



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, JUNE 20, 2024 AT 8:30 AM
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 Adonna Saunders**
- 3. Citizen Comments**

CONSENT AGENDA

4. 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.

- 4.a. Approve Ordinance No. O-24-014 on Its Second Reading Amending Chapter 28, Impact Fees, of the Code of Ordinances of the City of Brenham, Texas**
- 4.b. Approve Ordinance No. O-24-015 on Its Second Reading to Repeal Ordinance No. O-24-010 Relating to the Non-Exclusive Franchise Granted to Waste Falcon, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits**
- 4.c. Approve a Correction to the Minutes from the March 21, 2024 Regular City Council Meeting**
- 4.d. Approve Resolution No. R-24-011 Amending Resolution No. R-24-006 Authorizing the Termination of a Contract Between the City of Brenham and Linebarger Goggan Blair & Sampson LLP for the Collection of Delinquent Property Taxes**

- 4.e. Approve Final Payment for Project No. 61C-207C to Techline Construction, LLC in the Amount of \$125,750.00 for the MLK Parkway Circuit Upgrade Pole Changeouts and Authorize the Mayor to Execute Any Necessary Documentation**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

- 5. Public Hearing, Discussion and Possible Action on an Ordinance on Its First Reading Amending Appendix A - Zoning of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow an Automobile (Car) Service Station (Convenience Store with Gas Pumps) in a B-1, Local Business Residential Mixed Use Zoning District on Property Addressed as 804 E Blue Bell Road, and being 1.106-Acres Described as Arrabella Harrington Survey, Tract 64, in Brenham, Washington County, Texas (Case Number P-24-005)**

REGULAR SESSION

- 6. Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting a Revised City of Brenham Drought Contingency Plan and Revised Water Conservation Plan for 2024**
- 7. Discuss and Possibly Act Upon Amendment No. 1 to a Temporary Resale Amendment to the System Water Availability Agreement Between City of Brenham and Brazos River Authority for the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation**
- 8. Discuss and Possibly Act Upon a Water Supply Resale Agreement Between the City of Brenham and The Dow Chemical Company Related to the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation**
- 9. Discuss and Possibly Act Upon Award of RFP No. 24-004 Related to the Brenham Municipal Airport Terminal Building HVAC Replacement and Authorize the Mayor to Execute Any Necessary Documentation**
- 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 salutary recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

ADJOURN

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

CERTIFICATION

I certify that a copy of the 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, June 17, 2024, at 8:15 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 ____, 2024 at ____ p.m./a.m.

Signature

Title

ORDINANCE NO. O-24-014

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 28, IMPACT FEES, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS ADOPTING STANDARDS PERTAINING TO THE IMPLEMENTATION OF IMPACT FEES WITHIN THE CITY LIMITS AND THE BRENHAM EXTRA-TERRITORIAL JURISDICTION (ETJ) IN ACCORDANCE WITH CHAPTER 395 OF THE TEXAS LOCAL GOVERNMENT CODE; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 395 of the Texas Local Government Code (“the Statute”) authorizes the City to enact impact fees as charges or assessments imposed against new development in order to generate revenue for recouping the costs of capital improvements necessitated by the new development; and

WHEREAS, on May 4, 2023 the City Council authorized the preparation of an Impact Fee Study (“Study”) by a qualified engineer, Strand Associates, Inc. which is on file and available in the City Secretary’s Office; and

WHEREAS, on July 13, 2023 the City Council appointed the Capital Improvements Advisory Committee pursuant to the Statute to review, advise and recommend the adoption of assessing impact fees in conjunction with the Study as conducted by Strand Associates, Inc.; and

WHEREAS, on December 7, 2023 the City Council, following procedures outlined in the Statute, passed Resolution R-23-044 adopting Land Use Assumptions and Water, Wastewater and Roadway Capital Improvement Plans for the designated service areas under which an impact fee may be imposed; and

WHEREAS, the Capital Improvements Advisory Committee (“CIAC”) filed its written comments and made its positive recommendation of the adoption of the proposed water, wastewater and roadway impact fees on January 24, 2024, before the date of the public hearing on the adoption of water, wastewater and roadway impact fees; and

WHEREAS, the recommendation of the CIAC and the adoption of water, wastewater and roadway impact fees were considered by the City of Brenham City Council during a public hearing held on February 1, 2024 at which all persons desiring to be heard were heard; and

WHEREAS, the City Council on February 22, 2024 adopted Chapter 28 – Impact Fees of the Code of Ordinances of the City of Brenham, Texas with an effective date of July 1, 2024, and now desires to adopt additional standards pertaining to the implementation of the previously adopted Impact Fees;

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

SECTION 1.

Chapter 28 – Impact Fees, Section 28-4 – Definitions of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to include the additional definitions as specified below. All existing definitions contained in the existing ordinance shall remain and be reordered in alphabetical order:

Sec. 28-4. – Definitions.

Abandon. Shall mean a structure, property or development that once contained a habitable structure with a certificate of occupancy and water services which subsequently ceased occupancy and no longer actively uses water or sewer services as previously intended.

Legal Lot of Record. Shall mean a lot, the boundaries of which were established by a plat recorded in the office of the county clerk of Washington County, Texas before September 1, 1989, that has not been subdivided after September 1, 1989.

SECTION 2.

Chapter 28 – Impact Fees, Section 28-10 – Assessment of Impact Fees of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

Sec. 28-10. – Assessment of Impact Fees.

1. No final plat for new development shall be released for recordation, and no building permit and/or plumbing permit shall be issued, without the assessment of applicable impact fees pursuant to this Chapter. Except as otherwise provided in this Chapter, no building permit and/or plumbing permit shall be issued until the owner has paid the applicable impact fees.
2. Following the lapse or expiration of an approved plat that was not recorded prior to its lapse or expiration, assessment of impact fees shall occur on the date the new final plat application is approved for recordation.
3. Impact fees shall not be assessed for new development on properties which are: 1) vacant; 2) do not contain a water service connection; and 3) which are determined by City Staff upon submittal of property records by the applicant, to be a legal lot of record as recorded in the Washington County Official Public Records.
4. For a new development which has received final plat approval before the Effective Date, assessment of impact fees shall occur on the Effective Date of this Chapter except as otherwise provided herein.
 - (a) Exception: Subdivision plats submitted for approval to the Development Services Department as of the Effective Date and not yet approved or recorded shall be eligible for the 1-year waiver of impact fees.

5. For a new development which has received final plat approval on or after the effective date, assessment of impact fees shall occur at the time of recordation of the final plat.
6. After assessment of the impact fees attributable to a new development, and/or in conjunction with the expansion or enlargement of a development in existence as of the effective date of this Chapter, additional impact fees or increases in fees may not be assessed against the tract unless the number of service units to be developed on the tract increases. In the event of the increase in the number of service units, the impact fees to be imposed are limited to the amount attributable to the additional service units. For all new development applications proposed to occur without a modification to the Subdivision Plat, assessment of required impact fees shall occur at the time of the building permit application.
7. For multiple-family residential, commercial, industrial and all non-residential uses, the effective service unit required shall be determined by a licensed engineer and approved by City Staff.
8. Irrigation meters that are a sub-meter to the main domestic meter shall not be assessed an impact fee for water or wastewater.
9. Irrigation meters that are 1.5-inches or greater shall be assessed an impact fee for water and shall not be assessed an impact fee for wastewater.
10. Impact fees for water or wastewater shall not be assessed for connections only utilized to provide fire protection.
11. Existing businesses abandoning their current location and relocating within the City of Brenham City Limits as a result of the Texas Department of Transportation State Highway 36/ US Highway 290 interchange reconstruction shall be exempt from the assessment of impact fees provided that property owners may exchange previously purchased connections for the equivalent number of service connections. Should the exchange of service connections results in an increase in the meter type and/or size as outlined in Table 1 and Table 2, the property owner shall be assessed the effective impact fee at the time of the new service connection based on the additional service units.

SECTION 3.

Chapter 28 – Impact Fees, Section 28-11 – Collection of Impact Fees of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to read as follows:

Sec.28-11. – Collection of Impact Fees.

1. Impact fees shall be collected at the time of issuance of a building permit.
2. For a new development that received final plat approval before the Effective Date, impact fees may not be collected on any service unit for which a valid building permit is issued within one (1) year after the Effective Date of this Chapter; provided, however, such a service unit shall be subject to the collection of impact fees upon the submission of a subsequent application for a building permit if the subsequent building permit application is not issued within one (1) year after the Effective Date.

3. Impact fees shall be assessed and collected on all properties of which a modification to the subdivision plat or legal lot of record is required in conjunction with new development and as defined in Chapter 23 – Subdivisions of the Code of Ordinances, City of Brenham, Texas.

SECTION 4.

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 5.

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

SECTION 6.

This Ordinance, upon passage, approval and publication as required by law, shall take effect on July 1, 2024.

PASSED and **APPROVED** on its first reading this the 6th day of June, 2024.

PASSED and **APPROVED** on its second reading this the 20th day of June, 2024.

ATTEST:

Atwood C. Kenjura
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-24-015

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS MAKING CERTAIN FINDINGS OF FACT; REPEALING ORDINANCE NO. O-24-010; REVOKING AND CANCELLING THE FRANCHISE GRANTED TO WASTE FALCON, LLC IN SAID ORDINANCE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A SEVERABILITY, REPEALER AND SAVINGS CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETING.

WHEREAS, the City of Brenham (“City”) entered into a franchise agreement (“Agreement”) with Waste Falcon, LLC (“Provider”) on April 18, 2024 pursuant to the enactment of Ordinance No. O-24-010; and

WHEREAS, the Provider is no longer providing roll-off services within the City of Brenham; and

WHEREAS, pursuant to Section 24 of the Agreement, Provider has notified the City that it wishes to terminate the Agreement; and

WHEREAS, the City acknowledges the receipt and adequacy of Provider’s notice of termination, and agrees to terminate the Agreement, and revoke Ordinance O-24-010,

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

SECTION 1.

That Ordinance No. O-24-010 is hereby repealed, and the Agreement entered into between the City of Brenham, Texas and Waste Falcon, LLC as enacted by Ordinance No. O-24-010 is hereby revoked and cancelled pursuant to Article 24 of the Agreement.

SECTION 2. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 3. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 4. REPEALER

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

SECTION 5. SAVINGS CLAUSE

The repeal of any ordinance or part of ordinances effected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions any ordinances at the time of passage of this Ordinance.

SECTION 6. PROPER NOTICE AND MEETING

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

PASSED and APPROVED on its first reading this 16th day of May, 2024.

PASSED and APPROVED on its second reading this 20th day of June, 2024.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



City Council Regular Meeting
AGENDA ITEM 4.c

Agenda Item: Approve a Correction to the Minutes from the March 21, 2024 Regular City Council Meeting

Meeting Date: June 20, 2024

Department: Administration

Staff Contact: Jeana Bellinger, City Secretary

SUMMARY STATEMENT:

On June 3rd staff was contacted by Public Management, our grant administrator for the Texas Department of Agriculture Community Development Block Grant for Carrington Lane roadway and drainage improvements, requesting that the minutes from the March 21, 2024 City Council meeting be amended to correct the bid number. The motion wording needed to indicate "Bid No. CDV21-0325"; however, when the minutes were prepared the "0" was inadvertently left off.

ATTACHMENTS:

1. March 21, 2024 Minutes showing correction

RECOMMENDATION:

Approve a correction to the minutes from the March 21, 2024 Regular City Council meeting.

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

No: None

Absent: None

Deputy General Manager of Public Utilities Alton Sommerfield presented this item. Sommerfield advised that each year the City of Brenham contracts with LCRA for the City's annual tree trimming services. Sommerfield advised that this contract is executed through our Technical Service Agreement between LCRA and the City of Brenham dated January 18, 1980. Sommerfield advised that LCRA bids out this service every 5-years and McCoy Tree Surgery was the selected provider. Sommerfield stated that McCoy will perform the work in accordance with the terms and specifications required by LCRA.

Sommerfield advised that LCRA does charge a 5% administration fee to cover the costs of bidding this service out and managing the project from start to finish. Sommerfield advised that this year McCoy will trim approximately 108 miles of overhead electrical lines and 26 miles of areas around underground lines.

A motion was made by Councilmember LaRoche and seconded by Councilmember Saunders to approve a Customer Services Contract between the City of Brenham and the Lower Colorado River Authority (LCRA) related to tree trimming services to be provided by McCoy Tree Surgery, Inc. in the amount of \$148,659.84 and authorize the Mayor to execute any necessary documentation.

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 LaRoche, Councilmember Saunders, Councilmember Wright

No: None

Absent: None

8. Discuss and Possibly Act Upon the Award of Bid No. CDV21-325 Related to Carrington Lane Roadway and Drainage Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Director of Public Works Dane Rau presented this item. Rau advised that in February, city staff, Strand Associates and Public Management opened bids related to

the Carrington Ln roadway and drainage improvements. Rau advised that the lowest bidder was Solid Bridge Construction, which came in at \$567,979. Rau advised that this planned improvement project received a grant through the Texas Department of Agriculture Community Development Block Grant in 2021 in the amount of \$350,000.

Rau advised that the scope of work consists of widening the old roadway to 26 feet of new asphalt rather than the 20 feet currently, adding concrete curb and gutter, adding a cul-de-sac for better maneuverability at the dead end, as well as inlets and drainage pipe that provide adequate drainage to this area. Rau advised that this area was annexed in 2008 and currently the roadway is exactly how the City received it when the City annexed it. Rau advised that this project should take 2-3 months to be completed.

A motion was made by Councilmember Canales and seconded by Councilmember Wright to approve the award of Bid No. CDV21-0325 related to Carrington Lane Roadway and Drainage Improvements to Solid Bridge Construction, LLC in the amount of \$567,979.00 and authorize the Mayor to execute any necessary documentation.

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 LaRoche, Councilmember Saunders, Councilmember Wright

No: None

Absent: None

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Waste Solutions USA, LLC. to Operate a Roll-Off Container Service for the Residents, Businesses, and Industries Inside Brenham City Limits

Deputy City Secretary Robin Hutchens presented this item. Hutchens advised that the City was recently contacted by Cindy Lynn, from Waste Solutions USA, LLC. with a request for a franchise. Hutchens stated that Waste Solutions is based out of Brookshire, TX. Hutchens advised that the ordinance being presented for your consideration grants Waste Solutions USA, LLC. a non-exclusive contract and a 5% non-franchise fee of gross revenue will be paid monthly.

Hutchens advised that upon approval of this franchise there will be a total of fourteen approved franchises.



City Council Regular Meeting **AGENDA ITEM 4.d**

Agenda Item: **Approve Resolution No. R-24-011 Amending Resolution No. R-24-006 Authorizing the Termination of a Contract Between the City of Brenham and Linebarger Goggan Blair & Sampson LLP for the Collection of Delinquent Property Taxes**

Meeting Date: June 20, 2024

Department: Administration

Staff Contact: Jeana Bellinger, City Secretary

SUMMARY STATEMENT:

During the May 2, 2024 City Council meeting the City Council approved Resolution No. R-24-006 terminating a 1994 contract with Linebarger Goggan Blair & Sampson LLP (Linebarger) for the collection of delinquent property taxes and, at the request of Chief Appraiser Dyann White, approved a tax collection agreement with Perdue Brandon Fielder Collins & Mott LLP (Perdue).

A couple of weeks ago, staff was contacted by Leslie Schkade, an attorney with Perdue requesting changes be made to the adopted Resolution to further clarify the termination of the 1994 agreement between the City and Linebarger. Ms. Schkade and Cary Bovey worked on the amended Resolution No. R-24-011 and staff is requesting City Council approve it.

ATTACHMENTS:

1. Resolution No. R-24-011
2. Redline of Resolution R-24-006

RECOMMENDATION:

Approve Resolution No. R-24-011 amending Resolution No. R-24-006 authorizing the termination of a contract between the City of Brenham and Linebarger Goggan Blair & Sampson LLP for the collection of delinquent property taxes.

RESOLUTION NO. R-24-011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AMENDING RESOLUTION NO. R-24-006, AUTHORIZING THE TERMINATION OF A DECEMBER 19, 1994, SERVICES CONTRACT WITH LINEBARGER GOGGAN BLAIR & SAMPSON, LLP FOR THE COLLECTION OF DELINQUENT PROPERTY TAXES

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

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 is 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

WHEREAS, by the adoption of this Resolution No. R-24-011, the City Council desires to amend Resolution No. R-24-006 to remove the language rescinding 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.
3. The Mayor is authorized to execute any documentation necessary to implement this Amendment to Resolution No. R-24-006.

AMENDED on this 20th day of June, 2024.

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

RESOLUTION NO. R-24-011

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AMENDING RESOLUTION NO. R-24-006, 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;

Deleted: and amendments thereto, and to repeal and rescind Resolution No. R-04-013

WHEREAS, by adoption of this Resolution No. R-24-011, the City Council desires to amend Resolution No. R-24-006 to remove the language rescinding 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 20th day of June, 2024.

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- Deleted: May
- Formatted: Superscript

Atwood C. Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



City Council Regular Meeting
AGENDA ITEM 4.e

Agenda Item: **Approve Final Payment for Project No. 61C-207C to Techline Construction, LLC in the Amount of \$125,750.00 for the MLK Parkway Circuit Upgrade Pole Changeouts and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Date: June 20, 2024

Department: Public Utilities

Staff Contact: Alton Sommerfield, Deputy GM of Public Utilities

SUMMARY STATEMENT:

On August 3, 2023, Council awarded the MLK line upgrade project to Techline Construction LLC for \$125,750.00. The project consisted of replacing the copper overhead line and poles along MLK Street. The project started at South Baylor Street, going west and ending on the east side of the Railroad Bridge in front of Shipley's Donuts. The project was to McCord Engineering's designs and specifications in May 2024. The project was completed on schedule and within the approved budget.

ATTACHMENTS:

1. Techline Invoice

RECOMMENDATION:

Approve final payment for Project No. 61C-207C to Techline Construction, LLC in the amount of \$125,750.00 for the MLK Parkway Circuit Upgrade Pole Changeouts and authorize the Mayor to execute any necessary documentation.



INVOICE

CUST.#: 50
 SHIP TO: CITY OF BRENHAM
 PO BOX 1059
 BRENHAM, TX 77834-1059
 BILL TO: CITY OF BRENHAM
 PO BOX 1059
 BRENHAM, TX 77834-1059

INVOICE DATE	SHIPPED	ORDER NO.
05/29/24	05/29/24	12005153-00
P.O. NO.	PAGE #	TERMS
MLK & Academy	1	NET 30 DAYS
INSTRUCTIONS		
SHIP POINT	SHIP VIA	
AUS		

RECEIVED
 MAY 31 2024
 BY:

Please remit all payments to:
 Techline Construction, LLC
 P.O. Box 674086
 Dallas, TX 75267-4086
Please remit overnight payments to:
 Techline Construction, LLC
 Attn: Lockbox 674086
 1200 East Campbell Road, Suite 108
 Richardson, TX 75081

LINE NO.	QUANTITY ORDERED	QUANTITY B.O.	PRODUCT AND DESCRIPTION	QTY. SHIPPED	QTY. U/M	UNIT PRICE	AMOUNT (NET)
***** Email all invoices, credits, debits, & statements to ap@cityofbrenham.org ***** ***** MLK 2-19-24 to 3-13-24 Academy 2-13-24 to 2-15-24 *****							
1	1	0	OEC-CREW-521207 Distribution Electric Construction 521207	1	ea	125750.00	125750.00
1	Lines Total		Qty Shipped Total		1	Total Invoice Total	125750.00 125750.00

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Past due invoices will accrue interest at the rate of one and one-half percent (1.5%) per month (18% per year).



City Council Regular Meeting **AGENDA ITEM 5**

Agenda Item: **Public Hearing, Discussion and Possible Action on an Ordinance on Its First Reading Amending Appendix A - Zoning of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow an Automobile (Car) Service Station (Convenience Store with Gas Pumps) in a B-1, Local Business Residential Mixed Use Zoning District on Property Addressed as 804 E Blue Bell Road, and being 1.106-Acres Described as Arrabella Harrington Survey, Tract 64, in Brenham, Washington County, Texas (Case Number P-24-005)**

Meeting Date: June 20, 2024

Department: Development Services

Staff Contact: Stephanie Doland, Director of Development Services

SUMMARY STATEMENT:

30K Holdings, LLC, property owner/applicant of the 1.106 acres of land generally located on the southeast corner of the intersection of East Blue Bell Road and Gayhill Street are requesting approval of a Specific Use Permit to redevelop the former Terminix Pest Control site to an Automobile (Car) Service Station further described as a Zippy J's gas station and convenience store. The subject site is zoned B-1, Local Business/Residential Mixed-Use District.

30K Holdings proposes demolishing the existing Terminix structures and redevelop the site as a gas station and convenience store. The convenience store is proposed to be 90-feet by 52.6-feet (4,810 SF) and located on the southern portion of the subject property, fronting onto E. Blue Bell Road. The B-1 district setback requirements are 25-front yard, 15-foot side street (Gayhill Street), 10-foot rear yard setback and no interior side yard required except for when a bufferyard is required. Due to the adjacent property to the south being zoned for residential uses (R-2), the subject property has an additional 20-foot bufferyard along the south property line, resulting in a total rear building setback of 30-feet. The convenience store exceeds the required setback regulations with a more than 200-foot front yard setback, a 43-foot side street setback and an approximately 70-foot rear yard setback. The proposed gas station portion is located on the north half of the subject property and would consist of six (6) gas pumps to provide a total of 12 fueling stations under a canopy. The proposed canopy has an approximate front yard setback of 79-feet along E. Blue Bell Road and a 23-foot side street setback along Gayhill Street and a 23.5-foot setback along the east property line. The site plan exceeds the off-street parking requirements with a minimum of 19 parking spaces required and a total of 29 being provided. The site plan also details three access points, with two driveway entrances (one new) on Gayhill Street and the existing driveway access to East Blue Bell Road. The proposed site setbacks, parking, circulation, and landscaping are detailed in the attached Staff Report. Due to the subject property being larger than 1-acre, the proposed development will be required to submit a drainage study and provide detention for excess storm runoff. The subject property, as shown in site photos in Exhibit "D" of the Staff Report, has a steep slope at the south end of the site making the site difficult to screen from the adjacent residential property. A non-screening fence is currently along the south property line and the applicants propose placing a retaining wall behind the store structure to help with drainage and to provide for some screening.

The B-1 District allows automobile (car) service stations with prior approval of a Specific Use Permit (SUP). The purpose of the SUP process is to identify those uses which might be appropriate within a zoning district but, due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area; and to provide for a procedure whereby such uses might be permitted by further restricting or conditioning them to mitigate or eliminate such adverse impacts. The future land use map portion of the Envision 2020 Comprehensive Plan suggests the subject property may be appropriate for commercial uses. The proposed automobile service station and convenience store, with an adequate bufferyard may be suitable for neighborhood commercial use that aligns with the goals and land use policies established in the Comprehensive Plan.

On Monday, April 22, 2024, during a Planning and Zoning Commission Public Hearing, members of the community spoke with concerns about traffic and the legality of alcohol sales adjacent to the existing day care use. Commissioners tabled the item to allow Staff time to further research the TABC regulations. As detailed in the attached Memorandum, businesses that sell for off-premises consumption of alcohol are not subject to separation requirements from daycare centers.

On Monday, May 20, 2024, after conducting a second Public Hearing, the Planning and Zoning Commission voted 3-2 (Kossie and Heine against), to recommend approval of the SUP request as presented with the following conditions:

- A 10-foot in height screening fence be erected along the east property line to provide a visual buffer from the adjacent day care use.
- The subject property shall be preliminary and final platted before a building permit is issued.

ATTACHMENTS:

1. Ordinance for First Reading
2. Staff Report for SUP (Case No. P-24-005)
3. Additional Information Regarding SUP

RECOMMENDATION:

Approve an Ordinance on its first reading amending Appendix A - Zoning of the Code of Ordinances of the City of Brenham granting a Specific Use Permit to allow an Automobile (Car) Service Station (convenience store with gas pumps) in a B-1, Local Business Residential Mixed Use Zoning District on property addressed as 804 E Blue Bell Road, and being 1.106 acres described as Arrabella Harrington Survey, Tract 64, in Brenham, Washington County, Texas (Case Number P-24-005).

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM GRANTING A SPECIFIC USE PERMIT TO ALLOW AN AUTOMOBILE SERVICE STATION WITH CONVENIENCE STORE USE IN A B-1 LOCAL BUSINESS / RESIDENTIAL MIXED-USE ZONING DISTRICT ON APPROXIMATELY 1.106 ACRES OF LAND ADDRESSED AS 804 E BLUE BELL ROAD, BEING FURTHER DESCRIBED AS ARABELLA HARRINGTON SURVEY, TRACT 64, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, 30K Holdings, LLC, owner of the 1.106 acres of land generally located at the southeast intersection of E. Blue Bell Road and Gayhill Street and addressed as 804 E Blue Bell Road, being further described as Arabella Harrington Survey, Tract 64, in Brenham, Washington County, Texas, and being further described on Exhibit “A” attached hereto and incorporated herein for all purposes (the “Property”), has requested that the Property be issued a Specific Use Permit for an Automobile Service Station; and

WHEREAS, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinances authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

WHEREAS, at least ten (10) days after publication in the official newspaper of the City of the time and place of a public hearing and at least ten (10) days after written notice of that hearing was mailed to the owners of land within two hundred feet of the Property in the manner required by law, the Planning & Zoning Commission held a public hearing on the requested specific use permit; and

WHEREAS, this amendment was recommended for approval on a 3-2 vote by the Brenham Planning and Zoning Commission during its regular meeting on May 20, 2024; and

WHEREAS, at least fifteen (15) days after publication in the official newspaper of the City of the time and place of a public hearing for the requested rezoning, the City Council held the public hearing for the requested specific use permit and the City Council considered the final report of the Planning & Zoning Commission; and

WHEREAS, the City Council desires to approve this Ordinance granting the specific use permit, as described herein below;

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

SECTION 1. The Official Zoning Map of the City of Brenham is hereby amended to show that a specific use permit is granted to 30K Holdings, LLC for an automobile service station with convenience store, more particularly described in Exhibit “B,” attached hereto and incorporated herein for all purposes, in a B-1, Local Business/ Residential Mixed Use zoning district on approximately 1.106 acres of land addressed as 804 E Blue Bell Road, being further described as Arabella Harrington Survey, Tract 64, in Brenham, Washington County, Texas, said 1.106 acres of land being further described on Exhibit “A” attached hereto and incorporated herein for all purposes.

SECTION 2. The development of the Property shall be in accordance with the following special condition on the subject 1.106-acre tract: 1) A screening fence of 10-feet in height shall be placed along the east property line to serve as a visual buffer from the adjacent daycare use located at 900 E Blue Bell Road. 2) The subject property shall be preliminary and final platted before a building permit is issued.

SECTION 3. Upon holding a properly notified public hearing, the City Council may amend, change, or rescind the specific use permit granted by this Ordinance if:

- a. There is a violation and conviction of any of the provisions of this Ordinance, or any ordinance of the City of Brenham, that occurs on the Property;
- b. The premises, or Property, used pursuant to the Specific Use Permit granted by this Ordinance are enlarged, modified, structurally altered, or otherwise significantly changed unless a separate Specific Use Permit is granted for such enlargement, modification, structural alteration, or change;
- c. As otherwise permitted by law and/or Brenham’s Zoning Ordinance, as it exists or may be amended.

SECTION 4. 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 June 2024.

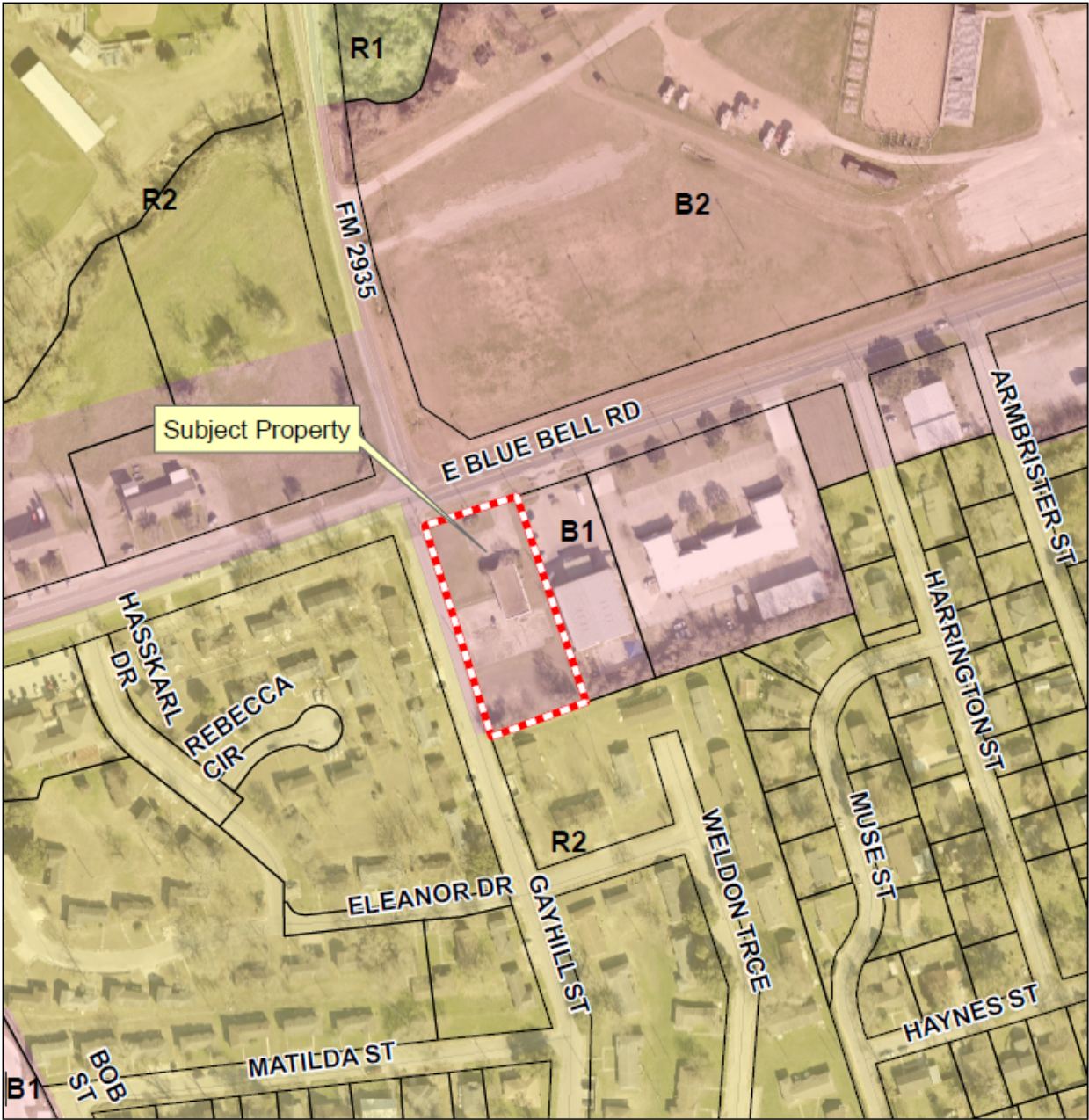
PASSED and APPROVED on its second reading this the _____ day of July 2024.

Atwood C, Kenjura
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT "A"



Zoning Map
Specific Use Permit- Convenient Store/Gas Station
804 E Blue Bell Road

- Legend**
- B1 Local Business Mixed
 - B2 Commercial Research and Technology
 - R1 Residential Single Family
 - R2 Mixed Residential

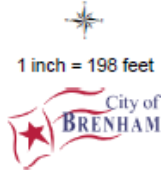
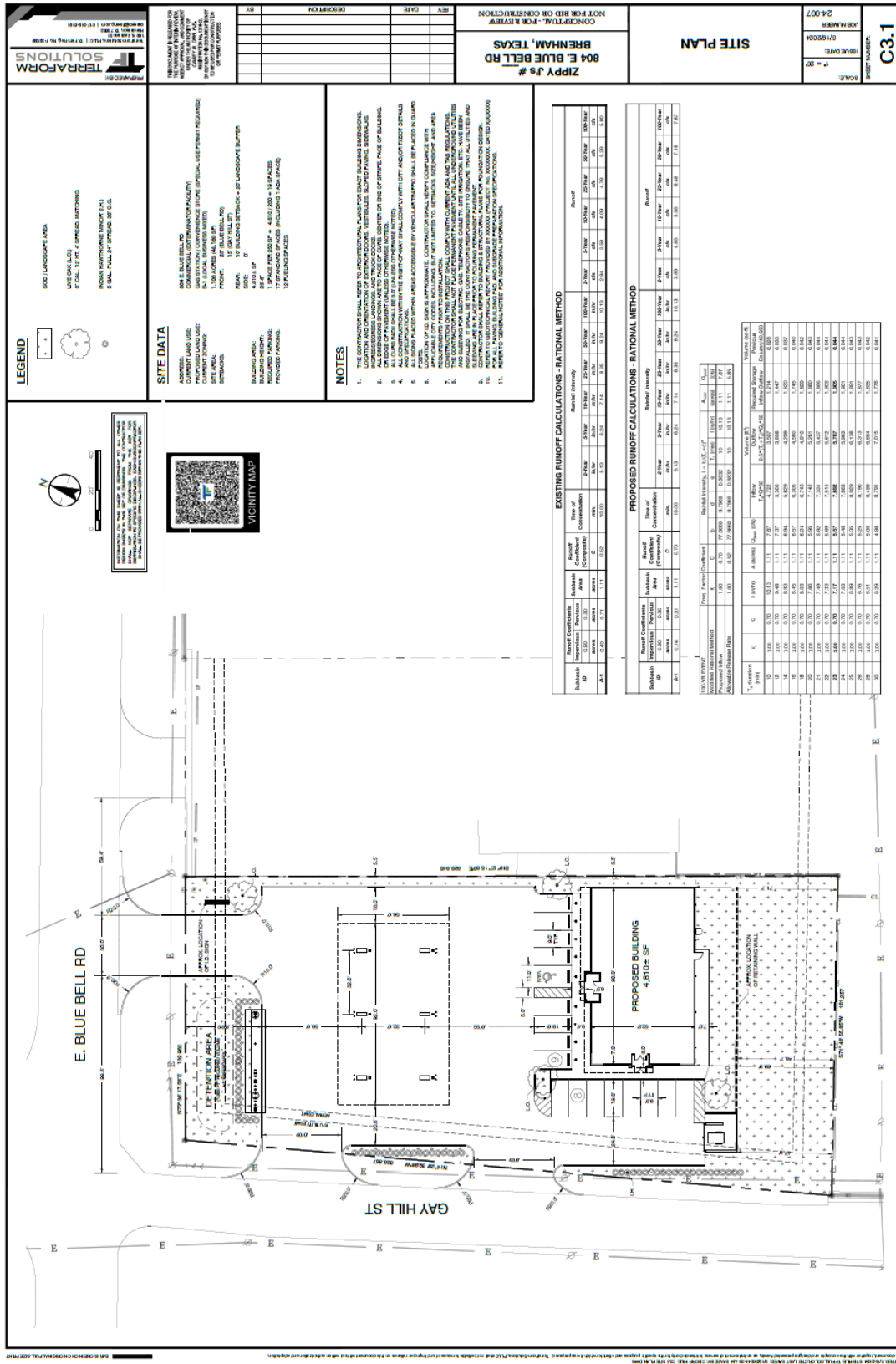


EXHIBIT “B”

Site Plan



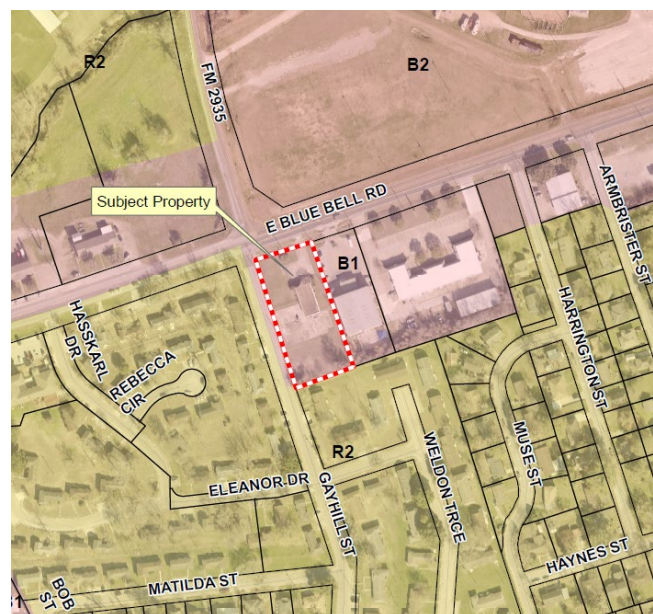
CASE NUMBER P-24-005
SPECIFIC USE PERMIT REQUEST – 804 E BLUE BELL ROAD

STAFF CONTACT:	Shauna Laauwe AICP, City Planner
OWNER:	30K Holdings, LLC.
APPLICANTS:	Adam Griffin for 30K Holdings, LLC.
ADDRESS/LOCATION:	804 E Blue Bell Road (Exhibit A).
LEGAL DESCRIPTION:	Arrabella Harrington Survey, Tract 64
LOT AREA:	1.106 acres
ZONING DISTRICT/USE:	B-1 Local Business/Residential Mixed Use (Exhibit B)
FUTURE LAND USE:	Commercial (Exhibit C)
REQUEST:	A request for a Specific Use Permit to allow an Automobile (Car) Service Station (convenience store with gas pumps) in a B-1 Local Business/Residential Mixed Use Zoning District (Exhibit D).

BACKGROUND:

The subject property is a 1.106-acre lot that is located at the southeast intersection of E Blue Bell Road and Gayhill Street and addressed as 804 E Blue Bell Road. The property is a slightly trapezoidal lot with 133 feet of frontage along E. Blue Bell Road, approximately 327 feet of frontage along Gayhill Street to the west, a south property line of 161-feet and an east side property line of 329 feet of length. The subject tract is zoned B-1, Local Business/Residential Mixed-Use District. The property is currently developed with the former Terminix pest control site that was constructed in 1981. The Terminix building has been vacant for several years. The applicant is proposing to demolish the existing structure and redevelop the property as a Zippy J's gas station and convenience store that will be operated daily with approximate hours of 5am to 11pm (not 24 hours).

Figure 1



As shown in Figure 1, the subject site and the adjacent property to the east are zoned B-1, Local Business/Residential Mixed-Use District. The adjacent property to the east is developed as Wee Care For All Child Care Center. Properties to the west, across Gayhill Street and to the south, are within an R-2, Mixed Residential District and owned by Brenham Housing Authority. The properties are currently developed as duplexes but are uninhabited as the former residents have been relocated to the new Fairview Terrace Apartments further to the west. Properties to the southeast are also within an R-2 district and developed with a mix of single-family and duplex units. To the north, across Blue Bell Road, is zoned B-1 to the northwest and B-2, Commercial, Research and Technology to the north and northeast. The uses to the north are primarily developed as institutional uses to include Brenham High School and the Washington County Fair Grounds. Additional nearby B-1 uses include Hodde & Hodde Land Surveying and the Rayna Reimer Plaza.

The site plan for the proposed gas station and convenience store is shown below in Figure 2, with the proposed landscaping areas highlighted in green in Figure 3. The convenience store is proposed to be 90-feet by 52.6-feet (4,810 SF) and located on the southern portion of the subject property, fronting onto E. Blue Bell Road. The B-1 district setback requirements are 25-foot front yard, 15-foot side street (Gayhill Street), 10-foot rear yard setback and no interior side yard required except for when a bufferyard is required. Due to the adjacent property to the south being zoned for residential uses (R-2), the subject property has an additional 20-foot bufferyard along the south property line, resulting in a total rear building setback of 30-feet. The convenience store exceeds the required setback regulations with a more than 200-foot front yard setback, a 43-foot side street setback and an approximately 70-foot rear yard

Figure 2

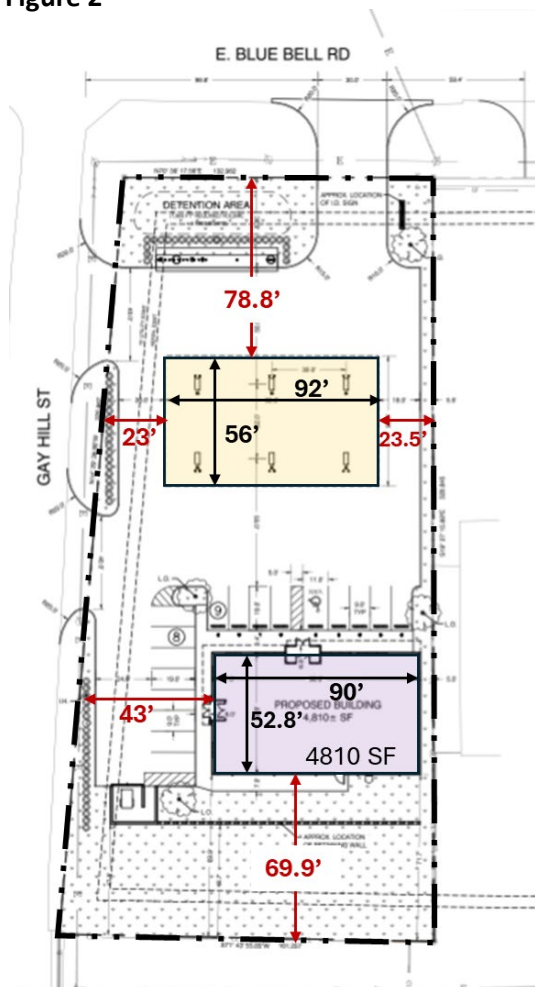
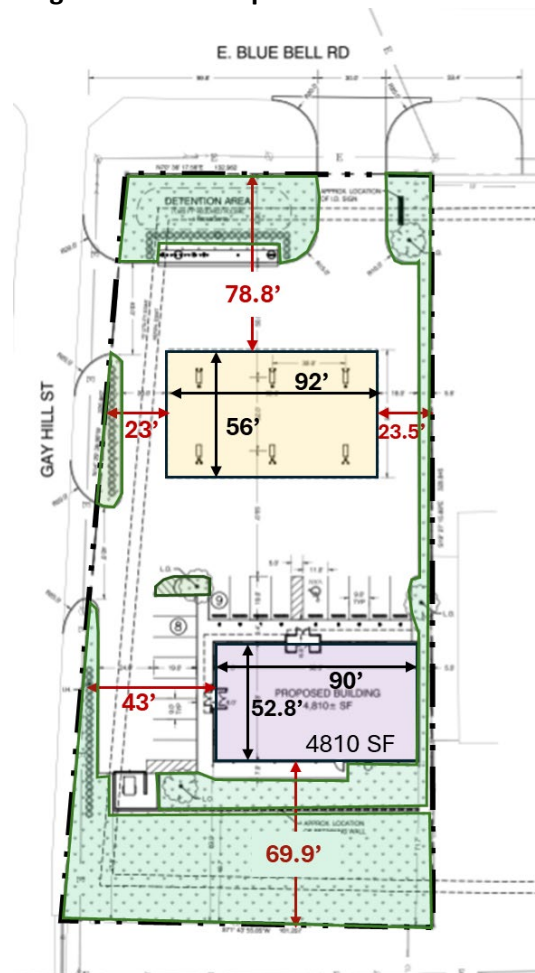


Figure 3 – Landscape Plan



setback. The proposed gas station portion is located on the north half of the subject property and would consist of six (6) gas pumps to provide a total of 12 fueling stations under a canopy. The proposed canopy has an approximate front yard setback of 79-feet along E. Blue Bell Road and a 23-foot side street setback along Gayhill Street and a 23.5-foot setback along the east property line. The applicant has also accounted for off-street parking needs. The regulations require that the convenience store/retail space use provide one (1) parking space per 250 square feet, with the 4,810 square foot convenience store requiring a minimum of 19 parking spaces. The site plan provides for 16 standard parking spaces, 1 handicap accessible space, and 12 parking spaces at the fueling pumps, for a total of 29 off-street parking spaces on the proposed site. The site plan also details three access points, with two driveway entrances (one new) on Gayhill Street and the existing driveway access to East Blue Bell Road. Shown in Figure 3, the landscape plan meets both the additional bufferyard landscaping requirements, parking lot landscaping and meets the maximum lot coverage limits of 80% with 70% of impervious cover. Due to the subject property being larger than 1-acre, the proposed development will be required to submit a drainage study and provide detention for excess storm runoff. The subject property, as shown in site photos in Exhibit “D”, has a steep slope at the south end of the site making the site difficult to screen from the adjacent residential property. A non-screening fence is currently along the south property line and the applicants propose placing a retaining wall behind the store structure to help with drainage and to provide for some screening.

The B-1 District automobile (car) service stations with prior approval of a Specific Use Permit (SUP). Thus, the applicant and property owners are seeking a SUP to allow for the construction of a 12-fuel pump gas station and 4,810 square foot convenience store on a 1.106-acre tract of land in a B-1, Local Business/Residential Use District located at 804 E Blue Bell Road.

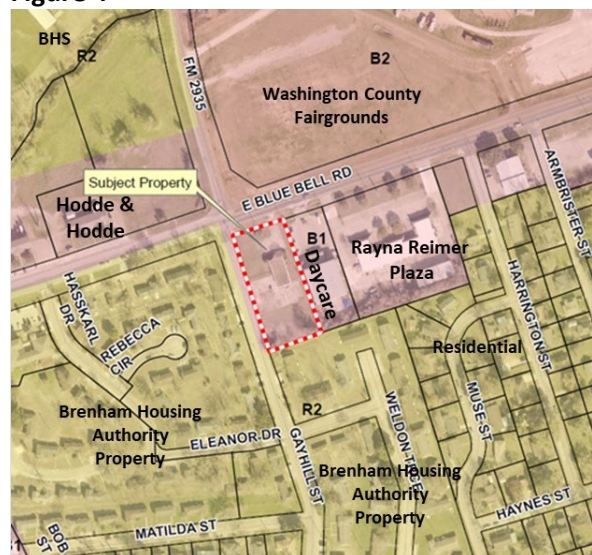
ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

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 1.106 -acre tract of land is located at the southeast intersection of East Blue Bell Road and Gayhill Street. The subject tract is zoned B-1, Local Business/Residential Mixed-Use District. As shown in Figure 4, the subject site, and the properties to the east and northeast, are zoned B-1, Local Business/Residential Mixed-Use District. Additional nearby B-1 uses include business offices, a daycare, the Rayna Reimer Plaza that has both medical offices and retail uses. The adjacent properties to the south and west are currently zoned R-2, Mixed Residential District. The property to the west, across Gayhill Street and adjacent to the south is owned by Brenham Housing Authority and currently has vacant duplex structures. To the southeast is the

Figure 4



Armbrister neighborhood that is a mixture of single-family and two-family units. To the northeast, across East Blue Bell Road is zoned B-2 and developed as the Washington County Fairgrounds, while further north is a R-2 district that is developed as the Brenham High School campus. The applicant proposes to redevelop the approximately 1-acre tract and former Terminix site into an automobile gas station and convenience store that would be open 7 days a week from 5am-11pm/midnight. The proposed gas station would have 6 gas pumps with 12 fueling stations, while the proposed convenience store would be 4,810 square feet. The submitted site plan shows 29 off-street parking spaces, which is 10 more than the parking regulations minimum for 4,810 square foot retail use. In addition, both the gas station canopy and store structure exceed the minimum required setbacks to include the south bufferyard area.

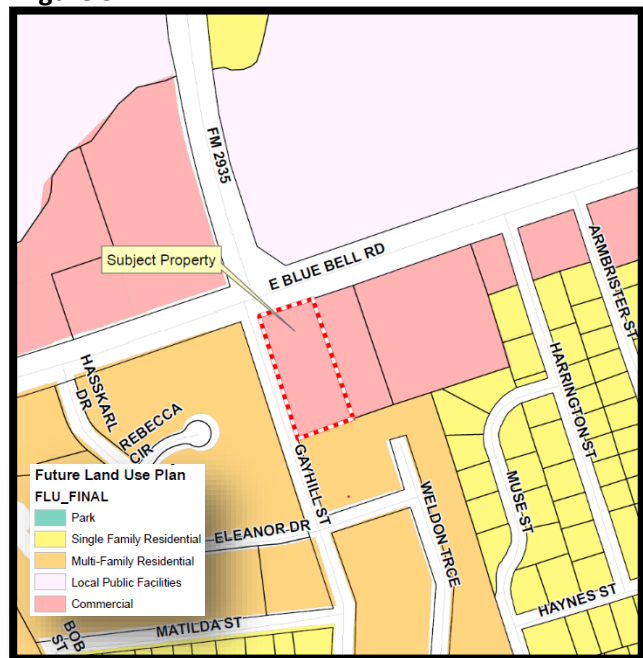
The SUP process allows staff to identify additional land uses, which may be appropriate in special circumstances. The applicant has stated that the proposed convenience store and gas station will not be a 24-hour truck stop and will include typical convenience store items in addition to a deli that will offer hot and fresh food options, along with daily specials with a rotating menu. The convenience store will also carry grab and go freshly made in-house salads and sandwiches and espresso-based coffees.

Staff finds that the applicant has proposed appropriate measures to ensure that the proposed gas station with convenience store will not adversely affect the small-town attributes that make Brenham a special place for its citizens to live, work and play.

- (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 the Envision 2020 Comprehensive Plan suggests the subject property may be appropriate for commercial uses. The B-1 District is a district that provides for diverse uses and convenient locations for lite commercial uses suitable for neighborhood shopping and for residential uses to include moderate density multifamily housing. While the subject property, adjacent properties to the east, and surrounding properties across East Blue Bell Road are currently zoned B-1, Local Business/Residential Mixed-Use District, the adjacent properties to the south are zoned R-2, Mixed Residential District. The Future Land Use Map, shown in Figure 5, does show the subject property to be for commercial use and the properties to the south to be multifamily residential. A gas station and convenience store, with adequate bufferyards and attention to noise and light levels, may be suitable as a neighborhood commercial use that aligns with the goals and land use policies established in the Comprehensive Plan.

Figure 5



- (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 existing utilities available along E Blue Bell Road and Gayhill Street and

will not require any extension of utility services.

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

The proposed SUP, 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 April 11, 2024. The Notice of Public Hearing was published in the Brenham Banner on April 11, 2024. One public comment, from Larry Lozare of Wee Care For All Childcare Center, was received in opposition of the specific use request. Mr. Lozar is concerned with the sale of alcohol, cigarettes, and other tobacco products and is concerned about the safety of the children at the daycare center. Mr. Lozare's comment form may be found in Exhibit "G."

Any additional 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 property will be required to adhere to minimum building setbacks, maximum impervious coverage requirements, landscaping, and buffer yard requirements. The applicant has submitted a preliminary site plan (Exhibit F) which depicts the proposed location of the convenience store, gas pumps, canopy structure, and landscape plan. Each of the structures on the proposed site plan exceeds the minimum required setbacks and the landscape plan meets the landscaping ordinance. Staff finds that the site development requirements will ensure that adequate open space is preserved on the subject property.

- (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 residents.

Staff finds that the requested land use is appropriate in this location given adjacent zoning designations, existing development in the vicinity, and is consistent with the City's adopted Comprehensive Plan. The proposed development is in line with the Future Land Use Plan, while also providing adequate parking, landscaping, and screening. Staff does recommend the utilization of hooded lights to reduce the impact on nearby residential uses.

- (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 to the north and east are located within a B-1 District, with properties to the south and west currently zoned R-2 District. The B-1 District allows a variety of commercial and residential uses, and the R-2 District to the south is developed as two-family and single-family residential units. The adjacent property to the east is developed as We Care for All Child Care Center and further east is developed as Rayna Reimer Plaza that has both medical offices and retail uses, and the Washington County Emergency Management building. To

the north, nearby properties are developed as business offices, the Washington County Fairgrounds, and the Brenham High School campus. The proposed automobile gas station and associated convenience store will provide a generally compatible redevelopment of the unutilized 1.1-acre property. The automobile gas station and convenience store use are compatible to nearby land uses and consistent with the land policies established in the Comprehensive Plan.

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

Staff finds that approval of the proposed SUP and redevelopment of the property as a gas station with a convenience store may provide for an orderly and positive development of the community. Due to adjacent residential uses to the south, the proposed commercial use is required to provide an additional 20-foot bufferyard to the minimum setbacks for the B-1 District. This bufferyard provision requires that screening of either a 6-foot fence or 6-foot in height dense shrubbery be provided along the shared property lines of residential uses. In addition, 20-percent of the bufferyard shall be landscaped. The applicant has exceeded the required bufferyard and setback requirements by locating the proposed store structure approximately 70-feet from the south rear property line. The proposed building setbacks, off-street parking, and landscaping will help mitigate negative effects that the convenient store and gas station may cause. The redevelopment of the commercial property will remove a structure that has been vacant for several years and bring the subject property into compliance with current building, fire, and zoning regulations.

- (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 believes that the proposed development will have a positive effect on the surrounding area, will be compatible with anticipated uses near the subject property, and will be in accordance with the land use policies of Brenham's Comprehensive Plan. The subject property has been a vacant commercial site for many years along a main arterial road in our community. The gas station and convenience store will redevelop the site to be compatible with existing and anticipated uses surrounding the property. With the proposed site design layout, development codes, and bufferyard standards in place, Staff is unable to determine any destabilizing effects on the neighboring properties should this specific use permit 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 SUP will allow for the redevelopment of a commercial site that has been vacant for several years. The vicinity of SH 105 to the east and the E. Blue Bell corridor near the subject property has a variety of neighborhood commercial uses to include gas stations, restaurants, business offices and public uses. A few vacant commercial properties are located nearby along East and North Blue Bell Road. Staff believes that the proposed SUP, if approved, will not negatively affect vacant land classified for commercial uses.

- (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 B-1, Local Business/Residential Mixed-Use District subject property currently has a vacant structure that was once Terminix and the associate parking lot. The site has been abandoned commercial property for several years. The applicant's request will allow the subject property to

develop in a compatible, legally conforming manner.

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

Staff finds approval of the proposed SUP will allow for the orderly growth and development in the general vicinity and throughout the city.

STAFF RECOMMENDATION:

Staff recommends **approval** of a Specific Use Permit to allow an automobile (car) gas station and convenience store use as provided in the application site plan, general landscape plan, and written documents in a B-1 Local Business/Residential Mixed-Use Zoning District for the subject 1.106-acre tract of land that is located at 804 E Blue Bell Road and legally described Arrabella Harrington, Tract 64 on the following condition:

1. The subject property shall be preliminary and final platted before a building permit is issued.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Future Land Use Map
- D. Letter of Intent
- E. Proposed Site Plan
- F. Site photos
- G. Comment Form: Lazare

EXHIBIT "A"
AERIAL MAP

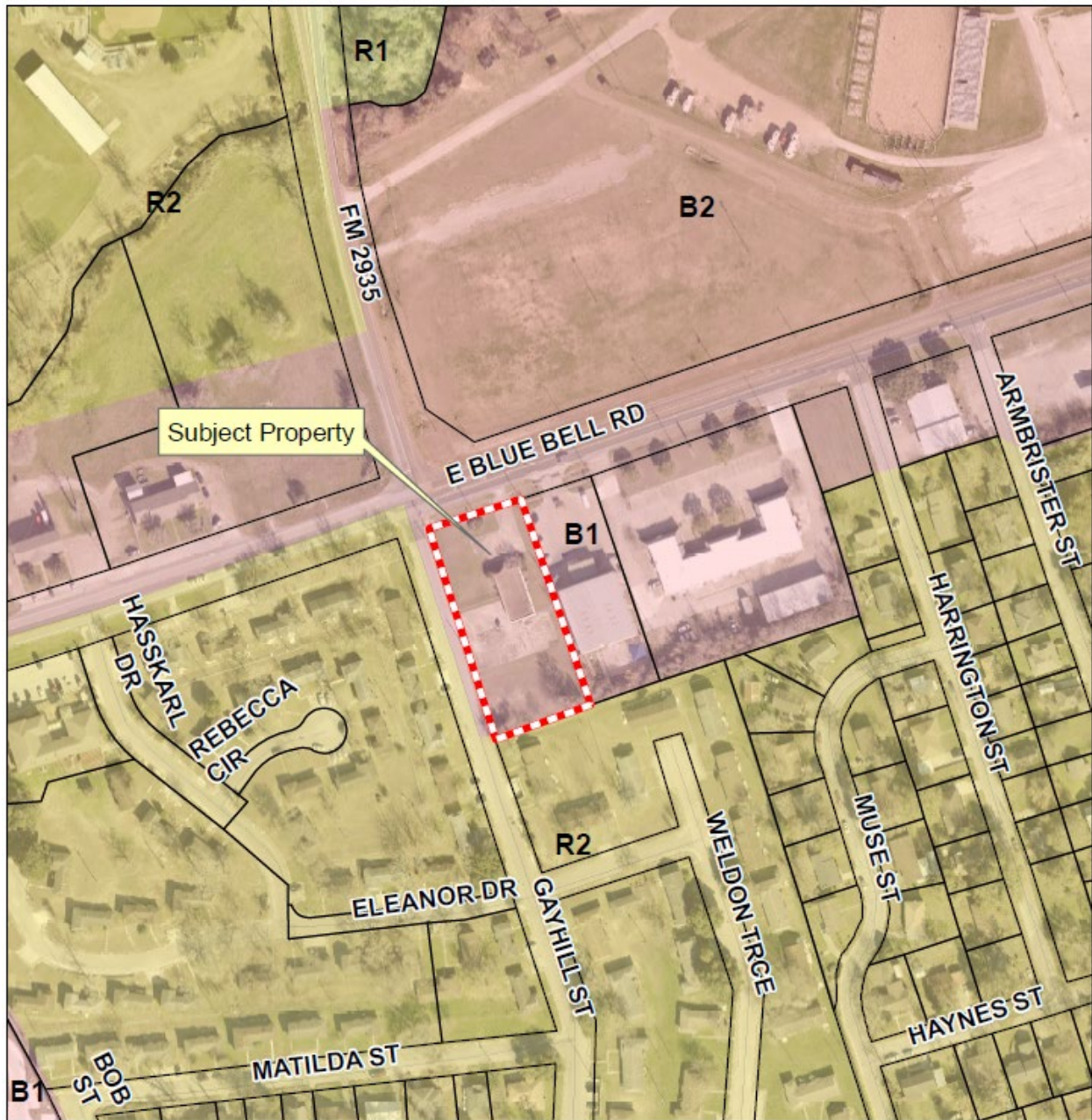


Location Map
Specific Use Permit- Convenient Store/Gas Station
804 E Blue Bell Road


1 inch = 198 feet



EXHIBIT "B"
ZONING MAP



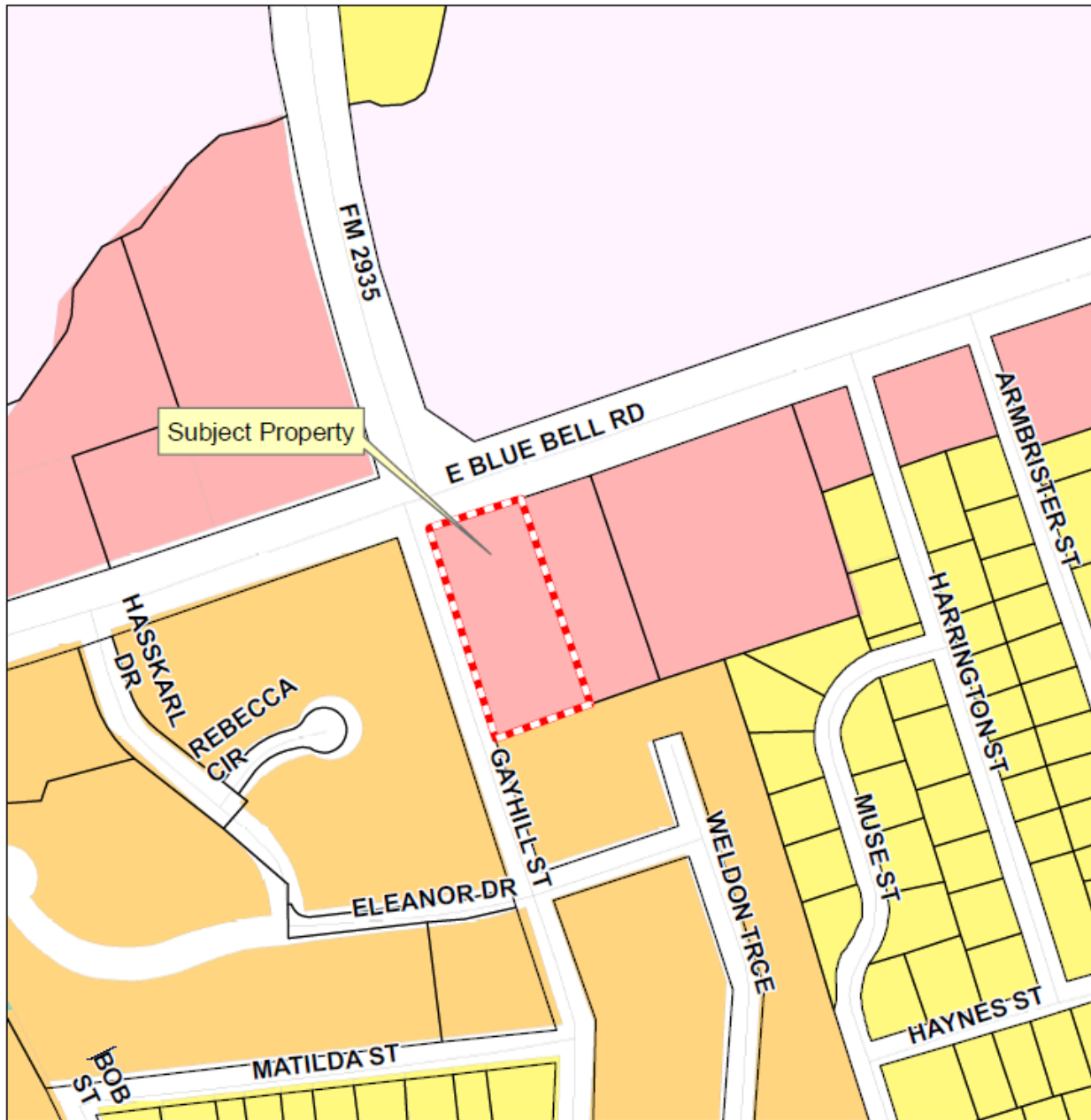
Zoning Map
Specific Use Permit- Convenient Store/Gas Station
804 E Blue Bell Road

Legend

- B1 Local Business Mixed
- B2 Commercial Research and Technology
- R1 Residential Single Family
- R2 Mixed Residential



EXHIBIT "C"
Future Land Use Map



Future Location Map
Specific Use Permit- Convenient Store/Gas Station
804 E Blue Bell Road

Future Land Use Plan
FLU_FINAL

- Park
- Single Family Residential
- Multi-Family Residential
- Local Public Facilities
- Commercial



EXHIBIT "D"
LETTER OF INTENT

03.21.2024

TO
P&Z Committee
Members

FROM
30K Holdings LLC –
Adam Griffin

RE
Specific Use Permit

P&Z Request for Specific Use Permit-804 E. Blue Bell Road

DEAR COMMITTEE MEMBERS,

On behalf of 30K Holdings LLC, I am requesting a Specific Use Permit at 804 E. Blue Bell Road to be allowed to construct and operate a new Zippy J's Community store (c-store) similar to the location we own at 203 S Blue Bell Road. This location would only have front fueling pumps and would only be able to service 4 wheeled vehicles and light duty commercial vehicles vs heavy duty commercial 18-Wheeler traffic like our other site in town. To further clarify, our proposed site plan is for pedestrian vehicles and is not planned to be a 24-hour truck stop.

I have attached a site plan of Zippy J's #22 that we believe would add numerous benefits to the North side of Brenham. Per our plans, we have included "The Deli at Zippy J's" inside the store which will offer many hot and fresh food options (breakfast, lunch, dinner) along with our made in house daily specials consisting of a different casserole or dish using a rotating menu. In addition to all of the hot food options, we will carry a grab and go lineup of freshly made in-house salads and sandwiches for our customers that are seeking out that option. We will also offer espresso-based coffees (hot or iced) and bean to cup fresh brewed drip coffee every second the store is open.

This proposed store will remain fully stocked, fully staffed and have the same beautiful aesthetics, landscaping and cleanliness as the first location we opened in Brenham in 2020.

Since my use is not a "permitted use" per the City of Brenham Code, I will not be able to purchase and develop this property without approval of the Specific Use Permit we are requesting.

Thank you for your consideration.

Adam Griffin
30K Holdings LLC

PROPOSED RUNOFF CALCULATIONS - RATIONAL METHOD

Area (Ac)	Runoff Coefficient (C)	Area (Sq Ft)	Rainfall Intensity (in/hr)										Peak Runoff (cfs)
			0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	
0.1	0.30	13,608	0.01	0.02	0.03	0.04	0.05	0.06	0.07	0.08	0.09	0.10	0.01
0.2	0.30	27,216	0.02	0.04	0.06	0.08	0.10	0.12	0.14	0.16	0.18	0.20	0.02
0.3	0.30	40,824	0.03	0.06	0.09	0.12	0.15	0.18	0.21	0.24	0.27	0.30	0.03
0.4	0.30	54,432	0.04	0.08	0.12	0.16	0.20	0.24	0.28	0.32	0.36	0.40	0.04
0.5	0.30	68,040	0.05	0.10	0.15	0.20	0.25	0.30	0.35	0.40	0.45	0.50	0.05
0.6	0.30	81,648	0.06	0.12	0.18	0.24	0.30	0.36	0.42	0.48	0.54	0.60	0.06
0.7	0.30	95,256	0.07	0.14	0.21	0.28	0.35	0.42	0.49	0.56	0.63	0.70	0.07
0.8	0.30	108,864	0.08	0.16	0.24	0.32	0.40	0.48	0.56	0.64	0.72	0.80	0.08
0.9	0.30	122,472	0.09	0.18	0.27	0.36	0.45	0.54	0.63	0.72	0.81	0.90	0.09
1.0	0.30	136,080	0.10	0.20	0.30	0.40	0.50	0.60	0.70	0.80	0.90	1.00	0.10

EXHIBIT "F"
SITE PHOTOS



Subject Site looking east. 804 E. Blue Bell Road



South portion of the existing site. Can see the adjacent Wee Care For All Child Care Center building.



South portion of the site with a rising topography. This portion will remain unchanged. Existing trees along the property line provide screening.



Brenham Housing Authority properties to the west.



E. Blue Bell Road. Looking north towards Brenham High School.

EXHIBIT "G"
PUBLIC COMMENT FORM

City of Brenham
Development Services Department



PUBLIC COMMENT FORM

All submitted forms will become a part of the public record.

Please return to:

City of Brenham

Attn: Development Services Dept., Case P-24-005

P.O. Box 1059

Brenham, Texas 77834-1059

Name:

(please print)

Address:

We Care For All Child Care Center - LARRY
900 E Blue Bell Rd. LAZAR

Brenham TX 77833

Signature:

Larry Lazar

Date:

4/17/24



I am FOR the requested SPECIFIC USE PERMIT REQUEST as explained on the attached public notice for P&Z Case P-24-005 (Please state reasons below)

I am AGAINST the requested SPECIFIC USE PERMIT REQUEST as explained on the attached public notice for P&Z Case P-24-005 (Please state reasons below)

Date, Location, & Time of Planning and Zoning Commission meeting:

Monday, April 22, 2024, 5:15 PM

City Council Chambers, 2nd Floor, City of Brenham City Hall

200 West Vulcan Street, Brenham, Texas 77833

Date, Location, & Time of City Council meeting:

Thursday, May 2, 2024, 1:00 PM

City Council Chambers, 2nd Floor, City of Brenham City Hall

200 West Vulcan Street, Brenham, Texas 77833

COMMENTS/REASONS:

I own the child care center next door the business may be selling Alcohol, Cigarettes, and other tobacco products, Beer, and other items which may attract a group of people that could be a danger to our kids that we would like to keep safe my property connect to this property. / Ch 12 Art IIIi Sale of Alcoholic Bev.

You may also submit comments via email to khodde@cityofbrenham.org. Please reference the case number in the subject line.

For questions regarding this proposal, please call the Development Services Department at (979) 337-7220.



CASE NUMBER P-24-005
Specific Use Permit Request – 804 E Blue Bell Road

BACKGROUND:

On April 22, 2024, the Planning and Zoning Commission heard and held a public hearing for a Specific Use Permit request to allow a proposed Automobile (car) Service Station, consisting of a convenience store and 6 gas pumps, in a B-1 Local Business/Residential Mixed Use Zoning District. The subject property is a 1.106-acre lot that is located on the southeast intersection of E Blue Bell Road and Gayhill Street and addressed as 804 E Blue Bell Road. The subject property is currently developed as the former Terminix pest control site that was constructed in 1981 but has been vacated for several years. The applicant proposes to redevelop the site into a Zippy J's convenience store and gas station that would be open daily with approximate hours of 5am to 11pm. Please see the attached Staff Report for a detailed description of the proposed site and zoning considerations.

After the scheduled public hearing and Commission discussion, the proposed Specific Use Permit was tabled. The Planning and Zoning Commission voiced concerns and hesitations based on the public hearing comments from Mr. Lazare, the owner of the adjacent Wee Care For All Child Care Center located at 900 E. Blue Bell Road. Mr. Lazare stated that the childcare center was considered a school and thus, alcoholic beverages would not be permitted to be sold at the proposed location per Texas Alcoholic and Beverage Commission (TABC) regulations. He also voiced safety concerns for the children and families of his daycare due to increased traffic and the general public that would be frequenting the proposed use. At the meeting, Staff were unable to confirm or deny that the daycare was considered a school per the TABC and whether the proposed use would be prohibited from selling alcohol.

The City Secretary's office reviews TABC licenses in accordance with local ordinances. Please see the attachment Exhibit "A1" for excerpts of the City of Brenham Code of Ordinances, Section 17 and from the State of Texas State Statutes. Since the April Planning and Zoning Commission meeting, Staff has confirmed with Mr. Lazare that the daycare center *is not* accredited by an accrediting agency that is a member of the Texas Private School Accreditation Commission and is considered only as a day-care, not a public or private school.

Zippy J's, at its current location holds a TABC license for a Wine & Beer Retailer's On-Premise (BQ) license which is mandated by Chapter 26 of the Texas Alcoholic Beverage Code. *Chapter 26 is for retailers that sell alcohol for off-premises consumption.* Chapter 26 businesses are exempt from any distance requirements related to sales near day-care centers or childcare facilities (Alcoholic Beverage Code, Section 109.33 as shown in Exhibit "A1"). However, a business that sells alcohol *for on-site consumption* such as a bar or restaurant, would not be allowed to be located adjacent to the childcare center.

The Specific Use Permit for the proposed Automobile (car) service station with convenient store is scheduled for consideration at the May 20, 2024 Planning and Zoning Commission meeting.

Please contact Shauna Laauwe, City Planner or Jeana Bellinger, City Secretary, with any questions regarding the TABC regulations.

Exhibit A1

City of Brenham - Code of Ordinances, Section 17:

Section 17-40. Sale of alcoholic beverages within three hundred feet of church, school or hospital; measurement of distance.

- a. From and after the effective date of this article it shall be unlawful for any dealer of alcoholic beverages, whose place of business is within three hundred (300) feet of a church, **public school**, or public hospital, to sell alcoholic beverages from such place of business.
- b. The measurement of the distance shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

State of Texas State Statutes – Alcoholic Beverage Code, Chapter 109:

Sec. 109.33. Sales near school, church, or hospital:

- (a) The commissioners court of a county may enact regulations applicable in areas in the county outside an incorporated city or town, and the governing board of an incorporated city or town may enact regulations applicable in the city or town, prohibiting the sale of alcoholic beverages by a dealer whose place of business is within:
 - (1) 300 feet of a church, **public or private school**, or public hospital;
 - (2) 1,000 feet of a public school, if the commissioners court or the governing body receives a request from the board of trustees of a school district under Section 38.007, Education Code; or
 - (3) 1,000 feet of a private school if the commissioners court or the governing body receives a request from the governing body of the private school.

State of Texas State Statutes – Education Code:

“**Public schools**” are defined as learning institutions that are funded by local, state and/or federal governments.

State of Texas State Statutes - Business and Commerce Code, Chapter 111:

Sec. 111.001(4). “**Private school**” means a school that:

- A. Offers a course of instruction for students in one or more grade from prekindergarten through grade 12.
- B. Is not operated by a governmental entity.
- C. Is accredited by an accrediting agency that is a member of the Texas Private School Accreditation Commission.

State of Texas State Statutes – Alcoholic Beverage Code, Chapter 109:

Sec. 109.331. Sales near day-care center or child-care facility.

- (a) This section applies only to a permit or license holder under Chapters **25, 28, 32, 69 or 74** who does not hold a food and beverage certificate.

Zippy J’s Current TABC License

Zippy J’s currently has a TABC license for a Wine & Beer Retailer’s On-Premise (BQ) license which is mandated by **Chapter 26** of the Texas Alcoholic Beverage Code. **Chapter 26** is exempt

from any distance requirements related to sales near day-care centers or child care facilities (see Alcoholic Beverage Code, Sec. 109.33 above)



City Council Regular Meeting **AGENDA ITEM 6**

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting a Revised City of Brenham Drought Contingency Plan and Revised Water Conservation Plan for 2024

Meeting Date: June 20, 2024

Department: Public Utilities

Staff Contact: Jerry Saldivar

SUMMARY STATEMENT:

This is the first reading of two to amend the City's current Drought Contingency and Water Conservation Plans. According to Title 30, Part 1, Chapter 288 of the Texas Administrative Code, the City is required to review and update, as appropriate, the Drought Contingency and Water Conservation Plans at least once every five years. Based on new and updated information, such as forecasted weather patterns, the City of Brenham Public Utilities Department respectfully requests the City Council approve the Amended Drought Contingency and Water Conservation Plans in Attachment 1 & 2 of its first reading.

ATTACHMENTS:

1. Ordinance for First Reading
2. Redlined Exhibit A - Drought Contingency Plan
3. Redlined Exhibit B - Water Conservation Plan

RECOMMENDATION:

Approve an ordinance on its first reading adopting a revised City of Brenham Drought Contingency Plan and revised Water Conservation Plan for 2024.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, ADOPTING A REVISED DROUGHT CONTINGENCY PLAN AND REVISED WATER CONSERVATION PLAN, ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Brenham, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under applicable law, and in the best interests of the citizens of Brenham, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies, and to revise and update said rules and policies;

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

SECTION 1.

That the City of Brenham, Texas Drought Contingency Plan and Water Conservation Plan, as revised, attached hereto as Exhibit "A" and Exhibit "B" respectively and made part hereof for all purposes be, and the same are hereby adopted as official regulations of the City.

SECTION 2.

That all ordinances that are in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3.

Should any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4.

This Ordinance shall take effect immediately from and after its passage and publication, as the 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 OF BRENHAM
DROUGHT CONTINGENCY PLAN**

September 1999, Revised July 2001, Revised August 2005, Revised April 2011, Reviewed April 2014,
Revised July 2014, Reviewed May 2019, Revised June 2024

I. INTRODUCTION

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Brenham (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section X of this plan.

II. PUBLIC INVOLVEMENT

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of providing public notice in a newspaper of general circulation and public hearing to accept input on the Plan.

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage.

III. NOTIFICATION

Public notification of the initiation or termination of drought response stages shall be by publication in a newspaper of general circulation, utility bill inserts, public service announcements, signs posted in public places, or other means as determined by the City.

When mandatory restrictions are enacted (Stages 2-6), the City shall notify the TCEQ directly.

IV. COORDINATION WITH REGIONAL WATER PLANNING GROUPS

The service area of the City is located within the Region G Water Planning Group and the City has provided a copy of this Plan to the Region G Water Planning Group.

V. AUTHORIZATION

The Mayor, or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

VI. APPLICATION

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associates, and all other legal entities.

VII. DEFINITIONS

For the purposes of this Plan, the following definitions shall apply:

- A. Aesthetic water use: water used for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
- B. Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.
- C. Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.
- D. Customer: any person, company, or organization using water supplied by the City.
- E. Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.
- F. Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
- G. Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.
- H. Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

- I. Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:
1. irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
 2. use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
 3. use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced area;
 4. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 5. flushing gutters or permitting water to run or accumulate in any gutter or street;
 6. use of water to fill, refill, or add to any indoor or outdoor swimming pools or Jacuzzi-type pools;
 7. use of water for recreational purposes;
 8. use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
 9. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
 10. use of water from hydrants for construction purposes or any other purposes other than firefighting.
- J. Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

VIII. TRIGGERING CRITERIA

The City shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. The triggering criteria described below are based on known system capacity limits.

Stage 1 – Mild

- A. Requirements for initiation (Voluntary) – Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water provided in Section IX of this Plan when:

- a. The demand on water supply facilities reaches or exceeds seventy-five percent (75%) of the capacity of such facilities for a period of three (3) consecutive days.
 - b. When the static water level at Lake Somerville is equal to or less than 234.8 feet.
 - c. When, pursuant to requirements specified in the drought contingency plan of the Brazos River Authority, notification is received requesting initiation of Stage 1 of the drought contingency plan listed in this document.
- B. Requirements for termination – Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.
- C. Goal – The target for Stage 1 of the Plan is:
 - a. To reduce and maintain daily water demand below 75% of system capacity.
 - b. To reduce and maintain daily water demand at or above requested consumption per Brazos River Authority drought contingency plan.

Stage 2 – Moderate

- A. Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when:
 - a. The demand on water supply facilities reaches or exceeds eighty percent (80%) of the capacity of such facilities for a period of three (3) consecutive days.
 - b. When the static water level at Lake Somerville is equal to or less than 231.6 feet.
- B. Requirements for termination – Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.
- C. Goal - The target for Stage 2 of the Plan is to reduce daily water demand below 80% of system capacity.

Stage 3 – Severe

- A. Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when:
 - a. The demand on water supply facilities reaches or exceeds eighty-five percent (85%) of the capacity of such facilities for a period of three (3) consecutive days.
 - b. When the static water level at Lake Somerville is equal to or less than 227.8 feet.

- B. Requirements for termination – Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.
- C. Goal – The target for Stage 3 of the Plan is to reduce daily water demand below 85% of system capacity.

Stage 4 – Critical

- A. Requirements for initiation – Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when:
 - a. The demand on water supply facilities reaches or exceeds ninety percent (90%) of the capacity of such facilities for a period of three (3) consecutive days.
 - b. When the static water level at Lake Somerville is equal to or less than 223.9 feet.
- B. Requirements for termination – Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.
- C. Goal – The target for Stage 4 of the Plan is to reduce daily water demand below 90% of system capacity.

Stage 5 – Emergency

- A. Requirements for initiation – Customers shall be required to comply with the requirements and restrictions provided in Section IX of this Plan when a water supply emergency exists based on:
 - 1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
 - 2. Natural or man-made contamination of the water supply source(s).
- B. Requirements for termination – Stage 5 of this Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.
- C. Goal – The target for Stage 5 of the Plan is to discontinue all water systems operations.

Stage 6 – Water Allocation

Water allocation is not included in the Plan at this time. The City will most likely be constrained by system capacity before shortage of supply.

IX. DROUGHT RESPONSE STAGES

The City shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a water shortage condition exists and shall implement the following stages of the Plan.

Stage 1 Response – Mild

Water Use Restrictions (Voluntary):

- A. Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.
- B. All operations of the City, **including those for recreation use**, shall adhere to water use restrictions prescribed for Stage 2 of the Plan. **The City Splash Pad shall continue to operate on reduced hours. Hohlt Park shall remain in Stage 1.**
- C. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response – Moderate

Water Use Restrictions: Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- A. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for customers with a street address ending in an odd number (1, 3, 5, 7, or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at any time if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
- B. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service

station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

- C. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or Jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight.
- D. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- E. Use of water from hydrants shall be limited to firefighting, related activities, or other activities necessary to maintain public health, safety, and welfare. Non-potable water shall be used for construction purposes unless from designated fire hydrants under special permit from the city. City operations except those listed above shall be restricted to non-potable water.
- F. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City, the facility shall not be subject to these regulations.
- G. All restaurants are prohibited from serving water to patrons except upon request of the patron.
- H. All operations of the City, **including those for recreation use**, shall adhere to water use restrictions prescribed for Stage 3 of the Plan. **The City Splash Pad shall restrict hours only to days aligning with irrigation schedules.** Hohlt Park shall remain in stage 2.
- I. The following uses of water are defined as non-essential and are prohibited:
 - 1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas.
 - 2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. use of water for dust control;
 - 4. flushing gutters or permitting water to run or accumulate in any gutter or street; and

5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response – Severe

Water Use Restrictions: All requirements of Stage 2 shall remain in effect during Stage 3 except:

- A. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- B. The watering of golf course greens, tees, and fairways is prohibited unless the golf course utilizes a water source other than that provided by the City.
- C. All operations of the City, **including recreational use**, shall adhere to water use restrictions prescribed for Stage 4 of the Plan. **The City Splash Pad shall be shut down. Hohlt Park shall remain in stage 3.**
- D. The use of water for construction purposes from designated fire hydrants under a special permit is to be discontinued.

Stage 4 Response – Critical

Water Use Restrictions: All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- A. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.
- B. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10:00 p.m.
- C. The filling, refilling, or adding of water to swimming pools, wading pools, and Jacuzzi-type pools is prohibited.

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- D. Water for recreational use is prohibited.
- E. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- F. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Stage 5 Response – Emergency

Water Use Restrictions: All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

- A. Irrigation of landscaped areas is absolutely prohibited.
- B. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Stage 6 Response – Water Allocation

Water allocation is not included in the Plan at this time. The City will most likely be constrained by system capacity before shortage of supply.

X. ENFORCEMENT

- A. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City, in accordance with provisions of this Plan.
- B. Any person who violates this Plan is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than two thousand dollars (\$2,000). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.

- C. Any person, including a person classified as a water customer of the City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- D. Any police officer or other designated City employee may issue a citation to a person he/she reasonably believes to be in violation of this Plan. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over fourteen (14) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

XI. VARIANCES

The City may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- A. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- B. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City and shall include the following:

- Name and address of the petitioner(s).

- Purpose of the water use.
- Specific provisions(s) of the Plan from which the petitioner is requesting relief.
- Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this Plan.
- Description of the relief requested.
- Period of time for which the variance is sought.
- Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- Other pertinent information.

Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City:

- Variances granted shall include a timetable for compliance.
- Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

XII. SEVERABILITY

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.



City of Brenham Water Conservation Plan

**April -
~~2019~~2024**

September - 1999
Revised July - 2001
Revised September - 2005
Revised April - 2011
Revised April - 2016
Revised April ~~2019~~
Revised April - 2024

Prepared by:
Pledger Kalkomey, Consulting Engineer: September, 1999
City of Brenham: Revisions July, 2001
O'Malley Engineers: Revisions September, 2005
City of Brenham: Revisions April, 2011

City of Brenham: Revisions April, 2016
City of Brenham: Revisions April, 2019

City of Brenham: Revisions April, 2024

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APPENDICES

Appendix A	TCEQ / Texas Administrative Code / Definitions & Rules
Appendix B	Utility Profile
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Appendix E	Water Conservation Plan Annual Report
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Appendix I	Water Supply Agreement
Appendix J	Water Conservation Plan Approval - TWDB

WATER CONSERVATION PLAN

**CITY OF BRENHAM
1105 SOUTH AUSTIN STREET
BRENHAM, TEXAS 77833
PWS # 2390001
CCN # 10343**

APRIL – ~~2019~~2024

SECTION 1

INTRODUCTION

Water supply has always been a key issue in the development of Texas. The growing population and development has led to increasing demands for water supplies. The purpose of this Water Conservation Plan (the Plan) is to improve the efficiency in the use of water through practices and techniques that will reduce the consumption of water, reduce the loss of water and increase the reuse of water.

The Texas Commission on Environmental Quality (TCEQ) has developed guidelines and requirements governing the development of water conservation plans. The City of Brenham (the City) has developed this water conservation plan in accordance with the TCEQ guide lines and requirements. This Plan is designed to meet Title 30, Part 1, Chapter 288, Subchapter A Rule 288.2 of the Texas Administrative Code (TAC).

SECTION 2

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) RULES

TCEQ rules governing the development of water conservation plans for Municipal Uses by Public Water Suppliers, such as Brenham, are contained in Title 30, Part 1, Chapter 288, Subchapter A Rule 288.2 of the Texas Administrative Code (TAC). A copy of these rules is included in Appendix A. The elements in the TCEQ water conservation rules covered in the conservation plan are listed below.

Minimum Conservation Plan Requirements

TCEQ definitions, guidelines and requirements pertaining to Water Conservation Plans and Water Conservation Plans for Municipal Uses by Public Water Suppliers are provided in Appendix A. Minimum plan requirements are addressed in the following sections:

Rule	Subject	Section
288.2(a)(1)(A)	Utility Profile	Section 3
288.2(a)(1)(B)	A Record Management System	Section 4
288.2(a)(1)(C)	Specific, Quantified 5 & 10 Year Goals & Targets	Section 5
288.2(a)(1)(D)	Metering Devices – Source Supply	Section 6
288.2(a)(1)(E)	Universal Metering	Section 7
288.2(a)(1)(F)	Measures to Determine and Control of Water Loss	Section 8
288.2(a)(1)(G)	Public Education and Information Program	Section 9
288.2(a)(1)(H)	Water Rate Structure	Section 10
288.2(a)(1)(I)	Reservoir System Operation Plan	Section 11
288.2(a)(1)(J)	Means of Implementation and Enforcement	Section 12
288.2(a)(1)(K)	Coordination with Regional Water Planning Group	Section 13
288.2(c)	Review and Update of plan	Section 16

Additional Requirements (Population over 5,000)

The TCEQ includes additional requirements for water conservation plans for drinking water supplies serving a population over 5,000:

288.2(a)(2)(A)	Leak Detection, Repair and Water Loss	Section 14
288.2(a)(2)(B)	Wholesale Customer Requirements (if applicable)	Section 14

Additional Conservation Strategies

The TCEQ lists additional conservation strategies, which may be adopted by suppliers but are not required. Additional strategies are as follows:

288.2(a)(3)(A)	Conservation oriented water rates	Section 15
288.2(a)(3)(B)	Ordinances, Plumbing Codes and Rules	Section 15
288.2(a)(3)(C)	Retrofit Program	Section 15
288.2(a)(3)(D)	Reuse and Recycling of Wastewater	Section 15
288.2(a)(3)(F)	Water Conserving Landscape	Section 15

SECTION 3

WATER UTILITY PROFILE

The utility profile is in accordance with the Texas Water Use Methodology and includes information regarding population, customer data, water use data, water supply system data and wastewater system data. A copy of Brenham's Utility Profile for Retail Water Supplier is provided in Appendix B. The water system description and map is included in Appendix C. The wastewater system description and map is included in Appendix D.

SECTION 4

RECORD MANAGEMENT SYSTEM

The City maintains a record management system for billing and reporting that shows metered-billed and metered-unbilled monthly water consumption. Meter-billed water consumption is segregated into water classes aligned with the City's rate tariffs. The primary classes are residential and commercial. At the end of 2015, the City added a second report to the billing system to aid in the analysis of data pertaining to water conservation efforts. The new report realigns the billing data into the following sectors:

- Residential
- Single family
- Multi-family
- Commercial
- Institutional
- Industrial
- Agricultural

The Section II, System Data contained in the Utility Profile reflects the new sector realignment for current and prior years (historical) accounting information.

SECTION 5

SPECIFIC, QUANTIFIED 5 & 10 YEAR GOALS & TARGETS

TCEQ rules require the adoption of specific, quantified water conservations goals and targets as part of the Plan. The City of Brenham has developed 5-year and 10-year municipal water saving goals and targets which align with the Brazos River Authority's (BRA) goals and targets for municipal customers located within the Brazos G Regional Water Planning Area. The City's annual reduction goals in terms of total GPCD and residential GPCD satisfy the 1 percent reduction minimum in the BRA plan. The specific, quantified goal for the City of Brenham's total GPCD and residential GPCD is:

- A minimum of 1% reduction in GPCD per year for the next 10 years.

The targets for this goal are established under normalized weather patterns. Actual GPCD results may be higher in drought conditions and lower in years with significant, above average rainfall. Table 5-1 specifies GPCD yearly targets for total supply, total retail, and total residential customers.

Table 5-1

Year	Total Supply	Total Retail	Total Residential
2019 <u>2024</u>	166 <u>156</u>	130 <u>123</u>	84 <u>79</u>
2020 <u>2025</u>	164 <u>154</u>	128 <u>122</u>	83 <u>78</u>
2021 <u>2026</u>	162 <u>153</u>	126 <u>121</u>	82 <u>77</u>
2022 <u>2027</u>	160 <u>151</u>	125 <u>119</u>	81 <u>77</u>
2023 <u>2028</u>	158 <u>150</u>	124 <u>118</u>	80 <u>76</u>
2024 <u>2029</u>	156 <u>148</u>	123 <u>117</u>	79 <u>75</u>
2025 <u>2030</u>	154 <u>147</u>	122 <u>116</u>	78 <u>74</u>
2026 <u>2031</u>	153 <u>145</u>	121 <u>115</u>	77 <u>74</u>
2027 <u>2032</u>	152 <u>144</u>	120 <u>113</u>	76 <u>73</u>
2028 <u>2033</u>	151 <u>143</u>	119 <u>112</u>	75 <u>72</u>

The maximum acceptable water loss goal for distribution systems within the BRA's service area is 12 percent. The City of Brenham's water loss experience is well below this maximum. The specific, quantified goal for the City of Brenham's water loss is:

- Reduce the water loss ratio and water loss GPCD each year for the next 10 years.

The targets for this goal are shown in Table 5-2. The water loss in GPCD is based on projected water demands for the next 10 years.

Table 5-2

Year	Water Loss %	Water Loss GPCD
2019 <u>2024</u>	6.25 <u>7</u>	109
2020 <u>2025</u>	6.15 <u>6</u>	109
2021 <u>2026</u>	6.05 <u>5</u>	108
2022 <u>2027</u>	5.94	98
2023 <u>2028</u>	5.83	98
2024 <u>2029</u>	5.72	98
2025 <u>2030</u>	5.61	97
2026 <u>2031</u>	5.50	87
2027 <u>2032</u>	5.44 <u>9</u>	87
2028 <u>2033</u>	5.34 <u>8</u>	87

SECTION 6

METERING DEVICES- SOURCE OF SUPPLY

The City meters the amount of raw water diverted from the source of supply, Lake Somerville. The meter measures within a 5% accuracy and meets the requirements of TAC 304.13. The meter is calibrated annually and is continuously monitored by the City's SCADA system.

SECTION 7

PROGRAM FOR UNIVERSAL METERING, METER TESTING, REPAIR & REPLACEMENT

Over 88% of water usage within the City of Brenham's system is metered, including both customer and public uses of water. Meters measuring water usage within the water treatment plant are calibrated annually and continuously monitored via SCADA. Some water used for municipal purposes (e.g. park irrigation) is metered but unbilled. Between the years 2011 to 2014, the City replaced all of its customer water meters as part of an AMI initiative. Therefore, most of the meters in the customer system are less than five years old. The AMI meters are integrated with the City's billing system which uses historical data to identify potential customer meter issues. Meters registering any unusual or questionable readings are tested for accuracy. The City's practice is to replace versus repair malfunctioning water meters. Regardless of accuracy, Brenham replaces meters at 10-15 year intervals depending on meter size.

SECTION 8

MEASURES TO DETERMINE AND CONTROL WATER LOSS

Water loss is the difference between the amount of water taken from the Somerville Reservoir and the amount of water authorized for consumption, including metered water (billed or unbilled) delivered to retail, public and governmental users plus authorized but unmetered uses. Examples of authorized but unmetered uses include:

- Water line and fire hydrant flushing
- Fire hydrant testing and firefighting usage
- Street work

Measures to control water loss are part of the routine operations of Brenham. Field crews and other personnel are expected to look for and report evidence of leaks in the water distribution system. Personnel also watch for and report signs of illegal connections so they can be quickly addressed. Table 8-1 summarizes water loss control measures based on water loss cause.

Table 8-1

Water Loss Cause	Water Loss Control Measures
Breaks and Leaks	• Annual leak survey – The City surveys 25% of the water system each year to identify and repair unreported water leaks. • AC pipe replacement program – The City replaces a portion of old AC pipe each year.
Meter Inaccuracies	• AMI integration with billing system allows identification of unusual water consumption that may be due to a faulty meter. • The City has adopted a meter replacement program that systematically replaces old meters that tend to lose accuracy with age. • Purchased water and plant meters are calibrated annually and monitored continuously through the SCADA system.
Unauthorized Consumption (Theft)	• Meter activity on inactive accounts is easily identified with the AMI system. • The City provides all utilities (electric, gas, water and sewer) and personnel are trained to look for and report suspicious activity, including potential water theft.

Water loss is monitored in accordance with goals established in the water utility profile in Appendix B. With the measures described in the Plan, the goal for Brenham, is to maintain its water loss below 7%. If water loss exceeds the goal, Brenham will look at its water distribution system to determine the source(s) of and reduce the water loss. A copy of the Water Conservation Plan Annual Report is in Appendix E.

SECTION 9

A PROGRAM OF CONTINUING PUBLIC EDUCATION AND INFORMATION

The City supports a continuing public education and information campaign on water conservation. Appendix F contains samples of brochures and website information used in the program.

- The City maintains a supply of water conservation brochures at locations where water bills are paid and where new water accounts are setup. The following TWDB brochures are available for customer selection:
 - "Water Conserving Tips"
 - "Conserving Water Indoors"
 - "Conserving Water Outdoors"
- Water conservation tips "Use Water Wisely" can be downloaded from the City's website.
- The Water Conservation Plan is available on the City's website.

SECTION 10

WATER RATE STRUCTURE

The City has adopted a rate structure which is cost-based and does not encourage the excessive use of water. The inclining block rate structure is shown in the tables below.

<u>RESIDENTIAL WATER RATES</u> <u>IN CITY LIMITS</u>		<u>RESIDENTIAL WATER RATES</u> <u>OUT OF CITY LIMITS</u>	
<u>First 3,000 gallons or less</u>	<u>\$25.35</u>	<u>First 3,000 gallons or less</u>	<u>\$29.15</u>
<u>3,001 - 10,000 gallons</u>	<u>\$5.56 per 1,000 gallons</u>	<u>3,001 - 10,000 gallons</u>	<u>\$6.39 per 1,000 gallons</u>
<u>10,001 - 25,000 gallons</u>	<u>\$6.96 per 1,000 gallons</u>	<u>10,001 - 25,000 gallons</u>	<u>\$8.00 per 1,000 gallons</u>
<u>25,001 and above</u>	<u>\$8.70 per 1,000 gallons</u>	<u>25,001 and above</u>	<u>\$10.01 per 1,000 gallons</u>
<u>IRRIGATION SYSTEM SERVICE</u> <u>IN CITY LIMITS</u>		<u>IRRIGATION SYSTEM SERVICE</u> <u>OUT OF CITY LIMITS</u>	
<u>0 – 10,000 gallons</u>	<u>\$7.19 per 1,000 gallons</u>	<u>0 – 10,000 gallons</u>	<u>\$8.27 per 1,000 gallons</u>
<u>10,001 – 25,000 gallons</u>	<u>\$8.99 per 1,000 gallons</u>	<u>10,001 – 25,000 gallons</u>	<u>\$10.34 per 1,000 gallons</u>
<u>25,001 and above</u>	<u>\$11.26 per 1,000 gallons</u>	<u>25,001 and above</u>	<u>\$12.95 per 1,000 gallons</u>
<u>RESIDENTIAL WATER RATES</u> <u>IN CITY LIMITS</u>		<u>RESIDENTIAL WATER RATES</u> <u>OUT OF CITY LIMITS</u>	

First 3,000 gallons or less	\$17.23
3,001–10,000 gallons	\$3.78 per 1,000 gallons
10,001–25,000 gallons	\$4.73 per 1,000 gallons
25,001 and above	\$5.91 per 1,000 gallons

First 3,000 gallons or less	\$19.81
3,001–10,000 gallons	\$4.35 per 1,000 gallons
10,001–25,000 gallons	\$5.44 per 1,000 gallons
25,001 and above	\$6.80 per 1,000 gallons

COMMERCIAL AND INDUSTRIAL IN CITY LIMITS	
First 3,000 gallons or less	\$17.23
3,001–10,000 gallons	\$2.37 per 1,000 gallons
10,001–25,000 gallons	\$2.96 per 1,000 gallons
25,001 and above	\$3.70 per 1,000 gallons

COMMERCIAL AND INDUSTRIAL OUT OF CITY LIMITS	
First 3,000 gallons or less	\$19.81
3,001–10,000 gallons	\$2.73 per 1,000 gallons
10,001–25,000 gallons	\$3.41 per 1,000 gallons
25,001 and above	\$4.26 per 1,000 gallons

<u>COMMERCIAL AND INDUSTRIAL IN CITY LIMITS</u>	
<u>First 3,000 gallons or less</u>	<u>SEE MINIMUM CHARGE</u>
<u>3,001 - 10,000 gallons</u>	<u>\$3.85 per 1,000 gallons</u>
<u>10,001 - 25,000 gallons</u>	<u>\$4.81 per 1,000 gallons</u>
<u>25,001 and above</u>	<u>\$6.03 per 1,000 gallons</u>
<u>MINIMUM CHARGE BASED ON METER SIZE</u>	
<u>5/8 or 3/4 inch</u>	<u>\$24.65</u>
<u>1 inch</u>	<u>\$28.01</u>
<u>1 1/2 inch</u>	<u>\$36.41</u>
<u>2 inch</u>	<u>\$46.50</u>
<u>3 inch</u>	<u>\$70.03</u>
<u>4 inch</u>	<u>\$103.64</u>
<u>6 inch</u>	<u>\$186.67</u>
<u>8 inch</u>	<u>\$288.50</u>

<u>COMMERCIAL AND INDUSTRIAL OUT OF CITY LIMITS</u>	
<u>First 3,000 gallons or less</u>	<u>SEE MINIMUM CHARGE</u>
<u>3,001 - 10,000 gallons</u>	<u>\$4.31 per 1,000 gallons</u>
<u>10,001 - 25,000 gallons</u>	<u>\$5.53 per 1,000 gallons</u>
<u>25,001 and above</u>	<u>\$6.93 per 1,000 gallons</u>
<u>MINIMUM CHARGE BASED ON METER SIZE</u>	
<u>5/8 or 3/4 inch</u>	<u>\$28.35</u>
<u>1 inch</u>	<u>\$32.21</u>
<u>1 1/2 inch</u>	<u>\$41.87</u>
<u>2 inch</u>	<u>\$53.48</u>
<u>3 inch</u>	<u>\$80.53</u>
<u>4 inch</u>	<u>\$119.19</u>
<u>6 inch</u>	<u>\$215.82</u>
<u>8 inch</u>	<u>\$331.78</u>

<u>FIRE LINE SERVICE IN CITY LIMITS</u>	
<u>4 inch</u>	<u>\$21.38 flat rate</u>
<u>6 inch</u>	<u>\$62.11 flat rate</u>
<u>8 inch</u>	<u>\$132.36 flat rate</u>
<u>10 inch</u>	<u>\$238.02 flat rate</u>
<u>12 inch</u>	<u>\$384.48 flat rate</u>

<u>FIRE LINE SERVICE OUT OF CITY LIMITS</u>	
<u>4 inch</u>	<u>\$24.59 flat rate</u>
<u>6 inch</u>	<u>\$71.43 flat rate</u>
<u>8 inch</u>	<u>\$152.21 flat rate</u>
<u>10 inch</u>	<u>\$273.73 flat rate</u>
<u>12 inch</u>	<u>\$442.15 flat rate</u>

<u>CONSTRUCTION SERVICE TEMPORARY</u>	
<u>First 3,000 gallons or less</u>	<u>\$28.01</u>
<u>3,001 - 10,000 gallons</u>	<u>\$7.70 per 1,000 gallons</u>
<u>10,001 - 25,000 gallons</u>	<u>\$9.62 per 1,000 gallons</u>
<u>25,001 and above</u>	<u>\$12.06 per 1,000 gallons</u>
<u>FIRE LINE SERVICE IN CITY LIMITS</u>	
<u>4 inch</u>	<u>\$20.56 flat rate</u>
<u>6 inch</u>	<u>\$59.72 flat rate</u>
<u>8 inch</u>	<u>\$127.27 flat rate</u>
<u>10 inch</u>	<u>\$228.87 flat rate</u>
<u>12 inch</u>	<u>\$369.69 flat rate</u>

<u>RESIDENTIAL WATER RATES OUT OF CITY LIMITS</u>	
<u>4 inch</u>	<u>\$23.64 flat rate</u>
<u>6 inch</u>	<u>\$68.68 flat rate</u>
<u>8 inch</u>	<u>\$146.36 flat rate</u>
<u>10 inch</u>	<u>\$263.20 flat rate</u>
<u>12 inch</u>	<u>\$425.14 flat rate</u>

CONSTRUCTION SERVICE TEMPORARY	
First 3,000 gallons or less	\$17.23
3,001–10,000 gallons	\$5.01 per 1,000 gallons
10,001–25,000 gallons	\$6.26 per 1,000 gallons
25,001 and above	\$7.83 per 1,000 gallons

SECTION 11

RESERVOIR SYSTEMS OPERATION PLAN

Not applicable to Brenham because Brenham does not own any reservoirs.

SECTION 12

IMPLEMENTATION AND ENFORCEMENT

The Mayor, or his/her designee, is hereby authorized and directed to implement the applicable provisions of the Plan upon determination that such implementation is necessary to protect public health, safety and welfare and to comply with applicable regulations.

Except as otherwise provided in the Plan, the Mayor, or his/her designee, shall have the authority to initiate, to enforce and to terminate the measures provided herein.

A copy of the ordinance is in Appendix G.

SECTION 13

COORDINATION WITH REGIONAL WATER PLANNING GROUP

The City will send a copy of this Plan, the ordinance adopting the Plan and the water utility profile to the Regional G Water Planning Group. A copy of the Brazos River Authority Water Conservation Plan is included in Appendix H.

SECTION 14

ADDITIONAL CONTENT REQUIREMENTS

LEAK DETECTION, REPAIR AND WATER LOSS

Most water leaks, illegal connections, abandoned water services or other means of water loss are discovered through visual observation of field crews other personnel or are reported by the public. Brenham trains its personnel (e.g., meter readers, maintenance crews, etc.) to look for and report evidence of water leaks in the water distribution system to the Public Utilities Department. Personnel are asked to watch for and report signs of illegal connections and abandoned services. All leaks are repaired as soon as possible and all illegal connections and abandoned services are investigation as soon as possible in order to maintain a sound water system. Areas of the water distribution system in which numerous leaks and line breaks occur are scheduled for replacement as funds are available.

WATER CONSERVATION PLANS BY WHOLESALE CUSTOMERS

Brenham would receive authorization from the Brazos River Authority prior to providing wholesale water services to any successive wholesale customers. Brenham will include language in its wholesale water supply contract with these entities requiring said entity to develop and implement a water conservation plan or water conservation measures using the applicable elements of Title 30, Part 1, Chapter 288, Subchapter A, Rule 288.5 of the Texas Administrative Code.

SECTION 15

ADDITIONAL CONSERVATION STRATEGIES

CONSERVATION-ORIENTED WATER RATES

Brenham has adopted a rate structure which is cost based and does not encourage the excessive use of water. (Section 10)

ORDINANCES, PLUMBING CODES AND RULES

Brenham has adopted the 2012 International Plumbing Code which encourages the use of water conserving plumbing fixtures for residential and commercial construction. The State of Texas has required water-conserving fixtures in new construction and renovations since 1992.

RETROFIT PROGRAM

Retrofit of existing plumbing fixtures is being accomplished through the voluntary efforts of individual consumers and business owners. There is currently no rebate program for the replacement of existing commodes with low flush models.

REUSE

Brenham does currently use treated effluent daily for chlorination/de-chlorination and wash down at the wastewater plant. Brenham also has a reclaim station where commercial customers buy reuse water for construction and roads.

WATER CONSERVING LANDSCAPE

Brenham encourages its retail customer to incorporate Texas SmartScape principles into their respective landscapes. Texas SmartScape was developed through the North Central Texas Council of Governments in cooperation with cities, utilities and other agencies to educate citizens on the ecological, economic and aesthetic benefit of using landscape plants, shrubs, grasses and trees that are native or adapted to the regional climate and local conditions. Using Texas SmartScape principles can be both practical and beautiful, using earth-friendly techniques that conserve water resources and protect water quality.

SECTION 16

REVIEW AND UPDATE ADDITIONAL CONSERVATION STRATEGIES

The rules on minimum requirements for Water Conservation Plans can be found in Title 30 of the Texas Administrative Code (TAC), Chapter 288 (see Section 2). According to Rule 288.2 (c), a public water supplier for municipal use will review and update its water conservation plan every five (5) years to coincide with the regional water planning group process. The next review/update cycle that coincides with the regional water planning group process is **May 1, 2029**.

In order to synchronize with the regional water planning group, the City of Brenham will review, update and submit a revised plan by **May 1, 2024** and then every **five years** thereafter. Anytime the plan is revised it will be submitted within 90 days of adoption.

The City of Brenham is a municipal surface water right user of over 1,000 acre-feet and a retail public water supplier providing service to over 3,000 connections. Therefore, the updated Water Conservation Plan for the City of Brenham will be submitted to the TCEQ and a copy of the plan will be submitted to the TWDB.

Texas Commission on
Environmental Quality (TCEQ)
Resource Protection Team
P.O. Box 13087 MC-160
Austin, Texas 78711-3087

Texas Water D
1700
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P.O.
Box
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Texas
7871
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City Council Regular Meeting **AGENDA ITEM 7**

Agenda Item: **Discuss and Possibly Act Upon Amendment No. 1 to a Temporary Resale Amendment to the System Water Availability Agreement Between City of Brenham and Brazos River Authority for the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation**

Meeting Date: June 20, 2024

Department: Public Utilities

Staff Contact: Alton Sommerfield, Deputy GM of Public Utilities

SUMMARY STATEMENT:

On September 1, 2019, an agreement was entered into by and between the Brazos River Authority (BRA) and the City of Brenham (Purchaser) and will expire August 31, 2045. BRA made available and the City agreed to purchase 774 acre-feet of raw water per fiscal year for municipal purposes. The intent of this agreement was to secure additional water to sustain long-term future growth for the City. The purchase price of 774 acre-feet is \$93.50/acre-foot or \$72,369.00 annually. The 774 acre-feet of water is in addition to the City's primary water availability agreement for 4,200 acre-feet, of which, 3,100 acre-feet are used annually on average. While securing water for future use is prudent, the additional water is not needed at this time.

The Temporary Resale Amendment to this Agreement allows the City to elect to resell excess water temporarily to a third party (Resale Purchaser) with prior approval from BRA, in compliance with BRA Water Policy. To facilitate the resale, the City requires the addition of temporary diversion points from which the Resale Purchaser may access water made available under the Agreement and authorization to use the water for industrial purposes. Council approved the same Amendment in October 2023.

ATTACHMENTS:

1. Amendment No. 1 - System Water Availability Agreement - BRA

RECOMMENDATION:

Approve Amendment No. 1 to a Temporary Resale Amendment to the System Water Availability Agreement between the City of Brenham and Brazos River Authority for the temporary resale of water and authorize the Mayor to execute any necessary documentation.

**AMENDMENT NO.1 TO TEMPORARY RESALE AMENDMENT TO SYSTEM WATER
AVAILABILITY AGREEMENT BETWEEN BRAZOS RIVER AUTHORITY AND CITY OF
BRENHAM**

This Amendment No.1 ("Amendment No. 1") to the Temporary Resale Amendment ("Amendment") is entered into to be effective as of the ____ day of _____, 2024, by and between Brazos River Authority ("BRA"), a river authority of the State of Texas, City of Brenham ("Purchaser"), and the Dow Chemical Company ("Resale Purchaser"), (collectively, the "Parties").

RECITALS

WHEREAS, BRA and Purchaser entered into a System Water Availability Agreement ("Agreement"), with an effective date of September 1, 2019, whereby BRA agreed to make available, and Purchaser agreed to purchase 774 acre-feet of raw water per Fiscal Year for municipal purposes; and

WHEREAS, Purchaser temporarily resold 387 acre-feet of raw water to Resale Purchaser, via Amendment, with an effective date of November 1, 2023, which is set to expire on August 31, 2024.

WHEREAS, Purchaser has requested to temporarily resell the remaining 387 acre-feet of raw water made available under the Agreement to Resale Purchaser and extend the Amendment expiration date by one year.

WHEREAS, to facilitate this resale, Purchaser has requested the addition of temporary diversion points from which Resale Purchaser may access water made available under the Agreement and the authorization to use the water for industrial purposes.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to temporarily amend the Agreement as follows:

AMENDMENTS

1. The BRA hereby consents to the temporary resale of 774 acre-feet of water under the Agreement to the Resale Purchaser. Unless terminated earlier consistent with the terms of this Amendment, this consent shall be effective from the Effective Date of this Amendment No. 1 until August 31, 2025 (the "Termination Date").
2. Until the Termination Date, Resale Purchaser may divert raw water made available under the Agreement at the locations shown on Exhibit "A-2", attached hereto and incorporated by reference herein.
3. Resale Purchaser may utilize the water for industrial purposes.
4. Until the Termination Date, any reference to Exhibit "A" in the Agreement shall also be deemed a reference to Exhibit "A-2".
5. Resale Purchaser hereby agrees to abide by all of the terms and conditions contained in the Agreement and accepts any and all liability for any failure to do so.

6. Resale Purchaser shall be responsible for all coordination with BRA and the Brazos Watermaster ("Watermaster") related to ordering and stopping releases, coordinating run-of-river diversions if applicable, as well as reporting, metering, and notification requirements under the Agreement, and notwithstanding the foregoing, Resale Purchaser agrees to comply with all BRA water reporting requirements, water conservation plans, drought contingency plans and Watermaster requirements. Non-compliance with the Watermaster's rules and regulations may result in monetary fees or 'water penalties.' Any monetary fees will be the sole responsibility of the Resale Purchaser and any water penalties will be applied directly to this Amendment, which may result in the amount of water authorized under this Amendment to be used at an accelerated rate.
7. Resale Purchaser recognizes that any diversion of water in excess of this Agreement's Temporary Resale Amount ("Resale Amount"), which is 774 acre-feet per year, is strictly prohibited. Nothing contained herein shall obligate the BRA or the Purchaser to provide water in excess of the Resale Amount nor should Resale Purchaser rely on additional water being made available. If Resale Purchaser exceeds this Agreement's Resale Amount, Resale Purchaser must immediately discontinue all diversions of water made available under this Agreement.
8. In the event the Resale Purchaser diverts more than the Resale Amount, the Resale Purchaser shall be responsible for paying for the overuse at a rate of three times the System Rate per acre-feet of overuse. Any water diverted in excess of the Resale Amount shall be accounted against the Purchaser's Agreement, thus causing a reduction in Purchaser's available water for that year. In the event the Resale Purchaser's overuse results in the Purchaser exceeding the authorized amount of their Agreement, the Purchaser shall not be responsible for paying the associated penalty within the Agreement unless the Resale Purchaser fails to pay BRA for such overuse. The Parties hereby agree that any claims/damages to Purchaser, associated with Resale Purchaser's overuse, shall be managed separately between Purchaser and Resale Purchaser, without the involvement of BRA.
9. This Amendment shall in no way relieve Purchaser from any of its obligations, including payment, under the Agreement, and Purchaser shall be responsible for ensuring that Resale Purchaser complies with all the terms and conditions contained therein and accepts any and all liability for any failure to do so.
10. BRA reserves the right to withdraw its consent of the resale at any time and for any cause without penalty or liability. Upon receipt of such written withdrawal of consent from BRA, Resale Purchaser shall immediately cease diverting BRA water made available under this Amendment.
11. In the event the amount of water made available to Purchaser under the Agreement is reduced for any reason, Resale Purchaser agrees that such reduction shall also result in a reduced amount available under this Amendment.
12. The address for Resale Purchaser, for the purposes of Section 28 of the Agreement, shall be as follows:

The Dow Chemical Company

2301 Brazosport Boulevard
B-3501
Freeport, Texas 77541

13. Capitalized terms used but not defined herein shall have the respective meanings given to them in the Agreement.
14. This Amendment shall commence on the Effective Date and shall continue until the Termination Date. This Amendment shall no longer be of any force or effect after the Termination Date, and the terms and conditions of the Agreement shall be as they were prior to the execution of this Amendment, and Exhibit "A-2" shall be deleted in its entirety. Following the Termination Date, BRA and Purchaser shall be the only parties to the Agreement.

This Amendment shall be deemed a part of the Agreement and shall be binding on the parties. Except as amended herein, the terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed, intending to be bound thereby.

BRAZOS RIVER AUTHORITY

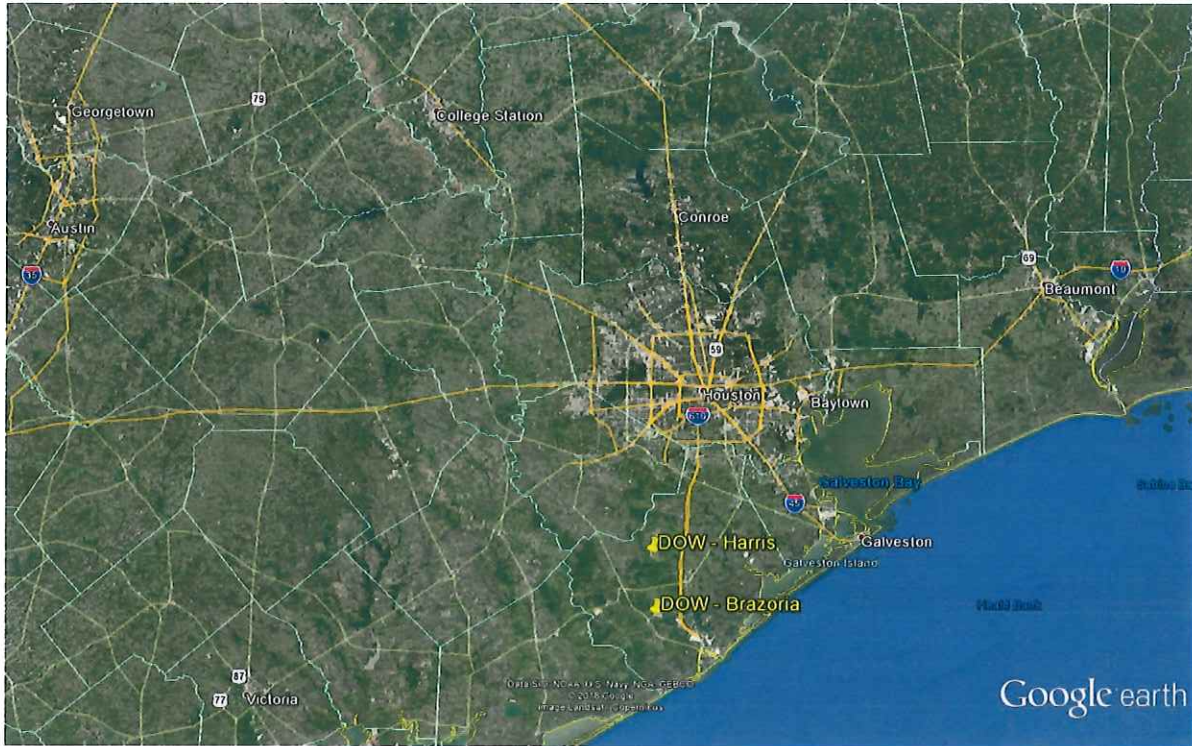
By: _____
DAVID COLLINSWORTH
Title: **GENERAL MANAGER/CEO**
Date: _____
Attest: _____

CITY OF BRENHAM

By: _____
Title: _____
Date: _____
Attest: _____

THE DOW CHEMICAL COMPANY

By: _____
Title: _____
Date: _____
Attest: _____



RE-SALE AGREEMENT with CITY OF BRENHAM

EXHIBIT A-2: DOW CHEMICAL COMPANY, 774-ACFT (IN)

Contract ID: BRENHAM-DOW 24.1

Diversion ID: BRENHAM-DOW 24.1

BRENHAM – DOW 24.1 - Brazoria

N29.052426 W95.552414, ROST2 ROST2 (1110), Main Stem Brazos River

Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Brazoria

BRENHAM – DOW 24.1 - Harris

N29.243325 W95.562173, ROST2 ROST2 (1110), Main Stem Brazos River

Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Harris

Prepared by: Julie Andress, Water Accounting Specialist, 05/15/2024



City Council Regular Meeting **AGENDA ITEM 8**

Agenda Item: Discuss and Possibly Act Upon a Water Supply Resale Agreement Between the City of Brenham and The Dow Chemical Company Related to the Temporary Resale of Water and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Date: June 20, 2024

Department: Public Utilities

Staff Contact: Alton Sommerfield, Deputy GM of Public Utilities

SUMMARY STATEMENT:

The Temporary Resale Amendment to the System Water Availability Agreement allows the City to elect to resell excess water on a temporary basis to a third party (Resale Purchaser) with prior approval of the Brazos River Authority (BRA), in compliance with BRA Water Policy. To facilitate the resale, the City requires the addition of temporary diversion points from which The Dow Chemical Company (Dow) may access water made available under the Agreement and authorization to use the water for industrial purposes.

Due to drought conditions in 2023, the City sold one-half or 387 acre-feet of the 774-acre feet available. The Dow Chemical Company has requested to purchase the remaining 387 acre-feet. With drought conditions having improved, the City has agreed to sell the remaining 387 acre-feet. Dow will pay the City \$93.50 per acre-foot or \$36,184.50 within thirty days from the effective date of this Agreement. Dow will withdraw from the Point of Delivery an amount not to exceed 387 acre-feet of water, as specified under the Agreement between BRA and City. This Agreement is effective upon the BRA approval of the Temporary Resale Amendment and terminates when Dow has withdrawn 387 acre-feet of water or August 31, 2025, whichever occurs first.

ATTACHMENTS:

1. 2025 Water Supply Resale Agreement-The Dow Chemical
2. Exhibit A - Amendment No. 1 - System Water Availability Agreement - BRA

RECOMMENDATION:

Approve a Water Supply Resale Agreement between the City of Brenham and The Dow Chemical Company related to the temporary resale of water and authorize the Mayor to execute any necessary documentation.

**WATER SUPPLY RESALE AGREEMENT
BETWEEN CITY OF BRENHAM
AND THE DOW CHEMICAL COMPANY**

This Water Supply Resale Agreement (“Agreement”) is entered into by and between the **CITY OF BRENHAM, TEXAS**, a Texas home-rule municipal corporation (“City”) and **THE DOW CHEMICAL COMPANY**, a Delaware corporation (“Purchaser”).

Agreement

The City and the Purchaser agree as follows:

Article I. Definitions

In this Agreement:

BRA means the Brazos River Authority.

City means the City of Brenham, Texas.

Contract means a contract between the BRA and City, made and entered into on October 1st, 2019 (effective September 1, 2019), attached hereto and incorporated herein as Exhibit A for all pertinent purposes.

Purchaser means The Dow Chemical Company.

Point of Delivery means the point(s) where the Purchaser will divert Water from the Brazos River as shown on Exhibit A-1 of the Temporary Resale Amendment.

Temporary Resale Amendment means an agreement between BRA, City and Purchaser, dated, attached hereto and incorporated herein as Exhibit B for all pertinent purposes.

Water means the raw water the City has a right to receive under the Contract between the BRA and City.

Article II. Term

2.1. This Agreement is effective upon the BRA approval of the Temporary Resale Amendment (“Effective Date”) and terminates when the Purchaser has withdrawn 387 acre-feet of Water or August 31, 2025, whichever occurs first (“Termination Date”). None of the parties to this Agreement will have any rights or obligations set forth in this Agreement before Effective Date. This Agreement will be null and void if, and at such time as, the BRA does not approve the Temporary Resale Amendment or the BRA terminates the Temporary Resale Amendment for any reason prior to the Termination Date set forth in this Agreement.

Article III. Water Supply Resale

3.1. The City allows the Purchaser to withdraw from the Point of Delivery an amount of Water not to exceed 387 acre-feet of Water, as specified under the Contract between the BRA and City, to supplement the Purchaser's water supplies.

3.2. The Purchaser is not allowed to withdraw any Water before the Effective Date of the Temporary Resale Amendment, and Purchaser must withdraw the Water under this Agreement prior to the Termination Date or at such time as specified by the BRA in the Temporary Resale Amendment.

3.3. Until the Termination Date, the City designates Purchaser as its agent to the BRA for the sole purpose of coordinating the delivery of Water under this Agreement.

3.4. Under this Agreement:

(a) The Purchaser must abide by all of the terms and conditions of the Contract between the BRA and City, attached hereto and incorporated herein as Exhibit A for all pertinent purposes, and the Temporary Resale Amendment between BRA, City and Purchaser, attached hereto and incorporated herein as Exhibit B for all pertinent purposes.

(b) The Water availability is dependent on the provisions specified in the Contract between the BRA and City.

(c) The City does not represent or guarantee that the quality of the Water meets the Purchaser's intended use(s).

(d) The Purchaser must comply with all BRA water reporting requirements.

(e) The Purchaser represents and warrants that it will use the 387 acre-feet of Water under this Agreement for industrial use purposes.

Article IV. Payment

4.1. The Purchaser will pay the City the applicable BRA System Rate of \$93.50 per acre-foot of Water. The Purchaser will pay the City \$36,184.50 for the 387 acre-feet of Water within thirty (30) days from the Effective Date of this Agreement ("Due Date").

4.2. Payment must be delivered by the Due Date to the City's Accounts Receivable Dept at, P.O. Box 1059, Brenham, Texas 77834-1059.

4.3. The City will refund to the Purchaser any amount paid to the City by the Purchaser for Water the BRA is unable to provide as specified under the terms of the Contract between the BRA and City.

Article V. Miscellaneous Provisions

5.1. Notices. All notices and other communications given or made pursuant to this Agreement must be in writing and deemed effective (i) upon personal delivery to the party to be notified; (ii) when sent by facsimile or electronic mail (E-mail) if sent during normal business hours of the recipient, and if not so confirmed, then on the next business day of the date sent; (iii) the first (1st) business day following deposit with any courier service that provides a same day or overnight courier service that guarantees receipted delivery; or (iv) three (3) days after the notice is deposited in the United States mail as certified or registered mail, postage prepaid; in each case addressed to the party to be notified, at the address set forth below or at such other address, facsimile number or electronic mail (E-mail) address for a party as that party may specify in writing to the other party from time to time:

For the City:

City of Brenham
200 W Vulcan St.
Brenham, Texas 77833
Attention: General Manager/William Bisette
Phone: (979) 337-7510
wbisette@cityofbrenham.org

With a copy to:
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059
Attention: Deputy General Manager/Alton Sommerfield
Phone: (979) 337-7422
asommerfield@cityofbrenham.org

For the Purchaser:

The Dow Chemical Company
2301 Brazosport Blvd., B-3501
Freeport, Texas 77541
Attention: Derek Rester
Phone: 989-238-2151
E-mail: DRester@Dow.com

With a copy to:
Jason Garrard
The Dow Chemical Company
332 Highway 332 E
Lake Jackson, Texas 77566
Phone: 979-238-5595
E-mail: JLGarrard@DOW.com

Either party may change its address or contact information by giving notice, within ten (10) business days, to the other party.

5.2 INDEMNITY/HOLD HARMLESS CLAUSE. THE PURCHASER SHALL COMPLY WITH THE REQUIREMENTS OF THIS AGREEMENT AND ALL APPLICABLE LAWS, RULES AND REGULATIONS AND SHALL EXONERATE, INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL LIABILITY OR DAMAGES RESULTING FROM FAILURE TO DO SO. IN ADDITION, THE PURCHASER AGREES TO KEEP, SAVE AND HOLD THE CITY HARMLESS FROM ANY AND ALL ACTIONS, LIABILITIES, DAMAGES, JUDGMENTS, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, IN CASE AN ACTION IS FILED OR DOES IN ANY WAY ACCRUE AGAINST THE CITY, ITS' OFFICIALS, OFFICERS, AND EMPLOYEES IN CONSEQUENCE OF THIS AGREEMENT OR FOR ANY NEGLIGENT ACT OR OMISSION OF THE PURCHASER RELATED TO THE PROVISION OF WATER MADE AVAILABLE UNDER THIS AGREEMENT OR THAT MAY RESULT FROM THE CARELESSNESS OR LACK OF SKILL OF THE PURCHASER OR THE PURCHASER'S AGENTS, SUBCONSULTANT, OR EMPLOYEES.

5.3. Law and Venue. Texas law governs this Agreement and any lawsuit arising out of this Agreement must be filed in a court that has jurisdiction in Washington County, Texas.

5.4. Force Majeure. Neither party is in default if performance of this Agreement is delayed, disrupted, or becomes impossible because of any act of God, war, earthquake, fire, strike, accident, civil commotion, epidemic, act of government, its agencies or offices, or any other cause beyond the control of the parties.

5.5. Entire Agreement. This Agreement represents the entire agreement between the City and the Purchaser and supersedes all prior negotiations, representations, or contracts, either written or oral between the City and Purchaser. This Agreement may be amended only by written instrument signed by both parties.

CITY OF BRENHAM, TEXAS

THE DOW CHEMICAL COMPANY

Atwood C. Kenjura, Mayor

Derek Rester, Production Director

Date: _____

Date: _____

ATTEST:

Jeana Bellinger, City Secretary

ATTEST:

Jason Gerrard, Operations Leader

APPROVED AS TO FORM:

Cary L. Bovey, City Attorney

Exhibit A

**SYSTEM WATER AVAILABILITY AGREEMENT
BETWEEN BRAZOS RIVER AUTHORITY
AND CITY OF BRENHAM**

**AMENDMENT NO.1 TO TEMPORARY RESALE AMENDMENT TO SYSTEM WATER
AVAILABILITY AGREEMENT BETWEEN BRAZOS RIVER AUTHORITY AND CITY OF
BRENHAM**

This Amendment No.1 ("Amendment No. 1") to the Temporary Resale Amendment ("Amendment") is entered into to be effective as of the ____ day of _____, 2024, by and between Brazos River Authority ("BRA"), a river authority of the State of Texas, City of Brenham ("Purchaser"), and the Dow Chemical Company ("Resale Purchaser"), (collectively, the "Parties").

RECITALS

WHEREAS, BRA and Purchaser entered into a System Water Availability Agreement ("Agreement"), with an effective date of September 1, 2019, whereby BRA agreed to make available, and Purchaser agreed to purchase 774 acre-feet of raw water per Fiscal Year for municipal purposes; and

WHEREAS, Purchaser temporarily resold 387 acre-feet of raw water to Resale Purchaser, via Amendment, with an effective date of November 1, 2023, which is set to expire on August 31, 2024.

WHEREAS, Purchaser has requested to temporarily resell the remaining 387 acre-feet of raw water made available under the Agreement to Resale Purchaser and extend the Amendment expiration date by one year.

WHEREAS, to facilitate this resale, Purchaser has requested the addition of temporary diversion points from which Resale Purchaser may access water made available under the Agreement and the authorization to use the water for industrial purposes.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree to temporarily amend the Agreement as follows:

AMENDMENTS

1. The BRA hereby consents to the temporary resale of 774 acre-feet of water under the Agreement to the Resale Purchaser. Unless terminated earlier consistent with the terms of this Amendment, this consent shall be effective from the Effective Date of this Amendment No. 1 until August 31, 2025 (the "Termination Date").
2. Until the Termination Date, Resale Purchaser may divert raw water made available under the Agreement at the locations shown on Exhibit "A-2", attached hereto and incorporated by reference herein.
3. Resale Purchaser may utilize the water for industrial purposes.
4. Until the Termination Date, any reference to Exhibit "A" in the Agreement shall also be deemed a reference to Exhibit "A-2".
5. Resale Purchaser hereby agrees to abide by all of the terms and conditions contained in the Agreement and accepts any and all liability for any failure to do so.

6. Resale Purchaser shall be responsible for all coordination with BRA and the Brazos Watermaster ("Watermaster") related to ordering and stopping releases, coordinating run-of-river diversions if applicable, as well as reporting, metering, and notification requirements under the Agreement, and notwithstanding the foregoing, Resale Purchaser agrees to comply with all BRA water reporting requirements, water conservation plans, drought contingency plans and Watermaster requirements. Non-compliance with the Watermaster's rules and regulations may result in monetary fees or 'water penalties.' Any monetary fees will be the sole responsibility of the Resale Purchaser and any water penalties will be applied directly to this Amendment, which may result in the amount of water authorized under this Amendment to be used at an accelerated rate.
7. Resale Purchaser recognizes that any diversion of water in excess of this Agreement's Temporary Resale Amount ("Resale Amount"), which is 774 acre-feet per year, is strictly prohibited. Nothing contained herein shall obligate the BRA or the Purchaser to provide water in excess of the Resale Amount nor should Resale Purchaser rely on additional water being made available. If Resale Purchaser exceeds this Agreement's Resale Amount, Resale Purchaser must immediately discontinue all diversions of water made available under this Agreement.
8. In the event the Resale Purchaser diverts more than the Resale Amount, the Resale Purchaser shall be responsible for paying for the overuse at a rate of three times the System Rate per acre-feet of overuse. Any water diverted in excess of the Resale Amount shall be accounted against the Purchaser's Agreement, thus causing a reduction in Purchaser's available water for that year. In the event the Resale Purchaser's overuse results in the Purchaser exceeding the authorized amount of their Agreement, the Purchaser shall not be responsible for paying the associated penalty within the Agreement unless the Resale Purchaser fails to pay BRA for such overuse. The Parties hereby agree that any claims/damages to Purchaser, associated with Resale Purchaser's overuse, shall be managed separately between Purchaser and Resale Purchaser, without the involvement of BRA.
9. This Amendment shall in no way relieve Purchaser from any of its obligations, including payment, under the Agreement, and Purchaser shall be responsible for ensuring that Resale Purchaser complies with all the terms and conditions contained therein and accepts any and all liability for any failure to do so.
10. BRA reserves the right to withdraw its consent of the resale at any time and for any cause without penalty or liability. Upon receipt of such written withdrawal of consent from BRA, Resale Purchaser shall immediately cease diverting BRA water made available under this Amendment.
11. In the event the amount of water made available to Purchaser under the Agreement is reduced for any reason, Resale Purchaser agrees that such reduction shall also result in a reduced amount available under this Amendment.
12. The address for Resale Purchaser, for the purposes of Section 28 of the Agreement, shall be as follows:

The Dow Chemical Company

2301 Brazosport Boulevard
B-3501
Freeport, Texas 77541

13. Capitalized terms used but not defined herein shall have the respective meanings given to them in the Agreement.
14. This Amendment shall commence on the Effective Date and shall continue until the Termination Date. This Amendment shall no longer be of any force or effect after the Termination Date, and the terms and conditions of the Agreement shall be as they were prior to the execution of this Amendment, and Exhibit "A-2" shall be deleted in its entirety. Following the Termination Date, BRA and Purchaser shall be the only parties to the Agreement.

This Amendment shall be deemed a part of the Agreement and shall be binding on the parties. Except as amended herein, the terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed, intending to be bound thereby.

BRAZOS RIVER AUTHORITY

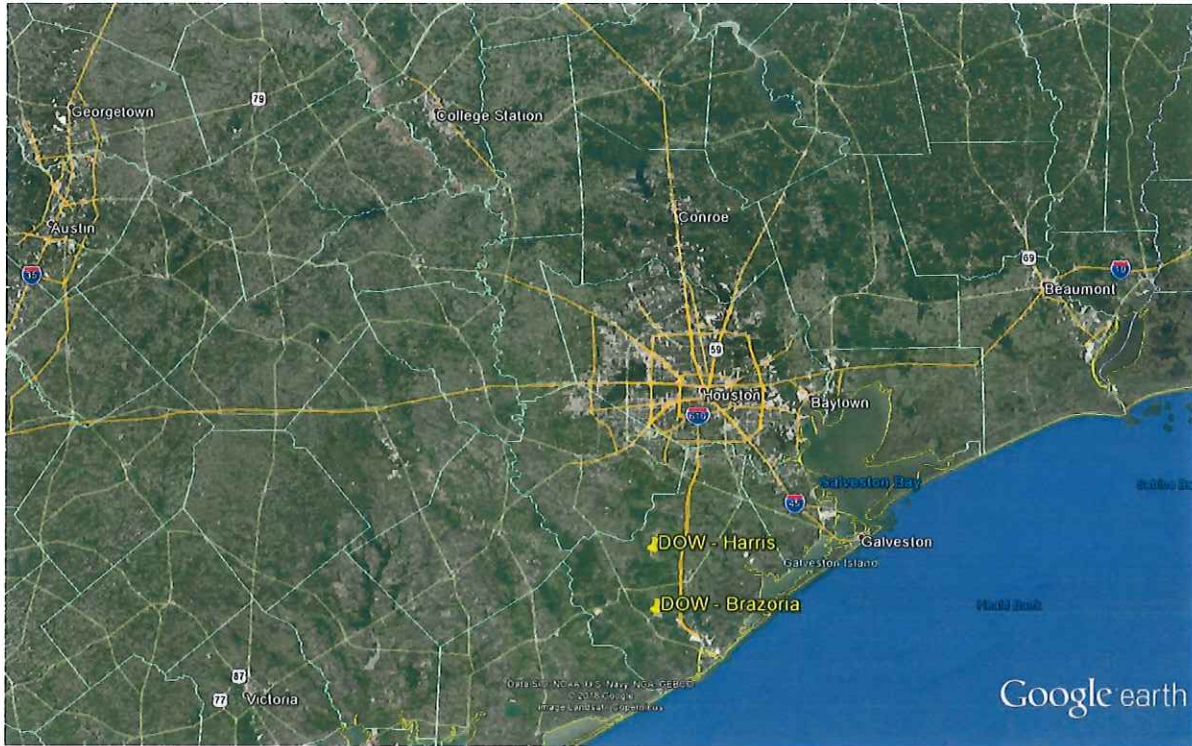
By: _____
DAVID COLLINSWORTH
Title: **GENERAL MANAGER/CEO**
Date: _____
Attest: _____

CITY OF BRENHAM

By: _____
Title: _____
Date: _____
Attest: _____

THE DOW CHEMICAL COMPANY

By: _____
Title: _____
Date: _____
Attest: _____



RE-SALE AGREEMENT with CITY OF BRENHAM

EXHIBIT A-2: DOW CHEMICAL COMPANY, 774-ACFT (IN)

Contract ID: BRENHAM-DOW 24.1

Diversion ID: BRENHAM-DOW 24.1

BRENHAM – DOW 24.1 - Brazoria

N29.052426 W95.552414, ROST2 ROST2 (1110), Main Stem Brazos River

Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Brazoria

BRENHAM – DOW 24.1 - Harris

N29.243325 W95.562173, ROST2 ROST2 (1110), Main Stem Brazos River

Lower Basin, Brazoria County, WAP Reach: Richmond Gage to Gulf – Dow Harris

Prepared by: Julie Andress, Water Accounting Specialist, 05/15/2024



City Council Regular Meeting **AGENDA ITEM 9**

Agenda Item: Discuss and Possibly Act Upon Award of RFP No. 24-004 Related to the Brenham Municipal Airport Terminal Building HVAC Replacement and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Date: June 20, 2024

Department: Development Services

Staff Contact: Stephanie Doland, Director of Development Services

SUMMARY STATEMENT:

On April 24, 2024 the City of Brenham opened proposals received for RFP 24-004 requesting proposals for heating, ventilation, and air conditioning (HVAC) modifications to the diner portion of the terminal building located at 3001 Aviation Way. The project includes demolition of the existing acoustical ceiling tile, demolition and replacement of duct work, thermostats, air handling units and associated electrical and plumbing. The project also includes installation of a captive air hood over the existing griddle and cookware.

The City received bids from REC Industries, Inc. and Round Top HVAC with Round Top HVAC submitting the lowest proposal of \$75,980 to perform and complete tasks as outlined in the construction plan set as prepared by project engineer, Swoboda Engineering.

The HVAC replacement and construction upgrades will be a significant improvement to the failing HVAC system original to the building constructed in 2001. Interested Diner tenants have notified the City that the space cannot be occupied until the HVAC is replaced. The project is eligible for RAMP (Routine Airport Maintenance Program) funds through TXDOT Aviation.

ATTACHMENTS:

1. RFP 24-004 Bid Tabulation Form

RECOMMENDATION:

Approve the award of RFP No.24-004 related to the Brenham Municipal Airport Terminal Building HVAC replacement to Round Top HVAC in the amount of \$75,980 and authorize the Mayor to execute any necessary documentation.



BID TABULATION FORM

BID OPENING DATE:

Friday, May 3, 2024

BID OPENING TIME: 10AM

BID NAME/NO:

RFP 24-004 Brenham Municipal Airport Terminal Building HVAC Replacement

ITEM	BIDDERS			
	REC	Notes	Round Top HVAC	Notes
Section 22.0 & 23.0; General Plumbing and Mechanical requirements	\$1,800.00		\$500.00	
Section 22.1; Plumbing, plumbing fixtures, and trim	-		\$4,500.00	
Section; General Demolition	\$11,441.00		\$6,625.00	
Section 23.1; Cooling, Heating, and Ventilation of Diner HVAC	\$94,000.00		\$47,670.00	
Section 26.0; General Electrical	\$11,650.00		\$1,500.00	
Ventilation Hood Installation	\$11,684.00		\$15,185.00	
*Optional alternative. Full replacement of the acoustical ceiling tile. This to include 27, 2'x2' flat led replacement fixtures	\$18,650.00	Alternative not included in total cost	-	
TOTAL	\$130,575.00		\$75,980.00	