on the State highway system, the design shall, at a minimum conform to applicable State manuals. For projects not on the State highway system, the design shall, at a minimum, conform to applicable American Association of State Highway and Transportation Officials (AASHTO) design standards.

In procuring professional services, the parties to this Agreement must comply with federal requirements cited in 23 CFR Part 172 if the Project is federally funded and with Texas Government Code 2254, Subchapter A, in all cases. Professional contracts for federally funded projects must conform to federal requirements, specifically including the provision for participation by Disadvantaged Business Enterprises (DBEs), ADA, and environmental matters. If the Local Government is the responsible party, the Local Government shall submit

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

its procurement selection process for prior approval by the State. All professional services contracts must be reviewed and approved by the State prior to execution by the Local Government.

12. Construction Responsibilities

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the following:

- A. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project. Administration of the contract includes the responsibility for construction engineering and for issuance of any change orders, supplemental agreements, amendments, or additional work orders that may become necessary subsequent to the award of the construction contract. In order to ensure federal funding eligibility, projects must be authorized by the State prior to advertising for construction.
- B. If the State is the responsible party, the State will use its approved contract letting and award procedures to let and award the construction contract.
- C. If the Local Government is the responsible party, the Local Government shall submit its contract letting and award procedures to the State for review and approval prior to letting.
- D. If the Local Government is the responsible party, the State must concur with the low bidder selection before the Local Government can enter into a contract with the vendor.
- E. If the Local Government is the responsible party, the State must review and approve change orders.
- F. Upon completion of the Project, the party responsible for constructing the Project will issue and sign a "Notification of Completion" acknowledging the Project's construction completion and submit certification(s) sealed by a professional engineer(s) licensed in the State of Texas.
- G. For federally funded contracts, the parties to this Agreement will comply with federal construction requirements cited in 23 CFR Part 635 and with requirements cited in 23 CFR Part 633, and shall include the latest version of Form "FHWA-1273" in the contract bidding documents. If force account work will be performed, a finding of cost effectiveness shall be made in compliance with 23 CFR 635, Subpart B.

13. Project Maintenance

The Local Government shall be responsible for maintenance of locally owned roads and locally owned facilities after completion of the work. The State shall be responsible for maintenance of the State highway system after completion of the work if the work was on the State highway system, unless otherwise provided for in existing maintenance agreements with the Local Government.

14. Right of Way and Real Property

The party named in Article 1, Responsible Parties, under AGREEMENT is responsible for the provision and acquisition of any needed right of way or real property.

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

15. Insurance

If this Agreement authorizes the Local Government or its contractor to perform any work on State right of way, before beginning work, the entity performing the work shall provide the State with a fully executed copy of the State's Form 1560 Certificate of Insurance verifying the existence of coverage in the amounts and types specified on the Certificate of Insurance for all persons and entities working on State right of way. This coverage shall be maintained until all work on the State right of way is complete. If coverage is not maintained, all work on State right of way shall cease immediately, and the State may recover damages and all costs of completing the work.

16. Notices

All notices to either party shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to that party at the following address:

Local Government:	State:
City of Brenham ATTN: City Manager P.O. Box 1059 Brenham, TX 77834	Texas Department of Transportation ATTN: Director of Contract Services 125 E. 11 th Street Austin, TX 78701

All notices shall be deemed given on the date delivered in person or deposited in the mail, unless otherwise provided by this Agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that notices shall be delivered personally or by certified U.S. mail, and that request shall be carried out by the other party.

17. Legal Construction

If one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions and this Agreement shall be construed as if it did not contain the invalid, illegal, or unenforceable provision.

18. Responsibilities of the Parties

The State and the Local Government agree that neither party is an agent, servant, or employee of the other party, and each party agrees it is responsible for its individual acts and deeds as well as the acts and deeds of its contractors, employees, representatives, and agents.

19. Ownership of Documents

Upon completion or termination of this Agreement, all documents prepared by the State shall remain the property of the State. All data and information prepared under this Agreement shall be made available to the State without restriction or limitation on their further use. All documents produced or approved or otherwise created by the Local Government shall be

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

transmitted to the State, in the format directed by the State, on a monthly basis or as required by the State. The originals shall remain the property of the Local Government. .

20. Compliance with Laws

The parties to this Agreement shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals in any manner affecting the performance of this Agreement. When required, the Local Government shall furnish the State with satisfactory proof of this compliance.

21. Sole Agreement

This Agreement constitutes the sole and only agreement between the parties and supersedes any prior understandings or written or oral agreements respecting the Agreement's subject matter.

22. Cost Principles

In order to be reimbursed with federal funds, the parties shall comply with the cost principles established in 2 CFR 200 that specify that all reimbursed costs are allowable, reasonable, and allocable to the Project.

23. Procurement and Property Management Standards

The parties to this Agreement shall adhere to the procurement and property management standards established in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to the Texas Uniform Grant Management Standards. The State must pre-approve the Local Government's procurement procedures for purchases to be eligible for state or federal funds.

24. Inspection of Books and Records

The parties to this Agreement shall maintain all books, documents, papers, accounting records, and other documentation relating to costs incurred under this Agreement and shall make such materials available to the State, the Local Government, and, if federally funded, the FHWA and the U.S. Office of the Inspector General or their duly authorized representatives for review and inspection at its office during the Agreement period and for seven (7) years from the date of final reimbursement by FHWA under this Agreement or until any impending litigation or claims are resolved. Additionally, the State, the Local Government, and the FHWA and their duly authorized representatives shall have access to all the governmental records that are directly applicable to this Agreement for the purpose of making audits, examinations, excerpts, and transcriptions.

25. Civil Rights Compliance

The parties to this Agreement are responsible for the following:

- A. Compliance with Regulations: Both parties will comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA),

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

as they may be amended from time to time, which are herein incorporated by reference and made part of this Agreement.

- B. Nondiscrimination: The Local Government, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Local Government will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
- C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Local Government for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by the Local Government of the Local Government's obligations under this Agreement and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.
- D. Information and Reports: The Local Government will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of the Local Government is in the exclusive possession of another who fails or refuses to furnish this information, the Local Government will so certify to the State or the FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the Local Government's noncompliance with the Nondiscrimination provisions of this Agreement, the State will impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - 1. withholding of payments to the Local Government under the Agreement until the Local Government complies and/or
 - 2. cancelling, terminating, or suspending of the Agreement, in whole or in part.
- F. Incorporation of Provisions: The Local Government will include the provisions of paragraphs (A) through (F) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Local Government will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Local Government becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, the Local Government may request the State to enter into such litigation to protect the interests of the State. In addition, the Local Government may request the United States to enter into such litigation to protect the interests of the United States.

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

26. Pertinent Non-Discrimination Authorities

During the performance of this Agreement, each party, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- A. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- B. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects).
- C. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- D. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- E. The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age).
- F. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- G. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the federal-aid recipients, subrecipients and contractors, whether such programs or activities are federally funded or not).
- H. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- I. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- K. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- L. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

27. Disadvantaged Business Enterprise (DBE) Program Requirements

If federal funds are used:

- A. The parties shall comply with the Disadvantaged Business Enterprise Program requirements established in 49 CFR Part 26.
- B. The Local Government shall adopt, in its totality, the State's federally approved DBE program.
- C. The Local Government shall incorporate into its contracts with subproviders an appropriate DBE goal consistent with the State's DBE guidelines and in consideration of the local market, project size, and nature of the goods or services to be acquired. The Local Government shall submit its proposed scope of services and quantity estimates to the State to allow the State to establish a DBE goal for each Local Government contract with a subprovider. The Local Government shall be responsible for documenting its actions.
- D. The Local Government shall follow all other parts of the State's DBE program referenced in TxDOT Form 2395, Memorandum of Understanding Regarding the Adoption of the Texas Department of Transportation's Federally-Approved Disadvantaged Business Enterprise by Entity, and attachments found at web address http://ftp.dot.state.tx.us/pub/txdot-info/bop/dbe/mou/mou_attachments.pdf.
- E. The Local Government shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Local Government shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. The State's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Local Government of its failure to carry out its approved program, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).
- F. Each contract the Local Government signs with a contractor (and each subcontract the prime contractor signs with a sub-contractor) must include the following assurance: *The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate.*

28. Debarment Certifications

If federal funds are used, the parties are prohibited from making any award at any tier to any party that is debarred or suspended or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549, "Debarment and Suspension."

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

By executing this Agreement, the Local Government certifies that it and its principals are not currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549 and further certifies that it will not do business with any party, to include principals, that is currently debarred, suspended, or otherwise excluded from or ineligible for participation in Federal Assistance Programs under Executive Order 12549. The parties to this Agreement shall require any party to a subcontract or purchase order awarded under this Agreement to certify its eligibility to receive federal funds and, when requested by the State, to furnish a copy of the certification.

If state funds are used, the parties are prohibited from making any award to any party that is debarred under the Texas Administrative Code, Title 34, Part 1, Chapter 20, Subchapter G, Rule §20.585 and the Texas Administrative Code, Title 43, Part 1, Chapter 9, Subchapter G.

29. Lobbying Certification

If federal funds are used, in executing this Agreement, each signatory certifies to the best of that signatory's knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the parties to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with federal contracts, grants, loans, or cooperative agreements, the signatory for the Local Government shall complete and submit the Federal Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The parties shall require that the language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all sub-recipients shall certify and disclose accordingly. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

30. Federal Funding Accountability and Transparency Act Requirements

If federal funds are used, the following requirements apply:

- A. Any recipient of funds under this Agreement agrees to comply with the Federal Funding Accountability and Transparency Act (FFATA) and implementing regulations at 2 CFR Part 170, including Appendix A. This Agreement is subject to the following

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

award terms: <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22705.pdf> and <http://www.gpo.gov/fdsys/pkg/FR-2010-09-14/pdf/2010-22706.pdf>.

B. The Local Government agrees that it shall:

1. Obtain and provide to the State a System for Award Management (SAM) number (Federal Acquisition Regulation, Part 4, Sub-part 4.11) if this award provides more than \$25,000 in federal funding. The SAM number may be obtained by visiting the SAM website whose address is: <https://www.sam.gov/portal/public/SAM/>
2. Obtain and provide to the State a Data Universal Numbering System (DUNS) number, a unique nine-character number that allows federal government to track the distribution of federal money. The DUNS may be requested free of charge for all businesses and entities required to do so by visiting the Dun & Bradstreet (D&B) on-line registration website <http://fedgov.dnb.com/webform>; and
3. Report the total compensation and names of its top five executives to the State if:
 - i. More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25,000,000; and
 - ii. The compensation information is not already available through reporting to the U.S. Securities and Exchange Commission.

31. Single Audit Report

If federal funds are used:

- A. The parties shall comply with the single audit report requirements stipulated in 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- B. If threshold expenditures of \$750,000 or more are met during the fiscal year, the Local Government must submit a Single Audit Report and Management Letter (if applicable) to TxDOT's Compliance Division, 125 East 11th Street, Austin, TX 78701 or contact TxDOT's Compliance Division by email at singleaudits@txdot.gov.
- C. If expenditures are less than the threshold during the Local Government's fiscal year, the Local Government must submit a statement to TxDOT's Compliance Division as follows: "We did not meet the \$_____ expenditure threshold and therefore, are not required to have a single audit performed for FY _____."
- D. For each year the Project remains open for federal funding expenditures, the Local Government will be responsible for filing a report or statement as described above. The required annual filing shall extend throughout the life of the Agreement, unless otherwise amended or the Project has been formally closed out and no charges have been incurred within the current fiscal year.

32. Signatory Warranty

Each signatory warrants that the signatory has necessary authority to execute this Agreement on behalf of the entity represented.

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals at US 290 FR and Chappell Hill Street	AFA Not Used For Research & Development	

Each party is signing this Agreement on the date stated under that party's signature.

THE STATE OF TEXAS

THE LOCAL GOVERNMENT

Signature

Kenneth Stewart

Typed or Printed Name

Director of Contract Services

Typed or Printed Title

Date

Signature

Typed or Printed Name

Typed or Printed Title

Date

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals on US 290 FR at Chappel Hill Street	<i>AFA Not Used For Research & Development</i>	

ATTACHMENT A
RESOLUTION, ORDINANCE, OR COMMISSIONERS COURT ORDER

TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals on US 290 FR at Chappel Hill Street	AFA Not Used For Research & Development	

ATTACHMENT B
LOCATION MAP SHOWING PROJECT



TxDOT:		Federal Highway Administration:	
CSJ #	0186-06-091	CFDA No.	20.205
District #	17 – Bryan	CFDA Title	Highway Planning and Construction
Code Chart 64 #	05600 – City of Brenham		
Project Name	Traffic Signals on US 290 FR at Chappel Hill Street	AFA Not Used For Research & Development	

ATTACHMENT C PROJECT BUDGET

The Local Government is responsible for 100% of costs and cost overruns for Engineering. All other costs will be allocated based on applicable Federal/State funding, with the State being responsible for overruns.

Description	Total Estimated Cost	Federal Participation		State Participation		Local Participation	
		%	Cost	%	Cost	%	Cost
Environmental (By State)	\$5,000	0%	\$0	100%	\$5,000	0%	\$0
Utilities (By State)	\$10,000	0%	\$0	100%	\$10,000	0%	\$0
Engineering (By LG)	\$82,000	0%	\$0	0%	\$0	100%	\$82,000
Construction (By State)	\$500,000	80%	\$400,000	20%	\$100,000	0%	\$0
Subtotal	\$597,000		\$400,000		\$115,000		\$82,000
Construction (Direct State Cost)	\$26,075	0%	\$0	100%	\$26,075	0%	\$0
Utilities (Direct State Cost)	\$1,750	0%	\$0	100%	\$1,750	0%	\$0
Environmental (Direct State Cost)	\$1,750	0%	\$0	100%	\$1,750	0%	\$0
Engineering (Direct State Cost)	\$5,250	0%	\$0	100%	\$5,250	0%	\$0
Right of Way (Direct State Cost)	\$175	0%	\$0	100%	\$175	0%	\$0
Indirect State Costs (4.52%)	\$1,582	0%	\$0	100%	\$1,582	0%	\$0
TOTAL	\$633,582		\$400,000		\$151,582		\$82,000

Initial payment by the Local Government to the State: \$0

Payment by the Local Government to the State before construction: \$0

Total payment by the Local Government to the State: \$0

This is an estimate. The final amount of participation will be based on actual costs.



AGENDA ITEM 13

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020
DEPT. OF ORIGIN: Parks and Recreation	SUBMITTED BY: Crystal Locke
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-20-002 Adopting a New Fee Schedule for the City of Brenham Parks and Recreation Department	
SUMMARY STATEMENT: The City of Brenham publishes an annual Parks and Recreation Guide for residents as a reference for the City's recreational offerings. While many of the Parks and Recreation amenities and programs are offered to the public at no cost, there are fees for services such as: facility rentals, admission to the Blue Bell Aquatic Center (BBAC), swim lessons and classes, and other recreational programming. At the November 13, 2019 Parks and Recreation Advisory Board meeting, staff reviewed the current Parks and Recreation rate schedule with the Board and presented an increase in the fall/spring competition pool inflatable rentals starting at \$75-\$150. Last year's rate started at \$50. Rates were discussed and approved by the Parks and Recreation Advisory Board and are reflected in the attached Parks and Recreation 2020 Fee Schedule.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: (1) Resolution No. R-20-002; and (2) 2020 Parks and Recreation Fee Schedule	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION: Approve Resolution No. R-20-002 adopting a new fee schedule for the City of Brenham Parks and Recreation Department	
APPROVALS: James Fisher	

RESOLUTION NO. R-20-002

A RESOLUTUION OF THE CITY OF BRENHAM, TEXAS ADOPTING A NEW FEE SCHEDULE FOR THE CITY OF BRENHAM'S PARKS AND RECREATION

WHEREAS, Chapter 19, Parks and Recreation, of the Code of Ordinances authorizes the City Council to adopt fees for all parks and recreation activities; and

**NOW THERFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF BRENHAM TEXAS AS FOLLOWS:**

The City Council hereby adopts the 2020 Parks and Recreation Fee Schedule, to be effective January 16, 2020 and attached hereto as Exhibit A fee schedule for park facilities and recreation programs.

PASSED and **APPROVED** on the 16th day of January 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

2020 Parks and Recreation Fee Schedule

Facility Rentals

	Half day	Whole day
All Sports Building		\$200
Fireman's Kitchen	\$100	\$150
add Finke Pavilion		\$300
Fireman's Rock Room	\$60	\$100
Henderson Kitchen	\$60	\$100
Jackson Street Kitchen	\$60	\$100
Amphitheatre	\$100	\$150
Half days are 7am - 2pm or 3pm - 10pm		
Whole days are 7am - 10pm		
All rentals require a \$100 deposit		
Carousel	\$1/rider or \$40 min/hour	

Field Rentals

Tournament Reservations	
Baseball/Softball Field per day	\$100
Schulte Baseball Field per day	\$175
Fireman's Baseball Field per day	\$250
Additional Field Prep per game	\$35
Multi-use Field per day	\$75
Rankin Field per day	\$250
Fields require a \$50 deposit per field	
Access lights for \$50 per field per day	
Insurance required for tournaments, league play, and select teams	
Field Reservations - recreational use	
Recreational use per day	\$75
Coaching Lessons per year	\$100
League fee per player	\$10
Select Team per year	\$250

Blue Bell Aquatic Center

	Non-Summer	Summer
Daily Admission	\$4	\$5
Children 3 & under	\$2	\$3
Annual Monthly Summer Aerobic		
Individual	\$250	\$85
Seniors (55+)	\$200	\$65
Family	\$450	\$55
Single Add-On	\$150	\$145
15 Visit Card	\$60	\$85
Blinn Semester	\$100/semester	\$75

*Family (max 6): Family consists of two adults and children in the same house.

Private Party Rentals

Therapy	\$200
Competition	\$250
Outdoor Leisure	\$300
Bring your own food	\$50

Regular Party Rentals

Spring/Fall (Comp Pool Only): Basic	\$75
add-on inflatable package starting at \$75-\$150	
Summer Packages:	
Splash	\$125
Surfside	\$150
Tidalwave	\$175
Packages Include:	
Admission for 8 people	
6 tables & 16 Chairs (Pavilion has 8 Picnic Tables)	
Set up & tear down of Tables	
30 minutes of prep time	
Extras:	
Bring your own food: \$50	
Extra time: \$60/3hrs	
Extra Tables: \$5/table (if available)	

Locker Rentals

	Large Locker	Small Locker
Year	\$150	\$100
Semester	\$65	\$45
Month	\$15	\$10

Programs

Water Works	\$20 + pool pass
AquaCARDIO	\$20 + pool pass
Beginning Wellness	\$20 + pool pass
Aquatics for Arthritis	\$55 (senior/month)
	\$65 (individual/month)
Swim Lessons	
Spring & Fall	\$25
Summer	\$35
Water Babies	
Spring & Fall	\$25
Summer	\$35
Private Swim Lessons	
Lifeguard Training	\$70/4 lessons
Lifeguard Instructor	\$200
Lifeguard Recertification	\$250
Athletic Programs	\$100
Splash Spring Break	\$35
Camp CASCADE	\$10/week
Junior Guard	\$100
Breakfast with Santa	\$100





AGENDA ITEM 14

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020	
DEPT. OF ORIGIN: Parks and Recreation	SUBMITTED BY: Crystal Locke	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☒ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-20-003 Authorizing the Submission of a Grant Application to Texas Parks and Wildlife Department for the Recreational Trail Grant Program for Improvements to the Nature Trail at Hohlt Park		
SUMMARY: Council adopted the 2015-2025 Parks, Recreation and Open Spaces Master Plan in March 2015. The Action Plan and Prioritization of Needs, located in Chapter 7, includes three categories, (1) Park Development, (2) Facilities, and (3) Trails. Enhancing the Hohlt Park Nature Trail was identified as priority #2 on the Park and Recreation Trails Action Plan with a timeframe of 2018-2020 for implementation and consideration of the task. The Nature Trail at Hohlt Park is located on the southside of the park and can be accessed by the existing walking trail at Field #8 soccer-side, see map included. The Brenham Community Development Corporation allocated \$40,000 in FY19 for improvements to the Nature Trail. Staff contracted with The Land Design Group Inc. who put together a preliminary layout, bid sheet, and trail specs for the approximately 0.59-mile trail with construction cost estimates of \$85,539.98 in project costs. Improvements to the nature trail includes clearing and trimming, a board walk, granite paths, benches, and educational signage. Texas Parks and Wildlife Department (TPWD) administers the Texas Recreational Trails Fund (TRTF) under the approval of the Federal Highway Administration (FHWA). This federal program receives its funding from a portion of federal gas taxes paid on fuel used in non-highway recreational vehicles. Funds can be spent on recreational trail projects such as the construction of new recreational trails, to improve existing trails, to develop trailheads or trailside facilities, and to acquire trail corridors. Staff recommends the City apply for the Recreational Trails Grant Program for improvements to the Nature Trail at Hohlt Park. This program provides up to eighty (80) percent of project cost on a reimbursement basis to eligible applicants. The grant ceiling is \$200,000 and the application deadline is February 1, 2020. Project applicants will be notified in writing of selection after the Commission action, typically by early June. Staff is excited about the opportunity to receive additional funds to improve the Nature Trail at Hohlt Park and provide a passive recreational and educational space that allows residents the opportunity to experience nature and explore environments such as bog/wetland areas, grassy fields, forested areas, and pollinator gardens.		

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):
A. PROS: Receive matching grant funds; create a passive, educational space that allows residents to explore various environments and experience nature in a park setting
B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Resolution No. R-20-003; and (2) Map of Hohlt Park; and (3) Preliminary Rendering of Nature Trail
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: Approve Resolution No. R-20-003 authorizing the submission of a grant application to Texas Parks and Wildlife Department for the Recreational Trail Grant Program for Improvements to the Nature Trail at Hohlt Park
APPROVALS: James Fisher

RESOLUTION NO. R-20-003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE TEXAS PARKS AND WILDLIFE DEPARTMENT FOR THE PURPOSE OF PARTICIPATING IN THE RECREATIONAL TRAILS GRANT PROGRAM; AUTHORIZING CRYSTAL LOCKE, TO ACT ON BEHALF OF THE CITY OF BRENHAM IN ALL MATTERS RELATED TO THE APPLICATION; CERTIFYING THAT THE APPLICANT IS ELIGIBLE TO RECEIVE PROGRAM ASSISTANCE; CERTIFYING THAT THE APPLICANT’S MATCHING SHARE IS READILY AVAILABLE; AND DEDICATING THE PROPOSED SITE FOR PERMANENT PUBLIC PARK AND RECREATIONAL USES.

WHEREAS, the City Council of the City of Brenham, Texas (“City”) desires to authorize the filing of a grant application with the Texas Parks and Wildlife Department for the purposes of participating in the Recreational Trails Grant Program (“Grant Program”); and

WHEREAS, the City Council City of Brenham, Texas (“City”) desires to authorize an official to represent and act for the City in dealing with the Texas Parks and Wildlife Department concerning the Grant Program; and

WHEREAS, the City is qualified to apply for grant funds under the Request for Applications related to the Grant Program;

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

- Section 1: That the City hereby authorizes and directs Crystal Locke to act for the City in dealing with the Texas Parks and Wildlife Department for the purposes of the Grant Program and that Crystal Locke is hereby officially designated as the representative in this regard.
- Section 2: That the City hereby certifies that it is eligible to receive assistance under the Grant Program and that notice of the application has been posted according to local public notice requirements.
- Section 3: That the City hereby certifies that it’s matching share of twenty (20) percent is readily available at this time.

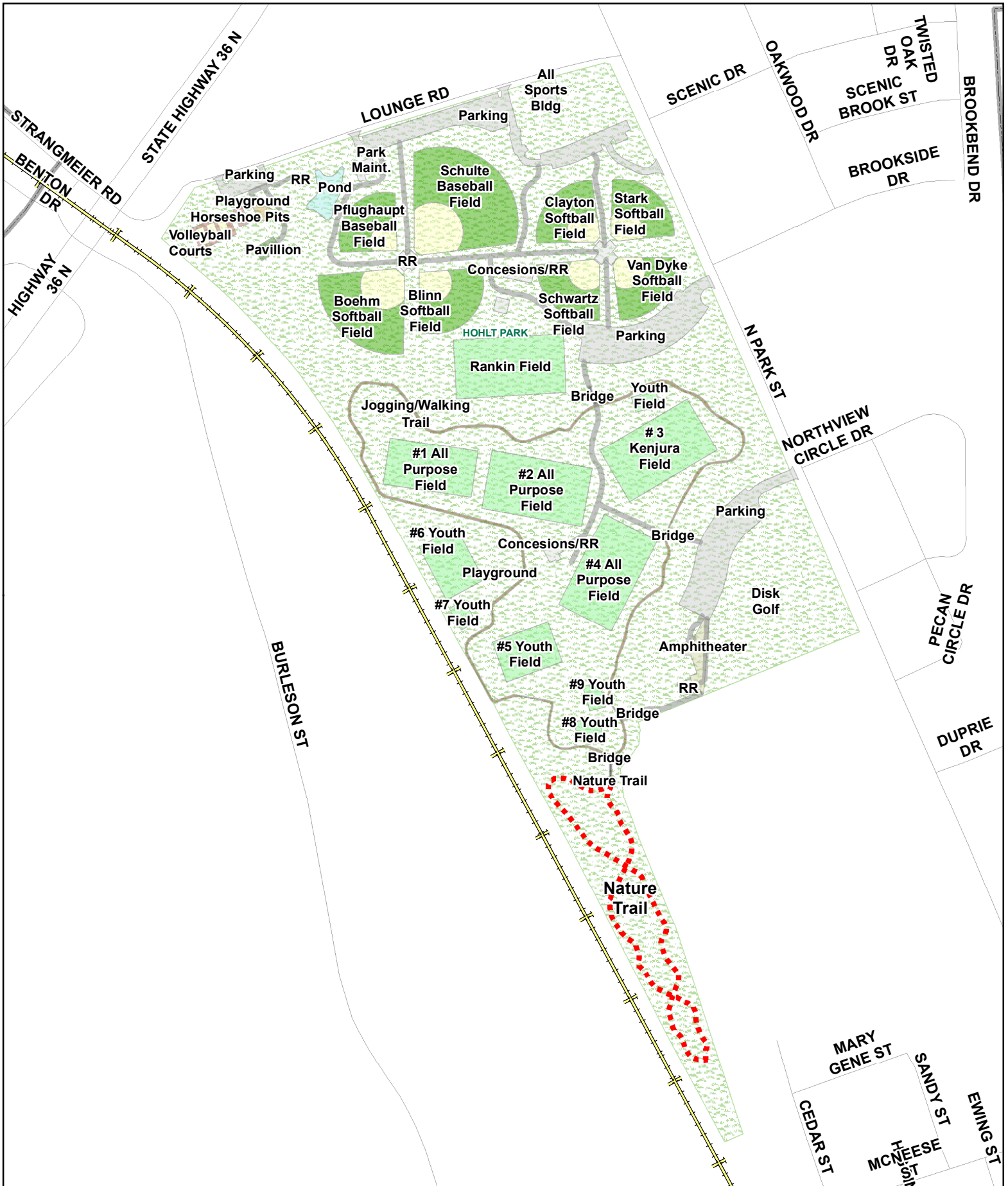
Section 4: That the City hereby specifically authorizes the designated official to make application to the Texas Parks and Wildlife Department concerning the site known as the Nature Trail at Hohlt Park in Brenham, Washington County, Texas for use as a park site and is hereby dedicated for public park and recreation purposes in perpetuity.

RESOLVED this 16th day of January 2020.

Milton Y. Tate, Jr.
Mayor

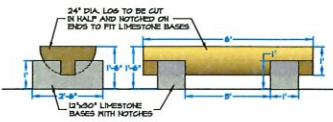
ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



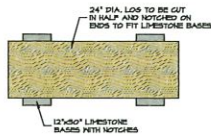
1 inch = 437 feet





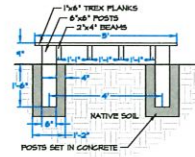
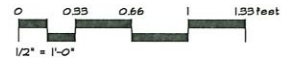
1 BENCH

SCALE: 1/2" = 1'-0"
VERIFY ALL DIMENSIONS



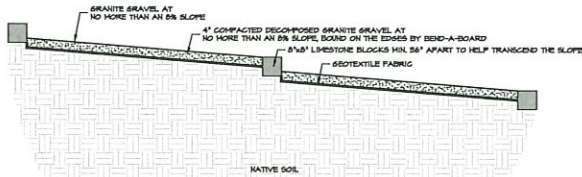
2 GRAVEL TRAIL

SCALE: 1/2" = 1'-0"
VERIFY ALL DIMENSIONS



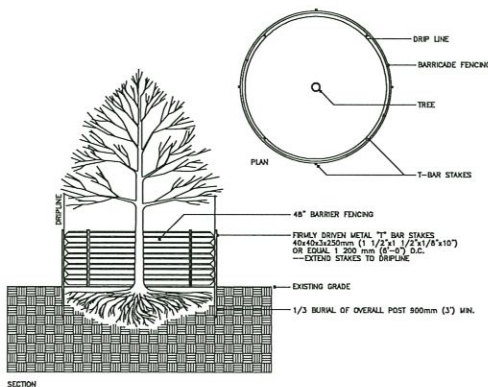
3 BOARDWALK SECTION

SCALE: 1/2" = 1'-0"
VERIFY ALL DIMENSIONS



4 GRAVEL TRAIL

SCALE: 1/2" = 1'-0"
VERIFY ALL DIMENSIONS

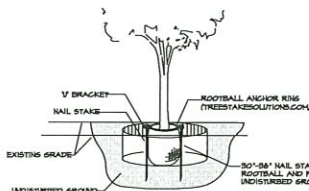


5 BOARDWALK PLAN VIEW

SCALE: 1/2" = 1'-0"
VERIFY ALL DIMENSIONS

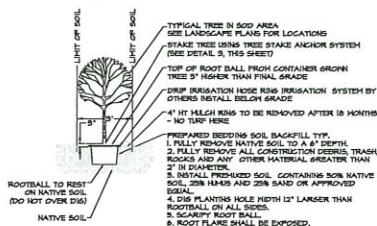
6 TREE PROTECTION

SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS



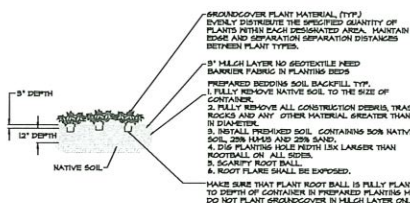
7 ROOTBALL ANCHOR

SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS



8 NON CANOPY TREE PLANTING

SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS



9 TREE PLANTING

SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS

10 GROUNDCOVER PLANTING

SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS

11 SHRUB PLANTING

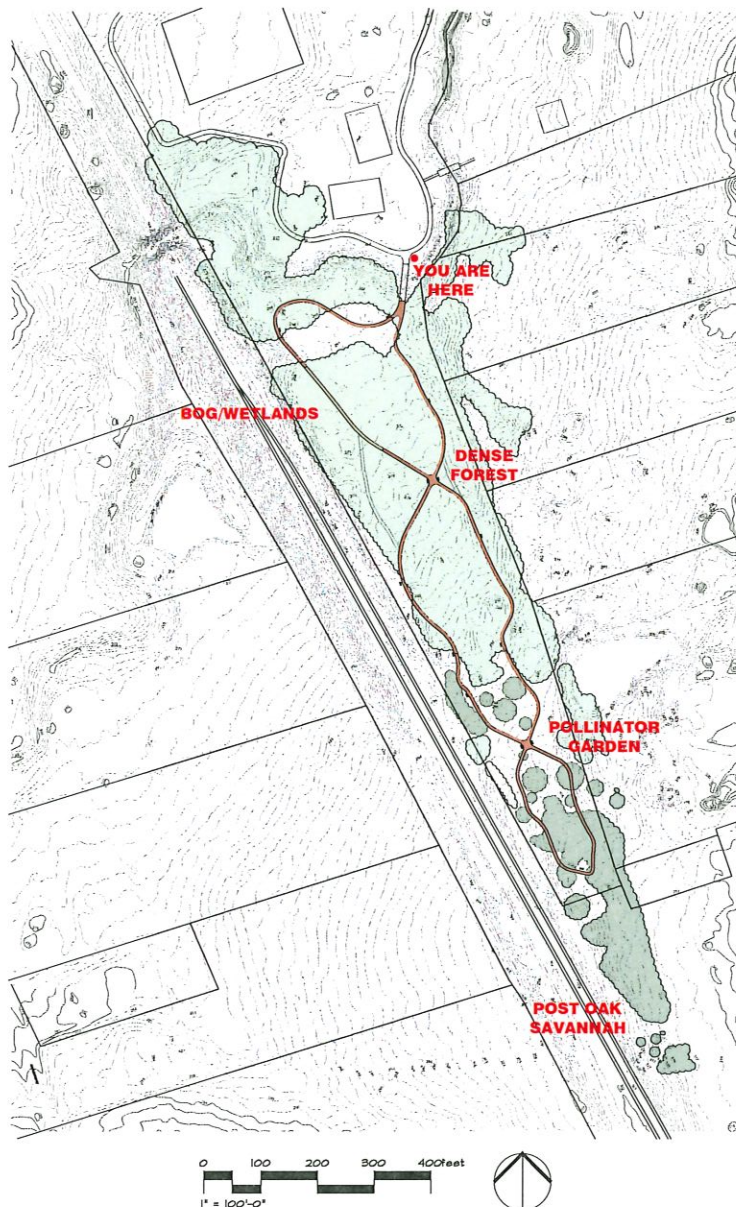
SCALE: 1/4" = 1'-0"
VERIFY ALL DIMENSIONS

Hohlt Park - Brenham, Tx

Crossover Nature Trail

WELCOME

Welcome to Hohlt Park Crossover Nature Trail! There are 2,698 ft (0.59 miles) of trails to enjoy and over 50 vertical feet of rise within the park. This area of the park encompasses over 5 acres of land. There are many environments to explore. Such as bog/wetland areas, grassy fields, forested areas and pollinator gardens. The design of this trail system is for both recreation and educational purposes. You will find signs spread throughout the park that will explain different plants and animals you might see along the trails.



Hohlt Park - Brenham, Tx

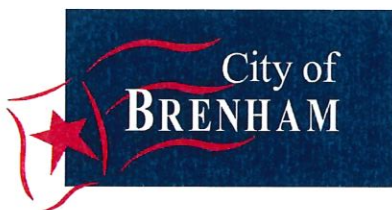
Crossover Nature Trail

POLLINATORS

In Texas, pollinators include bats, bees, hummingbirds, butterflies, wasps, flies and beetles. Worldwide, up to 80% of all plant species are pollinated. Three quarters of the worlds most common human food crops are pollinated by insects. These include coffee, tea, peppers, berries, tomatoes, fruit and nut trees, spices and vegetables. Additionally, fields of livestock crops like alfalfa and clover are pollinated by insects.

Ten Things You Can Do In Your Yard To Encourage Pollinators.

1. Plant a pollinator garden – provide nectar and feeding plants (flowers and herbs).
2. Provide a water source – place shallow dishes of water in sunny areas or create a muddy spot.
3. Provide shelter and overwintering habitat (bee boxes, undisturbed soil areas, and piles of woody debris).
4. Stop using insecticides and reduce other pesticides.
5. Provide sunny areas out of the wind.
6. Use native plant species whenever possible – mimic local natural areas.
7. Grow flowers throughout season. Provide a variety of colors and shapes.
8. Plant in clumps and layers. Use trees, shrub layers, with some lowgrowing perennials and vines – intermix with flowering annuals.
9. Use compost instead of commercial fertilizers.
10. Look but do not touch



Hohlt Park - Brenham, Tx

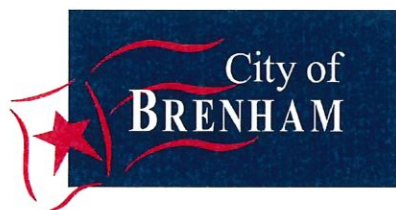
Crossover Nature Trail

WETLANDS

Wetlands are places where land meets the water. It's a zone of transition that is neither dry nor a pond. Wetland plants are specially adapted to live in the saturated soil. Many of the animal species found in wetlands can be completely aquatic, such as fish. Others require both wet and dry habitats for survival. The ability for so many species to use wetlands makes this kind of ecosystem one of the most biologically diverse on Earth. You can find more kinds of animals and plants in an acre of wetland than in almost any other kind of ecosystem. Wetlands help maintain water quality, recharge aquifers and reduce flood damage, provide habitat, and are great places to go paddling, hunting, birdwatching, and fishing.

Plants to look out for...

- *Typha domingensis* - Southern Cattail
- *Equisetum hyemale* - Horsetail Grass
- *Taxodium mucronatum* - Montezuma Cypress
- *Hibiscus coccineus* - Texas Star Hibiscus
- *Platanus mexicana* - Tex-Mex Sycamore
- *Sesbania drummondii* - Rattlebush
- *Sesbania herbacea* - Coffeeweed
- *Ilex decidua* - Possumhaw Holly
- *Acmella oppositifolia* var. *repens* - Opposite-leaf Spotflower
- *Juncus texanus* - Texas Rush
- *Carex Amphibola* - Creek Sedge
- *Eleocharis montevidensis* - Spike Rush
- *Andropogon Gerardi* - Big Bluestem Grass
- *Agrostis scabra* - Hair Grass
- *Sabal mexicana* - Texas Palmetto



Hohlt Park - Brenham, Tx

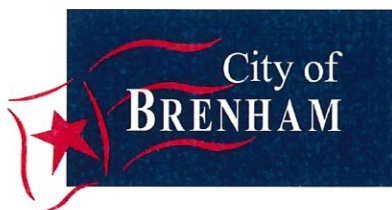
Crossover Nature Trail

MAMMALS

Mammals are by definition warm-blooded, air breathing vertebrates (with backbones). They have bodies covered in hair and feed their young milk. Most mammals give birth to miniature versions of themselves. Mammals as a group use every possible form of locomotion. Terrestrial species walk, run, jump, climb, hop, swing, dig, and burrow. Aquatic ones swim, shuffle, and dive. A few even fly. Diet and behavior vary, too. Many carnivores, for example, are top predators that live generally solitary lives, but some live in family groups. Even more social are some of the herbivores, especially hoofed animals like deer. By living in large groups, they gain both protection against becoming another animal's meal and more opportunities to breed.

Mammals to look out for...

- *Eptesicus fuscus* - Big Brown Bat
- *Sciurus carolinensis* - Eastern Gray Squirrel
- *Mephitis mephitis* - Striped Skunk
- *Procyon lotor* - Raccoon
- *Didelphis virginiana* - Virginia Opossum
- *Canis latrans* - Coyote
- *Dasypus novemcinctus* - Nine-Banded Armadillo
- *Sylvilagus floridanus* - Eastern Cottontail Rabbit
- *Peromyscus attwateri* - Texas Mouse
- *Odocoileus virginianus* - White-Tailed Deer



Hohlt Park - Brenham, Tx

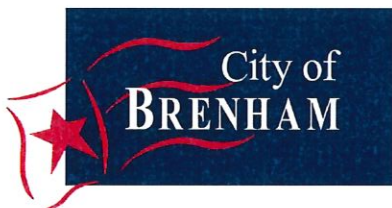
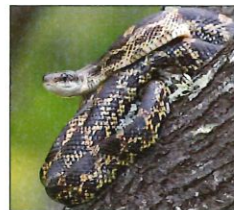
Crossover Nature Trail

REPTILES

Reptiles are air breathing, cold-blooded vertebrates (with backbones). They depend on the warmth from sunlight to become warm and active. In cold conditions they will become sluggish and inactive. They may even go into a state of hibernation or torpor. They have dry skin covered with scales or bony plates and usually lay soft-shelled eggs. Reptiles give birth to miniature versions of themselves. Most mother reptiles leave the nest once the eggs are laid. The hatchlings are independent from the start and must find their own food and shelter.

Reptiles to look out for...

- *Aspidoscelis sexlineata* - Six-Lined Racerunner
- *Scincella lateralis* - Little Brown Skink
- *Plestiodon tetragrammus* - Four-Lined Skink
- *Anolis carolinensis* - Green Anole
- *Hemidactylus turcicus* - Mediterranean House Gecko
- *Thamnophis sirtalis* - Common garter snake
- *Natrix natrix* - Grass Snake
- *Opheodrys vernalis* - Smooth Green Snake
- *Elaphe obsoleta lindheimeri* - Texas Rat Snake
- *Chelydra serpentina* - Common Snapping Turtle
- *Apalone spinifera* - Spiny Softshell Turtle
- *Terrapene carolina* - Common Box Turtle
- *Trachemys scripta elegans* - Red-Eared Slider



Hohlt Park - Brenham, Tx

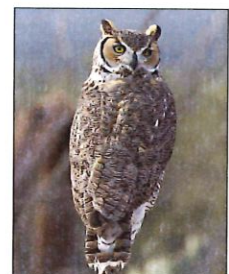
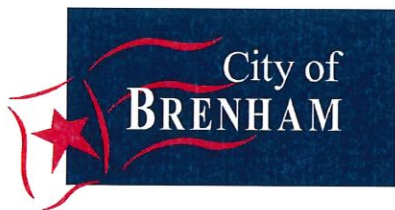
Crossover Nature Trail

BIRDS

Birds are warm-blooded vertebrates (with backbones) and are the only animals with feathers. Although all birds have wings, a few species can't fly, but many can also run, jump, swim, and dive. Everything about the anatomy of a bird reflects its ability to fly. The wings, for example, are shaped to create lift. The leading edge is thicker than the back edge, and they are covered in feathers that narrow to a point. Even their bones are specialized for flight. The main bone, the humerus, which is similar to the upper arm of a mammal, is hollow instead of solid.

Birds to look out for...

- *Megascops asio* - Eastern Screech Owl
- *Zenaida asiatica* - White-Winged Dove
- *Mimus polyglottos* - Northern Mockingbird
- *Cyanocitta cristata* - Blue Jay
- *Cardinalis cardinalis* - Northern Cardinal
- *Turdus migratorius* - American Robin
- *Bubo virginianus* - Great Horned Owl
- *Passer domesticus* - House Sparrow
- *Dryobates scalaris* - Ladder-Backed Woodpecker
- *Buteo jamaicensis* - Red-Tailed Hawk
- *Bubulcus ibis* - Cattle Egret
- *Quiscalus quiscula* - Common Grackle
- *Selasphorus rufus* - Rufous Hummingbird (Winter)
- *Accipiter cooperii* - Cooper's Hawk (Winter)
- *Archilochus colubris* - Ruby-Throated Hummingbird (Spring/Summer)
- *Archilochus alexandri* - Black-Chinned Hummingbird (Spring/Summer)





AGENDA ITEM 15

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 13, 2020	
DEPT. OF ORIGIN: Administration/Purchasing	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Notice of Termination Related to the Commercial Sanitation Contract Between the City of Brenham and Frontier Access, LLC and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: At the December 19, 2019 meeting, the City Council authorized staff to begin contract negotiations with Brannon Industrial Group (BIG) for the provision of municipal solid waste collection, transfer, removal, disposal and recycling services to the City. The next step in the process of moving forward with the sanitation contract, is to provide 90-day notice of termination to the city's current provider of commercial sanitation services, Frontier Access, LLC. The City entered into a contract with Frontier Access in March 2016. In accordance with the contract, written notice of termination must be provided not less than ninety (90) days prior to the chosen termination date. If Council is in favor of providing this notice of termination in preparation for all commercial sanitation services to be provided by BIG, it is staff's intention to notify Frontier of a May 4, 2020 termination date.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve a Notice of Termination related to the Commercial Sanitation contract between the City of Brenham and Frontier Access, LLC and authorize the Mayor to execute any necessary documentation		
APPROVALS: James Fisher		



AGENDA ITEM 17

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher	
MEETING TYPE: ☐ REGULAR ☐ SPECIAL ☒ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Sections 551.071 and 551.072 – Texas Government Code – Consultation with Attorney and Deliberation Regarding Real Property – Consultation with the City Attorney and Discussion Regarding the Termination of an Agreement with Roy Burger (dba RB Film Productions) for the Lease of Approximately 108.9 Acres of the Old Landfill Property		
SUMMARY STATEMENT: To be discussed in Executive Session.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: None		
APPROVALS: Milton Y. Tate, Jr.		



AGENDA ITEM 18

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher
MEETING TYPE: ☐ REGULAR ☐ SPECIAL ☒ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Appointment of a Brenham Municipal Court Presiding Judge For the Remainder of the Term Ending on December 31, 2020	
SUMMARY STATEMENT: To be discussed in Executive Session.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: None	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION: None	
APPROVALS: Milton Y. Tate, Jr.	



AGENDA ITEM 19

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Termination of an Agreement with Roy Burger (dba RB Film Productions) for the Lease of Approximately 108.9 Acres of the Old Landfill Property and Authorize the Mayor to Execute Any Necessary Documentation	
SUMMARY STATEMENT: As discussed in Executive Session	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: None	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION: As discussed in Executive Session	
APPROVALS: Milton Y. Tate, Jr.	



AGENDA ITEM 20

DATE OF MEETING: January 16, 2020	DATE SUBMITTED: January 9, 2020
DEPT. OF ORIGIN: Administration	SUBMITTED BY: James Fisher
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Appointment of a Brenham Municipal Court Presiding Judge For the Remainder of the Term Ending on December 31, 2020	
SUMMARY STATEMENT: As discussed in Executive Session	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: None	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION: As discussed in Executive Session	
APPROVALS: Milton Y. Tate, Jr.	