



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 2, 2024 AT 1:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Mayor Atwood C. Kenjura**
- 3. New Employee Introductions**
 - ◆ **Julie Flagg - Chief Financial Officer**
 - ◆ **William Bisette - General Manager of Public Utilities**
- 4. Service Recognitions**
 - ◆ **James Antkowiak - Electric Department - 25 Years**
- 5. Special Recognition**
 - ◆ **Brenham Police Department**
- 6. Proclamations**
 - ◆ **National Peace Officers Memorial Week**
- 7. Citizen Comments**

CONSENT AGENDA

8. 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.

- 8.a. Approve the Minutes from the April 18, 2024 Regular City Council Meeting**
- 8.b. Approve an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Vacha Waste Management Services, LLC dba Texas Ranch Rolloffs to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits**
- 8.c. Approve an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Purple Rentals to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits**

REGULAR SESSION

- 9. Discuss and Possibly Act Upon Resolution No. R-24-006 to Repeal Resolution No. R-04-013 Related to a Contract Between the City of Brenham and Linebarger Goggan Blair & Sampson LLP for the Collection of Delinquent Property Taxes**
- 10. Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Brenham Independent School District for the Assessment and Collection of Property Taxes and Authorize the Mayor to Execute Any Necessary Documentation**
- 11. Administrative/Elected Officials Report**

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

EXECUTIVE SESSION

- 12. Section 551.071, Texas Government Code - Consultation with City Attorney - Consultation with City Attorney Concerning the Brenham Municipal Airport, Its Operations and Services, and Associated Matters**

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 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on Monday, April 29, 2024 at 12:59 p.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 _____, 2024 at _____ a.m./p.m.

Signature

Title

PROCLAMATION

- WHEREAS,** There are more than 800,000 law enforcement officers serving in communities across the United States, including the dedicated members of the City of Brenham Police Department; and
- WHEREAS,** Since the first recorded death in 1786, more than 23,000 law enforcement officers in the United States have made the ultimate sacrifice and have been killed in the line of duty; and
- WHEREAS,** The names of these dedicated public servants are engraved on the walls of the National Law Enforcement Officers Memorial in Washington, D.C.; and
- WHEREAS,** In 2023 there were 136 line of duty deaths of police officers nationwide, with 29 of those deaths occurring in the state of Texas; and
- WHEREAS,** May 15 is designated as National Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half-staff; and
- WHEREAS,** All citizens are urged to make every effort to express heartfelt appreciation to the men and women who risk their lives daily to guard each of us against evildoers;

NOW, THEREFORE, I, Mayor Atwood C. Kenjura of the City of Brenham, do hereby proclaim the week of May 12-18, 2024 as

NATIONAL PEACE OFFICERS MEMORIAL WEEK

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

Atwood C. Kenjura, Mayor

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on Thursday, April 18, 2024 beginning at 1:00 PM in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members Present:

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

Members Absent:

Councilmember Paul LaRoche

City of Brenham Staff Present:

City Manager Carolyn Miller, City Attorney Cary Bovey, City Secretary/Director of Administrative Services Jeana Bellinger, General Manager of Public Utilities Debbie Gaffey, Director of Finance Stacy Hardy, Director of Public Works Dane Rau, Interim Fire Chief Ray Cooper, Interim Police Chief Lloyd Powell, Development Services Director Stephanie Doland, Karen Stack, Shawn Bolenbarr, Shauna Laauwe, Curtiss Schoen, Stephen Draehn, Jason Lange, and Steven Loving.

Citizens/Others Present:

Dwayne Gajewski

Media Present:

Sarah Forsythe with Banner Press, and Joshua Blaschke with KWHI.

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - City Manager Carolyn Miller**
- 3. Special Recognitions**

- ◆ **Stephen Draehn - Volunteer Firefighter**
- ◆ **Jason Lange - Volunteer Firefighter**

4. Citizen Comments

No citizen comments were heard.

CONSENT AGENDA

5. Statutory Consent Agenda

- 5.a. Approve the Minutes from the April 4, 2024 Regular City Council Meeting**
- 5.b. Approve Ordinance No. O-24-010 on Its Second Reading to Grant a Non-Exclusive Franchise to Waste Falcon, LLC to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits**
- 5.c. Approve Ordinance No. O-24-011 on Its Second Reading Amending Chapter 26, Utilities, of the Code of Ordinances Establishing Rules and Regulations Regarding Sanitation and Pollution Control of the Areas in Proximity to the City of Brenham's Public Water Supply Wells**
- 5.d. Approve Ordinance No. O-24-012 on Its Second Reading Amending Appendix A - Zoning of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow an Accessory Dwelling Unit (ADU) in an R-1 Single-Family Residential Use Zoning District on Property Addressed as 503 Walnut Hill Drive, and Described as Walnut Hill, Block 1, Lot 2, in Brenham, Washington County, Texas (Case Number P-24-004)**
- 5.e. Approve Change Order No. 2 for Project No. 2021-06-A to Dudley Construction, LLC in the Amount of -\$3,504.25 for the 2022 Sanitary Sewer Improvements-Stone Hollow Lift Station Replacement and Authorize the Mayor to Execute Any Necessary Documentation**
- 5.f. Approve Change Order No. 1 and Final Payment for Project No. 2023-01 to Texas KB Utilities LLC in the Amount of \$11,242.59 for the Drainage Improvements on Progress Drive and Valley Drive and Authorize the Mayor to Execute Any Necessary Documentation**
- 5.g. Approve the Acceptance of a Grant Through the Community Development Partnership Program (CDPP) Grant Offered by the Lower Colorado River Authority (LCRA) in the Amount of \$25,000.00 for Two (2) Electronic Message Board Signs for Various City Departments and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Wright and seconded by Councilmember Saunders to approve Statutory Consent Agenda Items 5.a. through 5.g. as presented.

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

Yes: Mayor Kenjura, Mayor Pro Tem Kolby, Councilmember Canales, Councilmember Cook, Councilmember Saunders, Councilmember Wright

No: None

Absent: Councilmember LaRoche

WORK SESSION

6. Discussion and Presentation of the City of Brenham Police Department's 2023 Racial Profiling Report

Interim Police Chief Lloyd Powell presented this item. Powell explained that the report is required under State and Federal law and provides details on traffic stops, citations issued, arrests made, and searches conducted by the Brenham Police Department.

Powell stated that Brenham PD had a total of 10,609 traffic stops in 2023 and that in only 0.71% of them did the officers know the race of the driver. Powell advised that the 10,609 stops had the following racial breakdown:

- Alaska Native/American Indian: 00.10% (12 stops)
- Asian/Pacific Islander: 02.03% (215 stops)
- Black: 25.17% (2,670 stops)
- White: 48.36% (5,130 stops)
- Hispanic/Latino: 24.34% (2,582 stops)

7. Discussion and Presentation on the City of Brenham Charter Article I, Incorporation; Form of Government; Boundaries, and Article II, Powers

City Secretary/Director of Administrative Services Jeana Bellinger presented this item. Bellinger provided the following information on the review of City's Charter in preparation for a Charter Election in May 2025:

- 2024 Charter Review Process
- Reviewing the Charter one Article at a time

- Article I - Incorporation, Form of Government, Boundaries
- Article II - Powers
- Cities of Reference: Addison, Bay City, Boerne, Kerrville, Manor, Seagoville
- Explained Proposition No. 18 approved by the voters in the 2015 Charter Election allowing City Council to make minor changes to the Charter through the passage of an Ordinance, instead of a Proposition on the ballot.
- Presented the following recommended changes to the Charter
 1. Changing the title of the Charter to "Home Rule Charter" - this can be done by Ordinance
 2. Correcting Article I, Section 2, to reflect that the City will annex property as allowed by state and federal law - this would be a Proposition on the ballot
 3. Correction of grammar and punctuation in Sections 1 and 2 of Article II - this can be done by Ordinance

Bellinger explained that these three recommended changes will be brought back to City Council for final approval.

10. Administrative/Elected Officials Report

City Manager Carolyn Miller presented the following:

- April 18th at 6:00 p.m. - Museum on Main, Camptown, Let Your Voice Be Heard
- April 25th at 5:30 p.m. - Prayer Vigil for the victims of the DPS Incident
- May 2nd at 1:00 p.m. - Regular Council Meeting

EXECUTIVE SESSION

- 8. Section 551.072 - Texas Government Code - Deliberation Regarding Real Property - Deliberation Related to the Sale of Approximately 0.0143 Acres to TXDOT for the US Highway 290 Cloverleaf Project (RCSJ No. 0114-09-096) in Brenham, Washington County, Texas**

Adjourned into Executive Session at 1:37 p.m.

REGULAR SESSION

- 9. Discuss and Possibly Act Upon the Sale of Approximately 0.0143 Acres of Land to TXDOT for the US Highway 290 Cloverleaf Project in Brenham, Washington County, Texas and Authorize the Mayor to Execute Any Necessary Documentation**

Executive Session was adjourned at 1:58 p.m.

A motion was made by Mayor Pro Tem Kolby and seconded by Councilmember Saunders to approve the sale of approximately 0.0143 acres of land to TXDOT for the US Highway 290 Cloverleaf Project in Brenham, Washington County, Texas and authorize the Mayor to approve and execute the final documents related to the sale.

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

Yes: Mayor Kenjura, Mayor Pro Tem Kolby, Councilmember Canales, Councilmember Cook, Councilmember Saunders, Councilmember Wright

No: None

Absent: Councilmember LaRoche

ADJOURN

Atwood C. Kenjura
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary



City Council Regular Meeting **AGENDA ITEM 8.b**

Agenda Item: **Approve an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Vacha Waste Management Services, LLC dba Texas Ranch Rolloffs to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits**

Meeting Date: May 2, 2024

Department: Administration

Staff Contact: Robin Hutchens, Deputy City Secretary

SUMMARY STATEMENT:

Roll-Off dumpster service is the delivery and removal of large (10-40) dumpsters for temporary use on private property. Per Section 11-70 of the Code of Ordinances, providers of roll-off services in the City Limits must obtain a franchise agreement from the City. The City currently has franchise agreements with sixteen (16) businesses for the provision of roll-off dumpster services within the City Limits. Having multiple franchises allows citizens to request multiple quotes and obtain competitive pricing.

The City was recently contacted by Jordan Vacha, from Vacha Waste Management Services LLC, DBA Texas Ranch Rolloffs with a request for a franchise. Texas Ranch Rolloffs is based out of Bellville, Texas and has been in business since 2015. The ordinance being presented for your consideration grants Texas Ranch Rolloffs a non-exclusive contract and a non-franchise fee of 5% gross revenue will be paid monthly.

ATTACHMENTS:

1. Request letter for Sanitation Franchise
2. Ordinance on its first reading - Sanitation Franchise

RECOMMENDATION:

Approve an Ordinance on its first reading to grant a non-exclusive franchise to Vacha Waste Management Services, LLC dba Texas Ranch Rolloffs to operate a roll-off container service for the residents, businesses, and industries inside Brenham City Limits.

~~TRR~~
TEXAS RANCH
ROLLOFFS, LLC
BELLVILLE, TX

April 17, 2024

Texas Ranch Rolloffs

7994 Hwy 36 N

Bellville, TX 77418

979-895-9838

To whom it may concern:

Texas Ranch Rolloffs is asking for a franchise agreement. We look forward to the opportunity to do business in the city of Brenham.

Thank you.

ORDINANCE NO. O-__-__

AN ORDINANCE GRANTING VACHA WASTE MANAGMEENT SERVICES, LLC DBA TEXAS RANCH ROLLOFFS, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF BRENHAM FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING SOLID WASTE FROM COMMERCIAL, RESIDENTIAL AND INDUSTRIAL SITES USING ROLL-OFF CONTAINERS AND/OR COMMERCIAL COMPACTORS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES AND FOR PARTIAL INVALIDITY.

WHEREAS, the City of Brenham, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of CITY and for the collection and disposal of solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham desires to exercise the authority provided to it by ordinance and charter to grant a franchise for the collection and disposal of certain solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to Vacha Waste Management Services LLC DBA Texas Ranch Rolloffs, under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

Agreement. This contract between the City of Brenham and for the provision of certain roll-off container and/or commercial compactor service within the corporate limits of the City of Brenham under certain terms and conditions set out herein.

City of Brenham. Also referred to as "CITY" in this Agreement.

City Council. Also referred to as "COUNCIL" denoting the governing body of the City of Brenham.

Customers. Those industrial, residential, and/or commercial premises located within the CITY that generate solid waste requiring collection using roll-off containers and/or commercial compactors.

Solid Waste. All putrescible and nonputrescible solid, semi-solid, and liquid wastes, including residential, industrial, commercial, and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition, and construction wastes, discarded home and industrial appliances, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes.

Roll-Off Containers. A type of solid waste industry container that is loaded by a winch truck. Also referred to as "container".

Commercial Compactor. A type of solid waste industry container that is loaded by a winch truck and compacts solid waste. Also referred to as "compactor".

Vacha Waste Management Services LLC DBA Texas Ranch Rolloffs, Herein-after referred to as "FRANCHISEE". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. **GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED**

For and in consideration of the compliance by FRANCHISEE with the covenants and conditions herein set forth, and the Charter, Ordinances and Regulations of the City governing the collection and disposal of solid waste, CITY hereby grants to FRANCHISEE a non-exclusive franchise for use of designated public streets, alleys and thoroughfares within the corporate limits of City for the sole purpose of engaging in the business of collecting solid waste using roll-off containers and/or commercial compactors from commercial, residential and industrial sites within the jurisdictional limits of CITY, as approved by the City Manager or his designee.

SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE

CITY hereby grants to FRANCHISEE the privilege to collect from commercial, residential, and industrial customers within the City limits solid waste using roll-off containers and/or commercial compactors only.

SECTION 4.
DISPOSAL SITE TO BE USED

Unless approved otherwise in writing by the CITY, FRANCHISEE shall utilize any Type I permitted landfill that FRANCHISEE deems appropriate and is authorized for disposal of all solid waste, which is collected by FRANCHISEE from within the corporate limits of the CITY.

SECTION 5.
RATES TO BE CHARGED

A written Schedule of Rates that FRANCHISEE shall charge for the aforementioned services shall be provided to each customer, and such Schedule of Rates may be revised periodically as agreed by FRANCHISEE and its customers. FRANCHISEE shall immediately provide the CITY with copies of any and all revised Schedule of Rates documents.

SECTION 6.
PAYMENTS TO CITY

For and in consideration of the use of designated streets, alleys, and thoroughfares as well as in consideration of the covenants and agreements contained herein, FRANCHISEE agrees and shall pay to CITY upon acceptance of this Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of FRANCHISEE'S monthly gross revenues generated from FRANCHISEE'S provision of solid waste roll-off container collection services within the CITY excluding actual landfill tipping charges.

Any revenue received by FRANCHISEE in excess of the actual landfill tipping charges will be subject to the franchise fee and shall be computed into FRANCHISEE'S monthly gross revenue. Said payment shall be paid monthly to the City of Brenham Attn: City Secretary and must be received by the CITY no later than the twenty-fifth (25th) day of the month following the end of the previous month. If the payment due date falls on a Saturday, Sunday or other holiday designated by the CITY, the payment must be received by the CITY on the next regular business day.

Payments received by the CITY after the due date shall be assessed a ten percent (10%) penalty on the outstanding franchise fee amount owed under this Section.

Failure by FRANCHISEE to pay amounts due under this Agreement, after written notice by CITY, shall constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM), and/or any other remedy available to the CITY in law or equity.

SECTION 7. **ACCESS TO RECORDS & REPORTING**

CITY shall have access to FRANCHISEE'S records, billing records of those customers served by FRANCHISEE and all papers relating to this Agreement and the operation of solid waste roll-off container collection and disposal services within the CITY. Access by CITY to FRANCHISEE'S records shall be provided to CITY within ten (10) business days, after written notice to FRANCHISEE during normal business hours.

The following records and reports shall be filed quarterly with the City Secretary or his/her designee:

- A. Reports of all complaints, investigations, and actions taken by FRANCHISEE with regard to services provided pursuant to this Agreement.
- B. A listing of all FRANCHISEE accounts served, and monthly revenue derived from roll-off containers placed in the CITY under the terms of this Agreement. The reports should include: a unique customer identification or account number, frequency of pick-up, size of container and monthly charges.

The CITY is subject to the Texas Public Information Act ("Act"). Generally, the Act requires the release of requested information by the CITY, but there are exceptions. If the requested information meets the criteria outlined in the exceptions, the CITY may decline to release the information for the purpose of requesting a decision from the Texas Attorney General's Office. The Act excepts from public disclosure trade secrets and certain commercial or financial information. The Act states the CITY may withhold:

- A. A trade secret obtained from a person and privileged or confidential by statute or judicial decision; or
- B. Commercial or financial information for which it is determined based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Pursuant to Section 552.305 of the Act, the CITY is obligated to make a good faith attempt to contact third parties who have a trade secret interest or a commercial financial interest in the information that's been requested so that the third party has an opportunity to submit reasons to the Texas Attorney General's Office why the information should be withheld or released.

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning FRANCHISEE that invoke Section 552.305.

SECTION 8. **PLACEMENT OF CONTAINERS**

All roll-off containers and/or compactors placed for service within CITY shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall FRANCHISEE place containers on public streets, alleys and/or thorough fares without the prior written approval of the CITY. CITY reserves the right to specify to FRANCHISEE the exact location and time period allowed for placement of any roll-off container(s) it places for service in CITY.

FRANCHISEE agrees and acknowledges that it shall be liable for any and all damages it causes to any public street, alley and/or thorough fare, and associated improvements and FRANCHISEE will pay CITY's entire construction costs and other expenses associated with repairing and/or replacing the damaged public street, alley and/or through fare, and associated improvements.

SECTION 9. **CONTAINER MAINTENANCE**

FRANCHISEE agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

SECTION 10. **COMPLAINTS REGARDING SERVICE/SPILLAGE**

FRANCHISEE shall receive and directly respond to any complaints pertaining to service from their roll-off containers and/or compactor customers located within CITY. However, any such complaints received by CITY shall be forwarded to FRANCHISEE within twenty-four (24) hours of their receipt by CITY. FRANCHISEE shall respond to all complaints within twenty-four (24) hours of receiving notice of such complaint from CITY and shall report to CITY as to the action taken. Failure by FRANCHISEE to respond and report to CITY on action taken within this twenty four (24) hour period may subject FRANCHISEE to a \$25.00 per incident charge from CITY payable with the next payment due to CITY under Section 6 of this Agreement.

FRANCHISEE agrees that during transport all vehicles used by FRANCHISEE in the removal of solid waste shall be properly covered to prevent spillage, blowing, or scattering of refuse onto public streets or properties adjacent thereto. All equipment necessary for the performance of this Agreement shall be in good condition and repair. A standby vehicle shall always be available. FRANCHISEE'S vehicles shall at all times be clearly marked with FRANCHISEE'S name in letters not less than three (3) inches in height.

SECTION 11.
OBEISANCE OF LAWS

FRANCHISEE agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, and CITY. All collections made hereunder shall be made by FRANCHISEE without unnecessary noise, disturbance, or commotion.

SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY

It is understood by and between the parties that this Agreement executed by and between the parties on the _____ day of _____, 2024, constitutes the only agreement between the parties. It is further understood and agreed that there are no other agreements between these parties with regard to the disposal of commercial, industrial or residential solid waste in the CITY using roll-off containers/compactors and that this Agreement does not authorize FRANCHISEE to utilize the streets, alleys or public ways to dispose of commercial, industrial, or residential solid waste other than demolition and construction debris. Both parties agree and understand that nothing in this Agreement conveys to FRANCHISEE an exclusive franchise for the services described in this Agreement and that this Agreement is non-exclusive.

SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED

Nothing herein shall create or be construed to convey any title to CITY of any solid waste collected pursuant to the provisions of this agreement.

SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT

A. Termination of Service. In the event that FRANCHISEE terminates service to any customer within the CITY limits for cause, FRANCHISEE must notify the CITY through certified mail within forty-eight (48) hours of termination and state the cause of such termination.

B. Excessive Interruption in Service. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM).

SECTION 15.
FAILURE TO PERFORM

It is expressly understood and agreed by the parties that if at any time FRANCHISEE shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after a hearing as described herein, revoke and cancel the Agreement by and between the parties and said Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the City Council, CITY shall mail notice of the hearing to FRANCHISEE, at the address designated herein or at such address as may be designated from time to time, by registered or certified mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and FRANCHISEE shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the CITY.

SECTION 16.
INDEMNIFICATION

In the event CITY is damaged due to the act, omission, mistake, fault or default of FRANCHISEE, then FRANCHISEE shall indemnify and hold CITY harmless for such damage.

FRANCHISEE is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

FRANCHISEE shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by FRANCHISEE, its agents, employees, and representatives.

FRANCHISEE agrees to and shall indemnify and hold harmless CITY, 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, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by FRANCHISEE under this Agreement, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence, including but not limited to the contractual comparative negligence, concurrent negligence or gross negligence, of CITY.

SECTION 17. **INSURANCE**

FRANCHISEE shall procure and maintain at its sole cost and expense for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by FRANCHISEE, its agents, representatives, volunteers, employees or subcontractors.

FRANCHISEE'S insurance coverage shall be primary insurance with respect to the CITY, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees, or volunteers shall be considered in excess of the FRANCHISEE'S insurance and shall not contribute to it.

FRANCHISEE shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

Certificates of Insurance and endorsements shall be furnished to CITY and approved by CITY before work commences.

A. STANDARD INSURANCE POLICIES REQUIRED

1. Commercial General Liability Policy
2. Automobile Liability Policy
3. Worker's Compensation Policy

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

1. General Liability and Automobile Liability insurance shall be written by a carrier with a better rating in accordance with the current Best Key Rating Guide.
2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
4. Claims Made Policies will not be accepted.
5. The CITY, its officials, employees, and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees, or volunteers.
6. A Waiver of Subrogation in favor of the CITY with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.

7. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
8. Upon request, certified copies of all insurance policies shall be furnished to the CITY.

C. COMMERCIAL GENERAL LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.
2. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

D. AUTOMOBILE LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

E. WORKERS' COMPENSATION

1. Employer's Liability limits of \$500,000/\$500,000/ \$500,000 are required.

F. CERTIFICATES OF INSURANCE

1. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:
 - a. The company is licensed and admitted to do business in the State of Texas.
 - b. The insurance set forth by the insurance company are underwritten on forms which have been approved by the Texas Department of Insurance or ISO.
 - c. Sets forth all endorsements as required above and insurance coverage's as previously set forth herein.
 - d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the CITY.
 - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

SECTION 18.
ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by FRANCHISEE without the specific prior written approval of the City Council. Any assignment by FRANCHISEE without prior written approval of the City Council shall be null and void.

SECTION 19.
SAFETY

FRANCHISEE shall perform the collection in accordance with applicable laws, codes, ordinances and regulations of the United States, State of Texas, Washington County, and CITY and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that the safety precautions are a part of the collection techniques for which FRANCHISEE is solely responsible. In the carrying on of the work herein provided for, FRANCHISEE shall use all proper skill and care, and FRANCHISEE shall exercise all due and proper precautions to prevent injury to any property, person, or persons. FRANCHISEE assumes responsibility and liability and hereby agrees to indemnify the CITY from any liability caused by FRANCHISEE'S failure to comply with applicable federal, state, or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

SECTION 20.
AD VALOREM TAXES

FRANCHISEE agrees to render all personal property utilized in its solid waste operation services to Washington County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

SECTION 21.
NOTICES

All notices required under the terms of this Agreement to be given by either party to the other shall be in writing, and unless otherwise specified in writing by the respective parties, shall be sent to the parties at the addresses following:

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

Vacha Waste Management Services LLC
DBA Texas Ranch Rolloffs
7994 Highway 36 N
Bellville, TX 77418
ATTN: Jordan Vacha

All notices shall be deemed to have been properly served only if sent by certified mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

SECTION 22. **AMENDMENTS**

It is hereby understood and agreed by the parties to this Agreement that no alternation or variation to the terms of this Agreement shall be made unless made in writing, approved by both parties, and attached to this Agreement to become a part hereof.

SECTION 23. **SEVERABILITY**

If any section, sentence, clause, or paragraph of this Agreement is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of the Agreement.

SECTION 24. **TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the _____ day of _____, 2024, being the date of acceptance by FRANCHISEE and shall terminate on September 30, 2024.

Thereafter, this Agreement shall automatically renew annually for a subsequent one (1) year terms beginning on October 1 and terminating on the following September 30 unless either party gives written notice of non-renewal by certified mail no later than sixty (60) days prior to the then current termination date. Further, either party may terminate this Agreement without cause at any time by providing the other party with sixty (60) days written notice of termination by certified mail. This section is not intended, nor shall this section be construed, to limit or prohibit a party's ability to terminate this Agreement as otherwise provided in this Agreement.

SECTION 25. **ACCEPTANCE OF AGREEMENT**

That FRANCHISEE shall have sixty (60) days from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary, and upon such acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance and shall effectuate and make binding the agreement provided by the terms hereof.

SECTION 26.
AUTHORIZATION TO EXECUTE

The parties signing this Agreement shall provide adequate proof of their authority to execute this Agreement. This Agreement shall inure to the benefit and is binding upon the parties hereto and their respective successors or assigns but shall not be assignable by either party without the written consent of the other party.

SECTION 27.
PUBLIC MEETING

It is hereby found and determined that the meeting(s) at which this Ordinance was considered were open to the public, as required by Chapter 551, Texas Government Code, and that advance public notice of time, place, and purpose of said meetings was given in accordance with law.

PASSED and APPROVED on its first reading this ____ day of _____ 2024.

PASSED and APPROVED on its second reading this ____ day of _____ 2024.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



City Council Regular Meeting **AGENDA ITEM 8.c**

Agenda Item: **Approve an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Purple Rentals to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits**

Meeting Date: May 2, 2024

Department: Administration

Staff Contact: Robin Hutchens, Deputy City Secretary

SUMMARY STATEMENT:

Roll-Off dumpster service is the delivery and removal of large (10-40) dumpsters for temporary use on private property. Per Section 11-70 of the Code of Ordinances, providers of roll-off services in the City Limits must obtain a franchise agreement from the City. The City currently has franchise agreements with sixteen (16) businesses for the provision of roll-off dumpster services within the City Limits. Having multiple franchises allows citizens to request multiple quotes and obtain competitive pricing.

The City was recently contacted by Jeremy McGill, from Purple Rentals, with a request for a franchise. Purple Rentals is based out of Brenham, Texas and is owned by Superior Concrete, which has been in business since 2009. The ordinance being presented for your consideration grants Purple Rentals a non-exclusive contract and a non-franchise fee of 5% gross revenue will be paid monthly.

ATTACHMENTS:

1. Franchise Request Letter - Purple Rentals
2. Ordinance on its first reading - Purple Rentals

RECOMMENDATION:

Approve an ordinance on its first reading to grant a non-exclusive franchise to Purple Rentals to operate a roll-off container service for the residents, businesses, and industries inside Brenham City Limits.

PURPLE - RENTALS

April 25, 2024
Jeremy McGill
Purple - Rentals
317 S. Park Street
Brenham, Texas 77833
(979)-451-2373

City of Brenham Council and Staff
200 West vulcan Street
Brenham, TX 77833

Dear City of Brenham Council and Staff,

I am writing to express my interest in being added to the list of businesses for roll-off services in the City of Brenham. I believe that our services can contribute to the efficient and effective waste management system in the city.

Our company is committed to providing high-quality and reliable roll-off services to businesses and residents in Brenham. We are dedicated to upholding the highest standards of cleanliness and environmental responsibility.

Being included on the list of approved businesses for roll-off services would not only benefit our company but also contribute to the overall cleanliness and sustainability of Brenham. We are confident that our services align with the city's waste management goals and regulations.

I kindly request that you consider adding our company to the list of approved businesses for roll-off services. I am available to provide any additional information or discuss our services further at your convenience.

Thank you for your attention to this matter. I look forward to the opportunity to contribute to the waste management efforts in the City of Brenham.

Respectfully,

Jeremy McGill
Purple - Rental

317 S. Park Street - Brenham, Texas 77833 - purple-rentals.com

ORDINANCE NO. O-__-____

AN ORDINANCE GRANTING PURPLE RENTALS, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF BRENHAM FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING SOLID WASTE FROM COMMERCIAL, RESIDENTIAL AND INDUSTRIAL SITES USING ROLL-OFF CONTAINERS AND/OR COMMERCIAL COMPACTORS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES AND FOR PARTIAL INVALIDITY.

WHEREAS, the City of Brenham, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of CITY and for the collection and disposal of solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham desires to exercise the authority provided to it by ordinance and charter to grant a franchise for the collection and disposal of certain solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to Purple Rentals, under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

Agreement. This contract between the City of Brenham and for the provision of certain roll-off container and/or commercial compactor service within the corporate limits of the City of Brenham under certain terms and conditions set out herein.

City of Brenham. Also referred to as "CITY" in this Agreement.

City Council. Also referred to as "COUNCIL" denoting the governing body of the City of Brenham.

Customers. Those industrial, residential, and/or commercial premises located within the CITY that generate solid waste requiring collection using roll-off containers and/or commercial compactors.

Solid Waste. All putrescible and nonputrescible solid, semi-solid, and liquid wastes, including residential, industrial, commercial, and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes.

Roll-Off Containers. A type of solid waste industry container that is loaded by a winch truck. Also referred to as "container".

Commercial Compactor. A type of solid waste industry container that is loaded by a winch truck and compacts solid waste. Also referred to as "compactor".

_____, Herein-after referred to as "FRANCHISEE". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. **GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED**

For and in consideration of the compliance by FRANCHISEE with the covenants and conditions herein set forth, and the Charter, Ordinances and Regulations of the City governing the collection and disposal of solid waste, CITY hereby grants to FRANCHISEE a non-exclusive franchise for use of designated public streets, alleys and thoroughfares within the corporate limits of City for the sole purpose of engaging in the business of collecting solid waste using roll-off containers and/or commercial compactors from commercial, residential and industrial sites within the jurisdictional limits of CITY, as approved by the City Manager or his designee.

SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE

CITY hereby grants to FRANCHISEE the privilege to collect from commercial, residential, and industrial customers within the City limits solid waste using roll-off containers and/or commercial compactors only.

SECTION 4.
DISPOSAL SITE TO BE USED

Unless approved otherwise in writing by the CITY, FRANCHISEE shall utilize any Type I permitted landfill that FRANCHISEE deems appropriate and is authorized for disposal of all solid waste, which is collected by FRANCHISEE from within the corporate limits of the CITY.

SECTION 5.
RATES TO BE CHARGED

A written Schedule of Rates that FRANCHISEE shall charge for the aforementioned services shall be provided to each customer, and such Schedule of Rates may be revised periodically as agreed by FRANCHISEE and its customers. FRANCHISEE shall immediately provide the CITY with copies of any and all revised Schedule of Rates documents.

SECTION 6.
PAYMENTS TO CITY

For and in consideration of the use of designated streets, alleys, and thoroughfares as well as in consideration of the covenants and agreements contained herein, FRANCHISEE agrees and shall pay to CITY upon acceptance of this Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of FRANCHISEE'S monthly gross revenues generated from FRANCHISEE'S provision of solid waste roll-off container collection services within the CITY excluding actual landfill tipping charges.

Any revenue received by FRANCHISEE in excess of the actual landfill tipping charges will be subject to the franchise fee and shall be computed into FRANCHISEE'S monthly gross revenue. Said payment shall be paid monthly to the City of Brenham Attn: City Secretary and must be received by the CITY no later than the twenty-fifth (25th) day of the month following the end of the previous month. If the payment due date falls on a Saturday, Sunday or other holiday designated by the CITY, the payment must be received by the CITY on the next regular business day.

Payments received by the CITY after the due date shall be assessed a ten percent (10%) penalty on the outstanding franchise fee amount owed under this Section.

Failure by FRANCHISEE to pay amounts due under this Agreement, after written notice by CITY, shall constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM), and/or any other remedy available to the CITY in law or equity.

SECTION 7. **ACCESS TO RECORDS & REPORTING**

CITY shall have access to FRANCHISEE'S records, billing records of those customers served by FRANCHISEE and all papers relating to this Agreement and the operation of solid waste roll-off container collection and disposal services within the CITY. Access by CITY to FRANCHISEE'S records shall be provided to CITY within ten (10) business days, after written notice to FRANCHISEE during normal business hours.

The following records and reports shall be filed quarterly with the City Secretary or his/her designee:

- A. Reports of all complaints, investigations, and actions taken by FRANCHISEE with regard to services provided pursuant to this Agreement.
- B. A listing of all FRANCHISEE accounts served, and monthly revenue derived from roll-off containers placed in the CITY under the terms of this Agreement. The reports should include: a unique customer identification or account number, frequency of pick-up, size of container and monthly charges.

The CITY is subject to the Texas Public Information Act ("Act"). Generally, the Act requires the release of requested information by the CITY, but there are exceptions. If the requested information meets the criteria outlined in the exceptions, the CITY may decline to release the information for the purpose of requesting a decision from the Texas Attorney General's Office. The Act excepts from public disclosure trade secrets and certain commercial or financial information. The Act states the CITY may withhold:

- A. A trade secret obtained from a person and privileged or confidential by statute or judicial decision; or
- B. Commercial or financial information for which it is determined based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Pursuant to Section 552.305 of the Act, the CITY is obligated to make a good faith attempt to contact third parties who have a trade secret interest or a commercial financial interest in the information that's been requested so that the third party has an opportunity to submit reasons to the Texas Attorney General's Office why the information should be withheld or released.

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning FRANCHISEE that invoke Section 552.305.

SECTION 8. **PLACEMENT OF CONTAINERS**

All roll-off containers and/or compactors placed for service within CITY shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall FRANCHISEE place containers on public streets, alleys and/or thorough fares without the prior written approval of the CITY. CITY reserves the right to specify to FRANCHISEE the exact location and time period allowed for placement of any roll-off container(s) it places for service in CITY.

FRANCHISEE agrees and acknowledges that it shall be liable for any and all damages it causes to any public street, alley and/or thorough fare, and associated improvements and FRANCHISEE will pay CITY's entire construction costs and other expenses associated with repairing and/or replacing the damaged public street, alley and/or through fare, and associated improvements.

SECTION 9. **CONTAINER MAINTENANCE**

FRANCHISEE agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

SECTION 10. **COMPLAINTS REGARDING SERVICE/SPILLAGE**

FRANCHISEE shall receive and directly respond to any complaints pertaining to service from their roll-off containers and/or compactor customers located within CITY. However, any such complaints received by CITY shall be forwarded to FRANCHISEE within twenty-four (24) hours of their receipt by CITY. FRANCHISEE shall respond to all complaints within twenty-four (24) hours of receiving notice of such complaint from CITY and shall report to CITY as to the action taken. Failure by FRANCHISEE to respond and report to CITY on action taken within this twenty four (24) hour period may subject FRANCHISEE to a \$25.00 per incident charge from CITY payable with the next payment due to CITY under Section 6 of this Agreement.

FRANCHISEE agrees that during transport all vehicles used by FRANCHISEE in the removal of solid waste shall be properly covered to prevent spillage, blowing, or scattering of refuse onto public streets or properties adjacent thereto. All equipment necessary for the performance of this Agreement shall be in good condition and repair. A standby vehicle shall always be available. FRANCHISEE'S vehicles shall at all times be clearly marked with FRANCHISEE'S name in letters not less than three (3) inches in height.

SECTION 11.
OBEISANCE OF LAWS

FRANCHISEE agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, and CITY. All collections made hereunder shall be made by FRANCHISEE without unnecessary noise, disturbance, or commotion.

SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY

It is understood by and between the parties that this Agreement executed by and between the parties on the _____ day of _____, 2023, constitutes the only agreement between the parties. It is further understood and agreed that there are no other agreements between these parties with regard to the disposal of commercial, industrial or residential solid waste in the CITY using roll-off containers/compactors and that this Agreement does not authorize FRANCHISEE to utilize the streets, alleys or public ways to dispose of commercial, industrial, or residential solid waste other than demolition and construction debris. Both parties agree and understand that nothing in this Agreement conveys to FRANCHISEE an exclusive franchise for the services described in this Agreement and that this Agreement is non-exclusive.

SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED

Nothing herein shall create or be construed to convey any title to CITY of any solid waste collected pursuant to the provisions of this agreement.

SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT

A. Termination of Service. In the event that FRANCHISEE terminates service to any customer with the CITY limits for cause, FRANCHISEE must notify the CITY through certified mail within forty-eight (48) hours of termination and state the cause of such termination.

B. Excessive Interruption in Service. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM).

SECTION 15.
FAILURE TO PERFORM

It is expressly understood and agreed by the parties that if at any time FRANCHISEE shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after a hearing as described herein, revoke and cancel the Agreement by and between the parties and said Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the City Council, CITY shall mail notice of the hearing to FRANCHISEE, at the address designated herein or at such address as may be designated from time to time, by registered or certified mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and FRANCHISEE shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the CITY.

SECTION 16.
INDEMNIFICATION

In the event CITY is damaged due to the act, omission, mistake, fault or default of FRANCHISEE, then FRANCHISEE shall indemnify and hold CITY harmless for such damage.

FRANCHISEE is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

FRANCHISEE shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by FRANCHISEE, its agents, employees, and representatives.

FRANCHISEE agrees to and shall indemnify and hold harmless CITY, 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, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by FRANCHISEE under this Agreement, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence, including but not limited to the contractual comparative negligence, concurrent negligence or gross negligence, of CITY.

SECTION 17. **INSURANCE**

FRANCHISEE shall procure and maintain at its sole cost and expense for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by FRANCHISEE, its agents, representatives, volunteers, employees or subcontractors.

FRANCHISEE'S insurance coverage shall be primary insurance with respect to the CITY, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees, or volunteers shall be considered in excess of the FRANCHISEE'S insurance and shall not contribute to it.

FRANCHISEE shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

Certificates of Insurance and endorsements shall be furnished to CITY and approved by CITY before work commences.

A. STANDARD INSURANCE POLICIES REQUIRED

1. Commercial General Liability Policy
2. Automobile Liability Policy
3. Worker's Compensation Policy

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

1. General Liability and Automobile Liability insurance shall be written by a carrier with a better rating in accordance with the current Best Key Rating Guide.
2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
4. Claims Made Policies will not be accepted.
5. The CITY, its officials, employees, and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees, or volunteers.
6. A Waiver of Subrogation in favor of the CITY with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.

7. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
8. Upon request, certified copies of all insurance policies shall be furnished to the CITY.

C. COMMERCIAL GENERAL LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.
2. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

D. AUTOMOBILE LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

E. WORKERS' COMPENSATION

1. Employer's Liability limits of \$500,000/\$500,000/ \$500,000 are required.

F. CERTIFICATES OF INSURANCE

1. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:
 - a. The company is licensed and admitted to do business in the State of Texas.
 - b. The insurance set forth by the insurance company are underwritten on forms which have been approved by the Texas Department of Insurance or ISO.
 - c. Sets forth all endorsements as required above and insurance coverage's as previously set forth herein.
 - d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the CITY.
 - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

SECTION 18.
ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by FRANCHISEE without the specific prior written approval of the City Council. Any assignment by FRANCHISEE without prior written approval of the City Council shall be null and void.

SECTION 19.
SAFETY

FRANCHISEE shall perform the collection in accordance with applicable laws, codes, ordinances and regulations of the United States, State of Texas, Washington County, and CITY and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that the safety precautions are a part of the collection techniques for which FRANCHISEE is solely responsible. In the carrying on of the work herein provided for, FRANCHISEE shall use all proper skill and care, and FRANCHISEE shall exercise all due and proper precautions to prevent injury to any property, person, or persons. FRANCHISEE assumes responsibility and liability and hereby agrees to indemnify the CITY from any liability caused by FRANCHISEE'S failure to comply with applicable federal, state, or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

SECTION 20.
AD VALOREM TAXES

FRANCHISEE agrees to render all personal property utilized in its solid waste operation services to Washington County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

SECTION 21.
NOTICES

All notices required under the terms of this Agreement to be given by either party to the other shall be in writing, and unless otherwise specified in writing by the respective parties, shall be sent to the parties at the addresses following:

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

Purple Rentals
317 S. Parks Street
Brenham, Texas 77833
ATTN: Jeremy McGill

All notices shall be deemed to have been properly served only if sent by certified mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

SECTION 22. **AMENDMENTS**

It is hereby understood and agreed by the parties to this Agreement that no alternation or variation to the terms of this Agreement shall be made unless made in writing, approved by both parties, and attached to this Agreement to become a part hereof.

SECTION 23. **SEVERABILITY**

If any section, sentence, clause, or paragraph of this Agreement is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of the Agreement.

SECTION 24. **TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the ____ day of _____, 2024, being the date of acceptance by FRANCHISEE and shall terminate on September 30, 2024.

Thereafter, this Agreement shall automatically renew annually for a subsequent one (1) year terms beginning on October 1 and terminating on the following September 30 unless either party gives written notice of non-renewal by certified mail no later than sixty (60) days prior to the then current termination date. Further, either party may terminate this Agreement without cause at any time by providing the other party with sixty (60) days written notice of termination by certified mail. This section is not intended, nor shall this section be construed, to limit or prohibit a party's ability to terminate this Agreement as otherwise provided in this Agreement.

SECTION 25. **ACCEPTANCE OF AGREEMENT**

That FRANCHISEE shall have sixty (60) days from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary, and upon such acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance and shall effectuate and make binding the agreement provided by the terms hereof.

SECTION 26.
AUTHORIZATION TO EXECUTE

The parties signing this Agreement shall provide adequate proof of their authority to execute this Agreement. This Agreement shall inure to the benefit and is binding upon the parties hereto and their respective successors or assigns but shall not be assignable by either party without the written consent of the other party.

SECTION 27.
PUBLIC MEETING

It is hereby found and determined that the meeting(s) at which this Ordinance was considered were open to the public, as required by Chapter 551, Texas Government Code, and that advance public notice of time, place, and purpose of said meetings was given in accordance with law.

PASSED and APPROVED on its first reading this ____ day of _____ 2024.

PASSED and APPROVED on its second reading this ____ day of _____ 2024.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



City Council Regular Meeting **AGENDA ITEM 9**

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-24-006 to Repeal Resolution No. R-04-013 Related to a Contract Between the City of Brenham and Linebarger Goggan Blair & Sampson LLP for the Collection of Delinquent Property Taxes

Meeting Date: May 2, 2024

Department: Administration

Staff Contact: Jeana Bellinger, City Secretary

SUMMARY STATEMENT:

In March, I was contacted by Chief Appraiser Dyann White about the City's contract with Brenham Independent School District (BISD) for the collection of property taxes. Since the 1990s, the City has had an agreement with the Washington County Appraisal District (WCAD) - through BISD for the collection of the City's property taxes. Also, since the 1990s, BISD has contracted with Linebarger Goggan Blair & Sampson LLP (Linebarger) to collect delinquent property taxes on behalf of the City and all the other taxing entities in Washington County.

In November 2023, BISD terminated the contract with Linebarger and entered into a new property tax collection agreement with Perdue, Brandon, Fielder, Collins & Mott, LLP (Perdue). Upon reviewing contract documents and talking with representatives from Linebarger, it was discovered that the City had a separate contract with Linebarger from the 1990's that was amended in 2004.

It is staff's recommendation that the City's agreement with Linebarger be terminated so that the City's delinquent property taxes can be collected, along with all the other taxing entities in Washington County, by Perdue.

ATTACHMENTS:

1. Resolution No. R-24-006

RECOMMENDATION:

Approve Resolution No. R-24-006 to repeal Resolution No. R-04-013 related to a contract for the collection of delinquent property taxes between the City of Brenham and Linebarger Goggan Blair & Sampson LLP.

RESOLUTION NO. R-24-006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS AUTHORIZING THE TERMINATION OF A DECEMBER 19, 1994, SERVICES CONTRACT, AS AMENDED, WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR THE COLLECTION OF DELINQUENT PROPERTY TAXES, AND REPEALING AND RESCINDING RESOLUTION NO. R-04-013 APPROVING AMENDMENT NO. 1 TO THE CONTRACT

WHEREAS, on December 19, 1994, the City Council of the City of Brenham, Texas (“Council”) approved an agreement between the City of Brenham (“City”) and Linebarger Goggan Blair & Sampson, LLP (“Linebarger”) (formerly known as Calame Linebarger Graham & Pena, LLP) for the collection of delinquent taxes, penalties, and interest (“Agreement”); and

WEREAS, on April 22, 2004, Council approved Resolution No. R-04-013 approving Amendment No. 1 to the Agreement; and

WHEREAS, Brenham Independent School District currently retains legal counsel to assist with collection of delinquent taxes on behalf of the City; and

WHEREAS, the City’s Agreement with Linebarger, and any amendments thereto, are no longer necessary; and

WHEREAS, the Agreement expressly authorizes the City to terminate the Agreement by giving thirty (30) days written notice of termination to Linebarger; and

WHEREAS, Council now desires to terminate the Agreement and amendments thereto, and to repeal and rescind Resolution No. R-04-013;

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

1. Council authorizes termination of the December 19, 1994, Agreement with Linebarger Goggan Blair & Sampson, LLP.
2. Notice of the City’s intent to terminate the Agreement shall be delivered to Linebarger promptly, in accordance with the terms of the Agreement.
2. Council does hereby repeal and rescind Resolution No. R-04-013, attached hereto as Exhibit A, in its entirety, and any authorization and/or approval provided for in Resolution No. R-04-013 is null and void.
3. The Mayor is authorized to execute any documentation necessary to implement this Resolution.

RESOLVED this 2nd day of May 2024.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

R-04-013
RESOLUTION

**A RESOLUTION IMPOSING ADDITIONAL PENALTY FOR 2003 AND
SUBSEQUENT YEARS DELINQUENT TAXES AND AUTHORIZING AN
AMENDMENT TO THE EXISTING SERVICES CONTRACT WITH
LINEBARGER GOGGAN BLAIR & SAMPSON, LLP**

WHEREAS, The City of Brenham contracts with Linebarger Goggan Blair & Sampson, LLP ("the private law firm") to enforce the collection of all delinquent taxes, penalty and interest by virtue of a written contract dated December 19, 1994 ("the Contract"), and

WHEREAS, the Texas Property Tax Code Sections 33 07 and 33 08 were amended by the Seventy Seventh Legislature by Act of May 17, 2001, and

WHEREAS, under said Sections 33 07 and 33 08, the governing body of the City of Brenham is empowered to authorize the addition of a collection penalty in an amount that does not exceed the amount of the compensation specified in the contract with the private law firm,

WHEREAS, the source of the funds for private counsel's compensation is the additional penalty paid by the delinquent taxpayer, rather than the public treasury; and

WHEREAS, the City of Brenham desires to amend the existing contract with the private law firm as per the attached Amendment No 1 to the Contract.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the City Council of the City of Brenham that the attached Amendment No 1 to Contract between the City of Brenham and the law firm of Linebarger Goggan Blair & Sampson, LLP is hereby PASSED and APPROVED on this day

IT IS FURTHER RESOLVED AND ORDERED that taxes for the year 2003 and taxes for all subsequent years that become delinquent on or after February 1 but not later than May 1, that remain delinquent on July 1 of the year in which they become delinquent, incur an additional penalty in the amount of twenty percent (20%) of taxes, penalty and interest due, pursuant to Texas Property Tax Code Section 6 30 and 33 07, as amended

IT IS FURTHER RESOLVED AND ORDERED that the taxes for the year 2003 and taxes for all subsequent years that remain delinquent on or after June 1 under Texas Property Tax Code Sections 26 07(f), 26 15(e), 31 03, 31 031, 31 032 or 31 04 incur an additional penalty in the amount of twenty percent (20%) of taxes, penalty and interest due, pursuant to Texas Property Tax Code Section 6 30 and Section 33 08, as amended

This resolution shall take effect immediately from and after its passage in accordance with the provisions of the law

PASSED AND APPROVED this 22 day of April, 2004

The City of Brenham, Council

By Milton Tate
Milton Tate, Mayor
City Council Members

ATTEST. Loris Ann Seehamer

STATE OF TEXAS

§

2004

COUNTY OF WASHINGTON §

**AMENDMENT NO. 1
TO THE CONTRACT BETWEEN CITY OF BRENHAM
AND LINEBARGER GOGGAN BLAIR & SAMPSON, LLP**

WHEREAS, on December 19, 1994, City of Brenham approved a Contract with the law firm of **Calame Linebarger Graham & Pena, L. L. P.** (now known as Linebarger Goggan Blair & Sampson, LLP and hereinafter "FIRM"), under which Contract a fifteen (15%) percent commission on the taxes, penalty and interest collected is provided as compensation for the FIRM; and

WHEREAS, the Texas State Legislature has found and declared, by its enactment of TEX. TAX CODE § 6.30(c), that a twenty (20%) commission on the taxes, penalty and interest collected is a reasonable fee for delinquent tax collection services of a private attorney; and

WHEREAS, TEX. TAX CODE §§ 33.07 and 33.08 were amended by the Seventy Seventh Legislature, by Act of May 17, 2001, to provide that certain taxes, in order to defray the costs of collection, may incur an additional penalty equal to the compensation specified in the contract with private counsel; and

WHEREAS, the source of the funds for private counsel's compensation is the additional penalty paid by the delinquent taxpayer, rather than the public treasury;

NOW THEREFORE, for and in consideration of the recitals shown above, of the FIRM'S increased costs of doing business, and of enhanced services by the FIRM that will result from the devotion of additional technological and human resources toward collection of delinquent taxes, the Contract, by execution of this Amendment No. 1, is amended hereby as set forth below.

I.

THE AMENDMENT

The following italicized language is hereby substituted for Section III of the Contract:

City of Brenham agrees to pay to FIRM as compensation for services required herein the following amounts:

- (a) *fifteen percent (15%) of the amount collected of all 2002 and prior year taxes, penalty and interest that are subject to the terms of this*

contract, actually collected and paid to the collector of taxes during the term of this contract, as and when collected; and

- (b) *twenty percent (20%) of the amount collected of all 2003 and subsequent year taxes, penalty and interest that are subject to the terms of this contract, actually collected and paid to the collector of taxes during the term of this contract, as and when collected.*

All compensation above provided for shall become the property of the FIRM at the time payment of taxes, penalty and interest is made to the collector. The collector shall pay over said funds monthly by check.

II.

EFFECT OF THE AMENDMENT

By execution of this Amendment No. 1, the Contract is amended. No other sections, provisions, clauses or conditions of the Contract are waived or changed hereby, and they shall all remain in full force and effect throughout the term of the Contract and any duly authorized extensions.

IN WITNESS WHEREOF, by their signatures below, the duly authorized representatives of the City of Brenham and of Linebarger Goggan Blair & Sampson, LLP do hereby agree and append this Amendment No. 1 to the Contract dated December 19, 1994.

EXECUTED THIS the 22 day of April, 2004

THE CITY OF BRENHAM

LINEBARGER GOGGAN
BLAIR & SAMPSON, LLP

By:


Milton Tate, Mayor

By:


Norman J. Nelson, Partner



City Council Regular Meeting
AGENDA ITEM 10

Agenda Item: Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Brenham Independent School District for the Assessment and Collection of Property Taxes and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Date: May 2, 2024

Department: Administration

Staff Contact: Jeana Bellinger, City Secretary

SUMMARY STATEMENT:

Upon reviewing the City's contract with Brenham Independent School District (BISD) for the assessment and collection of property taxes, it was discovered that the agreement had not updated since the 1990s. The new agreement still gives the Washington County Appraisal District, through BISD, the authority to assess and collect property taxes for the City but the language has been updated to reflect new state law requirements and the appropriate payment for these services.

ATTACHMENTS:

1. ILA with BISD - Tax Collection

RECOMMENDATION:

Approve an Interlocal Agreement between the City of Brenham and Brenham Independent School District for the assessment and collection of property taxes and authorize the Mayor to execute any necessary documentation.

INTERLOCAL AGREEMENT FOR ASSESSMENT AND COLLECTION OF PROPERTY TAXES

THIS INTERLOCAL AGREEMENT (“Agreement”) is made this ____ day of ____, 2024, by and between the following parties (“Parties”): City of Brenham, a Texas Home-Rule Municipal Corporation, ("City") and Brenham Independent School District, a political subdivision of the State of Texas (“BISD”) for assessment and collection of property taxes.

WHEREAS, the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code, the City and BISD are authorized to enter into agreements to perform governmental functions and services; and

WHEREAS Section 6.24 of the Texas Tax Code provides that the governing body of a municipality may contract with the governing body of another unit to perform duties relating to the assessment or collection of taxes; and

WHEREAS, the City wishes to procure, and BISD wishes to provide, property tax assessment and collection services for the City; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and BISD do hereby agree as follows:

ARTICLE 1: **SCOPE OF SERVICES**

The City hereby designates the Chief Appraiser of the Washington County Appraisal District as its tax assessor for the purpose of compliance with Chapter 26, Assessment, of the Texas Tax Code, as it now exists or may be amended in the future. In addition, the Parties agree that the Chief Appraiser of BISD shall perform all the duties required by law of the tax assessor-collector of the City in regard to assessing and collecting *ad valorem* taxes.

BISD shall collect the *ad valorem* taxes, and any applicable penalties and interest, owed to the City. BISD further agrees to perform for the City all duties required by the laws of the State of Texas for the collection of such taxes. These services shall include, but are not limited to, calculation of tax rate, preparation of current and delinquent tax roll, correction of clerical errors in the tax roll, collection of current liabilities, collection of delinquent taxes, issuance of tax refunds, issuance of tax certificates, calculation of an effective tax rate required by Section 26.04 of the Texas Tax Code, preparation of all reports that are to be filed with the State Comptroller, and preparing and mailing tax statements for each taxpayer.

ARTICLE 2:
AUDIT

BISD agrees to permit auditors engaged by the City to annually audit its assessment and collection expenditures and its collection of taxes for the City during the term of this Agreement. Such auditor shall report directly to the City.

ARTICLE 3:
RECORDS

BISD shall transfer any records created pursuant to this Agreement to the City without charge. These records shall include, but are not limited to, tax records, including delinquent tax rolls.

ARTICLE 4:
EMPLOYMENT OF COUNSEL AND AUTHORIZATION TO INSTITUTE LEGAL ACTIVITIES

The City expressly authorizes BISD to employ by contract legal counsel for the collection of delinquent taxes for a fee not exceeding that allowed by law. Payment of counsel shall be made from the delinquent taxes, penalties, and interest collected. The City expressly authorizes such counsel to institute and prosecute delinquent tax suit and any other required legal actions on behalf of the City to collect its taxes.

ARTICLE 5:
REMITTANCE OF TAX COLLECTIONS

BISD agrees to pay over to the City the taxes, penalties, and interest collected on behalf of the City. Payment shall be by deposit into a depository selected by the City. Such payments shall be made no less than once a week during the entire collection year. A written report of each deposit shall be completed by BISD to show the amount and distribution of monies deposited. This report shall be forwarded to the City monthly.

ARTICLE 6:
PAYMENT FOR SERVICES

The City agrees to pay BISD the City's proportionate share of the cost of performing the assessment and collection services. The cost of assessment and collections services furnished to all taxing units for which BISD performs such services shall be allocated among such taxing units proportionately. The City agrees to pay BISD according to the following formula:

BISD shall multiply the entire budgeted cost for assessment and collection services as approved in its annual budget for the upcoming year by a fraction for each taxing unit whose taxes it assesses and collects. The fraction for the City shall be equal to the City's prior year tax levy divided by the total of the prior year levies of all taxing units for which BISD collects for the upcoming year. The fraction so derived shall represent the proportion of the assessment and collection budget due from the City. Such proportionate share of the assessment and collection expenses shall be payable to BISD by the City in equal quarterly installments due on or before

December 31st, March 31st, June 30th, and September 30th of each year or portion of the year for which this Agreement is in effect.

In the event that after December 31st of each collection year the audit indicates that actual expenditures exceeded the revenue received under this provision of this Agreement, each participating taxing unit shall be obligated to pay to BISD its proportionate share of the additional actual expenses incurred using the same fraction determined above for the tax year. In the event that actual expenditures are less than the revenues for any year the excess revenue received by BISD shall be credited against the next quarterly payment due of the succeeding collection year. Should this Agreement be no longer in force as to any taxing unit, BISD agrees to refund to such unit any such share of unexpended revenues by January 1st of the collection year after the year for which the payments were made.

In the event that the City fails to adopt its tax rate, or fails to notify BISD of its tax rate, in time for its taxes to be included on the combined statement prepared for that year, BISD shall calculate the cost of preparing, mailing, and processing separate tax statements for the City. BISD shall forward to the City its notification of these costs for the separate statements and their processing and the City agrees to pay such costs within thirty (30) days of receiving the notice from BISD.

In the event that the City's adopted tax rate requires a tax rate approval election, and the timing of such an election requires the printing and distribution of separate City tax statements and/or the processing of refunds, the City agrees to reimburse BISD within thirty (30) days after notices from BISD of the costs of providing these additional statements and processing these refunds.

If the City shall, in any year in which this Agreement is in effect, elect to allow discounts on current year taxes under Section 31.05 of the Texas Tax Code, BISD shall calculate the actual additional costs of assessment and collection attributable to such allowance by all taxing units allowing discounts that year. Such additional costs shall be born proportionally by the City and any other taxing units which allows discounts. Each such taxing unit's share of these additional costs is calculated according to the ratio of its prior year levy to the combined levies of all such units. Such additional costs will not be allocated to all taxing units as described in the paragraph above, but shall be borne exclusively by the units allowing such discounts.

All revenue received from the sale of tax certificates by BISD shall be retained by BISD as revenue to be applied against its assessment and collections expense budget for the year in which it is received.

ARTICLE 7: **TERM**

The initial term of this Agreement shall be in effect immediately upon execution, and the initial term shall end on December 31, 2024. Thereafter, the Agreement shall automatically renew for successive one (1) year terms beginning January 1st and ending December 31st of the same calendar year. The Agreement may be terminated effective August 31st of any year by either Party by providing written notice no later than June 1st of the same year. The Parties may agree in writing at any other time to termination based on mutually agreed terms.

ARTICLE 8:
NONLIABILITY FOR FAILURE TO COLLECT

BISD shall not be liable to the City for failure to collect any tax, penalty, or interest under any provision of this Agreement.

ARTICLE 9:
SEVERABILITY

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

ARTICLE 10:
MISCELLANEOUS TERMS

1. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter. Each party to the Agreement acknowledges that no representation, inducements, promises, or agreement, oral or otherwise, have been made by any other party or anyone acting on behalf of any party which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding. No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the parties.
2. BISD agrees to maintain a surety bond for the Chief Appraiser and staff to assure proper performance of the tax assessing and collection functions provided for in this Agreement. Such bond shall be payable to the City.
3. This Agreement has been made under and shall be governed by the laws of the State of Texas. Exclusive venue for any action, lawsuit, claim, dispute, or other legal proceeding concerning or arising out of this Agreement shall be in Washington County, Texas.

IN WITNESS WHEREOF, CITY and BISD have hereby entered this Agreement effective upon adoption and execution by each governing body.

CITY OF BRENHAM:

ATTEST:

Hon. Atwood C. Kenjura
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

BRENHAM INDEPENDENT SCHOOL DISTRICT

Clay Gillentine
Superintendent

WASHINGTON COUNTY APPRAISAL DISTRICT

Dyann White
Chief Appraiser



City Council Regular Meeting
AGENDA ITEM 12

Agenda Item: **Section 551.071, Texas Government Code - Consultation with City Attorney - Consultation with City Attorney Concerning the Brenham Municipal Airport, Its Operations and Services, and Associated Matters**

Meeting Date: May 2, 2024

Department: Administration

Staff Contact: Carolyn Miller, City Manager

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDATION:

No action - Executive Session discussion only.