



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JANUARY 7, 2021 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Councilmember Susan Cantey**
- 3. Citizens Comments**
- 4. Service Recognitions**
 - ♦ GFOA Certificate of Achievement for Excellence in Financial Reporting – *Twelfth Consecutive Year***

CONSENT AGENDA

- 5. 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.

 - 5-a. Approve Change Order No. 1 for City of Brenham Project No. 2019-03 to Larry Young Paving, Inc. in the Amount of \$36,522.40 for Salem Road Street Improvements and Authorize the Mayor to Execute Any Necessary Documentation**

PUBLIC HEARINGS AND ASSOCIATED ACTION ITEMS

6. **Public Hearing, Discussion and Possibly Act Upon the Approval of: (1) A Municipal Services Agreement with the Owner of the Property Requesting Annexation; and (2) an Ordinance on Its First Reading Annexing the Hereinafter Described Territory into the City of Brenham:**
 - **Section 2020-2: All That 5.1545 Acre Tract or Parcel of Land Situated in Washington County, Texas, Out of the Phillip Coe Survey A-31, Being the Same Property Described in a Deed from Mike Hopkins Distributing Company, Inc. to River Eagle Real Estate, LTD. Dated July 1, 2005 as Recorded in Volume 1172, Page 220 of the Official Records of Washington County, Texas and Being Further Described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, Formerly Identified as Tract 12 of the Phillip Coe Survey, A-31, Washington County, Texas**
7. **Public Hearing, Discussion and Possibly Act Upon an Ordinance on its First Reading to Amending the Official Zoning Map of the City of Brenham to Assign a Zoning Classification of Industrial (I) District on Approximately 5.145 Acres of Land Generally Located West and Adjacent of 1751 US Highway 290 West, Being Further Described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, Washington County, Texas, and Formerly Identified as Tract 12 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas. (Case Number P-20-045)**

REGULAR SESSION

8. **Discuss and Possibly Act Upon Resolution No. R-21-001 Providing for the Continuation of the Mayoral Declaration of Local Disaster Due to Public Health Emergency Related to the COVID-19 (Coronavirus) Pandemic**
9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Article II, Hotel Occupancy Tax, of the Code of Ordinances, City of Brenham, Texas to Temporarily Modify the Hotel Occupancy Tax Reporting and Payment Schedule**
10. **Administrative/Elected Officials Report**

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

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 07, 2021 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on January 4, 2021 at 10:00 a.m.

Jeana Bellinger, TRMC, CMC

City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2021 at _____ AM PM.

Signature

Title



Regular City Council
AGENDA ITEM 5-A.

Agenda Item: Approve Change Order No. 1 for City of Brenham Project No. 2019-03 to Larry Young Paving, Inc. in the Amount of \$36,522.40 for Salem Road Street Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-January 07, 2021

Department: Public Works

Staff Contact: Dane Rau

Classification: Consent

SUMMARY STATEMENT:

The City and County have signed an Interlocal Agreement (ILA) that will allow both parties to work together to make road improvements to Salem Road. The City has recently started a project that will improve Salem Road from Highway 36 to BNSF Railroad tracks.

The County has asked that the City construct improvements to an additional approximately one hundred and fifty feet (150') on Salem Road. This portion is west of the BNSF railroad track on Salem Road. This section is out of the original scope of the City's current project with Larry Young Paving, Inc as it lies outside of the City limits and was not in the original bid.

The purpose of this agenda item is for Council to consider approving the scope change to the current Agreement with Larry Young Paving, Inc. through Change Order No. 1 in the amount of \$36,522.50, which includes the additional construction costs associated with the County portion of the improvements. These quantities were based off of the bid prices from the current bid. The City would pay for the additional work and under the ILA, the County would reimburse the City for all costs associated with the additional improvements. On the December 3, 2020 council meeting the same approach was taken for the additional engineering services in which the county will be reimbursing the City for those additional costs.

ATTACHMENTS:

- (1) Change Order No. 1
- (2) ILA Agreement

RELEVANCE TO COMPREHENSIVE PLAN:

Growth Capacity Goal GC 1: A growth pattern that provides for the long-term financial sustainability of the City, balancing public service needs of new development with reinvestment/rehabilitation needs of existing developed areas.

RECOMMENDED ACTION:

Approve Change Order No.1 to Larry Young Paving, Inc. in the amount of \$36,522.40 for Services related to Project No. 2019-03, Salem Road Street Improvements and Authorize the Mayor to Execute Any Necessary Documentation.



Strand Associates, Inc.®

1906 Niebuhr Street

Brenham, TX 77833

(P) 979-836-7937

November 12, 2020

CHANGE ORDER NO. 1

PROJECT: 2020 Salem Road Street Improvements
OWNER: City of Brenham, Texas
CONTRACT: 2019-03
CONTRACTOR: Larry Young Paving, Inc.

Description of Change

1a	Remove and dispose of 422 square yards (SY) of the existing pavement at \$6.20 per SY.	ADD	\$2,616.40
1b	Remove and dispose of 22 linear feet (LF) of the existing curb and gutter at \$11.00 per LF.	ADD	\$242.00
1c	Install 333 SY of 8.5-inch reinforced concrete pavement at \$59.00 per SY.	ADD	\$19,647.00
1d	Install 22 LF of reinforced concrete standard curb at \$6.00 per LF.	ADD	\$132.00
1e	Railroad permit coordination, inspection, flagger, and associated fees for a lump sum (LS) of \$4,500.00.	ADD	\$4,500.00
1f	Traffic control and regulation for a LS of \$1,200.00.	ADD	\$1,200.00
1g	Seeding and site restoration for a LS of \$4,005.00.	ADD	\$2,400.00
1h	Install 89 SY of 12 inches of flexible base (95 percent Standard TEX-113) at \$45.00 per SY.	ADD	\$4,005.00
1i	Install 89 SY of 6.0 inches of cement stabilized sand (1-1/2 of cement per cubic yard of sand) at \$20.00 per SY.	ADD	\$1,780.00
TOTAL VALUE OF THIS CHANGE ORDER:		ADD	\$36,522.40

Contract Price Adjustment

Original Contract Price	\$1,284,372.50
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	\$36,522.40
Current Contract Price including this Change Order	\$1,320,894.90

Contract Final Completion Date Adjustment

Original Contract Final Completion Date	January 1, 2021
Contract Final Completion Date Adjustments due to previous Change Orders	0 Days
Contract Final Completion Date Adjustments due to this Change Order	84 Days
Current Final Contract Completion Dates including all Change Orders	March 26, 2021

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TBPE No. F-8405
TBPLS No. 10030000

City of Brenham–Larry Young Paving, Inc.
Contract 2019-3, Change Order No. 1
Page 2
November 12, 2020

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

RECOMMENDED



ENGINEER–Strand Associates, Inc.®

11/12/2020
Date

APPROVED



CONTRACTOR–Larry Young Paving, Inc.

11/13/2020
Date

APPROVED

OWNER–City of Brenham, Texas

Date

EXHIBIT A

INTERLOCAL AGREEMENT BETWEEN CITY OF BRENHAM AND WASHINGTON COUNTY, TEXAS RELATED TO ADDITIONAL SALEM ROAD IMPROVEMENTS LOCATED OUTSIDE THE CITY LIMITS

This "Interlocal Agreement Between the City of Brenham and Washington County, Texas Related to Additional Salem Road Improvements" (the "Agreement") is entered into pursuant to Texas Government Code, Chapter 791 (the "Interlocal Cooperation Act") to be effective on the 8th day of December, 2020 ("Effective Date"), by and between the City of Brenham, a Texas home rule municipal corporation (hereinafter "CITY"), and the County of Washington, a political subdivision of the State of Texas (hereinafter "COUNTY").

WHEREAS, the CITY is engaging in a project for the design and construction of improvements to Salem Road; and

WHEREAS, the COUNTY desires that the CITY design and construct improvements to an additional approximately one hundred and fifty feet (150') on Salem Road west of the intersection of BNSF's Railroad tracks and Salem Road, located outside the CITY limits but within COUNTY, which is beyond the original scope of the CITY project; and

WHEREAS, the CITY agrees to design and construct the additional improvements to Salem Road requested by the COUNTY as provided for in this Agreement and the COUNTY agrees to pay all design and construction costs associated with the additional Salem Road improvements requested by the COUNTY ("Project"); and

WHEREAS, the COUNTY desires the Project to be completed while the CITY's contractor is mobilized to reduce costs, improve safety and minimize impact to area traffic; and

WHEREAS, the total estimated cost of the Project is \$43,522.40, and the COUNTY desires to pay all such Project costs;

NOW, THEREFORE, for and in consideration of the recitations above and the promises and covenants herein expressed, the parties hereby agree as follows:

I. PAYMENT OF COSTS

COUNTY agrees to pay all costs, including but not limited to all design and construction costs, to design and construct the Project as follows:

A. The estimated total cost of the Project is \$43,522.40. The CITY shall construct this Project in accordance with applicable bidding and procurement laws.

B. The CITY agrees that it will construct the Project improvements in accordance with the plans, drawings and specifications approved by the CITY. The parties hereto understand and agree that the actual costs related to the Project may change during the Project due to unforeseen

circumstances, and are subject to any change orders approved by the CITY and COUNTY.

C. COUNTY shall reimburse the CITY for all costs incurred by the CITY associated with the design and construction of the Project, and said amounts must be paid from current revenues available to the COUNTY as the Project progresses. CITY shall submit invoices to the COUNTY monthly, and said amounts must be paid to the CITY by the COUNTY within thirty (30) days of the COUNTY's receipt of said invoices.

D. COUNTY further agrees to provide and/or acquire all necessary easements, if any, as may be required by the CITY to complete the Project contemplated under this Agreement, at no cost to the CITY.

E. **Information, books and other records.** CITY shall make its books and other records related to the Project available for inspection by COUNTY. CITY shall submit to COUNTY any and all information or records requested to verify the CITY's expenditures on the Project including but not limited to bid documents, payment applications, including any supporting information, cancelled checks, copies of construction and engineering documents for the verification of the cost estimate of the Project.

II. GOVERNMENTAL IMMUNITY, INDEMNIFICATION AND RELEASE

A. **CITY IS A POLITICAL SUBDIVISION OF THE STATE AND ENJOYS GOVERNMENTAL IMMUNITY. BY ENTERING INTO THIS AGREEMENT, CITY DOES NOT CONSENT TO SUIT, WAIVE ITS GOVERNMENTAL IMMUNITY, OR THE LIMITATIONS AS TO DAMAGES UNDER THE TEXAS TORT CLAIMS ACT OR ANY OTHER APPLICABLE LAW.**

B. **TO THE EXTENT ALLOWED BY APPLICABLE LAW, COUNTY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND CITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, EXPERT FEES AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, OR FOR BREACH OF CONTRACT, ARISING OUT OF OR IN CONNECTION WITH ANY ACT, OMISSION OR WILLFUL MISCONDUCT BY COUNTY.**

C. **COUNTY IS A POLITICAL SUBDIVISION OF THE STATE AND ENJOYS GOVERNMENTAL IMMUNITY. BY ENTERING INTO THIS AGREEMENT, COUNTY DOES NOT CONSENT TO SUIT, WAIVE ITS GOVERNMENTAL IMMUNITY, OR THE LIMITATIONS AS TO DAMAGES UNDER THE TEXAS TORT CLAIMS ACT OR ANY OTHER APPLICABLE LAW.**

D. **TO THE EXTENT ALLOWED BY APPLICABLE LAW, CITY AGREES TO AND SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND COUNTY AND ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, EXPERT FEES AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, OR FOR BREACH OF**

CONTRACT, ARISING OUT OF OR IN CONNECTION WITH ANY ACT, OMISSION OR WILLFUL MISCONDUCT BY CITY.

III. GENERAL PROVISIONS

- A.** City and County when referred to collectively will sometimes be referred to herein as Parties.
- B. Modification.** No modification of this Agreement shall be made unless mutually agreed upon by the parties in writing.
- C. Severability.** In the event that any term or clause of this Agreement conflicts with applicable law, the conflicting term shall be severed from the Agreement and such conflict shall not affect the other terms and conditions of this Agreement.
- D. Costs and Attorney's Fees.** In the event that litigation over this Agreement results between the parties hereto, the prevailing party shall be awarded, in addition to other damages allowed by law, its reasonable attorney's fees and costs incurred in pursuing such litigation.
- E. Default.** The failure to meet any of the terms or conditions of this Agreement shall constitute a material default of the Agreement. If either Party defaults in its obligations under this Agreement, the other Party must, prior to exercising a remedy available to that Party due to the default, give written notice to the defaulting Party, specifying the nature of the alleged default and the manner in which it can be satisfactorily cured, and extend to the defaulting Party at least thirty (30) days from receipt of the notice to cure the default. If the nature of the default is such that it cannot reasonably be cured within the 30-day period, the commencement of the cure within the 30-day period and the diligent prosecution of the cure to completion will be deemed a cure within the cure period. If either Party defaults under this Agreement and fails to cure the default within the applicable cure period, the non-defaulting Party will have all rights and remedies available under this Agreement or applicable law, including the right to institute legal action to cure any default, to enjoin any threatened or attempted violation of this Agreement or to enforce the defaulting Party's obligations under this Agreement by specific performance or writ of mandamus, or to terminate this Agreement. All remedies available to a Party will be cumulative and the pursuit of one remedy will not constitute an election of remedies or a waiver of the right to pursue any other available remedy.
- F. Applicable Law and Venue.** The interpretation, performance, enforcement and validity of this Agreement is governed by the laws of the State of Texas. Exclusive venue will be in a court of appropriate jurisdiction in Washington County, Texas.
- G. No Third Party Beneficiary.** This Agreement is not intended, nor will it be construed, to create any third-party beneficiary rights in any person or entity who is not a Party, unless expressly otherwise provided.
- H. Waiver.** Any failure by a Party to insist upon strict performance by the other Party of any provision of this Agreement will not, regardless of the length of time during which that failure continues, be deemed a waiver of that Party's right insist upon strict compliance with all terms of this Agreement. In order to be effective as to a Party, any waiver of default under this Agreement

must be in writing, and a written waiver will only be effective as to the specific default and as to the specific period of time set forth in the written waiver. A written waiver will not constitute a waiver of any subsequent default, or of the right to require performance of the same or any other provision of this Agreement in the future.

I. Entire Agreement. This Agreement contains the entire agreement of the Parties, and there are no other agreements or promises, oral or written, between the Parties regarding the subject matter of this Agreement. This Agreement may be amended only by written agreement signed by the Parties.

J. Exhibits, Headings, Construction and Counterparts. All exhibits attached to this Agreement are incorporated into and made a part of this Agreement for all purposes. The paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the paragraphs. Wherever appropriate, words of the masculine gender may include the feminine or neuter, and the singular may include the plural, and vice-versa. Each of the Parties has been actively and equally involved in the negotiation of this Agreement. Accordingly, the rule of construction that any ambiguities are to be resolved against the drafting Party will not be employed in interpreting this Agreement or its exhibits. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, and all of which will together constitute the same instrument. This Agreement will become effective only when one or more counterparts, individually or taken together, bear the signatures of all of the Parties.

K. Authority for Execution. The CITY certifies, represents, and warrants that the execution of this Agreement has been duly authorized and that this Agreement has been approved in conformity with CITY ordinances and other applicable legal requirements. COUNTY certifies, represents, and warrants that the execution of this Agreement is duly authorized in conformity with all applicable legal requirements.

L. Notices. Any notices under this Agreement may be sent by hand delivery, or certified mail, return receipt requested, to the Parties at the following addresses or as such addresses may be changed from time to time by written notice to the other Parties:

CITY: City Manager
 City of Brenham
 P.O. Box 1059
 Brenham, Texas 77834-1059

COUNTY: John Durrenberger, County Judge
 Washington County Courthouse
 100 E Main Street, Suite 104
 Brenham, TX 77833

Either CITY or COUNTY may change its mailing address at any time by giving written notice of such change to the other in the manner provided herein at least ten (10) days prior to the date such change is effective. All notices under this Agreement will be deemed given on the earlier of the date personal delivery is affected or on the delivery date or attempted delivery date shown on the return receipt or facsimile confirmation.

M. Assignment. This Agreement and the rights and obligations contained herein may not be assigned by either party without the prior written approval by the other party.

Executed this 8th day of December, 2020

WASHINGTON COUNTY, TEXAS

John Durrenberger
John Durrenberger, County Judge

CITY OF BRENHAM, TEXAS

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

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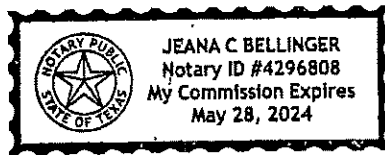
THE STATE OF TEXAS

ACKNOWLEDGEMENT

COUNTY OF WASHINGTON

Before me, the undersigned authority, on this day personally appeared Milton Y. Tate, Jr., Mayor of the City of Brenham, Texas, a Texas Home-rule Municipal Corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 7th day of December,
2020.



Jeana C. Bellinger
Notary Public in and for the State of Texas

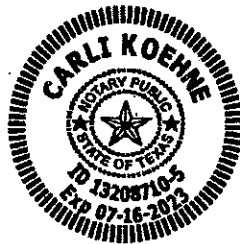
THE STATE OF TEXAS

ACKNOWLEDGEMENT

COUNTY OF WASHINGTON

Before me, the undersigned authority, on this day personally appeared John Durrenberger, County Judge of the County of Washington, a political subdivision of the State of Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this the 8th day of December,
2020.



Carli Koehne
Notary Public in and for the State of Texas



Regular City Council
AGENDA ITEM 6.

Agenda Item: Public Hearing, Discussion and Possibly Act Upon the Approval of: (1) A Municipal Services Agreement with the Owner of the Property Requesting Annexation; and (2) an Ordinance on Its First Reading Annexing the Hereinafter Described Territory into the City of Brenham:

- **Section 2020-2: All That 5.1545 Acre Tract or Parcel of Land Situated in Washington County, Texas, Out of the Phillip Coe Survey A-31, Being the Same Property Described in a Deed from Mike Hopkins Distributing Company, Inc. to River Eagle Real Estate, LTD. Dated July 1, 2005 as Recorded in Volume 1172, Page 220 of the Official Records of Washington County, Texas and Being Further Described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, Formerly Identified as Tract 12 of the Phillip Coe Survey, A-31, Washington County, Texas**

Meeting Type: Regular Meeting-January 07, 2021

Department: Administration

Staff Contact: Jeana Bellinger

Classification: Public Hearing

SUMMARY STATEMENT:

In July 2020, the City received a request from River Eagle Real Estate, Ltd. (Mike Hopkins Distributing Co., Inc.) to annex a 5.1545-acre tract of land adjoining their property located at 1751 Highway 290 West in Brenham., Washington County, Texas.

As required by law, the City must hold a Public Hearing to allow citizens to express their support or concerns related to the annexation. The City must also enter into a Municipal Services Agreement outlining when and how city services will be provided for the any tract of land being considered for annexation. The Agreement for this annexation has been approved by River Eagle Real Estate, Ltd. and a copy is included in this packet. Also included in this packet is the annexation ordinance being presented to the Council for first reading.

Since this tract adjoins their existing property, staff recommends annexing this land to assist with any possible development of Mike Hopkins Distributing Co. Inc. in the future.

ATTACHMENTS:

-
- (1) Municipal Service Agreement
 - (2) Ordinance for First Reading

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve: (1) a Municipal Services Agreement between the City of Brenham and River Eagle Real Estate, Ltd.; and (2) an Ordinance on its first reading annexing the hereinafter described territory into the City of Brenham: Section 2020-2: all that 5.1545 acre tract or parcel of land situated in Washington County, Texas, out of the Phillip Coe Survey A-31, being the same property described in a deed from Mike Hopkins Distributing Company, Inc. to River Eagle Real Estate, LTD. dated July 1, 2005 as recorded in Volume 1172, Page 220 of the Official Records of Washington County, Texas and being further described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, formerly identified as Tract 12 of the Phillip Coe Survey, A-31, Washington County, Texas

**MUNICIPAL SERVICES AGREEMENT
BETWEEN THE CITY OF BRENHAM, TEXAS
AND RIVER EAGLE REAL ESTATE, LTD.**

This Municipal Services Agreement ("Agreement") is entered into on the _____ day of _____, 20____ by and between the City of Brenham, a Texas a home-rule municipality ("City") and River Eagle Real Estate, Ltd. ("Owner").

RECITALS

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement:

WHEREAS, Section 43.0671 et seq. of the Texas Local Government Code ("LGC") permits the City to annex an area if each owner of land in an area requests the annexation; and

WHEREAS, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner that sets forth the City services to be provided for the Property on or after the effective date of annexation; and

WHEREAS, Owner owns certain parcel(s) of land situated in Washington, Texas, which consists of approximately 5.1545 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described in Exhibit A attached hereto and incorporated herein for all purposes pertinent ("Property"); and

WHEREAS, Owner has filed a written request with the City for annexation of the Property; and

WHEREAS, in accordance with Section 43.0672 of the LGC City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation; and

WHEREAS, the annexation and execution of this Agreement are subject to approval by the Brenham City Council;

NOW THEREFORE, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the annexation.
- 2. INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.

3. MUNICIPAL SERVICES

- a. Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, “providing services” includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure extension policies and developer or property owner participation in accordance with applicable City ordinances, rules, regulations, and policies.
 - i. Fire – The City’s Fire Department will provide emergency and fire protection services.
 - ii. Police – The City’s Police Department will provide law enforcement services.
 - iii. Planning, Zoning, and Building – The City’s Development Services Department will provide planning, land development, land use, and building review and inspection services in accordance with all applicable laws, rules, and regulations.
 - iv. Publicly Owned Parks, Facilities, and Buildings
 - 1. Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor.
 - 2. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.
 - v. Drainage Utility System – The Property will be included in the City’s Drainage Utility System service area and will be assessed a monthly fee based on the amount of impervious area, in accordance with the provisions of the City’s ordinances governing the Drainage Utility System. The fees will cover the direct and indirect costs of Drainage Utility System services and operations.
 - vi. Streets - The City’s Public Works Department will maintain the public streets over which the City has jurisdiction. The City will provide regulatory signage services in accordance with the City policies and procedures and applicable laws.
 - vii. Water and Wastewater
 - 1. Existing, occupied homes and other structures that are using water well and validly permitted and properly functioning on-site sewage facilities on the effective date of annexation may continue to use the same as long as the facilities remain validly permitted and properly functioning. If a property owner desires to connect to the City water and/or sewer system, then the owner may request a connection in accordance with the City’s utility connection and service policies, regulations and applicable law in effect at the time of connection. Once connected to the City’s water and sanitary sewer mains, the water and sanitary sewage service will be provided by the City at rates established by City ordinances for such services.

2. New homes and other structures will be required to connect to the City's water and sewer system at the owner's expense and in accordance with the City's policies, regulations and applicable law in effect at the time of connection.
- viii. Solid Waste Services – The City, or its contractor, will provide solid waste collection services in accordance with the City's ordinances, agreements, and policies, except where prohibited by law.
 - ix. Code Compliance – The City's Code Compliance Division will provide education, enforcement, and abatement relating to code violations within the Property.
 - b. It is acknowledged and agreed by the parties that the City is not required to provide a service that is not included in this Agreement.
 - c. Owner acknowledges that the City departments and divisions listed herein may change names or be re-organized by the City Manager. Any reference to a specific department or division also includes any subsequent City department or division that will provide the same or similar services.
4. **AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges and agrees that approval of the annexation is within the sole jurisdiction of the Brenham City Council. Nothing in this Agreement guarantees favorable decisions by the Brenham City Council.
5. **SEVERABILITY.** If any part, term, or provision of this Agreement is held by a court to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
6. **INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them had the opportunity to be represented by legal counsel in the negotiation and drafting of this Agreement.
7. **GOVERNING LAW AND VENUE.** Exclusive venue shall be in the state courts located in Washington County, Texas or the United States District Court for the Western District of Texas, Austin Division and construed in conformity with the provisions of the laws of the State of Texas, including but not limited to Texas Local Government Code Chapter 43.
8. **NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
9. **GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.

10. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

11. CAPTIONS. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

12. AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND. This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.

13. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

14. EFFECTIVE DATE. This Agreement shall only be effective and binding on the parties upon the effective date of the ordinance annexing the Property adopted by the Brenham City Council.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

CITY OF BRENHAM

RIVER EAGLE REAL ESTATE, LTD.

By: _____
Milton Y. Tate, Jr.
Mayor

By: _____
Mike Hopkins, Jr.
President

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

COUNTY OF WASHINGTON §

By: _____

STATE OF TEXAS §

COUNTY OF WASHINGTON §

By: _____

After Recording Return to:

City Secretary
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059

Exhibit "A"

5.1545 ACRES. All that tract or parcel of land situated in Washington County, Texas out of the Phillip Coe Survey A-31 and being a portion of the tract of land called 9.04 acres in a deed from Henry Muery, et ux to Calvin Borman dated September 6, 1948 as recorded in Volume 159, Page 115 of the Washington County Deed Records, more particularly described as follows:

BEGINNING at the old iron pin in the fence line marking the Southeast corner of the original 9.04 acre tract, said point also being the Northeast corner of the Florence Draehn tract, and being in the West line of a 40 ft. wide lane owned by Dix R. Turnbow;

THENCE with the south line of the original tract, same being the North line of the Draehn tract S 74° 32' 51" W, 300.00 ft. to a set iron pin in the fence line for Southwest corner;

THENCE N 18° 8' 33" W, 749.15 ft. to a set iron pin for Northwest corner;

THENCE N 74° 32' 51" E, 300 ft. to a set iron pin in the West line of the Dix R. Turnbow tract;

THENCE with the West line of said tract same being the East line of the original 9.04 acre tract S 18° 09' 22" E, 335.83 ft. to a fence line angle and S 18° 07' 52" E, 413.32 ft. to the PLACE OF BEGINNING and containing 5.1545 acres of land.



1 inch = 200 feet



R12256

-  City Limits
-  County Parcels
-  City Roads

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS FOR THE PURPOSE OF EXTENDING THE CORPORATE LIMITS OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR THE ANNEXATION OF APPROXIMATELY 5.1545 ACRES OF LAND, COMPRISED OF ONE (1) TRACT HEREINAFTER MORE SPECIFICALLY DESCRIBED, TO THE CITY OF BRENHAM, TEXAS FOR ALL MUNICIPAL PURPOSES; FINDING THAT ALL NECESSARY AND REQUIRED LEGAL CONDITIONS HAVE BEEN SATISFIED; PROVIDING THAT SUCH AREAS SHALL BECOME A PART OF THE CITY AND THAT THE INHABITANTS THEREOF SHALL BE ENTITLED TO THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BE BOUND BY THE ACTS AND ORDINANCES NOW IN EFFECT AND TO BE HEREINAFTER ADOPTED; PROVIDING FOR A MUNICIPAL SERVICES AGREEMENT FOR THE ANNEXED AREAS; PROVIDING FOR THE AMENDMENT OF THE OFFICIAL MAP OF THE BOUNDARIES OF THE CITY; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Brenham, Texas is a Texas home-rule municipality; and

WHEREAS, Chapter 43 of the Texas Local Government Code, V.T.C.A., authorizes municipalities to annex territory in accordance with the procedures provided for therein; and

WHEREAS, Article I, Section 3 of the Charter of the City of Brenham authorizes annexation of territory to the City, in accordance with the laws of this State; and

WHEREAS, the hereinafter described property lies within the extraterritorial jurisdiction of the City of Brenham; and

WHEREAS, pursuant to Section 43.0671 et seq. of the Texas Local Government Code, the owner of approximately 5.1545 acres of land, described in Exhibit "A" attached hereto and incorporated herein for all purposes, has filed a written request with the City for the annexation of said area; and

WHEREAS, notice of the required public hearing was published in a newspaper having general circulation in the City of Brenham, Texas and the public hearing was conducted and held in accordance with applicable law; and

WHEREAS, the City of Brenham, Texas has approved a Municipal Services Agreement with the property owner for the extension of municipal services into the area to be annexed, said Agreement being attached hereto as Exhibit “B” and incorporated herein for all purposes; and

WHEREAS, all notices, publications and hearings have been duly given and held as required by law; Now Therefore,

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

Section 1. That the hereinafter described tract of land is within the extraterritorial jurisdiction of, and is adjacent to and is contiguous to the present corporate limits of the City of Brenham, Texas, be, the same is hereby, annexed to the City of Brenham, Texas for all municipal purposes and the corporate boundaries and limits of the City of Brenham, Texas are hereby extended to embrace the said tract of land, which is more particularly described and attached hereto as Exhibit “A” and incorporated herein for all purposes.

Section 2. That the inhabitants, if any, of the property hereby annexed to the City of Brenham, Texas shall be entitled to all the rights and privileges of said citizens of the City of Brenham, Texas, and shall be bound by the acts, ordinances, codes, resolutions and regulations of the City of Brenham, Texas.

Section 3. That the Municipal Services Agreement which is attached hereto as Exhibit “B” is hereby approved and incorporated herein as part of this Ordinance for all purposes and is applicable to the areas annexed to the City as described herein.

Section 4. That the official map and boundaries of the City of Brenham, Texas, heretofore adopted and amended be and is hereby amended so as to include the aforementioned areas as part of the City of Brenham, Texas.

Section 5. That the City Secretary is hereby directed and authorized to perform or cause to be performed all acts necessary to amend the official map of the City of Brenham, Texas to add the territory hereby annexed as required by law.

Section 6. If any section, subsection, sentence, phrase, word, paragraph or provision of this Ordinance be found to be illegal, invalid or unconstitutional or if any portion of said property is incapable of being annexed by the City of Brenham, Texas, for any reason whatsoever, the adjudication shall not affect any other section, subsection, sentence, phrase, word, paragraph or provision of this Ordinance or the application of any other section, subsection, sentence, phrase, word, paragraph or provision of any other Ordinance of the City. The City Council declares that it would have adopted the valid portions and applications of this Ordinance and would have annexed the valid property without the invalid part, and as to this end the provisions of this Ordinance are declared to be severable.

Section 7. That this Ordinance shall become effective upon its passage.

Section 8. That the meetings at which this Ordinance was enacted were open to the public as required by the Texas Open Meetings Act, and that notice of the time, place, and subject matter of said meetings was given as required by the Texas Open Meetings Act.

PASSED and APPROVED on its first reading this the ____ day of _____ 2021.

PASSED and APPROVED on its second reading this the ____ day of _____ 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST

Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit "A"

5.1545 ACRES. All that tract or parcel of land situated in Washington County, Texas out of the Phillip Coe Survey A-31 and being a portion of the tract of land called 9.04 acres in a deed from Henry Muery, et ux to Calvin Borman dated September 6, 1948 as recorded in Volume 159, Page 115 of the Washington County Deed Records, more particularly described as follows:

BEGINNING at the old iron pin in the fence line marking the Southeast corner of the original 9.04 acre tract, said point also being the Northeast corner of the Florence Draehn tract, and being in the West line of a 40 ft. wide lane owned by Dix R. Turnbow;

THENCE with the south line of the original tract, same being the North line of the Draehn tract S 74° 32' 51" W, 300.00 ft. to a set iron pin in the fence line for Southwest corner;

THENCE N 18° 8' 33" W, 749.15 ft. to a set iron pin for Northwest corner;

THENCE N 74° 32' 51" E, 300 ft. to a set iron pin in the West line of the Dix R. Turnbow tract;

THENCE with the West line of said tract same being the East line of the original 9.04 acre tract S 18° 09' 22" E, 335.83 ft. to a fence line angle and S 18° 07' 52" E, 413.32 ft. to the PLACE OF BEGINNING and containing 5.1545 acres of land.



1 inch = 200 feet



R12256

-  City Limits
-  County Parcels
-  City Roads



Regular City Council
AGENDA ITEM 7.

Agenda Item: Public Hearing, Discussion and Possibly Act Upon an Ordinance on its First Reading to Amending the Official Zoning Map of the City of Brenham to Assign a Zoning Classification of Industrial (I) District on Approximately 5.145 Acres of Land Generally Located West and Adjacent of 1751 US Highway 290 West, Being Further Described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, Washington County, Texas, and Formerly Identified as Tract 12 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas. (Case Number P-20-045)

Meeting Type: Regular Meeting-January 07, 2021

Department: Development Services

Staff Contact: Shauna Laauwe AICP, Project Planner

Classification: Public Hearing

SUMMARY STATEMENT:

The subject property is an approximate 5.145-acre tract of mostly vacant land generally located west and adjacent to 1751 US Highway West that is developed as Mike Hopkins Distributing Company, Incorporated. The subject property is currently located in the Brenham Extraterritorial Jurisdiction (ETJ) and has been requested by the property owner to be annexed into the City of Brenham. The City Council is scheduled to consider the requested annexation during their regularly scheduled meetings on January 7th and January 14th, 2021. Upon annexation of the subject property the owners are requesting the tract be assigned the zoning district of Industrial (I) District to match the zoning district classification of the adjoining property and allow for the expansion of the existing commercial operation.

The subject 5.145-acre tract is a portion of the 39.31-acre Mike Hopkins Distributing Company (MHD) property located at 1751 US Hwy 290 West. The subject tract is located within the ETJ, but the remainder 34.165-acres are located within the City limits. The overall MHD property was comprised of three (3) unplatted tracts, two of which were within the city limits, with the remainder subject tract to the west of the city boundary. The existing commercial structure at 1751 US Hwy 290 West is proposed to undergo a building expansion that necessitated that the three tracts to be platted into one contiguous lot. As one lot may not be platted that is partially within the City limits, the annexation of the 5.145-acre tract was required in conjunction with the requirement to plat the property. The Planning and Zoning Commission approved the River Eagle Subdivision Plat on September 28, 2020. The requested Industrial (I) District classification will correspond with the remainder of the commercial property.

The proposed 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 Industrial uses are appropriate at this location.

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. On Monday, December 21, 2020, after conducting a Public Hearing, the Planning and Zoning Commission **voted unanimously to recommend approval of the rezoning request as presented, contingent on City Council's approval of the annexation.**

ATTACHMENTS:

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

RELEVANCE TO COMPREHENSIVE PLAN:

The proposed rezoning request would be in keeping with Plan 2040 and the Future Land Use Map which recommends industrial uses at this location.

RECOMMENDED ACTION:

Approve an Ordinance on its First Reading Amending the Official Zoning Map of the City of Brenham, to Assign a Zoning Classification of Industrial (I) District on Approximately 5.145 Acres of Land Generally Located West and Adjacent of 1751 US Highway 290 West, Being Further Described as a Portion of Lot 1, Block 1 of the River Eagle Subdivision, Washington County, Texas, and Formerly Identified as Tract 12 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas. (Case Number P-20-045)

CASE NUMBER P-20-045

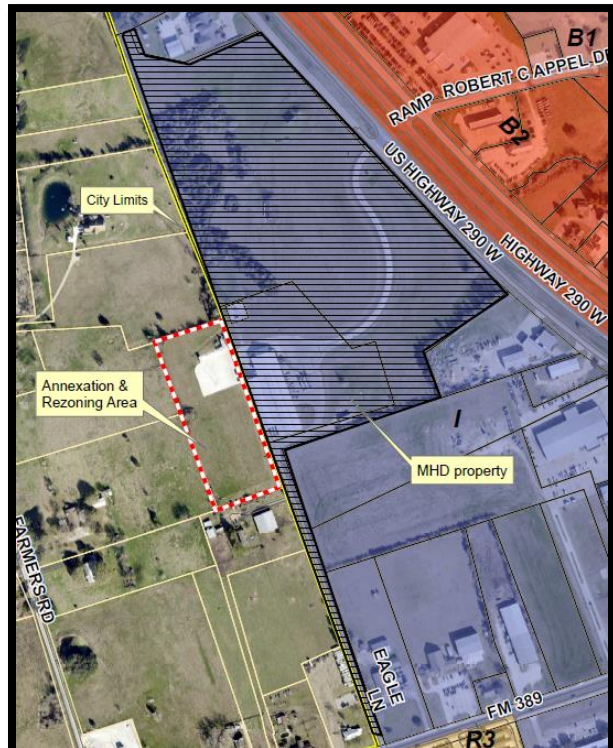
ZONE CHANGE REQUEST – Establishing a Zoning Classification of Industrial (I) on 5.15-acres of adjacent to 1751 US Highway 290 West

STAFF CONTACT:	Shauna Laauwe, AICP, Project Planner
OWNERS:	River Eagle Real Estate, Ltd.
APPLICANT:	River Eagle Real Estate, Ltd. (Mike Hopkins Distributing)
ADDRESS/LOCATION:	Adjacent to 1751 US Highway 290 West (Exhibit A)
LEGAL DESCRIPTION:	Tract 12 of the Phillip Coe Survey, A-31
LOT AREA:	Approximately 5.15 acres of land
ZONING DISTRICT/USE:	Not currently zoned as property is in the ETJ / Portion is developed as a parking lot for Mike Hopkins Distributing. (Exhibit B)
FUTURE LAND USE:	Industrial
REQUEST:	A request to assign a zoning classification of Industrial (I) for expansion of an existing commercial operation (Exhibit C).

BACKGROUND:

The subject property, outlined in the red/white checked line in Figure 1, is currently located in the Brenham ETJ, west and adjacent to the city limits. The approximate 5.15-acre property is part of the tract located at 1751 US Highway 290 West that is developed as the commercial entity, Mike Hopkins Distributing (MHD) and owned by River Eagle Real Estate, LTD. The MHD property was comprised of three unplatted (3) tracts, the subject property and the areas outlined and hatched in Figure 1, which includes land south along Eagle Lane and east to US Highway 290 West. In 2017/2018, the owner expanded the distribution site by paving a portion of the subject property for an employee parking lot. The existing commercial structure is now proposed to undergo a building expansion that necessitated that the three tracts be recently platted into one contiguous lot due to the existing building, parking lot, and detention site being located on separate lots. As one lot may not be platted that is partially in the County and partially

Figure 1



in the City, the annexation of the 5.15-acre tract was required in conjunction with the requirement to plat the property. The subject property is not assigned a zoning distinction because it is currently located in the City of Brenham ETJ. The applicant, River Eagle Real Estate, Ltd./Mike Hopkins, Jr. has requested the subject 5.15 acres be annexed into the City of Brenham and assigned a zoning district classification of Industrial (I) to match the adjacent property for expansion of the existing commercial operation.

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 adjacent and west of a large industrial section in Brenham. The adjacent Industrial District zoning area is located along Highway US 290 West from Old Mill Creek Road to the north of the subject property and stretches south, to intersection of US 290 and State Highway 36. While most of the surrounding area is zoned Industrial, there is a R-3, Manufactured Home Residential district to the south of Eagle Lane, across FM 389 and further south, a section of transitioning B-2, Commercial, Research and Technology District on tracts between Valmont Drive to Hwy 36 along US 290.

The zoning of the subject property to I, Industrial District would be seamless as it is adjacent to an existing broad industrial zoned area of the City. While this industrial area is not fully developed, the area is comprised of several industrial and commercial properties that give the citizens of Brenham various opportunities for both employment and commerce.

- (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 property and surrounding area is appropriate for industrial uses. If the requested zone change were approved, the subject property would allow for development in keeping with the Future Land Use Plan and policies by allowing the continuation of the existing industrial commercial operation at this location.

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 US Hwy 290 West and via easements located on the MHD development. As the property currently serves as an employee parking lot, the applicant does not plan to extend services at this time. The 5.15-acres are within the Bluebonnet electric service area. No natural gas service for this site has been requested but is located onsite to serve an existing cell tower. 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 10, 2020. The Notice of Public Hearing was published in the Brenham Banner on December 10, 2020. 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 zoning regulations for the I, Industrial district and all applicable ordinances adopted by the City of Brenham. These ordinances include adherence to adopted building and fire codes, maximum impervious coverage requirements, landscaping requirements, and drainage standards for a property zoned I, Industrial District shall apply to the subject tract.

- (7) The city's zoning should ensure 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 finds 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 subject property and the surrounding properties located within the City of Brenham city limits are developed as industrial or commercial uses. Adjacent properties within the ETJ to north, west and south are rural residential. Grouping industrial and heavy commercial uses in industrial districts preserves neighborhoods by allocating areas for such development that would not be compatible with residential uses.

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

The subject property is adjacent to vacant and rural residential properties within the City's ETJ, however industrial uses are located within the adjacent city limits to the east. The subject property will continue to be part of the Mike Hopkins Distribution Center development that has been at the current location for over 25 years. Staff is unable to determine any incompatible uses or development with the proposed zoning classification.

- (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 continuing development and expansion of the existing regional commercial property that has been in operation for over 25 years. The subject property is located near US Hwy 290 and FM 389 and within an area where community and regional commercial and industrial market developments are likely to prosper.

- (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 largely undeveloped, vacant land. Staff is not aware of any hindrances on the property created by legally existing incompatible uses. The proposed zoning will allow for the subject 5.15 acres be annexed into the City of Brenham and assigned a zoning district classification of Industrial (I) to match the adjacent property for expansion of the existing commercial operation.

- (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.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed zoning to an Industrial (I) District classification for the subject 5.15-acre tract described above.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Future Land Use Map

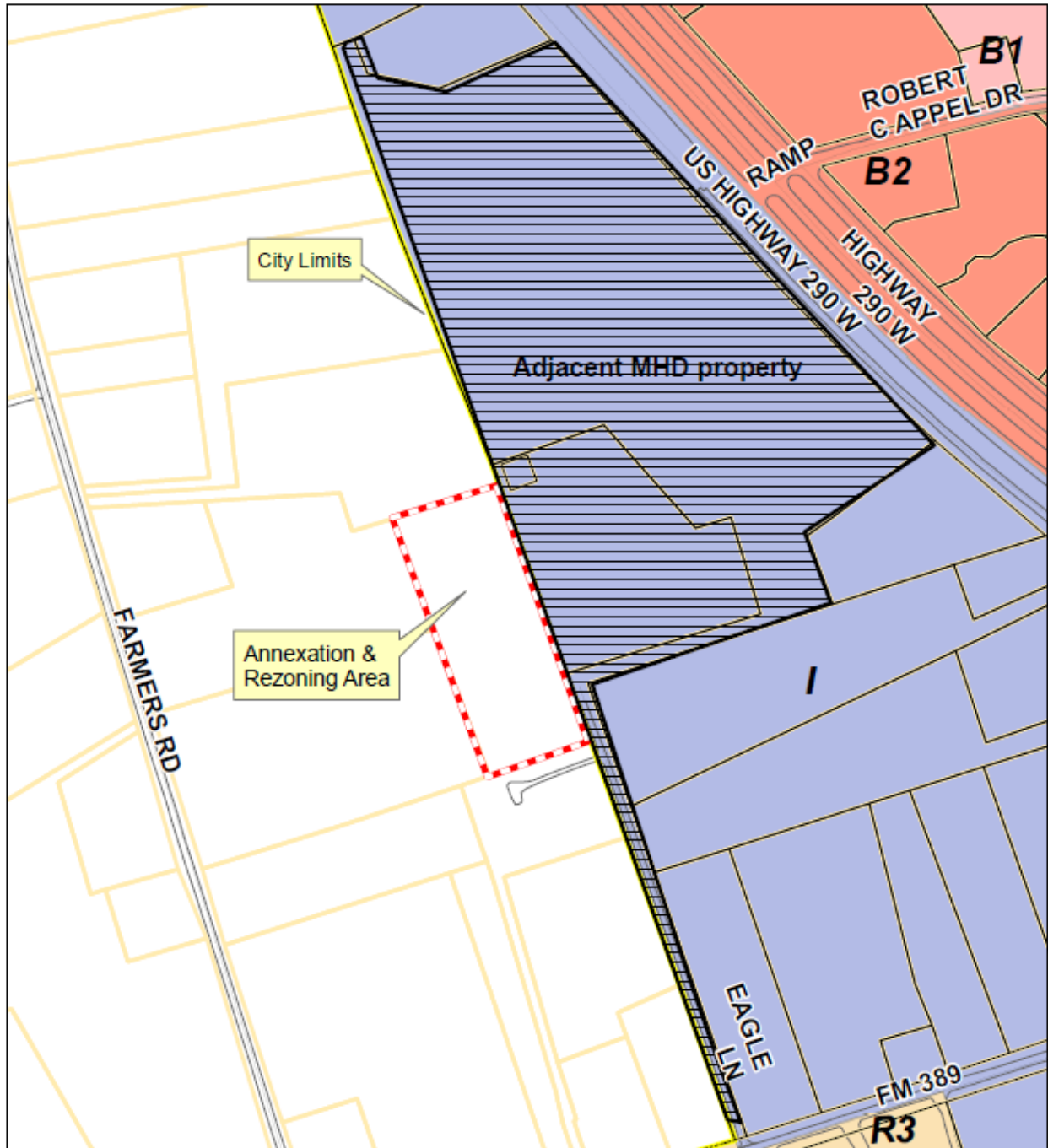
EXHIBIT "A"
AERIAL MAP



Mike Hopkins Distribution
1751 US HWY 290
Annexation Rezoning - Industrial



EXHIBIT "B"
ZONING MAP



Mike Hopkins Distribution (MHD)
1751 US HWY 290
Annexation Rezoning - I, Industrial District

1 inch = 384 feet

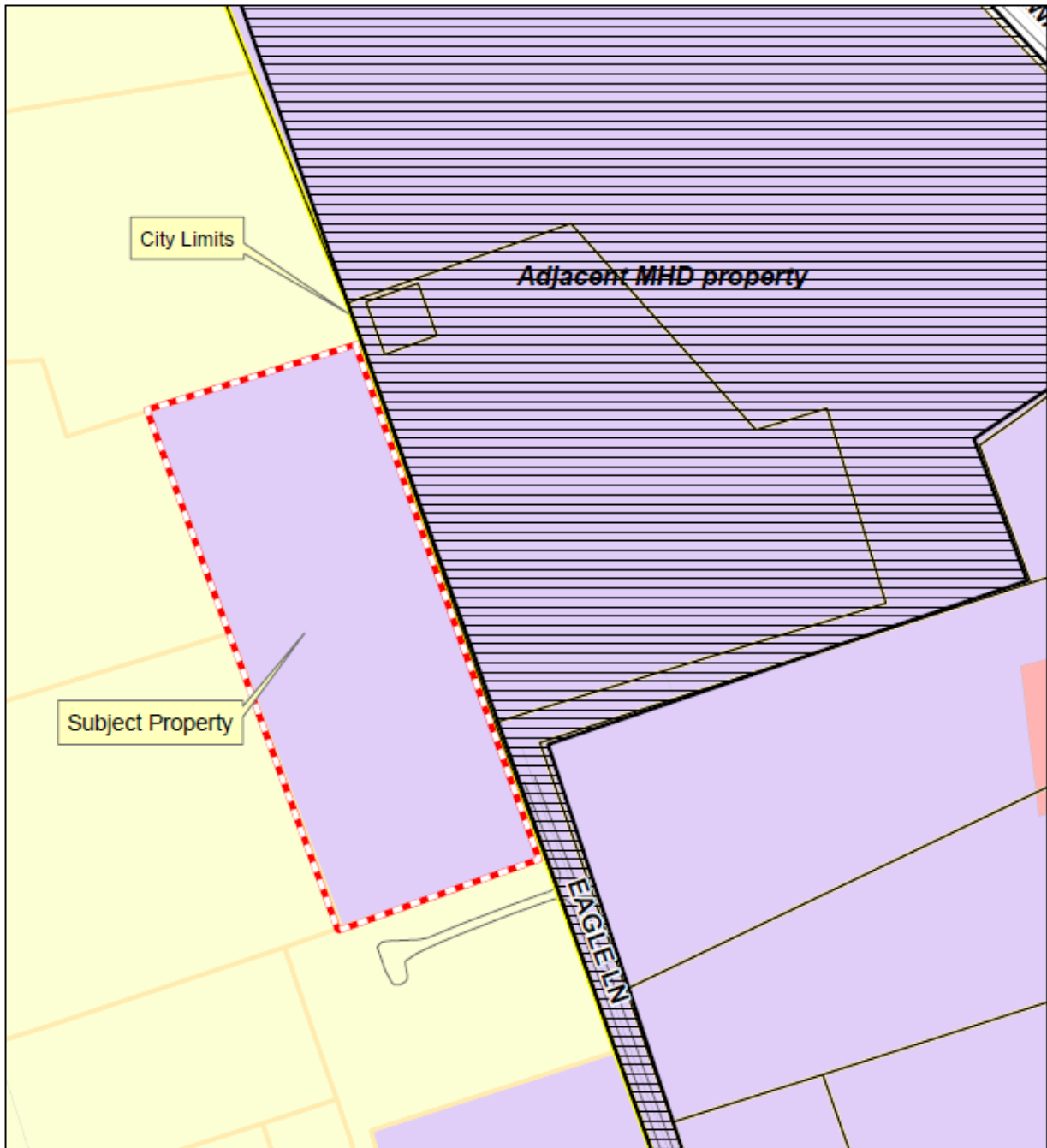
Zoning

DESCRIPTION

- B1 Local Business Mixed
- B2 Commercial Research and Technology
- I Industrial
- R3 Manufactured Home Residential



EXHIBIT "C"
FUTURE LAND USE MAP



Mike Hopkins Distribution (MHD)
1751 US HWY 290
Future Land Use Plan

1 inch = 182 feet

Future Land Use Plan
FLU_FINAL

- Estate Residential
- Commercial
- Industrial



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, TO ASSIGN A ZONING CLASSIFICATION OF INDUSTRIAL (I) DISTRICT TO APPROXIMATELY 5.145 ACRES OF LAND GENERALLY LOCATED WEST AND ADJACENT TO 1751 US HWY 290 WEST, BEING FURTHER DESCRIBED AS A PORTION OF LOT 1, BLOCK 1 OF THE RIVER EAGLE SUBDIVISION, WASHINGTON COUNTY, TEXAS, AND FORMERLY IDENTIFIED AS TRACT 12 OF THE PHILLIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the owner of the 5.145 acres of land generally located west and adjacent to 1751 US Highway 290 West, being further described as a portion of Lot 1, Block 1 of the River Eagle Subdivision, Washington County, Texas, and formerly identified as Tract 12 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (the "Property"), has requested that the Property be annexed into the City of Brenham and assigned zoning; and

WHEREAS, the owner has presented an application to the City for an Industrial (I) District zoning classification to allow for the subdivision platting of the contiguous property known as the Mike Hopkins Distribution Facility development; and

WHEREAS, at least ten (10) 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 assign zoning to the Property as Industrial (I) District; and

WHEREAS, the Planning & Zoning Commission recommended on December 21, 2020 that City Council grant such request to assign zoning to the Property as Industrial (I) District upon annexation into the City of Brenham city limits; and

WHEREAS, the City Council deems it appropriate to grant such proposed zoning district classification of the Property as Industrial (I) District;

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 IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by assigning the zoning district classification of Industrial (I) District on approximately 5.145 acres of land generally located west and adjacent to 1751 US Highway 290 West, being further described as a portion of Lot 1, Block 1 of the River Eagle Subdivision, Washington County, Texas, and formerly identified as Tract 12 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, said area of land being further described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

SECTION 2. This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

PASSED and APPROVED on its first reading this the ___ day of January 2021.

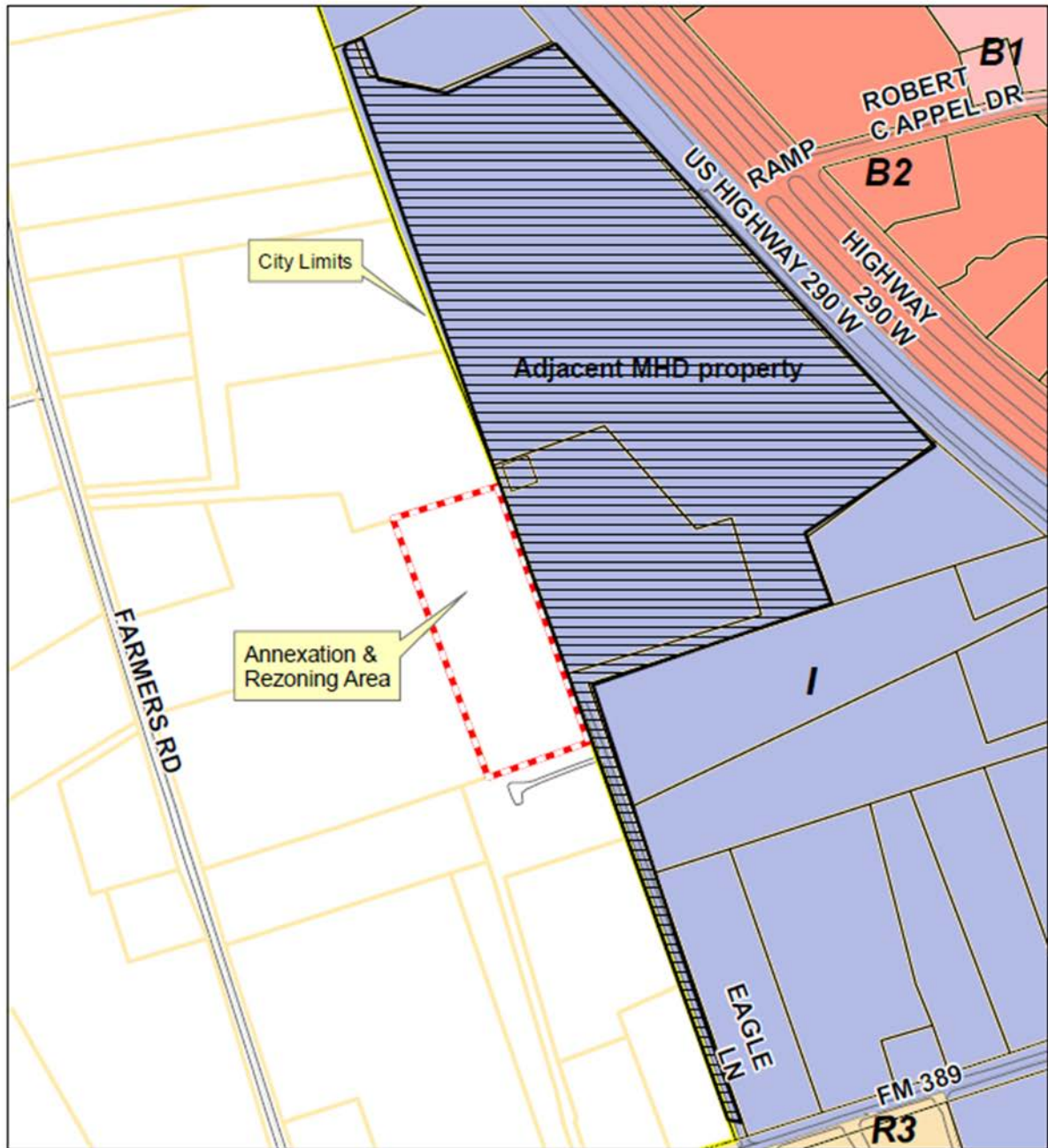
PASSED and APPROVED on its first reading this the ___ day of January 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT A



Mike Hopkins Distribution (MHD) 1751 US HWY 290 Annexation Rezoning - I, Industrial District

1 inch = 364 feet

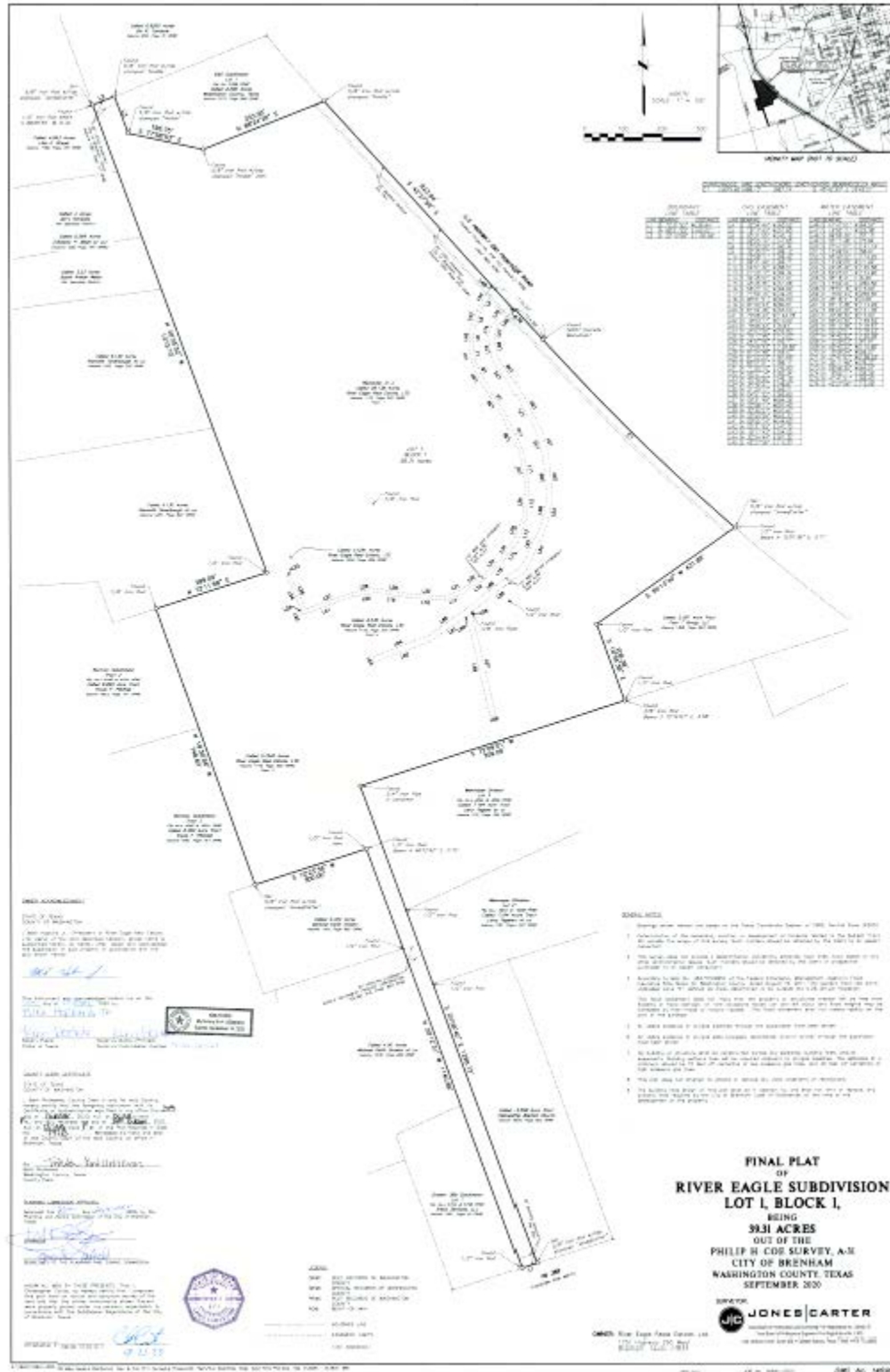
Zoning

DESCRIPTION

- B1 Local Business Mixed
- B2 Commercial Research and Technology
- I Industrial
- R3 Manufactured Home Residential



EXHIBIT B





Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-21-001 Providing for the Continuation of the Mayoral Declaration of Local Disaster Due to Public Health Emergency Related to the COVID-19 (Coronavirus) Pandemic

Meeting Type: Regular Meeting-January 07, 2021

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

This item is placed on the agenda for discussion and consideration of action by the City Council. The City first declared a Disaster regarding the COVID – 19 Pandemic in March 2020. The original Declaration has been reviewed and amended several times since then due to changing circumstances. On Monday, December 28th, Washington County was advised that Trauma Service Area N (Brazos, Burleson, Grimes, Leon, Madison, Robertson and Washington Counties) has for seven consecutive days of COVID – 19 hospitalized patients making up more than 15 percent of total capacity. Per Governor Abbott, business capacity must reduce to 50% and establishments that receive 51% of their revenue from alcohol must close.

There is a Vaccine and it is being distributed in the County according to established protocols. However, it will still be months before we see the benefits of the Vaccine. We must continue to be smart, wear our masks, social distance at least 6 feet and wash our hands with soap and water regularly. We must also be flexible, understanding, compassionate, creative and wise as a City as we continue to navigate this pandemic.

ATTACHMENTS:

(1) Resolution No. R-21-001

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve Resolution No. R-1-001 providing for the Continuation of the Mayoral Declaration of Local Disaster Due to Public Health Emergency related to the COVID-19 (Coronavirus) Pandemic

RESOLUTION NO. R-21-001

A RESOLUTION PROVIDING FOR CONTINUING THE MAYORAL DECLARATION OF LOCAL DISASTER, AS AMENDED BY THE CITY COUNCIL, DUE TO A PUBLIC HEALTH EMERGENCY RELATED TO THE COVID-19 (CORONAVIRUS) PANDEMIC

WHEREAS, the novel coronavirus (COVID-19) has been recognized globally as a contagious respiratory virus; and

WHEREAS, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying that COVID-19 poses an imminent threat of disaster for all counties in the state of Texas; and

WHEREAS, in each subsequent month, Governor Abbott has issued proclamations renewing the disaster declaration for all Texas counties; and

WHEREAS, on December 6, 2020 Governor Abbott issued a proclamation renewing the declaration stating that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the state of Texas; and

WHEREAS, COVID-19 continues to spread and to pose an increasing, imminent threat of disaster throughout Texas; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has advised that person-to-person contact heightens the risk of COVID-19 transmission; and

WHEREAS, the CDC has issued guidance designed to mitigate the spread of COVID-19; and

WHEREAS, President Trump has issued Guidelines for Opening Up America Again, a three-phased approach based on the advice of public health experts designed to help state and local officials when reopening their economies, getting people back to work, and continuing to protect American lives; and

WHEREAS, John W. Hellerstedt, M.D., Commissioner of the Texas Department of State Health Services determined that, as of March 19, 2020, April 18, 2020; May 15, 2020; June 15, 2020; July 15, 2020; August 17, 2020; September 17, 2020; October 16, 2020; November 13, 2020; and December 15, 2020, COVID-19 continues to constitute a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, said state of disaster requires that certain emergency protective measures be taken pursuant to the Texas Disaster Act of 1975 relating to Emergency Management and Public Health, pursuant to Chapter 418 of the Texas Government Code; and

WHEREAS, the Mayor of the City of Brenham, Texas issued a declaration of a local state of disaster on March 19, 2020; and

WHEREAS, on March 26, 2020 the City Council of the City of Brenham, Texas continued the March 19, 2020 Mayoral declaration of a local state of disaster, as amended, with the adoption of Resolution No. R-20-015; and

WHEREAS, on April 2, 2020 the City Council of the City of Brenham, Texas continued the March 26, 2020 Mayoral declaration of a local state of disaster, as amended (Resolution No. R-20-015), with the adoption of Resolution No. R-20-016; and

WHEREAS, on April 30, 2020 the City Council of the City of Brenham, Texas continued the April 2, 2020 Mayoral declaration of a local state of disaster, as amended (Resolution No. R-20-016), with the adoption of Resolution No. R-20-019; and

WHEREAS, on July 2, 2020 the City Council of the City of Brenham, Texas continued the April 30, 2020 Mayoral declaration of a local state of disaster, as amended (Resolution No. R-20-019), with the adoption of Resolution No. R-20-019-A; and

WHEREAS, on September 17, 2020 the City Council of the City of Brenham, Texas continued the July 2, 2020 Mayoral declaration of a local state of disaster (Resolution No. R-20-019-A) with an amendment suspending the issuance of solicitor permits beginning September 17, 2020 and continuing during the duration of the Disaster Declaration;

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

- SECTION 1.** That a local state of disaster for public health emergency is hereby declared for the City of Brenham, Texas, pursuant to Section 418.108(a) of the Texas Government Code.
- SECTION 2.** That pursuant to Section 418.108(b) of the Texas Government Code the state of disaster for public health emergency shall continue from the date of this declaration, as approved by the City Council of the City of Brenham, Texas in this Resolution, until modified, amended, rescinded, or superseded by subsequent action of the Mayor or City Council of the City of Brenham, Texas.
- SECTION 3.** That pursuant to Section 418.108(c) of the Texas Government Code this declaration of a local state of disaster for public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary.
- SECTION 4.** That pursuant to Section 418.108(d) of the Texas Government Code, this declaration of a local state of disaster activates the City of Brenham, Texas, emergency management plan, and authorizes the furnishing of aid and assistance under the declaration.

- SECTION 5.** That the City hereby adopts the provisions of Executive Order GA-32 issued by Governor Greg Abbott on October 7, 2020; further, the City hereby adopts the provisions of any prior and/or subsequent Executive Order and Proclamation, as amended, issued by Governor Abbott concerning the COVID-19 pandemic which are applicable to the City of Brenham, Texas. The provisions of GA-32 and all prior and/or subsequent Executive Orders and Proclamations as described in this Section 5, to the extent the provisions of said Executive Orders and Proclamations remain in effect and as they may be amended from time to time, are incorporated herein by reference as if written word for word.
- SECTION 6.** That this declaration shall provide notice that the City of Brenham, Texas will continue providing essential services; however, to the extent deemed necessary by the City Manager, all services, excluding emergency responders (police and fire), may be offered by appointment only. Further, to the extent deemed necessary by the City Manager, all City-operated offices, buildings and workplaces are subject to limited physical access by the public, and the City will inform the public of any preferred communication methods and appointment-setting practices for the various City offices, departments and workplaces. The public is strongly encouraged to make all non-emergency requests for service from the City utilizing telecommunication devices or electronic mail (e-mail).
- SECTION 7.** That individuals may use public parks and open outdoor recreation areas owned/operated by the City, provided the individuals comply with social distancing requirements of six feet (6') (for example, walking, biking, hiking, running or fishing). However, public playgrounds and associated equipment, calisthenics equipment, contact sports, and group sports (for example, but not limited to, football, basketball, baseball, soccer) may increase the spread of COVID-19 and, therefore, may be closed to the extent deemed necessary by the City Manager.
- SECTION 8.** That all individuals are strongly encouraged to wear face coverings in public settings, when around people who don't live in your household, or when unable to remain six feet (6') away from others, and to further observe the face covering and other protocols designed to minimize the transmission and spread of COVID-19 as set forth in all applicable guidance from the Centers for Disease Control and Prevention ("CDC"), the Texas Department of State Health Services ("DSHS"), the Texas Division of Emergency Management ("TDEM"), and the applicable Executive Orders and Proclamations issued by Texas Governor Greg Abbott.

SECTION 9. That pursuant to Sections 418.1015 and 418.016 of the Texas Government Code, because issuance of permits to solicitors, peddlers or itinerant vendors would allow such persons to travel from home to home throughout the City and otherwise come into to contact with the general public and with City residents, possibly spreading COVID-19 and therefore hindering the City's efforts in mitigating the spread of COVID-19 and presenting a danger to the health and safety of the community, the issuance of permits to solicitors, peddlers and itinerant vendors pursuant to Chapter 16, Article I, Code of Ordinances, City of Brenham, Texas is hereby suspended beginning September 17, 2020 and continuing during the term of the CODIV-19 pandemic and declared state of public disaster in the State of Texas.

SECTION 10. This Resolution continuing said Mayoral declaration, as amended, shall take effect immediately upon the approval of the City Council of the City of Brenham, Texas, and remain in effect and in full force until modified, amended, rescinded, or superseded by subsequent action of the Mayor or City Council of the City of Brenham, Texas.

RESOLVED, DECLARED and APPROVED this the 7th day of January 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Article II, Hotel Occupancy Tax, of the Code of Ordinances, City of Brenham, Texas to Temporarily Modify the Hotel Occupancy Tax Reporting and Payment Schedule

Meeting Type: Regular Meeting-January 07, 2021

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

After visiting with local hoteliers it appears that COVID-19 is still having a negative impact on them as people are still not traveling for overnight stays. Staff is requesting that Council consider temporarily modifying and extending deadlines for filing monthly hotel occupancy tax reports and payments for the next four (4) months (December, 2020 thru March, 2021) to help alleviate the negative economic impact this pandemic has had on our local hoteliers.

ATTACHMENTS:

(1) Ordinance for First Reading

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending Chapter 24, Article II, Hotel Occupancy Tax, of the Code of Ordinances, City of Brenham, Texas to temporarily modify the hotel occupancy tax reporting and payment schedule

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 24, TAXATION, ARTICLE II, HOTEL OCCUPANCY TAX, OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS TO TEMPORARILY MODIFY THE HOTEL OCCUPANCY TAX REPORTING AND PAYMENT SCHEDULE; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS

WHEREAS, the City of Brenham ("City") is a Texas home-rule municipality; and

WHEREAS, pursuant to Texas Local Government Code, Section 51.001, the City has the authority to adopt ordinances and regulations that are for good government, peace and order of the City; and

WHEREAS, as a home-rule municipality, Texas Local Government Code, Section 51.072 confirms that the City has the full power of local self-government; and

WHEREAS, Chapter 351 of the Texas Tax Code allows for the imposition and collection of hotel occupancy taxes by municipalities; and

WHEREAS, the negative economic impacts of the COVID-19 (Coronavirus) Pandemic has significantly affected local hoteliers situated in the City of Brenham and its extraterritorial jurisdiction; and

WHEREAS, the City Council desires to amend Chapter 24, Taxation, of the Code of Ordinances of the City of Brenham by temporarily modifying and extending the deadlines for filing required monthly tax reports and monthly payment of local hotel occupancy taxes in order to mitigate some of the negative economic impacts of the COVID-19 (Coronavirus) Pandemic on local hoteliers;

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

SECTION 1.

Chapter 24, Taxation, Sec. 24-24, Reports, of the Code of Ordinances of the City of Brenham, Texas, is hereby temporarily modified to extend the deadlines for the filing of required monthly tax reports and monthly payment of local hotel occupancy taxes according to the following schedule:

<u>Collection Month</u>	<u>Regular Due Date</u>	<u>Extended Due Date</u>
December, 2020	February 1, 2021	April 30, 2021
January, 2021	March 1, 2021	May 28, 2021
February, 2021	March 31, 2021	June 30, 2021
March, 2021	April 30, 2021	July 30, 2021

The modified and extended filing and payment deadlines shall only apply to the collection months of December 2020, January 2021, February 2021 and March 2021. The regular reporting and payment deadlines shall apply to the April 2021 collection month, and all collection months occurring thereafter.

SECTION 2. **SAVINGS CLAUSE**

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

SECTION 3. **SEVERABILITY**

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

SECTION 4. **REPEALER**

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

SECTION 5. **EFFECTIVE AND EXPIRATION DATE**

This Ordinance shall become effective upon adoption and publication as required by law. This Ordinance shall automatically expire on August 1, 2021.

SECTION 6.
PROPER NOTICE AND MEETINGS

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

PASSED and APPROVED on its first reading this the ____ day of January 2021.

PASSED and APPROVED on its second reading this the ____ day of January 2021.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary