



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY DECEMBER 15, 2011 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Danny Goss**
- 3. Citizens 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. Minutes from the December 1, 2011 Council Meeting** **Page 5 - 12**
- 4-b Ordinance No. O-11-026 on its Second Reading Related to the Organizational Structure, Operations and Best Practices of City Boards and Commissions; Continuation of Service of Current Board and Commission Members During Said Review Period; Repeal of the Term Limits Applicable to City Boards and Commissions; and Related Matters** **Page 13 - 15**

PUBLIC HEARING

- 5. Public Hearing Regarding a Request for a Change of Zoning for Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential Mixed Use District** **Page 16**

CLOSE PUBLIC HEARING

6. **Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Appendix A- "Zoning" of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Change the Zoning of Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential Mixed Use District**
Page 17 - 22
7. **Discuss and Possibly Act Upon Resolution No. R-11-025 Re-Adopting the Guidelines and Criteria for Granting Tax Phase-In in a Reinvestment Zone Created in the City of Brenham**
Page 23 - 53
8. **Discuss and Possibly Act Upon an Agreement with O'Malley Engineers, L.L.P. for 2012 Water Distribution System Improvements and Authorize the Mayor to Execute any Necessary Documentation**
Page 54 - 70
9. **Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the Rate Tariff Schedule, Section 1005, Related to Residential Customer Deposits for All City Owned Utilities**
Page 71 - 75
10. **Discuss and Possibly Act Upon an Ordinance on its First Reading Amending Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham**
Page 76 - 86
11. **Discuss and Possibly Act Upon Renewal of the Police Protection Agreement between the City of Brenham and the Brenham Housing Authority and Authorize the Mayor to Execute any Necessary Documentation**
Page 87 - 91
12. **Discuss and Possibly Act Upon the Annual Election to be Exempt from Certain Requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and Authorize the Mayor to Execute any Necessary Documentation**
Page 92 - 95
13. **Discuss and Possibly Act Upon the Purchase of Group Stop Loss Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation**
Page 96 - 100
14. **Discuss and Possibly Act Upon the Purchase of Group Term Life/AD&D and Group Long Term Disability Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation**
Page 101 - 103
15. **Discuss and Possibly Act Upon Bid No. 12-004 for Janitorial Services for Various City Facilities and Authorize the Mayor to Execute any Necessary Documentation**
Page 104 - 108
16. **Discuss and Possibly Act Upon Resolution No. R-11-026 Authorizing the Submission of Grant Application to the Brazos Valley Council of Governments under the Solid Waste Grant Program for the Purchase of 500 (18) Gallon Recycling Bins and 15 (60) Gallon Stand-alone Recycling Containers**
Page 109 - 135

EXECUTIVE SESSION

17. **Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property for Westwood Drive Improvements**

Page 136

RE-OPEN REGULAR AGENDA

18. **Discuss and Possibly Act Upon Resolution No. R-11-027 Determining the Public Need and Necessity for the Acquisition of Certain Real Property for the Public Uses of Construction, Widening, Improvements, Use, Repair, and Maintenance of Street Improvements as Part of the Westwood Drive Improvements, Authorizing the City Manager to Agree on Amounts to be Paid to the Property Owner(s) as Compensation for Said Property, and Authorizing the City Attorney to Institute Condemnation Proceedings, (Use of Eminent Domain), If Necessary, to Acquire Said Property situated in the City of Brenham, Washington County, Texas out of the Phillip H. Coe Survey, A-31, Owned by Glenn & Eloisa Whorton**

Page 137 - 142

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.

19. **Administrative/Elected Officials Report**

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 Negotiations.

CERTIFICATION

I certify that a copy of the December 15, 2011 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on December 12, 2011 at _____ Am Pm.

Jeana Bellinger, 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.
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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 _____, 2011 at _____ Am Pm.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on December 1, 2011 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Gloria Nix
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Keith Herring
Councilmember Weldon Williams, Jr.

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Chief Financial Officer Carolyn Miller, Fire Chief Ricky Boeker, Public Works Director Doug Baker, Public Utilities Director Lowell Ogle, Billy Rich, Dane Rau, Kim Hodde, Janie Mehrens, Leslie Kelm, Rhonda Kuehn, Debbie Gaffey, Jennifer Eckermann, and Kevin Boggus

Citizens present:

Mary Barnes-Tilley, Jason Kiemsteadt, Webster Hart, Douglas and Jennifer Nichols, C.H. Harvey, Page Michel, Clint Kolby, Doug Calame, Wanda Kelly, Atwood Kenjura, David Rehr, Richard Speas, Jessica Weynand, Tristan Johnson, Molly Duge, Kelsey Schwartz, Jaclynn Gerig, Courtnei Bauer, Paige Hamilton, Shelby Dickson

Media Present:

Allison Smith, Brenham Banner Press; Frank Wagner, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Weldon Williams**
- 3. Proclamation**

- Mayor Tate read a Proclamation declaring Thursday, December 1, 2011 as Blinn College Volleyball Team Day

4. Citizens Comments

C. H. Harvey addressed the City Council and reminded them that when he supported the prior issuance of bonds for public safety, he told Council that he also supported the proposed street work but asked that City Council put the issue before the voters and let them decide. He stated that he is very disappointed to see that the Council issued the bonds for the street work and did NOT take it to the voters. Mr. Harvey also told Council that since the City of Brenham couldn't find \$10,000 to fund the Meals on Wheels program, he kicked in \$3,000 and the employees at TFE donated \$1,000 on behalf of Mayor Tate and also \$1,000 on behalf of Keith Herring. He again reminded the Councilmembers that he thought they all should resign since they are not serving the people. He quoted Mayor Claude Brown as saying "It is the people's money and they should have a say". He also stated that he would be revising his Freedom of Information request.

CONSENT AGENDA

5. Statutory Consent Agenda

- 5-a. Minutes from the November 3, 2011 and November 17, 2011 Council Meetings**
- 5-b. Ordinance No. O-11-025 on its Second Reading Providing for Updated Service Credit and an Increase in Retirement Annuities in the Texas Municipal Retirement System**

A motion was made by Keith Herring and seconded by Gloria Nix to approve the Statutory Consent Agenda Items 5-a – minutes from the November 3, 2011 and November 17, 2011 Council meeting and 5-b – Ordinance No. O-11-025 on its second reading providing for Updated Service Credit and an increase in Retirement Annuities in the Texas Municipal Retirement System.

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

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

WORK SESSION

6. Discussion and Update on Municipal Court Collections by Perdue, Brandon, Fielder, Collins & Mott

Rhonda Kuehn presented this item to Council. Wanda Kelly, Client Liaison with Perdue, Brandon, Fielder, Collins and Mott, reported that since the inception of the contract on June 1, 2011 they have reported collections of \$134,000 and a 7.97 % clearance rate which equates to a \$1.6 million turnover rate. She stated that \$109,000 was collected in cash and \$25,252 in non-cash such as jail time served or community service. She advised Council that they will be sending out their mail out letters in December and then again in February as well as making bi-weekly calls to defendants in the next 4 months. This is typically a good time of year for collections since most people are receiving income tax refunds and the warrant round up is going on.

Doug Calame thanked the City Council for having trust in them. He also stated that the 1st year goal is usually 10% and 20% for the second year but he is confident that they will well surpass 10% on first year collections.

7. Discussion and Update on the Tax Phase-In Compliance Review Committee

Clint Kolby presented this item to Council. He stated that according to the City of Brenham's Tax Phase-In Policy, a Compliance Review Committee shall meet once a year and shall collect from every tax phase-in incentive recipient a statement of compliance and verifying documents ensuring all requirements have been met. The Committee shall then provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

This year, Advanced Data Storage (ADS) was the only company eligible to be reviewed by the Committee for compliance. The Committee met on November 8th to review the agreement for ADS. The committee received a signed affidavit and payroll records verifying that they have created/retained at least 12 employees at an average base salary of \$30,000 including benefits and added \$4.2 million in new value to the property tax roll. For 2013, Advanced Data Storage, StanPac, Quest Chemicals and Valmont will be reviewed.

8. Discussion and Update on Advisory Board Policies and Practices

City Manager Terry Roberts presented this item to Council. He told Council that on the Regular Agenda there will be an item for consideration to suspend the term limit of City Boards until further study has been done and the Ordinance modified. He reminded the Council that in 2005, they had adopted policy dealing with board appointments including one element that impacted term limits. The 2005 term limitation policy did not have an immediate impact; however, without some modification to our existing policy several boards will experience a complete turnover within the next 14 months.

Mr. Roberts advised Council that without suspension of the term limit policy until further study is done, the changeover in boards will be too drastic. In analyzing our boards, some boards are more specialized where it is helpful for the board member to have a good background of service. Some boards are in place because of State law requirements, i.e. the Planning and Zoning Commission, Board of Adjustments and the Brenham Community Development Corporation. Some boards have specialization requirements so it is important that a portion of those board members have backgrounds in those specialties such as the Airport Advisory Board and the Hotel Occupancy Tax Board. He stated that we should probably look at each board separately as to whether term limits should be routinely applied. Danny Goss stated that Council should have representation when the current ordinance is revised.

REGULAR AGENDA

9. Discuss and Possibly Act Upon Resolution No. R-11-024 Adopting Ethical and Training Standards for Juvenile Case Managers Employed by the City of Brenham

Rhonda Kuehn presented this item to Council. Effective June 17, 2011, Senate Bill 61 mandates the establishment of minimum training and educational standards for juvenile case managers, including case planning and management. Not later than December 1, 2011, the governing body of a governmental entity that employs a juvenile case manager under Article 45.056, Code of Criminal Procedure, is required to adopt minimum training and education standards for juvenile case managers. The adoption of this resolution and accompanying exhibits will allow the Municipal Court to continue utilizing a juvenile case manager and collecting the \$5.00 juvenile case manager fee. The City of Brenham has had a juvenile case manager for the last 4 or 5 years.

A motion was made by Gloria Nix and seconded by Weldon Williams to approve Resolution No. R-11-024 adopting Ethical and Training Standards for Juvenile Case Managers employed by the City of Brenham.

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

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

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Related to the Organizational Structure, Operations and Best Practices of City Boards and Commissions; Continuation of Service of Current Board and Commission Members During Said Review Period; Repeal of the Term Limits Applicable to City Boards and Commissions; and Related Matters

City Secretary Jeana Bellinger presented this item to Council. Ms. Bellinger stated this is the item related to the work session item related to board term limitations. In order to allow ample time to review the organizational structure and best practice for each board, staff is recommending that Council approve this ordinance on its first reading temporarily suspending the term limits of City boards and commissions.

A motion was made by Weldon Williams and seconded by Danny Goss to approve an Ordinance on its first reading related to the organization structure, operations and best practices of City Boards and Commissions; continuation of service of current Board and Commission Members during said review period; repeal of the term limits applicable to City Boards and Commissions; and related matters.

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

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

11. Discuss and Possibly Act Upon a Request to Extend Utilities Outside the City Limits to 4030 Highway 36 South and Authorize the Mayor to Execute any Necessary Documentation

Dane Rau presented this item to Council. He informed Council that the City of Brenham has received a request from Doug and Jennifer Nichols to extend utilities to a future development site located at 4030 Hwy 36 South. Currently this property is not inside the city limits but does about the city limit line. The request was for extension of water and sewer to serve this development. Currently the development plan calls for the addition of a hair salon, a restaurant and several rental spaces totaling 26,000 square feet. The owners of the property have expressed interest in annexation of their property if the City of Brenham so chooses and they would not oppose the annexation and will participate monetarily in the cost of the extension.

Mr. Rau stated that the requested extensions are feasible and cost estimates have been determined. Due to the elevation, a pump station will be necessary for the sewer extension. Cost estimates for a 1600 ft. extension of a 6" water main to the requested tract is estimated at 26,215.00 the estimate for the sewer extension and pump station is \$29,487.50. The total cost for the requested extensions is estimated between \$55,000 and \$60,000. The extensions, along with the pump station, will be done in-house by both the water and sewer development. A contractor will be hired to perform the bores. The extensions will be able to serve future developments.

City Attorney Cary Bovey asked that this motion include authorizing the Mayor to sign the development agreement he is preparing. This agreement would require that the property owners request annexation, comply with all state and city regulations such as submittal of building plans, getting a building permit, and any other requirements in the City of Brenham's Code of Ordinances. The agreement does state that the City of Brenham is not required to extend services to properties outside the city limits but that the City Council has the discretion to do so under certain circumstances as set out in the Code of Ordinances. City Manager stated that staff did not co-mingle the extension of the utilities with the annexation because this extension of utilities and the ability to serve future developments is a viable project regardless of annexation. Although, annexation would be more appealing if the extensions were done.

A motion was made by Keith Herring and seconded by Andrew Ebel to approve a request to extend utilities outside the city limits to 4030 Highway 36 South and authorize the Mayor to execute any necessary documentation.

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

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

12. Discuss and Possibly Act Upon the Acceptance of a Grant in the Amount of \$13,500.00 from the Homeland Security Grant Program for the Purchase of a Solar Powered Message Board Trailer and Authorize the Mayor to Execute any Necessary Documentation

Fire Chief Ricky Boeker presented this item to Council. Chief Boeker stated the Fire Department has been approved for a grant in the amount of \$13,500 for the purchase of a Solar Powered Message Board Trailer. This project is a collaborative effort between the City and County Offices of Emergency Management and all Public Safety Departments, including Fire, Police, SO, and EMS).

This message board can be used for various reasons – traffic during the WC Fair, construction scenes, street repair, and any emergency messages. There is no match for this grant.

A motion was made by Weldon Williams and seconded by Gloria Nix to approve Acceptance of a Grant in the Amount of \$13,500 from the Homeland Security Grant Program for the purchase of a Solar Powered Message Board Trailer and to authorize the Mayor to execute any necessary documentation.

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

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

13. Administrative/Elected Officials Report

Carolyn Miller reported on the following:

- Brenham has been named in the Texas Registry as a National Main Street City

Jennifer Eckermann reported on the following:

- 2012 Uptown Swirl Wine Walk– January 14, 2012 - \$25.00 includes a commemorative wine glass and \$20 in tickets for wine tasting
- Christmas Stroll on Friday – tree lighting at 5:30 pm, parade at 6 pm, entertainment after the parade. Burning of Brenham books will also be for sale at a price of \$30.00 each

Terry Roberts reported on the following:

- Amphitheater restrooms have been fully funded
- Vulcan Street RR Crossing has been closed
- Taxi lane for new hangar at airport has been constructed
- Street Department getting ready for street overlay work
- SWIP project is progressing

Councilman Herring reported on the following:

- Downtown Master Plan meeting next Monday

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-11-026

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, PROVIDING FOR FINDINGS; PROVIDING FOR THE EVALUATION OF POSSIBLE REORGANIZATION OF BOARDS AND COMMISSIONS; PROVIDING FOR THE CONTINUATION OF SERVICE OF CURRENT BOARD AND COMMISSION MEMBERS DURING SAID EVALUATION PERIOD; PROVIDING FOR THE REPEAL OF TERM LIMITS APPLICABLE TO CITY OF BRENHAM BOARDS AND COMMISSIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING OF PROPER NOTICE AND MEETINGS.

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

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

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

WHEREAS, the City has created multiple boards and commissions in furtherance of the exercise of the City's powers and functions; and

WHEREAS, the City has adopted various ordinances, resolutions, bylaws and taken other actions regarding terms of office, term limits, attendance, and other policies applicable to the City's boards and commissions; and

WHEREAS, the City Council desires to review and evaluate the current organizational structure, operations and best practices of the City's boards and commissions for possible revision; and

WHEREAS, the City Council desires to authorize the current board and commission members to continue to serve in their respective positions during the period of evaluation and until such time as the City Council takes action to appoint successor board and commission members, after revising the organization, operations and best practices of the City's boards and commissions; and

WHEREAS, the City Council desires to repeal the three-term limit established by the Advisory Board Appointments policy adopted on January 27, 2005; and

WHEREAS, the City Council hereby finds that the best interests of the City will be promoted by the enactment of this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of the City of Brenham, Texas that:

SECTION 1.
FINDINGS

The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2.
REVIEW AND RECOMMENDATIONS

The Mayor and other appropriate City officials, City staff, and agents are directed to review and evaluate the current organizational structure, operations and best practices of the City's boards and commissions, and to prepare recommendations for consideration by the City Council regarding possible revisions and/or amendments to the various ordinances, resolutions, bylaws and other actions regarding improved organizational structure, operations and best practices of the City's boards and commissions.

SECTION 3.
CONTINUATION OF SERVICE OF APPOINTEES

All persons currently serving as a member of a City of Brenham board or commission shall continue to exercise the powers and perform the duties of their respective positions until their successors shall be duly appointed and qualified.

SECTION 4.
REPEAL OF TERM LIMITS

The three-term limit for an individual to serve consecutive positions on the same board or commission, established by the Advisory Board Appointments policy adopted on January 27, 2005, is hereby repealed.

SECTION 5.
SAVINGS CLAUSE

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

SECTION 6.
SEVERABILITY

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

SECTION 7.
EFFECTIVE DATE

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 8.
PROPER NOTICE AND MEETINGS

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

PASSED AND APPROVED, on its first reading at the meeting of the City Council held on this the 1st day of December, 2011.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the 15th day of December, 2011.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, City Secretary



AGENDA ITEM 5

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 9, 2011															
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Allen Jacobs															
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AGENDA ITEM DESCRIPTION: Public Hearing Regarding a Request for a Change in Zoning for Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential Mixed Use District																
SUMMARY STATEMENT: Prior to considering the change in zoning, the City Council is required to hold a Public Hearing to receive input regarding the proposal.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS:																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: No City Council action required.																
APPROVALS: Terry Roberts																



AGENDA ITEM 6

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 6, 2011															
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Allen Jacobs															
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AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Change the Zoning of Lots 1 and 2 of the Trinity Care Center Subdivision and Also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential																
SUMMARY STATEMENT: The Planning and Zoning Commission held a scheduled meeting on Monday, December 5, 2011. A Public Hearing was held in reference to a Request for a Change of Zoning District for the property with Legal Descriptions as follows: Lot 1 and Lot 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey. This property has the physical location at the 400 Block of Sayles Street and the 400 Block of East Blue Bell Road. The properties are presently classified as the R-2, Mixed Residential District. The Request is being made to change the Zoning District to the B-1, Local Business/Residential Mixed Use District. This Change of Zoning District Request is being submitted in an effort to accommodate existing property uses as located on these properties; to thereby make the present uses existing conforming uses. The existing property uses are nursing and convalescent homes. This proposed Zoning District Change abuts an existing B-1, Local Business/Residential Mixed Use District. After Discussion, the Public Hearing was closed and the Planning and Zoning Commission Unanimously made the recommendation to approve the Request for the Change of Zoning District Classification as submitted.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Change of Zoning District will accommodate existing uses on property and will compliment adjoining Zoning District. B. CONS: None voiced at Public Hearing.																
ALTERNATIVES (In Suggested Order of Staff Preference): None																

ATTACHMENTS: (1) Ordinance; (2) Map of properties as referenced for Request for the Change of Zoning District; (3) Planning and Zoning Commission's Final Report to City Council; and (4) Property owner letter for request for the change of Zoning District Classification.

FUNDING SOURCE (Where Applicable): N/A

RECOMMENDED ACTION: Approve an Ordinance its first reading amending Appendix A – "Zoning" of the Code of Ordinances of the City of Brenham, Texas; amending the Official Zoning Map to change the zoning of Lots 1 and 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey from R-2, Mixed Residential District to a B-1, Local Business/Residential

APPROVALS: Doug Baker

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO CHANGE PROPERTY CURRENTLY ZONED AS R-2, MIXED RESIDENTIAL DISTRICT TO B-1, LOCAL BUSINESS/RESIDENTIAL MIXED USE DISTRICT WITH LEGAL DESCRIPTION BEING: LOT 1 AND LOT 2 OF THE TRINITY CARE CENTER SUBDIVISION (6.30 ACRES AND 4.32 ACRES) AND ALSO TRACT 120 OF THE ARRABELLA HARRINGTON SURVEY (6.76 ACRES). THIS PROPERTY HAS THE PHYSICAL LOCATION AT THE 400 BLOCK OF EAST SAYLES STREET, AND THE 400 BLOCK OF EAST BLUE BELL ROAD.

BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1. That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map is hereby amended to amend the existing City of Brenham Zoning Map to change property currently zoned as R-2 Mixed Residential to the B-1, Local Business/Residential Mixed Use District. This property having Legal Description as: Lot 1 and Lot 2 of the Trinity Care Center Subdivision (6.30 acres and 4.32 acres) and also Tract 120 of the Arrabella Harrington Survey (6.76 acres). This property has the physical location at the 400 Block of East Sayles Street, and the 400 Block of East Blue Bell Road.

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

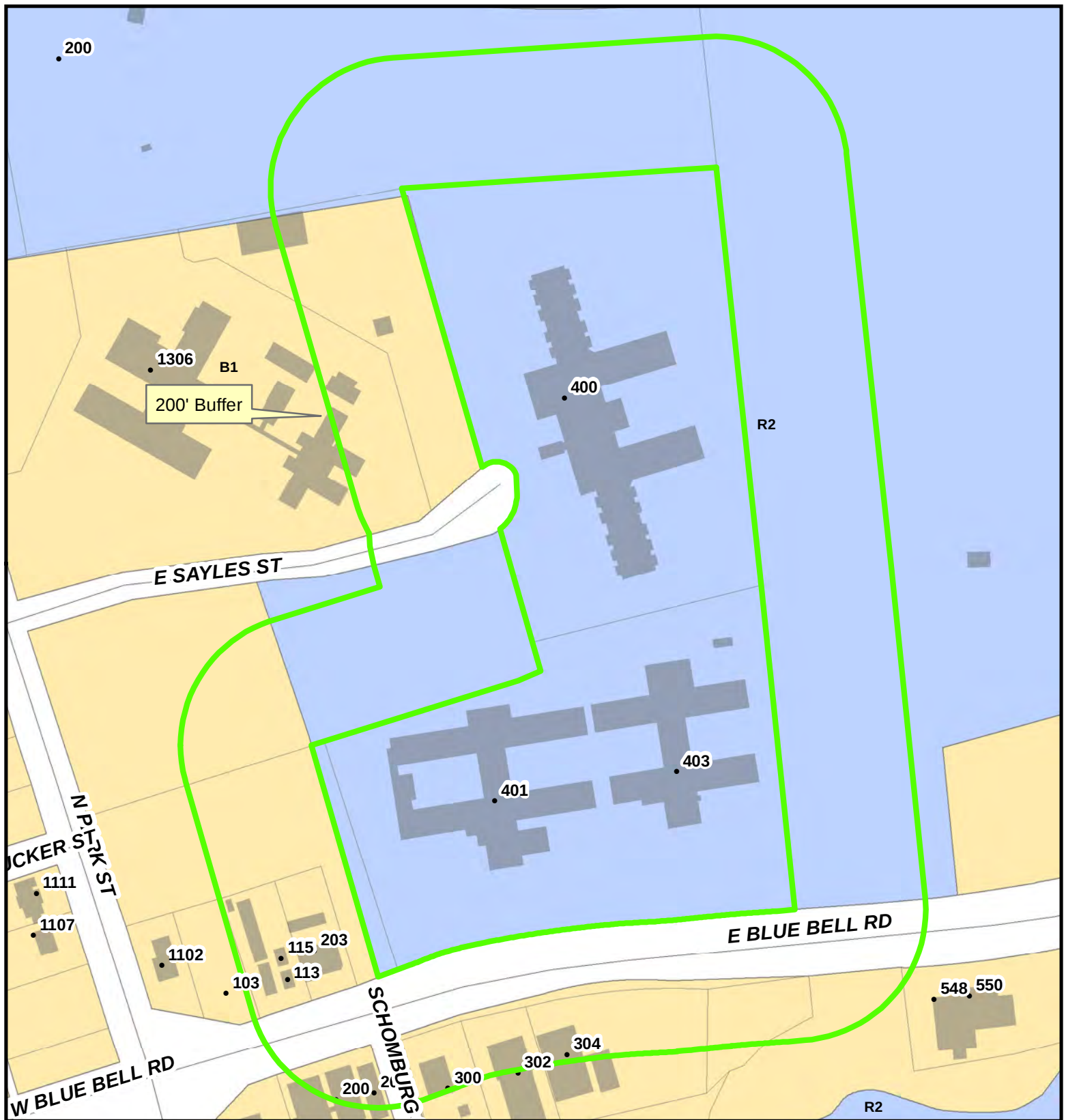
PASSED and APPROVED on its first reading this the _____ day of December, 2011.

PASSED and APPROVED on its second reading this the _____ day of January, 2012.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



Legend

- B1 LOCAL BUSINESS MIXED
- B2 COMMERCIAL RESEARCH & TECHNOLOGY
- B3 HISTORICAL & CENTRAL BUSINESS
- I INDUSTRIAL
- R1 RESIDENTIAL SINGLE FAMILY
- R2 MIXED RESIDENTIAL
- R3 MANUFACTURED HOME RESIDENTIAL

1 inch = 200 feet



Date: 12/09/2011

**Final Report to City Council Regarding
Proposed Amendment of the City of Brenham Zoning Ordinance
To Provide for a Change of Zoning District Request
and Related Regulations**

A public hearing was conducted by the Planning & Zoning Commission, in the City Council Chambers, Brenham City Hall, 200 West Vulcan Street, Brenham, Texas at 5:15 p.m., Monday, ~~November~~ December 5, 2011.

The Public Hearing was conducted for the purpose of receiving testimony regarding the proposed amendment of the City of Brenham Zoning Ordinance to provide for Change of Zoning District Request and related regulations. This being for a request being made for Lot 1 and Lot 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey.

The Planning & Zoning Commission has reviewed the proposed amendment of the City of Brenham Zoning Ordinance to provide for a Change of Zoning District Request and related regulations, and makes the following findings and observations:

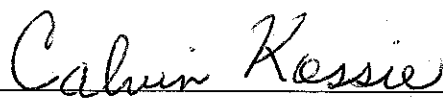
The Planning and Zoning Commission unanimously agreed to recommend that the City of Brenham Zoning District Map be amended to change the described properties, as located in an existing R-2, Mixed Residential District, to the B-1, Local Business/Residential Mixed Use District. This being for the particular property as described as follows:

Lot 1 and Lot 2 of the Trinity Care Center Subdivision and also Tract 120 of the Arrabella Harrington Survey. Properties are located at the 400 Block of East Sayles Street, and the 400 Block of East Blue Bell Road.

The recommended change of zoning adjoins an existing B-1, Local Business/Residential Mixed Use District. The recommended change of zoning will accommodate the existing property uses; this being nursing and convalescent homes.

The Planning & Zoning Commission hereby adopts and issues this final report in accordance with Section 211.007, Texas Local Government Code, and recommends to the City Council that the proposed amendment of the Zoning Ordinance be approved as submitted.

Sincerely,



Secretary
Planning & Zoning Commission

Dated: Dec. 9, 20 11.

CARE CENTER OF BRENHAM

*400 E. Sayles St.
Brenham, Texas 77833
979-863-9770*

11-18-11

CITY OF BRENHAM
200 W. Vulcan St.
Brenham, Texas 77833
979-337-7200

RE: Zoning change for The Care Center of Brenham, 400 E. Sayles St. Brenham, Washington County, Texas 77833.

Zoning Directors:

This is a formal request to change the zoning classification of our facility located at 400 E. Sayles St. in Brenham Texas from a classification of R-2, Mixed residential to B-1, Local business Mixed Districts.

It is our request to change the zoning on the property owned by Scott & White Healthcare, located at 400 E. Sayles St. The facility is being purchased by Regency Healthcare from Victoria, Texas and they are in full agreement with us that the zoning needs to be changed in order to accommodate future development of the facility.

Sincerely,



Ron Blasig, LNFA



AGENDA ITEM 7

DATE OF MEETING: 12-15-11		DATE SUBMITTED: 12-8-11	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Kim Hodde/Clint Kolby	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION		CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	
ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☒ RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-11-025 Re-Adopting the Guidelines and Criteria for Granting Tax Phase-In in a Reinvestment Zone Created in the City of Brenham			
SUMMARY STATEMENT: Every two years the Tax Phase-In Policy needs to be reviewed and readopted. The EDF's Incentives Review Committee has reviewed the current policy and has recommended that the minimum average base salary of \$30,000 including benefits be raised to \$33,000 including benefits in order to better promote quality jobs in the City of Brenham. According to the Texas Workforce Commission, the average annual wage for employees in the private sector in Washington County is about \$33,000, and we feel that is an appropriate baseline to go by for the policy. Also, the Committee suggested that we take out "2006" in Section VIII(a) on page 7 to say "even numbered years" in regards to appointing people to the Compliance Review Committee. I have attached a Word document that tracks all of the changes that we made. The PDF document is the finalized version that we would like to have the Council vote on and adopt.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Guidelines and criteria have to be re-adopted every two years in order to grant tax phase-in. B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from EDF President, Page Michel; (2) Resolution No. R-11-025; (3) Current Policy Statement on Property Tax Phase-In Incentive Policy showing redlined changes; and (4) Clean copy of the revised Policy Statement on Property Tax Phase-In Incentive Policy			
FUNDING SOURCE (Where Applicable):			

RECOMMENDED ACTION: Approve Resolution No. R-11-025 re-adopting the guidelines and criteria for granting tax phase-in in a reinvestment zone created in the City of Brenham
--

APPROVALS: Terry Roberts

Economic Development Foundation of **BRENHAM**

A city with a flavor all its own.

2011 Board of Directors

William Krueger, Chair
Jones & Carter, Inc.

Barbara Maurer, Vice Chair
Chase

Vance Hamilton, Secretary
Bluebonnet Electric Cooperative

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Paul Kruse, Past Chair
Blue Bell Creameries

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Bank of Brenham

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Jon Hill
Appel Ford Mercury

Stephen Miller
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Grocery Company*

G. Mike Shoup
Antique Rose Emporium

Brett Smith
Lee Anderson Company

Arlen Thielemann
Thielemann Construction Company

Donald E. Voelter, Ph.D.
Blinn College, Retired

Gary Weiss
Germania Insurance

David Yeager
DLY Services

Staff

Page Michel
President & CEO

Clint Kolby
Project Manager

December 9, 2011

Mayor and City Council
City of Brenham
200 W. Vulcan Street
Brenham, TX 77833

Dear Mayor Tate and Council Members:

On behalf of the Brenham Economic Development Foundation, I am writing to advise you of our recommended changes to the Tax Phase-In Policy, as you consider readopting it for the next two years.

The EDF's Incentives Review Committee met earlier this year to review, evaluate, and suggest modifications to the current 2010-11 Tax Phase-In Policy. The Incentives Review Committee has recommended for a readopted Tax Phase-In Policy for 2012-13, that to receive this incentive the minimum average base salary for jobs created be increased slightly from the current \$30,000 with benefits to \$33,000 with benefits.

According to statistics from the Texas Workforce Commission, the average annual wage for employees in the private sector in Washington County is currently \$33,000. The EDF Board of Directors believes that this is an appropriate baseline to mirror in the policy in order to continue promoting high-quality job creation in Brenham and Washington County.

The Incentives Review Committee also suggests that the language in Section VIII(a) be changed (regarding the term renewals for people appointed to the Compliance Review Committee) by taking out the specific mention of "2006" and replacing it with "of even numbered years."

Please feel free to contact us with any questions or comments you may have before the Council meeting when this policy will be discussed.

Thank you,



Page Michel
President

RESOLUTION NO. R-11-025

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS RE-ADOPTING THE GUIDELINES AND CRITERIA FOR GRANTING TAX PHASE-IN IN A REINVESTMENT ZONE CREATED IN THE CITY OF BRENHAM

WHEREAS, the creation and retention of job opportunities that bring new wealth to the community is a high civic priority; and

WHEREAS, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market and generate tax revenue to support local services, and

WHEREAS, the communities with the City of Brenham must compete with other localities across the nation currently offering tax inducements to attract new plant and modernization projects; and

WHEREAS, any tax incentives offered in the City of Brenham would reduce needed tax revenue unless strictly limited in application to those new and existing industries that bring new wealth to the community, and

WHEREAS, any tax incentives should not affect the competitive position of existing companies operating in the City of Brenham; and

WHEREAS, the abatement of property taxes, when offered to attract primary jobs in industries which bring in money from outside a community instead of merely re-circulating dollars within a community, has been shown to be an effective method of enhancing and diversifying an area economy; and

WHEREAS, effective September 1, 1987, Texas law requires an eligible taxing jurisdiction to establish guidelines and criteria as to eligibility for tax abatement agreements prior to granting of any future tax abatement, said guidelines and criteria to be unchanged for a two-year period unless amended by a three-fourths vote of the participating governing body; and

WHEREAS, on December 17, 2009 Council passed Resolution No. R-09-31 re-adopting the guidelines and criteria for granting tax abatement in a reinvestment zone created in the city; and

WHEREAS, these guidelines and criteria shall not be construed as implying or suggesting that the City of Brenham is under any obligation to provide tax abatement or other incentive to any applicant and all applicants shall be considered on a case by case basis

NOW, THEREFORE, BE IT RESOLVED that the undersigned does hereby re-adopt the attached guidelines and criteria for granting tax abatement in reinvestment zones in the City of Brenham styled as “Policy Statement on Tax Phase-In Incentive for Selected Commercial Enterprises”, as amended and incorporated herein by reference and effective December 16, 2011

APPROVED this the _____ day of _____, 2011.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

CITY OF BRENHAM

POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

Policy Adoption Date: December 1~~5~~⁷, 201~~0~~⁹

I. PURPOSE

The City of Brenham, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Phase-In incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Phase-In incentive under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX PHASE-IN INCENTIVE

Tax Phase-In incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive. Brenham ISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property Tax Phase-In incentive, the planned improvement at a minimum must:

- (a) Be an Authorized Facility. A facility may be eligible if it is a(n):
 - Agriculture/Aquaculture Facility,
 - Distribution Center Facility,
 - Manufacturing Facility,
 - Research Facility, or
 - Other Basic Industry. [as defined in Glossary-Section XII (o)]
- (b) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Brenham or \$150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of \$50,000. This is to help maintain the economic viability of

the central business district.

- (c) The applicant must maintain or create within the first year and throughout the Tax Phase-In incentive period a minimum of ten (10) jobs at an average base salary of \$339,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the Tax Phase-In incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.
- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's master plan for development.
- (3) Valuation at Termination of Tax Phase-In Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Phase-In incentive. The economic life of the added-value property must exceed the duration of the granted Tax Phase-In incentive period.

- (4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local businesses;

The alternative development possibilities for proposed site;

The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX PHASE-IN INCENTIVE AUTHORIZED

- (a) Authorized Date A facility shall be eligible for the Tax Phase-In incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.

- (b) Creation of New Value Tax Phase-In incentive may only be granted for the additional value

of eligible property improvements made subsequent to the filing of an application for the Tax Phase-In incentive and specified in the Tax Phase-In incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

(c) New and Existing Facilities Tax Phase-In incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Phase-In incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

(d) Eligible Property Except as otherwise provided in this policy, the Tax Phase-In incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.

(e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Phase-In incentives:

- land,
- animals,
- inventories,
- supplies,
- tools,
- furnishings and other forms of movable personal property,
- vehicles,
- vessels,
- aircraft,
- housing or residential property (except for property owners in the Downtown Zone),
- hotels/motels,
- fauna,
- flora,
- retail facilities (except for property owners in the Downtown Zone),
- deferred maintenance investments,
- property to be rented or leased except as provided in Part IV (f),
- improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
- any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility,
- property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities If a leased facility is granted the Tax Phase-In incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Phase-In incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Phase-In incentive period by resuming the Tax Phase-In incentive with the combined value of the replacement lessee by disregarding the Tax Phase-In incentive extension

term. The lessor shall not receive any Tax Phase-In incentive during any year where a Tax Phase-In incentive extension has been elected. The Tax Phase-In incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Phase-In incentive based solely on its new value investment.

(g) Value and Term of Tax Phase-In incentive Tax Phase-In incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Phase-In incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Phase-In incentive. The table one Tax Phase-In incentive schedule - Exhibit "A", table three in a Downtown Zone (map Exhibit "B"), incorporated herein by reference, shall be the maximum Tax Phase-In incentive available based on total new value investment or added employment for each year during the Tax Phase-In incentive term, whichever is greater. The total amount of abatement shall be derived from the sum of table one and table two, unless located in a Downtown Zone, in which the total amount of abatement will be derived from table three. Tax Phase-In incentive in a Downtown Zone shall receive approval for building plans and specifications by the Main Street Board as a condition of receiving the Tax Phase-In incentive.

(h) Downtown Zone A Tax Phase-In incentive zone within the designated downtown area in the attached Exhibit B, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit B under common ownership.

(i) Taxability From the execution of the Tax Phase-In incentive contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

V. APPLICATION PROCESS

(a) Any present or potential owner of taxable property in the City of Brenham may request the creation of a Reinvestment Zone and Tax Phase-In incentive by filing written request with the City Manager.

(b) The application shall consist of a completed application form accompanied by:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;
- (2) A descriptive list of the improvements which will be a part of the facility;
- (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.

- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
- (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Phase-In incentive; and
- (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.

(c) Upon receipt of a completed application, the City Manager shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Phase-In incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.

(d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Phase-In incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.

(e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Phase-In incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Phase-In incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

Variance. Requests for any variances from this Policy may be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) majority vote of the governing body of the City. The approval by the City of a Tax Phase-In incentive shall conclusively be deemed as an approval of any variance from the provisions of Subsections (a) through (e) of Part V.

VI. PUBLIC HEARING

(a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Phase-In incentive will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.

(b) Neither a Reinvestment Zone nor a property Tax Phase-In incentive agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse affect on the provision of a government service or tax base of the City.
- (2) The applicant has insufficient financial capacity
- (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
- (4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

(a) After approval of the application for the designation of an area as a Reinvestment Zone for the property Tax Phase-In incentive, the City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:

- (1) Estimated value to be abated and the base year value.
- (2) Percent of value to be abated each year as provided in Part IV (g).
- (3) The commencement date and the termination date of Tax Phase-In incentive.
- (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
- (6) Amount of investment and average number of jobs involved for the period of the Tax Phase-In incentive.
- (7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

(b) Such agreement shall be executed within ninety (90) days after the later of 1) the date

applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.

(c) The City shall make its own determination of the property Tax Phase-In incentive which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each Tax Phase-In incentive project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Phase-In incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Phase-In incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Phase-In incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Phase-In incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before October 15 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and 1 by the Chief Appraiser. They will be appointed by January 30, ~~2006~~ of even numbered years for a two year term. ~~Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time.~~ The company/individual receiving the property Tax Phase-In incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.
- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before December 1 of each calendar year.

- (c) The Committee shall provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

IX. RECAPTURE

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create or maintain jobs as outlined in the agreement; or
- (3) violates any of the terms and conditions of the Tax Phase-In incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Phase-In incentive period;

then the agreement shall terminate and so shall the Tax Phase-In incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination, and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. The City will use all available means for recapture, including but not limited to, placing a lien on the property and pursuing all other legal and equitable remedies available to the City.

X. ASSIGNMENT

- (a) The Tax Phase-In incentive may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Phase-In incentive agreement are guaranteed by the execution of a new contractual agreement with the City.
- (b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the Tax Phase-In incentive agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, the

new owner or new lessee are liable to the City for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

(a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Phase-In incentive contracts created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.

(b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the City.

(c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

(a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.

(b) Property that is owned or leased by the following is excluded from the property Tax Phase-In incentive:

- (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
- (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.

(c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Phase-In incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

GLOSSARY

- (a) "Agriculture/Aquaculture Facility" means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is of food and/or fiber products in commercially marketable quantities.
- (b) "City" means the City of Brenham, Texas that levies ad valorem taxes upon and/or provides services to property located within the City limits.
- (c) "Agreement" means a contractual agreement between a property owner and/or lessee and the City for the purpose of the Tax Phase-In incentive.
- (d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for the Tax Phase-In incentive.
- (e) "Committee" means the Compliance Review Committee, consisting of representatives appointed by the City, County and Chief Appraiser's office to annually review documents verifying compliance of all projects receiving the Tax Phase-In incentive.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside of Washington County.
- (h) "Existing Local Business" means a business that has been located in the City of Brenham and has paid property taxes for at least one full year prior to submitting any application for the property Tax Phase-In incentive.
- (i) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.
- (j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (k) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of \$30,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.
- (l) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (m) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit

cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

(n) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(o) "Other Basic Industry" means buildings and structures/including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or providing of services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

(p) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

(q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

EXHIBIT "A"

TAX PHASE-IN INCENTIVE SCHEDULES

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

TABLE 1 (earns 50% of incentive)

1A - Property Improvements by an Existing Local Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 150,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

1B - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

TABLE 2 (earns 50% of incentive)

2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses

Level	The number of new and/or retained full-time employees with an average salary level of \$39,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

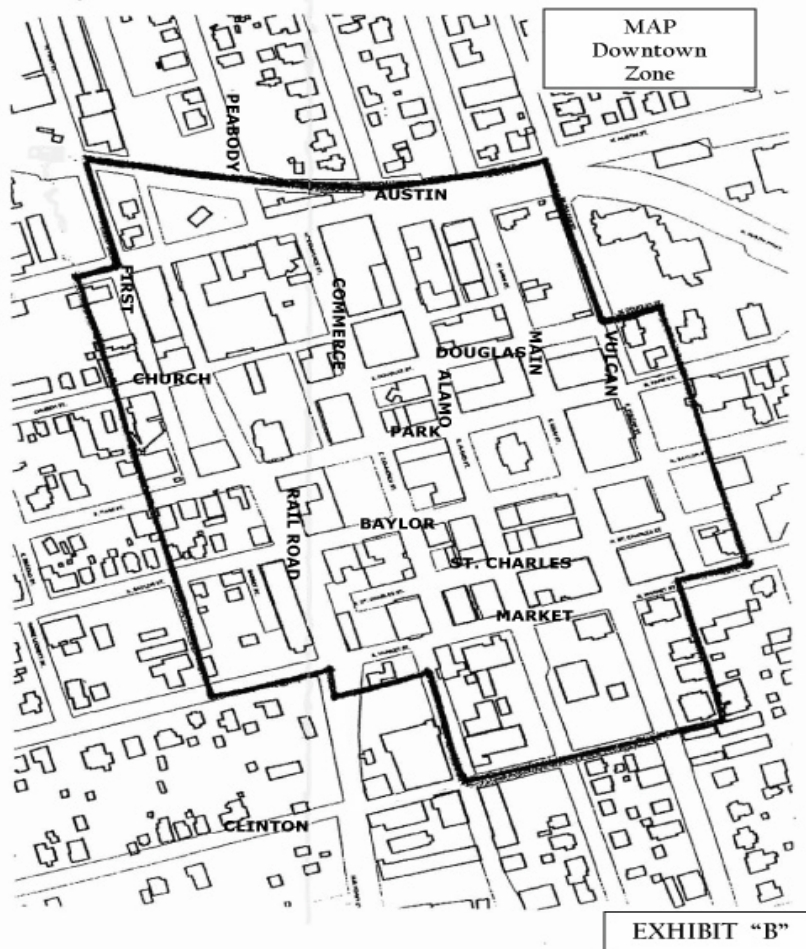
TABLE 3 Downtown Zone

Amount of valuation of
downtown reinvestment
determined by tax appraisal:

Percent of property tax to be abated each year

Valuation	1	2	3	4	5	6	7	8
\$ 50,000 to \$150,000	90	90	90	60	40	20	0	0
\$150,001 to \$250,000	90	90	90	90	60	40	20	0
\$250,001 and beyond	90	90	90	90	90	60	40	20

EXHIBIT B
MAP OF DOWNTOWN ZONE



CITY OF BRENHAM

POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES

Policy Adoption Date: December 15, 2011

I. PURPOSE

The City of Brenham, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Phase-In incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Phase-In incentive under this Policy shall be considered on an individual basis.

II. DEFINITION OF TAX PHASE-IN INCENTIVE

Tax Phase-In incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive. Brenham ISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

III. GUIDELINES AND CRITERIA

In order to be eligible for property Tax Phase-In incentive, the planned improvement at a minimum must:

- (a) Be an Authorized Facility. A facility may be eligible if it is a(n):
 - Agriculture/Aquaculture Facility,
 - Distribution Center Facility,
 - Manufacturing Facility,
 - Research Facility, or
 - Other Basic Industry. [as defined in Glossary-Section XII (o)]
- (b) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Brenham or \$150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of \$50,000. This is to help maintain the economic viability of

the central business district.

- (c) The applicant must maintain or create within the first year and throughout the Tax Phase-In incentive period a minimum of ten (10) jobs at an average base salary of \$33,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the Tax Phase-In incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.
- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's master plan for development.
- (3) Valuation at Termination of Tax Phase-In Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Phase-In incentive. The economic life of the added-value property must exceed the duration of the granted Tax Phase-In incentive period.
- (4) Community Impact
 - The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;
 - The revitalization of a depressed area;
 - The business opportunities of existing local businesses;
 - The alternative development possibilities for proposed site;
 - The impact on other taxing entities;
 - Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,
 - Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

IV. TAX PHASE-IN INCENTIVE AUTHORIZED

- (a) Authorized Date A facility shall be eligible for the Tax Phase-In incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.
- (b) Creation of New Value Tax Phase-In incentive may only be granted for the additional value

of eligible property improvements made subsequent to the filing of an application for the Tax Phase-In incentive and specified in the Tax Phase-In incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

(c) New and Existing Facilities Tax Phase-In incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Phase-In incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

(d) Eligible Property Except as otherwise provided in this policy, the Tax Phase-In incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.

(e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Phase-In incentives:

- land,
- animals,
- inventories,
- supplies,
- tools,
- furnishings and other forms of movable personal property,
- vehicles,
- vessels,
- aircraft,
- housing or residential property (except for property owners in the Downtown Zone),
- hotels/motels,
- fauna,
- flora,
- retail facilities (except for property owners in the Downtown Zone),
- deferred maintenance investments,
- property to be rented or leased except as provided in Part IV (f),
- improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
- any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility,
- property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities If a leased facility is granted the Tax Phase-In incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Phase-In incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Phase-In incentive period by resuming the Tax Phase-In incentive with the combined value of the replacement lessee by disregarding the Tax Phase-In incentive extension

term. The lessor shall not receive any Tax Phase-In incentive during any year where a Tax Phase-In incentive extension has been elected. The Tax Phase-In incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Phase-In incentive based solely on its new value investment.

(g) Value and Term of Tax Phase-In incentive Tax Phase-In incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Phase-In incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Phase-In incentive. The table one Tax Phase-In incentive schedule - Exhibit "A", table three in a Downtown Zone (map Exhibit "B"), incorporated herein by reference, shall be the maximum Tax Phase-In incentive available based on total new value investment or added employment for each year during the Tax Phase-In incentive term, whichever is greater. The total amount of abatement shall be derived from the sum of table one and table two, unless located in a Downtown Zone, in which the total amount of abatement will be derived from table three. Tax Phase-In incentive in a Downtown Zone shall receive approval for building plans and specifications by the Main Street Board as a condition of receiving the Tax Phase-In incentive.

(h) Downtown Zone A Tax Phase-In incentive zone within the designated downtown area in the attached Exhibit B, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit B under common ownership.

(i) Taxability From the execution of the Tax Phase-In incentive contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

V. APPLICATION PROCESS

(a) Any present or potential owner of taxable property in the City of Brenham may request the creation of a Reinvestment Zone and Tax Phase-In incentive by filing written request with the City Manager.

(b) The application shall consist of a completed application form accompanied by:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;
- (2) A descriptive list of the improvements which will be a part of the facility;
- (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.

- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
- (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Phase-In incentive; and
- (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.

(c) Upon receipt of a completed application, the City Manager shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Phase-In incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.

(d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Phase-In incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.

(e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Phase-In incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Phase-In incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

Variance. Requests for any variances from this Policy may be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) majority vote of the governing body of the City. The approval by the City of a Tax Phase-In incentive shall conclusively be deemed as an approval of any variance from the provisions of Subsections (a) through (e) of Part V.

VI. PUBLIC HEARING

(a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Phase-In incentive will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.

(b) Neither a Reinvestment Zone nor a property Tax Phase-In incentive agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse affect on the provision of a government service or tax base of the City.
- (2) The applicant has insufficient financial capacity
- (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
- (4) Planned or potential use of the property violates governmental codes or laws.

VII. AGREEMENT

(a) After approval of the application for the designation of an area as a Reinvestment Zone for the property Tax Phase-In incentive, the City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:

- (1) Estimated value to be abated and the base year value.
- (2) Percent of value to be abated each year as provided in Part IV (g).
- (3) The commencement date and the termination date of Tax Phase-In incentive.
- (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
- (6) Amount of investment and average number of jobs involved for the period of the Tax Phase-In incentive.
- (7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

(b) Such agreement shall be executed within ninety (90) days after the later of 1) the date

applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.

(c) The City shall make its own determination of the property Tax Phase-In incentive which shall not bind any other jurisdiction.

VIII. ADMINISTRATION

Each Tax Phase-In incentive project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Phase-In incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Phase-In incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Phase-In incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Phase-In incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before October 15 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and 1 by the Chief Appraiser. They will be appointed by January 30 of even numbered years for a two year term. Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time. The company/individual receiving the property Tax Phase-In incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.
- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before December 1 of each calendar year.

- (c) The Committee shall provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

IX. RECAPTURE

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create or maintain jobs as outlined in the agreement; or
- (3) violates any of the terms and conditions of the Tax Phase-In incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Phase-In incentive period;

then the agreement shall terminate and so shall the Tax Phase-In incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination, and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. The City will use all available means for recapture, including but not limited to, placing a lien on the property and pursuing all other legal and equitable remedies available to the City.

X. ASSIGNMENT

(a) The Tax Phase-In incentive may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Phase-In incentive agreement are guaranteed by the execution of a new contractual agreement with the City.

(b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the Tax Phase-In incentive agreement with the original owner and/or lessee.

(c) No assignment or transfer shall be approved if the parties to the existing agreement, the

new owner or new lessee are liable to the City for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld.

XI. SUNSET PROVISION

(a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Phase-In incentive contracts created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.

(b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the City.

(c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

(a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.

(b) Property that is owned or leased by the following is excluded from the property Tax Phase-In incentive:

- (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
- (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.

(c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Phase-In incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

GLOSSARY

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3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

1B - Property Improvements by a New Business

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

TABLE 2 (earns 50% of incentive)

2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses

Level	The number of new and/or retained full-time employees with an average salary level of \$33,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

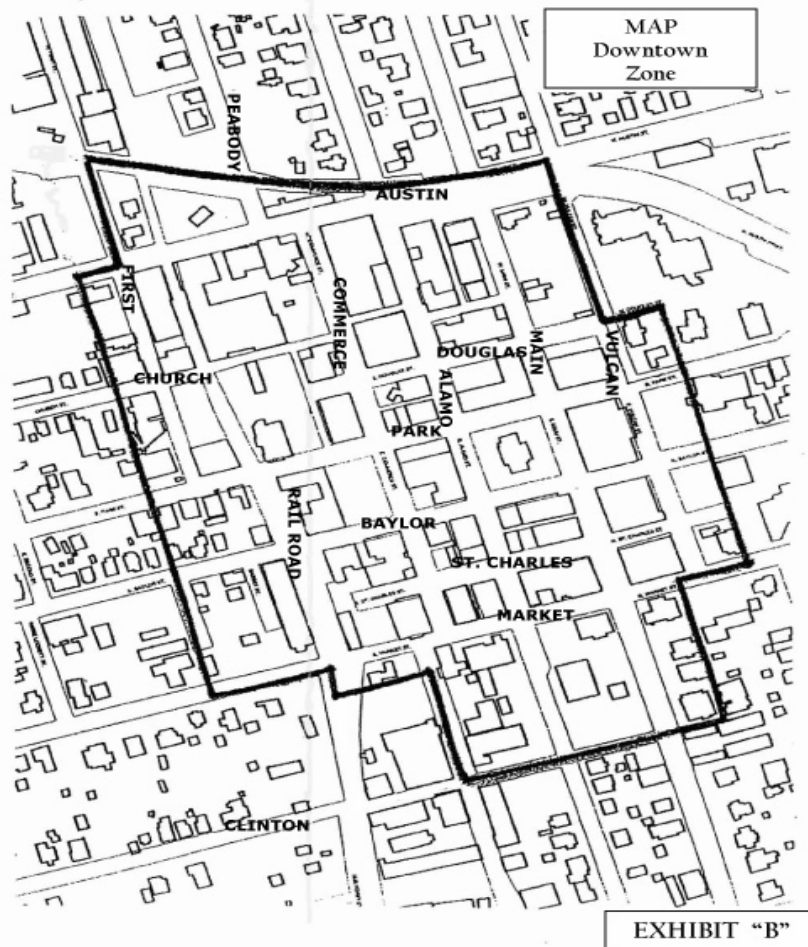
TABLE 3 Downtown Zone

Amount of valuation of
downtown reinvestment
determined by tax appraisal:

Percent of property tax to be abated each year

Valuation	1	2	3	4	5	6	7	8
\$ 50,000 to \$150,000	90	90	90	60	40	20	0	0
\$150,001 to \$250,000	90	90	90	90	60	40	20	0
\$250,001 and beyond	90	90	90	90	90	60	40	20

EXHIBIT B
MAP OF DOWNTOWN ZONE





AGENDA ITEM 8

DATE OF MEETING: December 15, 2011		DATE SUBMITTED: December 9, 2011	
DEPT. OF ORIGIN: Public Utilities		SUBMITTED BY: Lowell Ogle	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Approval of an Agreement with O'Malley Engineers, L.L.P. for 2012 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: Attached is an agreement from O'Malley Engineers, L.L.P. for engineering services related to improvements within the Water Distribution System. These improvements will involve replacing old asbestos concrete water lines with new C-900 PVC pipe. Approximately 5,096 feet of main water line will be replaced on Longhofer, Bormann, Reimer, Windy Dr., Windswept and a portion of S. Day. Replacements of service lines leading up to the meter will also be replaced on each of these sections. Based on the engineering curve "A" it is estimated that approximately \$31,000 is for basic engineering. Additional services are \$6,500 for surveying and approximately \$2,000 for TxDOT Traffic Control. Total engineering services are estimated at \$39,500. This project will go to bid in late January, early February. If construction costs come in lower than expected a decrease in basic engineering will also decrease. Construction costs are estimated at \$329,000 for this project. These replacements were discussed with city council and approved during the budget process. In the 2011-12 budget, \$400,000 has been budgeted for this project. Staff is recommending that Council approve the Agreement for Engineering Services with O'Malley Engineers, L.L.P.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Will replace old A.C. water lines which have had many leaks on them with new PVC line. B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Agreement for Engineering Services; and (2) Replacement Areas			
FUNDING SOURCE (Where Applicable): 104-5-164-804.00			

RECOMMENDED ACTION: Approve the agreement with O'Malley Engineers, L.L.P. for 2012 water distribution system improvements and authorize the Mayor to execute any necessary documentation.

APPROVALS: Lowell Ogle Jr.

AGREEMENT FOR ENGINEERING SERVICES

THIS AGREEMENT made as of the ____ day of _____, 2011 by and between THE CITY OF BRENHAM, hereinafter called the OWNER, and O'MALLEY ENGINEERS, L.L.P., 203 South Jackson Street, Brenham, Texas 77833, hereinafter called ENGINEER, WITNESSETH that whereas the OWNER intends to construct 2012 Water Distribution System Improvements, hereinafter called the PROJECT.

NOW, THEREFORE, the OWNER and ENGINEER for the considerations hereinafter set forth, agree as follows:

1. THE ENGINEER AGREES to perform the following Engineering services for the PROJECT:

a. General: The Engineer shall serve as the Owner's professional representative in the planning and observation of construction of the Project, and shall give consultation and advice to the Owner during the performance of his services.

(1) Copyright or Patent Infringement: The Engineer shall defend actions or claims charging infringement of any copyright or patent by reason of the use or adoption of any designs, drawings or specifications supplied by him, and he shall hold harmless the Owner from loss or damage resulting therefrom, providing however, that the Owner within five (5) days after receipt of any notice of infringement or of summons in any action therefor shall have forwarded the same to the Engineer in writing.

(2) Insurance and Indemnification: The Engineer shall secure and maintain such insurance as will protect him from claims under the Workmen's Compensation Acts and from claims for bodily injury, death, or property damage which may arise from the performance of his services under this Agreement. The Engineer shall defend, indemnify, and hold the City, its officers, employees, volunteers and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees and any other costs or fees arising out of or resulting from any negligence or willful misconduct of the Engineer in the performance of this Agreement.

b. Basic Services of the Engineer:

(1) Design Phase:

After written authorization to proceed with the Design Phase, Engineer shall:

(a) On the basis of the accepted preliminary design documents prepare for incorporation in the Contract Documents, final drawings to show the character and scope of the work to be performed by the contractors on the Project (hereinafter called "Drawings"), and Specifications.

(b) Furnish to the Owner such documents and design data as may be required for, and assist in the preparation of, the required documents so that Owner may obtain approvals of such governmental authorities as have jurisdiction over design criteria applicable to the Project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.

(c) Advise the Owner of any adjustments to his latest opinion of probable Project Cost caused by changes in scope, design requirements or Construction Costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications.

(d) Prepare bid forms, notice to bidders, instructions to bidders, general conditions and supplementary conditions and other related documents.

(e) Furnish eight (8) copies of the above documents and present and review them in person with the Owner.

(2) Construction Phase:

After written authorization to proceed with the Construction Phase, the Engineer shall:

(a) Assist the Owner in obtaining bids or negotiating proposals for each separate prime contract for construction or equipment.

(b) Consult with and advise Owner as to the acceptability of subcontractors and other persons and organizations proposed by the prime contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Contract Documents.

(c) Consult with and advise Owner as to the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution is permitted by the Contract Documents.

(d) Assist Owner in evaluating bids or proposals and in assembling and awarding contracts.

(e) Consult with and advise Owner and act as his representative as provided in the Standard General Conditions of the Construction Contract. The extent and limitations of the duties, responsibilities and authority of the Engineer as assigned in said Standard General Conditions shall not be modified without the Engineer's written consent. All of the Owner's instructions to Contractor(s) will be issued through the Engineer who will have authority to act on behalf of the Owner to the extent provided in said Standard General Conditions except as otherwise provided in writing.

(f) Make periodic visits to the site to observe the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the

Contract Documents; he shall not be required to make exhaustive or continuous on site inspections to check the quality or quantity of work; he shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s). His efforts will be directed toward providing assurance for Owner that the completed Project will conform to the Contract Documents, but he shall not be responsible for the failure of the Contractor(s) to perform the construction work in accordance with the Contract Documents. During such visits and on the basis of his on site observations he shall keep the Owner informed of the progress of the work, shall endeavor to guard the Owner against defects and deficiencies in the work of Contractor(s) and may disapprove or reject work as failing to conform to the Contract Documents.

(g) Review and approve Shop Drawings (as that term is defined in the aforesaid Standard General Conditions) and samples, the results of tests and inspections and other data which any Contractor is required to submit, but only for conformance with the design concept of the Project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by the Contractor(s) in accordance with the Contract Documents.

(h) Issue all instructions of Owner to Contractor(s); prepare routine change orders as required; he may, as Owner's representative, require special inspection or testing of the work; he shall act as interpreter of the requirements of the Contract Documents and judge of the performance thereunder by the parties thereto and shall make decisions on all claims of Owner and Contractor(s) relating to the execution and progress of the work and all other matters and questions related thereto; but the Engineer shall not be liable for the results of any such interpretations or decisions rendered by him in good faith.

(i) Based on his on site observations and on his review of Contractor(s)' applications for payment and the accompanying data and schedules, determine the amounts owed to Contractor(s) and approve in writing payments to Contractor(s) in such amounts. Such approvals of payment will constitute a representation to Owner, based on such observations and review, that the work has progressed to the point indicated and that, to the best of his knowledge, information and belief, the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his approval), but by approving an application for payment the Engineer will not be deemed to have represented that he has made any examination to determine how or for what purpose any Contractor has used the moneys paid on account of the Contract Price, or that title to any of the Contractor(s)' work, materials or equipment has passed to the Owner free and clear of any lien, claims, security interests or encumbrances, or that he has made a thorough and comprehensive examination to determine the extent to which the Contractor has performed in accordance with the Contract Documents.

(j) Conduct a review to determine if the Project is substantially complete and a final review to determine if the Project appears to have been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations

thereunder so that the Engineer may approve, in writing, final payment to each Contractor.

(k) The Engineer shall not be responsible for the acts or omissions of any Contractor, any subcontractor or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except his own employees and agents) at the Project site or otherwise performing any of the work of the Project.

(l) Prepare for the Owner, within sixty (60) days after completion of the construction, a set of record prints marked "Record Drawings" showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to Engineer and which Engineer considers significant.

(m) Provide assistance in the utilization of any equipment or system (such as initial start-up, testing, adjusting and balancing); and training personnel for operation and maintenance. Owner will be furnished copies of all shop drawings, equipment literature, wiring diagrams, etc., submitted to the Engineer for approval by the Vendor.

c. Additional Services of Engineer:

(1) General:

If authorized in writing by the Owner, the Engineer shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Service; these will be paid for by the Owner.

(a) Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

(b) Services to perform engineering surveys or topographic surveys for design, to make measured drawings of or to investigate existing conditions or facilities including geotechnical investigations, or to verify the accuracy of drawings or other information furnished by the Owner.

(c) Services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, Owner's schedule, or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond the Engineer's control.

(d) Providing renderings or models for the Owner's use.

(e) Preparing documents for alternate bids requested by Owner for work which is not executed or documents for out of sequence work.

(f) Investigations involving detailed consideration of operations, maintenance and overhead expenses; and the preparation of rate schedules, earnings and expense

statements, feasibility studies, appraisals and valuations; detailed quantity surveys of material, equipment and labor; and audits or inventories required in connection with construction performed by the Owner.

(g) Furnishing the services of special consultants for other than the normal civil, structural, mechanical and electrical engineering and normal architectural design incidental thereto, such as consultants for interior design, selection of furniture and furnishings, communications, acoustics, kitchens and landscaping.

(h) Services in connection with change orders to reflect changes requested by Owner if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered, and services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

(i) Services during out of town travel required of the Engineer other than visits to the Project site as required by paragraph 1.b.

(j) Additional or extended services during construction made necessary by (1) work damaged by fire or other cause during construction, (2) a significant amount of defective or neglected work of any Contractor, (3) prolongation of the contract time of any prime contract by more than sixty (60) days, (4) acceleration of the work schedule involving services beyond normal working hours, and (5) default by any Contractor.

(k) Construction staking for the project.

(l) Land surveys and office computations required to develop plats and metes and bounds descriptions for easement or property acquisition.

(m) Preparation of operating and maintenance manuals.

(n) Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any contract for the Project.

(o) Preparing to serve or serving as a consultant or witness for Owner in any litigation, public hearing or other legal or administrative proceeding involving the Project.

(p) Additional services in connection with the Project, including services normally furnished by the Owner and services not otherwise provided for in this Agreement.

(q) If requested by the Owner or recommended by the Engineer and agreed to in writing by the Owner, a Resident Project Representative and assistants will be furnished and will act as directed by the Engineer in order to provide more extensive representation at the Project site during the Construction Phase. Such services will be paid for by Owner as

indicated in paragraph 3.c.

(r) Through more extensive on site observations of the work in progress and field checks of materials and equipment by the Resident Project Representative (if furnished) and assistants, the Engineer shall endeavor to provide further protection for Owner against defects and deficiencies in the work, but the furnishing of such resident Project representation will not make the Engineer responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for Contractor(s)' failure to perform the construction work in accordance with the Contract Documents.

d. Reimbursable Services of the Engineer: Reimbursable services shall include the following items when authorized in writing by the Owner: transportation and subsistence of principals and employees on special trips to the Project or to other locations; long distance telephone and telegraph calls as required to expedite the work of the Contractor; reproduction of drawings and specifications in addition to those specified in paragraphs 1.b.(1)(e) of this Agreement.

2. THE OWNER AGREES to provide the Engineer with complete information concerning the requirements of the Project and to perform the following services:

a. Access to the Work: The Owner shall guarantee access to and make all provisions for the Engineer to enter upon public and private lands as required for the Engineer to perform such work as surveys and inspections in the development of the Project.

b. Consideration of the Engineer's Work: The Owner shall give thorough considerations to all reports, sketches, estimates, drawings, specifications, proposals, and other documents presented by the Engineer, and shall inform the Engineer of all decisions within a reasonable time so as not to delay the work of the Engineer.

c. Legal Requirements: The Owner shall hold promptly all required special meetings, serve all required public and private notices, receive and act upon all protests and fulfill all requirements necessary in the development of the Project, and pay all costs incidental thereto.

d. Proposals: The Owner shall advertise for Proposals from Bidders, open the Proposals at the appointed time and place and pay all costs incidental thereto.

e. Protection of Markers: The Owner shall protect to the best of his ability, all stakes and other markers set by the Engineer prior to the assumption of such responsibility by the Contractor. Replacement of markers or stakes which have been damaged, moved or removed shall be paid for by the Owner as extra services of the Engineer.

f. Standards: The Owner shall furnish the Engineer with a copy of any design and construction standards he shall require the Engineer to follow in the preparation of Contract Documents for the Project.

g. Owner's Representative: The Owner shall designate in writing, by appendix to this Agreement, a single person to act as the Owner's Representative with respect to the work to be per-

formed under this Agreement. The person designated as Owner's Representative shall have complete authority to transmit instructions, receive information, interpret and define Owner's policy and decisions, with respect to the materials, equipment, elements and systems pertinent to the work covered by this Agreement.

3. THE OWNER'S PAYMENTS TO THE ENGINEER:

a. General:

(1) Definitions of Construction Cost of the Project, as herein referred to, means the total cost of all work designed or specified by the Engineer but does not include any payments to the Engineer or other consultants.

(2) Payments Withheld from Contractors: No deduction shall be made from the Engineer's compensation on account of penalty, liquidated damages, or other amounts withheld from payments to Contractors.

(3) Abandoned or Suspended Work: If any work performed by the Engineer is abandoned or suspended in whole or in part, the Engineer shall be paid for services performed on account of it prior to receipt of written notice from the Owner of such abandonment or suspension, together with any terminal expense resulting therefrom, and including a profit commensurate to the profit margin provided for in Additional Services.

(4) Progress Payments: Once each month, the Owner shall pay the Engineer for professional services performed under paragraphs 1.b., 1.c. and 1.d. of this Agreement in proportion to services performed during the period.

b. Payments for Basic Services of the Engineer: The Owner shall pay the Engineer for the basic services described in Paragraph 1.b. of this Agreement, a fee equal to a percentage of the construction cost of each separate construction contract, with said percentages determined from Curve "A" of Attachment "C". Progress payments shall be made as provided herein:

(1) During Design: Payments to develop final plans and specifications (Design Phase) shall total 75% of the Curve "A" fee percentage for the project's construction value based on the Engineer's Opinion of Probable Costs.

(2) Upon receipt of bids for the project: The payment for final plans and specifications (Design Phase) shall be reconciled to 75% of the Curve "A" fee percentage for the bid value of work designed, including all alternate bids.

(3) During Construction: The payment for Construction Phase services shall be a total of 25% of the Curve "A" fee percentage for the value of work actually awarded and constructed as part of the project, including any change orders.

c. Payments for Additional Services of the Engineer: The Engineer shall be

reimbursed according to Attachment "A" Schedule of Charges for the additional services outlined under paragraph 1.c. The additional services anticipated on this project along with the estimated costs are presented in Attachment "B" Schedule of Additional and Reimbursable Services.

d. Payment for Reimbursable Services of the Engineer: The Engineer shall be reimbursed at cost plus fifteen percent (15%) for the reimbursable services outlined under paragraph 1.d. At the Owner's option, he may elect to pay directly those persons, companies, corporations, etc., providing reimbursable services, thus avoiding the fifteen percent (15%) surcharge the Engineer would be entitled to if the Engineer is responsible for making payment to subcontractors.

4. THE OWNER AND ENGINEER FURTHER AGREE to the following conditions:

a. Termination: This Agreement may be terminated by either party by seven (7) days written notice in the event of substantial failure to perform in accordance with the terms hereof by the one party through no fault of the party. Further, either party may terminate this Agreement at any time, without cause, by providing thirty (30) days written notice of termination to the other party. If terminated due to the fault of others than the Engineer, the Engineer shall be paid for services performed to the date of termination, including reimbursements then due, plus terminal expense.

b. Disputes: Should a dispute arise during the course of this project, both parties hereby agree to attempt in good faith to resolve the dispute through mediation prior to seeking relief from any court or through any other legal proceeding.

c. Ownership of Documents: The completed tracings and master specifications sheets shall remain the property of the Engineer, and reproduction of them in whole or in part shall not be used on additions to the Project or on any other project except upon written Agreement with the Engineer.

5. SUCCESSORS AND ASSIGNS: This Agreement and all of the covenants hereof shall inure to the benefit of and be binding upon the Owner and the Engineer respectively and his partners, successors, assigns and legal representatives. Neither the Owner nor the Engineer shall have the right to assign, transfer or sublet his interest or obligations hereunder without written consent of the other party.

6. SPECIAL PROVISIONS: The Owner and the Engineer mutually agree that this Agreement shall be subject to the following Special Provisions which shall supersede other provisions of this Agreement.

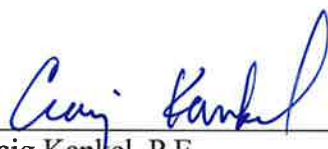
None

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement on the day and year first above written:

OWNER:
CITY OF BRENHAM

ENGINEER:
O'MALLEY ENGINEERS, L.L.P.

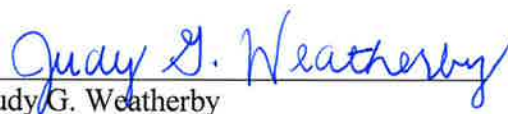
Milton Y. Tate
Mayor


Craig Kankel, P.E.
President

ATTEST:

ATTEST:

Jeana Bellinger
City Secretary


Judy G. Weatherby
Secretary

(SEAL)

ATTACHMENT A

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates below which include employment taxes, fringe benefits, overhead, transportation, supplies, materials, taxes and profit.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Project Manager	\$140.00
Senior Engineer.....	125.00
Engineer	95.00
Engineering Graduate	80.00
Engineering Technician	70.00
Project Representative	60.00
CADD Operator	55.00
Secretary.....	55.00

Compensation for surveying services shall be on an hourly basis at the rates set forth below which include employment taxes, fringe benefits, overhead, transportation, supplies, materials, taxes and profit.

<u>CLASSIFICATION</u>	<u>HOURLY RATE</u>
Registered Professional Land Surveyor	\$115.00
Surveying Technician.....	65.00
CADD Operator	55.00
Secretary.....	55.00
4-Man Field Party	160.00
3-Man Field Party	135.00
2-Man Field Party	95.00
Global Positioning System (GPS) Equipment	80.00

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

ATTACHMENT B

SCHEDULE OF ADDITIONAL AND REIMBURSABLE SERVICES

ADDITIONAL SERVICES

TASK

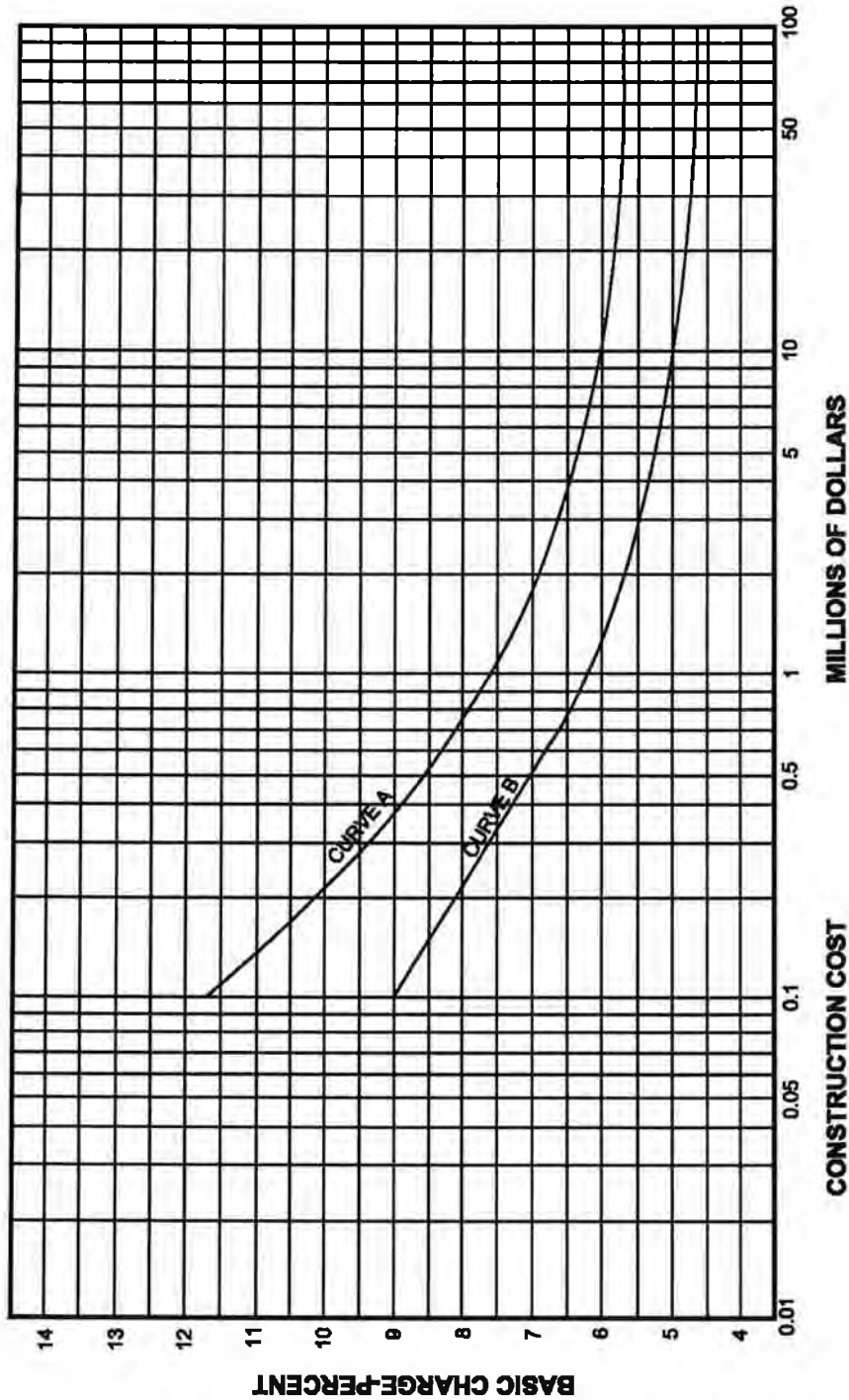
ESTIMATED COST

- | | | |
|----|--|------------|
| 1. | Field surveys for preparation of background drawings required for design | \$6,500.00 |
| 2. | TxDOT traffic control plan..... | \$2,000.00 |

REIMBURSABLE SERVICES

If other Additional or Reimbursable Services are required to complete this project, the estimated costs for these tasks will be presented to the Owner for approval once their need and magnitude are determined.

ATTACHMENT "C" **Curves of Median Compensation** **CURVES A AND B**



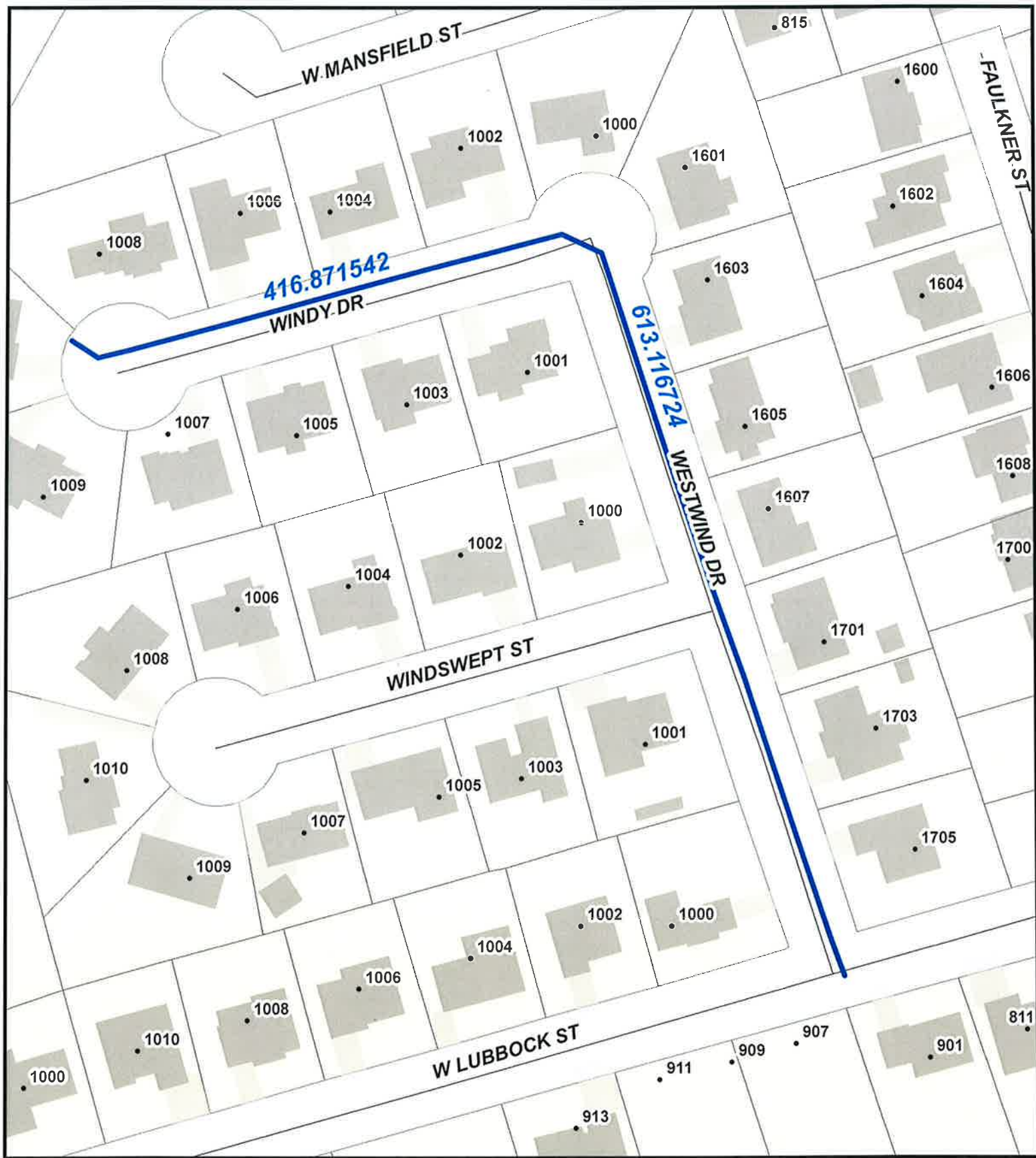


1 inch = 200 feet



LENGTH

- Reimer St 680.717 ft
- Longhofer St 940.400 ft
- Borman St 1237.487 ft

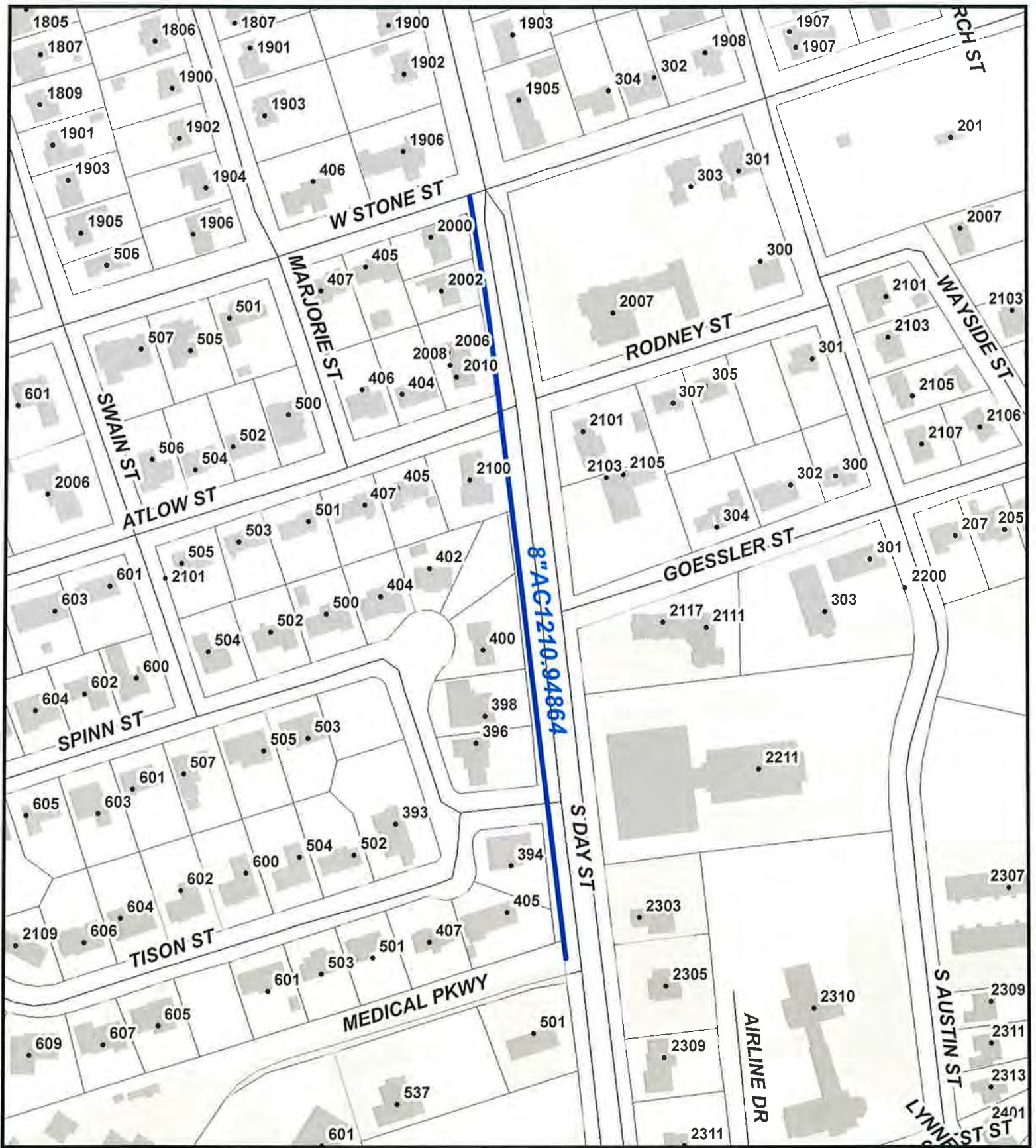


1 inch = 100 feet



LENGTH

- Windy Dr. 416.871 ft
- Westwind Dr. 613.116 ft



1 inch = 200 feet



LENGTH

— S Day St 1210.948 ft

City Parcels



AGENDA ITEM 9

DATE OF MEETING: 12/15/2011	DATE SUBMITTED: 12/12/2011
DEPT. OF ORIGIN: Public Utilities	SUBMITTED BY: Kyle Dannhaus
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the Rate Tariff Schedule, Section 1005, Related to Residential Customer Deposits for All City Owned Utilities and Authorize the Mayor to Execute Any Necessary Documentation.	
SUMMARY STATEMENT: During a recent meeting of the City of Brenham Audit Committee, the subject of customer deposits came up. The committee has asked the staff to research the possibility of refunding residential deposits and develop a policy. Staff has researched the issue and determined that a large number of cities who own their electric distribution systems refund deposits based on some criteria. After reviewing those policies, staff would recommend that if a residential customer has no more than two late payments, no disconnects for non-payment or returned checks during their most recent twelve (12) month billing period, their deposit would be credited to their utility bill. If the customer is disconnected for non-payment any time after their deposit is refunded, they will be required to put up a new deposit determined by the policy in effect at that time. It will take several months to credit the deposits to utility accounts if approved by council because each account will have to be reviewed to see if it meets the criteria. These changes will not apply or effect commercial accounts.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Return deposits to customers. B. CONS: Lose a small amount of revenue (interest on deposits).	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: (1) Ordinance amending the Rate Tariff Schedule, Section 1005; and (2) Redlined copy of Rate Tariff Schedule, Section 1005, showing recommended changes.	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION Approve an Ordinance on its first reading amending the rate tariff schedule,	

Section 1005, related to residential customer deposits for all city owned utilities and authorize the Mayor to execute any necessary documentation.
APPROVALS: Terry Roberts

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE RATE TARIFF SCHEDULE, SECTION 1005, FOR THE CITY OF BRENHAM, TEXAS; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City Council of the City of Brenham, Texas deems it necessary to amend the Rate Tariff Schedule, Section 1005.

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

SECTION I.

The City Council of the City of Brenham, Texas, does hereby adopt the Rules and Regulations Rate Tariff Schedule, Section 1005 related to residential customer deposits as set forth in the attached Exhibit "A", which is made a part hereof for all purposes pertinent, to be effective January 1, 2012.

SECTION II.

This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas. The implementation of rates as set forth herein and on the attached Exhibit "A" shall be effective January 1, 2012.

PASSED AND APPROVED on its first reading this the ____ day of _____,
20__.

PASSED AND APPROVED on its second reading this the ____ day of _____,
20__.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, City Secretary

ALL SERVICES	1000	1014
TARIFF	SECTION NO.	SHEET NO.
RULES AND REGULATIONS	NOVEMBER 8, 2006	
SECTION TITLE	JANUARY 1, 2012	
	EFFECTIVE DATE	
	(Supersedes Rate Charge effective 11/08/2006)	

1005 DEPOSITS

All users of City-owned utilities shall be required to make a deposit prior to obtaining utility service as follows:

Residential Customers

Residential customers who are owner-occupants with any City owned utility service shall pay a cash deposit of \$150. All other residential customers, e.g. renter, shall pay cash deposit of \$250. Temporary service for a period not to exceed 14 days may be obtained without a deposit. A \$300 deposit will be required if service extends past 14 days.

If a residential customer has service at the effective date of this policy, said customer shall not be required to increase his deposit unless service is disconnected. The customer will be responsible for a fee of \$15 as a transfer fee. No interest will be paid on deposits. ~~Upon disconnection of service, the deposits will be applied to the final bill and the excess, if any, shall be refunded to the customer.-(DELETE)~~

Residential Customers:

- | | |
|--|----------|
| a. Owner, Permanent Structure | \$150.00 |
| b. Non-Owner, Permanent Structure | 250.00 |
| c. Non-Owner, Permanent Structure without Electric or Gas Service | 145.00 |
| d. Temporary Service is granted to a customer for 14 days without a deposit. A \$300 deposit will be required if service extends past 14 days. | |
| e. Contractor's deposit for each new construction | 100.00 |

REFUNDS (NEW)

Any required deposit may be refunded to Customer by crediting the customer's bill if all of the following conditions are met:

- The deposit has been held by the City for at least twelve (12) months; and
- Customer has not had any collection activity occurrence (including not honored and returned checks, disconnect notices or more than 2 late penalties) in the prior 12 months; and
- There is no "Past Due" bill currently owed for the applicable service accounts.
- Notwithstanding the foregoing provisions, upon disconnection of service, deposits will be applied to the final bill and the excess, if any, shall be refunded to the Customer.

Commercial and Industrial Customers:

Commercial customers shall pay a deposit equal to twice the highest cost of service for two months as calculated by the Utility Billing Department, or \$300, whichever is greater. Commercial customers shall provide to the City as a deposit:

ALL SERVICES	1000	1015
TARIFF	SECTION NO.	SHEET NO.
RULES AND REGULATIONS	OCTOBER 22, 2001	
SECTION TITLE	JANUARY 1, 2012	
	EFFECTIVE DATE	
	(Supersedes Rate Charge effective 10/22/2001)	

- a. Cash;
- b. for deposits under \$1,000, a certificate of deposit in the name of the customer which is automatically renewable with a valid assignment of the certificate on the file with bank, or;
- c. for deposits of \$1,000 and over, the money shall be deposited with the City of Brenham with interest being paid to the customer once yearly based on the rate of interest determined by the City.

In lieu of a cash deposit, the customer may elect to provide any of the following as security for utility service:

- a. irrevocable letter of credit from a financial institution acceptable to the City with a term over five years, or;
- b. irrevocable bond by an insurance company acceptable to the City with a term over five years, or;
- c. real estate utility lien.

The City will release its lien on the funds in writing to the bank upon payment in full of the account and all other sums due the City.

~~The City does not provide for the refund of any deposit prior to the disconnection of service and payment of the final bill. Customers who are past due over 25 days will have the amount of their deposit revised to the current deposit rate. (DELETE)~~

A. Amount Required to Re-Establish Credit

The amount of deposit required to re-establish credit for a former customer whose service has been discontinued for failure to pay his bills as provided in Section 1006 will be in accordance with Section 1005. All balances due the City of Brenham must be paid.

~~B. Return of Deposit~~

~~When the service is ordered discontinued by the customer, the deposit will be refunded after disconnection and determination of amount due the City. If there are charges due the City, the deposit will be applied to payment of said charges and any remaining portion will be returned. (DELETE)~~

1006 DISCONTINUANCE OF SERVICE

A. Customer's request

A customer may request service to be discontinued at any time unless there is a provision to the contrary in the service contract or applicable rate schedule. The customer is responsible for any use of service until the City has had a reasonable time to secure a final reading or to remove the meter. Services will be disconnected only at the written request of the customer.

B. Non-Payment of Bills or Non-Compliance with Service Contract

The City for failure of the customer to pay bills in accordance with the provisions of Section 1009 or for failure to comply with the terms of his service contract or these rules and regulations may discontinue Service. The account will be finalized 7 days after disconnection and all deposits will be applied. A new deposit will be required in accordance with Section 1005.



AGENDA ITEM 10

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 12, 2011															
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☒ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham																
SUMMARY STATEMENT: While working on various regulations related to the Dr. Bobbie M. Dietrich Memorial Amphitheater, staff discovered that the noise ordinance would need to be amended to allow for an exemption for events being held at the amphitheater so that a noise variance would not have to be granted by Council for every event. Upon reviewing the current ordinance, I realized it had not been updated since 2003 so I took the opportunity to clean up some of the other language used in the ordinance.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):																
A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Section 17-8 from the current Code of Ordinances regulating noise nuisances; and (2) a draft ordinance of a revised Section 17-8, Noise nuisances.																
FUNDING SOURCE (Where Applicable): N/A																
RECOMMENDED ACTION: Approve an Ordinance on its first reading amending Section 17-8, Noise Nuisances, of the Code of Ordinances of the City of Brenham																
APPROVALS: Terry K. Roberts																

Chapter 17

OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 17-8. Noise nuisances.

(a) *Definitions.* As used in this section, the following terms shall have the respective meanings ascribed in them:

Plainly audible in this section means any sound produced by artificial means, which clearly can be heard at a distance of fifty (50) feet or more when measured by the auditory senses, based on the direct line of sight. Determination of whether a sound is plainly audible shall be made without regard to the discernibility of words or phrases. Bass reverberations may be considered plainly audible.

Sound amplifying device in this section means any radio, tape player, compact disk player, loudspeaker, or other electronic device used for the amplification of sound.

(b) *Declaration of nuisance, prohibitions.* Any noise of a non-natural or artificial source, of such intensity that is plainly audible from a distance of fifty (50) feet or more from the source is declared a nuisance and is hereafter prohibited.

(c) *Enumerated acts.* The following acts, among others, are declared to be nuisances in violation of this section, but said enumerations shall not be deemed to be exclusive, to wit:

- (1) The playing of any radio, phonograph or other musical instrument in such a manner or with such volume as to be plainly audible at a distance of fifty (50) feet or more from the source.
- (2) The operation of a sound amplifying device in a public park or public playground so that the sound is plainly audible at a distance of fifty (50) feet or more from the sound amplifying device.
- (3) The keeping of any animal or bird which is causing frequent or long-continued noise that disturbs the comfort and repose of any person of ordinary sensibilities within fifty (50) feet of the property line on which the animal or bird resides.
- (4) This section shall not apply to any person acting on behalf of a government authority or acting pursuant to a valid permit issued by the city.

(d) *Test for standards and noises.* Factors to consider: The standards which shall be considered in determining whether a violation of this section exists shall include but shall not be limited to the following:

- (1) The volume of the noise.
- (2) The intensity of the noise.
- (3) Whether the nature of the noise is usual or unusual.
- (4) Whether the origin of the noise is natural or unnatural.
- (5) The volume and intensity of the background noise, if any.
- (6) The proximity of the noise to residential sleeping facilities.
- (7) The nature of the area within which the noise emanates.
- (8) The density of inhabitation of the area within which the noise emanates.
- (9) The time of the day or night the noise occurs.
- (10) The duration of the noise.
- (11) Whether the noise is recurrent, intermittent or constant.
- (12) Whether the noise is produced by a commercial or noncommercial activity.

(e) *Violations; penalties.* Any person, firm, or corporation violating subsection (a) or (b) hereof, shall be a violation of a class C misdemeanor and upon conviction shall be fined in an amount not less than one dollar (\$1.00) and not more than five hundred dollars (\$500.00), plus costs.

(Ord. of 8-21-03, §§ I--III)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 17 OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR THE REGULATION OF NOISE NUISANCES WITHIN THE CITY LIMITS OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS.

WHEREAS, the City Council for the City of Brenham has determined that a need exists to revise the City's noise and sound regulations; and

WHEREAS, the use of amplified sound devices in public places creates a public nuisance, interfering with the quiet enjoyment of parks, public rights-of-way and facilities, and public spaces; and

WHEREAS, the City Council desires to protect the City's citizens from loud and excessive sounds and noises that disturb the peace and quiet of their neighborhoods; and

WHEREAS, the City Council hereby finds that sound and noise levels should be established by ordinance in order to preserve the peace and quiet of the City's residential and commercial communities and neighborhoods;

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

SECTION 1.

Section 17-8, Noise nuisances, of the Code of Ordinances of the City of Brenham, Texas is hereby amended to read as follows:

Sec. 17-8. Noise nuisances.

Subsec. 17-8.1. Purpose.

These regulations are enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of the City of Brenham through the reduction, control, and prevention of loud noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity.

Subsec. 17-8.2. Findings.

- (a) Loud noise degrades the environment of the City of Brenham to a degree that it:
 - (1) May be harmful to the health, welfare, and safety of its inhabitants and visitors;
 - (2) May interfere with the comfortable enjoyment of life and property;
 - (3) May interfere with the well-being, tranquility, and privacy of the home; and
 - (4) May cause and aggravate health problems.
- (b) Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the City of Brenham's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work, and communication.
- (c) The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace, and freedom of inhabitants of, and visitors to, the City of Brenham.
- (d) Certain short-term easing of noise restrictions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the City of Brenham.

Subsec. 17-8.3. Definitions.

"Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

"Emergency Work" means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

"City Manager" means the City Manager of the City of Brenham or the City Manager's designee.

"Noise Sensitive Area" includes, but is not limited to, a posted area where a school, hospital, nursing home, church, court, public library, or similar facility is located.

"Person" means any individual, firm, association, partnership, joint venture, corporation or other legal entity.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

"Public space" means any real property or structures on real property, owned or controlled by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

“*Residential area*” means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms of the City of Brenham’s zoning regulations and associated zoning map.

“*Sunset*” means the time in the evening at which the sun begins to fall below the horizon as determined by the U.S. Naval Observatory for the geographic location of San Antonio, Texas.

Subsec. 17-8.4. General Prohibition.

- (a) No person shall make, continue, or cause to be made or continued:
 - (1) Any unreasonably loud noise; or
 - (2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the City of Brenham; or
 - (3) Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- (b) Factors for determining whether a sound is unreasonably loud include, but are not limited to, the following:
 - (1) The proximity of the sound to sleeping facilities, whether residential or commercial;
 - (2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (3) The time of day or night the sound occurs;
 - (4) The duration of the sound; and
 - (5) Whether the sound is recurrent, intermittent, or constant.

Subsec. 17-8.5. Noises Prohibited.

The following acts are declared to be violations of this Section. This enumeration does not constitute an exclusive list:

- (a) **Unreasonable Noises:** The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous or unusual noise, disturbance, commotion or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park, or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice for such businesses are exempted from this provision.

(b) Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City of Brenham, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

(c) Non-Emergency Signaling Devices: Sounding or permitting sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten (10) consecutive seconds in any hourly period. The reasonable sounding of such devices by houses of religious worship or by the City of Brenham for traffic control purposes are exempt from the operation of this provision.

(d) Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in Subsections (1) and (2), below.

(1) Testing of an emergency signaling device shall occur between 7:00 a.m. and 7:00 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

(2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within ten (10) minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this Ordinance.

(e) Radios, Televisions, Boom boxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of fifty feet (50') from any person in a commercial, industrial area, public space or public right-of-way. The use or operation of a radio, television, boom box, stereo, musical instrument, or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

(f) Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices: The unreasonably loud use or operation of a loudspeaker, amplifier, public address system, or other device for producing or reproducing sound between the hours of 10:00 p.m. and

7:00 a.m. on weekdays, Sunday through Thursday, and 10:00 p.m. and 10:00 a.m. on weekends, Friday through Saturday, and holidays in the following areas:

- (1) Within or adjacent to residential or noise-sensitive areas;
- (2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud.

This shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City of Brenham. This shall also not apply to any authorized gathering taking place in or on the grounds of the City of Brenham Bobby M. Dietrich Memorial Amphitheater until 11:00 p.m.

(g) **Yelling, Shouting, and Similar Activities:** Yelling, shouting, hooting, whistling, or singing in residential or noise sensitive areas or in public places, between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities.

(h) **Animals and Birds:** Unreasonably loud noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls or otherwise cares for the animal or bird. Sounds made by animals or birds in animal shelters, kennels, veterinary hospitals, pet shops or pet kennels (licensed under and in compliance with any required local, state or federal licensing and permitting regulations) are exempt from this subsection.

(i) **Loading or Unloading Merchandise, Materials, Equipment:** The creation of unreasonably loud, raucous, and excessive noise in connection with the loading or unloading of any vehicle at a place of business or residence.

(j) **Construction or Repair of Buildings, Excavation of Streets and Highways:** The construction, demolition, alteration or repair of any building or the excavation of streets and highways other than between the hours of 7:00 a.m. and sunset plus thirty (30) minutes. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the City Manager may issue a permit, upon application, if the City Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of sunset plus thirty (30) minutes and 7:00 a.m. will not be impaired, and if the Building Inspector/City of Brenham Administrator further determines that loss or inconvenience would result to a party in interest. The permit shall grant permission in non-emergency cases for a period of not more than three (3) days. The permit may be renewed once for a period of three (3) days or less.

(k) **Noise Sensitive Areas - Schools, Courts, Churches, Hospitals, and Similar Facilities:** The creation of any unreasonably loud noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the facility or which disturbs the persons in these facilities; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

(l) Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of sunset plus thirty (30) minutes and 7:00 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and can be heard across the property line of the property from which it emanates.

(m) Commercial Establishments Adjacent to Residential Property: Unreasonably loud noise from the premises of any commercial establishment, including any outdoor area which is part of or under the control of the establishment, between the hours of 10:00 p.m. and 7:00 a.m. which is plainly audible at a distance of fifty feet (50') from any commercial property.

Subsec. 17-8.6. Exemptions.

Sounds caused by the following are exempt from the prohibitions set out in Subsection 17-8.5 and are in addition to the exemptions specifically set forth in Subsection 17-8.5:

(a) Motor vehicles on traffic ways of the City of Brenham provided that the prohibition of Subsection 17-8.5(b) continues to apply.

(b) Repairs of utility structures which pose a clear and immediate danger to life, health, or significant loss of property.

(c) Sirens, whistles, or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in Section Five (d) continues to apply.

(d) The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work or as a safety device in the backing of any vehicle or equipment.

(e) Repairs or excavations of bridges, streets or highways by or on behalf of the City of Brenham, the State, or the federal government, between the hours of sunset plus thirty (30) minutes and 7:00 a.m., when public welfare and convenience renders it impractical to perform the work between 7:00 a.m. and sunset plus thirty (30) minutes.

(f) Outdoor School and Playground Activities. Reasonable activities conducted on public or private playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events.

(g) Other Outdoor Events. Outdoor gatherings, public dances, shows and sporting events, and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority.

Subsec. 17-8.7. Enforcement.

(a) The following individuals shall enforce this Section: The City of Brenham Police Department and its officers will have primary responsibility for the enforcement of the noise regulations contained herein. Nothing in this Section shall prevent the City of Brenham Police Department and its officers from obtaining voluntary compliance by way of warning, notice or education.

(b) If a person's conduct would otherwise violate this Section and consists of speech or communication; of a gathering with others to hear or observe speech or communication; or of a gathering with others to picket or otherwise express in a non-violent manner a position on social, economic, political or religious questions; the person must be ordered to, and have the opportunity to, move, disperse, or otherwise remedy the violation prior to arrest or a citation being issued.

Subsec. 17-8.8. Penalties.

(a) A person who violates a provision of this Section is guilty of a misdemeanor which is punishable by a fine as provided for in Section 1-5 of the City of Brenham Code of Ordinances.

(b) Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

SECTION 2. **REPEALER AND SAVINGS CLAUSE**

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

SECTION 3. **SEVERABILITY**

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

SECTION 4. **EFFECTIVE DATE**

This Ordinance shall become effective upon adoption and publication as required by law.

SECTION 5.
PROPER NOTICE AND MEETINGS

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

PASSED AND APPROVED, on its first reading at the meeting of the City Council held on this the 15th day of December, 2011.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the _____ day of _____, 2011.

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, City Secretary



AGENDA ITEM 11

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 12, 2011	
DEPT. OF ORIGIN: Police Department	SUBMITTED BY: Rex Phelps	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Renewal of the Police Protection Agreement between the City of Brenham and the Brenham Housing Authority and Authorize the Mayor to Execute any Necessary Documentation.		
SUMMARY STATEMENT: The BHA and the City of Brenham have an ongoing agreement regarding police services. Brenham Police Department provides a fulltime police officer for the routine utilization of policing in and around the public housing areas. This proactive approach reduces crime and helps keep the patrol and investigative divisions balanced as it relates to police response to the entire Brenham community. In return, the BHA reimburses the city the costs related to personnel.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Keeps crime rate from rising. The agreement also helps to promote public housing opportunities to those law abiding citizens in need and deters criminal activity. This of course has a direct impact on the entire city as it relates to the quality of life. B. CONS: None identified		
ALTERNATIVES (In Suggested Order of Staff Preference): None recommended at this time.		
ATTACHMENTS: (1) Brenham Housing Authority Police Protection Agreement		
FUNDING SOURCE (Where Applicable): BHA		
RECOMMENDED ACTION: Approve the renewal of the police protection agreement between the City of Brenham and the Brenham Housing Authority and authorize the mayor to execute any necessary documentation.		
APPROVALS: Terry Roberts		

BRENHAM HOUSING AUTHORITY POLICE PROTECTION AGREEMENT

WHEREAS The Brenham Housing Authority desires additional police services beyond those provided to the general community and

WHEREAS there is a real need for the city to address the crime problem in and around the vicinity of the public housing in Brenham. Statistics show that at least 16% of Brenham's reported crime was committed in and around the vicinity of the Housing Authority property when this agreement first went into effect and has now dropped to 4%. Some residents of public housing are still afraid to leave their homes after dark while others are engaging in criminal and illegal drug activities. These activities directly affect the ongoing criminal and illegal drug activity in Brenham. These concerns can be met through cooperation between the City of Brenham Police Department and the Housing Authority of the City of Brenham and

WHEREAS the Brenham Police Department desires to provide such services,

Then Brenham Housing Authority (herein referred to as "BHA") and Brenham Police Department (hereby referred to as "BPD") hereby enter into this agreement as follows:

GENERAL CONDITIONS Enforcement of Rules and Regulations

The City, through its Liaison Officer, shall enforce the following laws limited to violations of the Texas Penal Code:

1. Unauthorized persons in unoccupied/unleased structures of BHA shall be dealt with as defined by BPD and Municipal Court policies., i.e., Criminal Trespass.
2. Persons creating disturbances or otherwise interfering with the peaceful enjoyment of lessees, guests, invitees, or staff on BHA property shall be removed, i.e., Criminal Disorderly Conduct.
3. Visitors, residents or guests destroying, defacing or removing BHA property shall be removed and/or criminal enforcement actions shall be taken, i.e., Criminal Mischief.

With regard to the foregoing laws, the City's police officers may issue Criminal Trespass Warnings to any persons found in violations of said laws, i.e., to give notice to any violators that their entry on the property or premises is forbidden, and to arrest or cause the arrest and prosecution of violators, when deemed appropriate by the officer.

SPECIFIC SERVICES PROVIDED BY BRENHAM POLICE DEPARTMENT

The City agrees that in addition to providing normal police protection services that the City will provide additional services as follows:

- A Detective will be assigned to perform background checks and applicant review to screen criminal history.
- Investigate any suspected drug activity and remove any identified offenders.
- Provide weekly incident reports of any police activity. Such report will be due weekly.
- As requested and approved by the BPD, attend BHA Resident Council meetings to communicate with residents on items affecting their security and to promote programs of mutual benefit.
- Plan, schedule and coordinate security workshops and training seminars for employees and residents as requested and approved by the BPD.
- Establish neighborhood crime watch with meetings held as requested and approved by BPD.
- Provide close night patrol from 9:00pm until 1:00am on Thursday, Friday, Saturday and Sunday as allowable with available resources, to be performed by BPD or the Citizens on Patrol (COP) under BPD supervision and/or other hours as needed, at the request of the Executive Director, with the approval of the Chief of Police.

SPECIFIC RESPONSIBILITIES OF BRENHAM HOUSING AUTHORITY

BHA will provide the following in-kind accommodations, services and equipment:

- Orientations – BHA will provide orientations and will familiarize the Liaison Officer with the public housing developments. BHA will also provide orientation of the lease contract and lease enforcement policies and procedures. Information will be provided on changes in Federal regulations and BHA policies through written information and/or training within two weeks of any pertinent changes, but at least once per quarter.
- BHA shall provide a quarterly assessment of the results achieved, as measured against the performance objectives specified within this Contract. BHA's Executive Director and the Police Liaison Officer will review the assessment and coordinate any action necessary to correct any deficiencies.
- Provide a list of all residents residing in Brenham Housing Authority Property at the request of BPD.

- Provide application and other information on those applying for BHA housing to the BPD within one week of receipt of application.
- Provide the front sheet of incident reports from tenants pertaining to potential criminal activities within 48 hours of receipt.

Plan of Operations

The City and BHA shall perform this Contract in accordance with all Federal, State and Local Laws.

If during the term of the Contract either party desires to amend the scope of Contract, either party may request such an amendment via written notification. Any and all amendments shall require the mutual written consent of the Board of Commissioners of BHA and the City Council of Brenham.

Term of Contract

The term of this Contract shall be for one (1) year beginning on the date approved by both parties. The sole and exclusive remedy for violation of this contract by either party shall be the cancellation of future performance by either party upon 30 days prior notice with an opportunity to cure. This contract will renew each year unless either party exercises cancellation.

Compensation

All compensation for use of the Assigned Officers for services specified in this Contract shall not exceed \$40,000.00 annually. Hours worked are billed at \$20.00 per hour.

The Brenham Housing Authority will pay the City of Brenham \$1,000.00 quarterly for costs associated with the Brenham Police Department Liaison Officer's assigned vehicle to include wear and tear, maintenance, fuel, etc. Total proceeds paid to the City of Brenham under this paragraph shall not exceed \$4,000.00 annually.

Compensation of any additional police services performed at the request of the Executive Director and approved by the Brenham Police Department shall be at a rate of \$25.00 per hour per Assigned Officer, for hours actually worked. Any and all amounts due for additional police services performed for the BHA pursuant to this paragraph shall be paid by the BHA directly to each police officer providing additional police services to the BHA.

Total proceeds paid to the City of Brenham for Police Protection from the Brenham Housing Authority Capital Funds Grants shall not exceed \$44,000.00 annually for this contract and any additional police services that may be needed at the request of the Executive Director and

approved by the City of Brenham Police Department shall be paid for by the BHA directly to each police officer providing additional police services to the BHA.

Assessment

To maintain a close working relationship between BHA and BPD, it is necessary to resolve any issues that might arise. Therefore, weekly meetings between the Brenham Police Liaison Officer and Brenham Housing Authority will take place to evaluate the progress, to resolve issues, and to strengthen the cooperative atmosphere for a better community.

Termination

BHA may terminate this contract at any time and for any reason by providing thirty (30) days written notice to the City. Such notice shall be delivered by Certified Mail, Return Receipt Requested to 1901 Northview Circle Drive, Brenham, Texas 77833.

The City may terminate this Contract at any time and for any reason by providing thirty (30) days written notice to BHA. Such notice shall be delivered by Certified Mail, Return Receipt Requested to P.O. Box 1059, Brenham, Texas 77833.

Entered into and agreed upon this _____ day of _____, 2011.

Housing Authority of the City of Brenham

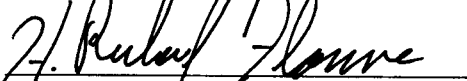
Police Department of the City of Brenham

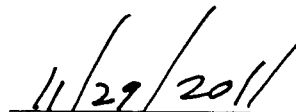

Bill Decker, Executive Director


Rex Phelps, Chief of Police

ATTEST:

HOUSING AUTHORITY OF THE
CITY OF BRENHAM


H. Richard Flammer
Board Chairman


Date

CITY OF BRENHAM

Milton Tate
Mayor

Date



AGENDA ITEM 12

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 9, 2011															
DEPT. OF ORIGIN: HR/Risk Management	SUBMITTED BY: Janie Mehrens															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
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☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Annual Election to be Exempt from Certain Requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and Authorize the Mayor to Execute Any Necessary Documentation																
SUMMARY STATEMENT: The provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) went into effect for the City of Brenham group medical plan effective October 1, 1997. This plan imposes a number of regulations on group health plans; however, it also allows non-Federal government plans such as the City of Brenham's plan to be exempt from any or all of this legislation. Because of the administrative complexity, the severe penalties for non-compliance and the unknown financial impact of the legislation, the City of Brenham has elected to be exempt from all provisions of HIPAA for the current contract year and re-evaluate the provisions prior to October 1 each year. This exemption must be elected each year for the effective contract year. The exemptions are outlined in the letter attached and in the Notice to Participants. Since nothing has changed from last year which would reduce the complexities of HIPAA, I recommend that the City of Brenham elect to be exempt for the extended plan year January 1, 2012 through December 31, 2012.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) HIPAA Exemption Election Document; (2) Notice to Participants																
FUNDING SOURCE (Where Applicable):																

RECOMMENDED ACTION: Approve exemption of City of Brenham Group Health Plan from provisions of HIPAA for the plan year January 1, 2012 through December 31, 2012 as shown in the attached election letter and Notice to Participants and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts



Certified Mail #: _____
Return Receipt Requested

December 15, 2011

Centers for Medicare & Medicaid Services
Medicare Enrollment and Appeals Group, CPC
ATTN: HIPAA Opt-Out
200 Independence Avenue, SW
Room 737F
Washington, DC 20201

RE: **City of Brenham Group Health Benefits Plan HIPAA Exemption Election - Plan Year: 2012**

Dear Director:

The City of Brenham is a self-funded non-Federal governmental health benefits plan that operates pursuant to the Texas Local Government Code. The City of Brenham's health coverage is not provided through insurance. The city of Brenham's authority under section 2721(b)(2) of the Public Health Service (PHS) Act and 45 CFR 146.180 of Federal regulations to exempt the City of Brenham's health plan from the following requirements of the Health Insurance Portability and Accountability Act of 1996:

1. Standards relating to benefits for mothers and newborns.
2. Required coverage for reconstructive surgery following mastectomies.
3. Coverage of dependent students on medically necessary leave of absence.

This election has been made in conformity with all rules of the city of Brenham's health plan, I certify that I am authorized to submit this election on behalf of TML IEBP. A copy of the notice to plan enrollees is enclosed. If CMS has any questions regarding this election, please contact Jane H. Mehrens, Human Resources/Risk Manager at 979-337-7511.

Sincerely,

Milton Y. Tate, Jr.
Mayor

Enclosure Notice to Participants

**NOTICE TO PLAN PARTICIPANTS
REGARDING THE CITY OF BRENHAM'S
ELECTION UNDER 42 U.S.C. § 300gg-21**

Under Federal laws known as the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the Patient Protection and Affordable Care Act of 2010 (PPACA) and the Health Care and Education Reconciliation Act of 2010, group health plans, such as the City of Brenham's plan, generally must comply with the requirements listed below. However, the law also permits State and local governmental employers that sponsor health plans to elect to exempt a plan from these requirements if that plan is self-funded by the employer, rather than provided through a health insurance policy. Federal law allows a self-funded, non-federal, governmental plan such as the City of Brenham to exempt its plan in whole or in part from the requirements of HIPAA Title I. **The City of Brenham has elected to opt out of the following provisions:**

1. Standards relating to benefits for mothers and newborns. A health plan may not restrict benefits for a hospital stay for the birth of a child to less than forty-eight (48) hours for a vaginal delivery, and ninety-six (96) hours for a cesarean section.
2. Required coverage for reconstructive surgery following mastectomy. A health plan that provides medical and surgical benefits for mastectomy must provide certain benefits for breast reconstruction as well as for certain other related services.
3. Coverage of dependent students on medically necessary leave of absence. A health plan must allow a covered dependent child, whose eligibility for coverage is based on student status, to continue coverage for up to one (1) year while on a medically necessary leave of absence from a postsecondary educational institution.

Because of this election:

- The duration of a hospital confinement for a mother and newborn following the birth of a child will be determined based on eligibility.
- Following a covered mastectomy, the plan will pay for treatment of both the affected breast and the unaffected breast to restore symmetry.
- The plan does not determine a dependent's child's eligibility based on student status. Therefore, the City of Brenham's plan does not extend coverage for students on a medically necessary leave of absence.

The plan cannot exempt itself from the requirement to furnish certificates of creditable coverage. The plan will provide Employees and Dependents with a written certificate of creditable coverage at the time their coverage ends. The certificate will show how long the Employee or Dependent was covered under the plan and date the Employee's or Dependent's coverage under the plan ended. Employees and Dependents may request a certificate of creditable coverage at any time by calling TML IEBP's customer service staff at (800) 282-5385.

In addition to Title I, the Federal government imposed Title II on April 14, 2003, which pertains to administrative simplification of health plans. The administrative simplification process includes: standards for electronic transactions and code sets, national identifiers (employers, health plans and healthcare providers), security and electronic signature standards (Security Rule) and standards for privacy of individually identifiable health information (Privacy Rule).

A self-funded, non-federal, governmental health plan cannot exempt itself from any of the requirements of HIPAA Title II.



AGENDA ITEM 13

DATE OF MEETING: December 15, 2011		DATE SUBMITTED: December 12, 2011
DEPT. OF ORIGIN: HR/Risk Management		SUBMITTED BY: Janie Mehrens
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION
	☐ WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Purchase of Group Medical Stop Loss Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation		
SUMMARY STATEMENT: Please see attached memo.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Memo from Janie Mehrens; and (2) Excel spreadsheets with detailed information		
FUNDING SOURCE (Where Applicable): Funds are budgeted in each department in FY12 Budget.		
RECOMMENDED ACTION: Purchase of Group Medical Stop Loss Coverage for calendar year 2012 from ING with ISL of \$75,000 and authorize the Mayor to execute any necessary documentation		
APPROVALS: Terry K. Roberts		



TO: MAYOR AND CITY COUNCIL
TERRY ROBERTS, CITY MANAGER

FROM: JANIE MEHRENS

DATE: DECEMBER 12, 2011

SUBJECT: PURCHASE OF STOP LOSS COVERAGE FOR GROUP MEDICAL PLAN FOR 2012

In September 2011 City Council approved the recommendation of staff to select Texas Municipal League Intergovernmental Employees Benefit Pool to serve as the plan administrator effective January 1, 2012. This was for administrative services only with stop loss coverage to be placed in December.

Holmes Murphy and Associates obtained viable quotes from three stop loss carriers: the current carrier ING, Fairmont Specialty and HCC Life. Each carrier provided quotes for the current \$75,000 individual stop loss deductible (ISL) and for \$85,000 individual stop loss deductible. The individual stop loss deductible limits the City's exposure for each claim to the stated deductible. However, ING, the current carrier, has attached a larger ISL, called a laser, to one individual because of past catastrophic claims and future prognosis. ING has attached a \$250,000 laser or \$175,000 over the group ISL. ING attached a laser of \$200,000 for one individual for 2011 which was met during the current calendar year.

In evaluating the quotes, several factors in addition to the stated premium costs need to be considered. These factors include the ISL deductible, the City's experience regarding the number of claims exceeding the current ISL of \$75,000 each year and the difference in claims incurred between \$75,000 and the proposed \$85,000 ISL. While Fairmont Specialty's and HCC Life's quotes do not include a laser, the monthly fees per employee are 37-41% higher than ING's quote. These stop loss fees are fixed costs and must be paid whether or not a claim meets the stop loss amount. An evaluation of our stop loss experience in the past five years indicates that if we reach the historical number of stop loss violations, ING will be the better choice.

Based on the above factors, the recommendation is to place stop loss coverage for 2012 with ING with a \$75,000 ISL.

City of Brenham

Preliminary Marketing Analysis

Effective January 1, 2012

Presented by:
Holmes Murphy & Associates, Inc.

Jarrad Wills

214.532.1043

jwills@holmesmurphy.com

Justine Griggs

214.265.6648

jgriggs@holmesmurphy.com



Carrier Responses

	Carrier Name	Coverages	Response	Comments
1	Amwins (HCC Life)	Stop Loss	Quoted	
2	Fairmont Specialty	Stop Loss	Quoted	
3	ING (Current Carrier)	Stop Loss	Quoted	
4	Symetra	Stop Loss	Declined	

	ING	ING		Fairmont Specialty		HCC Life (Amwins)	
	\$75,000	\$75,000	\$85,000	\$75,000	\$85,000	\$75,000	\$85,000
Specific	Current	Renewal	Requested	Requested	Requested	Requested	Requested
Enrollment Assumptions							
Employees	211	211	211	211	211	211	211
Total Employees	211	211	211	211	211	211	211
Contract Type (Incurred Mos/Paid Mos)	15/12	15/12	15/12	15/12	15/12	15/12	15/12
ISL Deductible	\$75,000	\$75,000	\$85,000	\$75,000	\$85,000	\$75,000	\$85,000
Covered Benefit	Med / Rx	Med / Rx	Med / Rx	Med / Rx	Med / Rx	Med / Rx	Med / Rx
Annual Reimbursement Maximum	Unlimited	Unlimited	Unlimited	Unlimited	Unlimited	\$5,000,000	\$5,000,000
Premiums							
Composite	\$83.58	\$106.23	\$99.29	\$150.21	\$135.29	\$145.39	\$131.89
Monthly Premiums	\$17,635	\$22,415	\$20,950	\$31,694	\$28,546	\$30,677	\$27,829
Annual Premiums	\$211,625	\$268,974	\$251,402	\$380,332	\$342,554	\$368,127	\$333,945
Aggregate	Current	Requested	Requested	Requested	Requested	Requested	Requested
Coverage Type	15/12	15/12	15/12	15/12	15/12	15/12	15/12
Coverage Included	Medical/Rx	Medical/Rx	Medical/Rx	Medical / Rx	Medical / Rx	Medical / Rx	Medical / Rx
Coverage Amount	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Aggregate Corridor	125%	125%	125%	125%	125%	125%	125%
Attachment Point - Composite	\$974.49	\$974.49	\$984.24	\$964.79	\$983.81	\$930.24	\$944.15
Monthly Attachment	\$205,617	\$205,617	\$207,675	\$203,571	\$207,584	\$196,281	\$199,216
Annual Attachment	\$2,467,409	\$2,467,409	\$2,492,096	\$2,442,848	\$2,491,007	\$2,355,368	\$2,390,588
Premiums							
Composite	\$4.75	\$4.99	\$4.99	\$6.87	\$6.87	\$7.27	\$7.27
Monthly Premiums	\$1,002.25	\$1,052.89	\$1,052.89	\$1,450	\$1,450	\$1,534	\$1,534
Annual Premiums	\$12,027.00	\$12,634.68	\$12,634.68	\$17,395	\$17,395	\$18,408	\$18,408
Total Stop Loss (ISL & ASL) Premium	\$223,652	\$281,609	\$264,037	\$397,727	\$359,949	\$386,535	\$352,353
Percentage Difference (+ / -)	N/A	25.91%	18.06%	77.83%	60.94%	72.83%	57.55%
Assumptions							
Lasers	\$ 200,000	\$250,000	\$250,000				



AGENDA ITEM 14

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 9, 2011															
DEPT. OF ORIGIN: HR/Risk Management	SUBMITTED BY: Janie Mehrens															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☐ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
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☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Purchase of Group Term Life/AD&D and Group Long Term Disability Coverage for Calendar Year 2012 and Authorize the Mayor to Execute any Necessary Documentation																
SUMMARY STATEMENT: Please see attached memo.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):																
A. PROS:																
B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																
ATTACHMENTS: (1) Memo from Janie Mehrens; and (2) Spreadsheet with detailed information																
FUNDING SOURCE (Where Applicable): Funds are budgeted in each department in FY12 Budget.																
RECOMMENDED ACTION: Purchase Group Term Life and AD&D coverage and Group Long Term Disability coverage from Lincoln Financial effective January 1, 2012 and authorize the Mayor to execute any necessary documentation.																
APPROVALS: Terry K. Roberts																



TO: MAYOR AND CITY COUNCIL
TERRY ROBERTS, CITY MANAGER

FROM: JANIE MEHRENS, HR/RISK MANAGER

DATE: DECEMBER 9, 2011

SUBJECT: PURCHASE OF GROUP TERM LIFE/AD&D AND LONG TERM DISABILITY COVERAGE

As part of the request for proposal conducted by Holmes Murphy and Associates this past summer, quotes were sought for Group Term Life and AD&D and Group Long Term Disability coverage for eligible City of Brenham employees. Due to the lack of viable quotes, new quotes were pursued through a second RFP. This process produced only one quote from Lincoln Financial. The City has been with Prudential since 2009 and Prudential did not submit a quote.

The quote from Lincoln Financial matches the current rates and policy provisions and provides for an annual renewal of two years after the initial 12 month term. Lincoln Financial will provide an Employee Assistance Program (EAP) and TravelConnect as an additional value to the Life Plan for no additional cost to the City.

RECOMMENDATION: Purchase Group Term Life and AD&D coverage and Group Long Term Disability coverage from Lincoln Financial effective January 1, 2012 and authorize the Mayor to execute any necessary documentation.

	Inforce Prudential	Lincoln Financial
Basic AD&D - Inforce at \$.018	No Quote Provided	
Volume (2 x Annual Salary)	\$18,587,000	\$18,587,000
Rate	\$0.018	\$0.018
Months	12	12
Annual Premium	\$4,015	\$4,015
Basic Life - Inforce at \$.129		
Volume	\$18,587	\$18,587
Rate	\$0.129	\$0.129
Months	12	12
Annual Premium	\$28,773	\$28,773
LTD - Inforce at \$.135		
Volume	\$7,765	\$7,765
Rate	\$0.135	\$0.135
Months	12	12
Annual Premium	\$12,579	\$12,579



AGENDA ITEM 15

DATE OF MEETING: December 15, 2011	DATE SUBMITTED: December 12, 2011	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Kyle Dannhaus	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Bid No. 12-004 for Janitorial Services for Various City Facilities and Authorize the Mayor to Execute any Necessary Documentation		
SUMMARY STATEMENT: The City requested bids on November 22, 2011 for janitorial services for several city facilities. We had six Bid Packets requested and received three completed bids. The low bidder was Callie Korth from Brenham. After evaluating all bids, staff is recommending awarding the bid to Callie Korth.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: Bid Information Sheet and Bid Evaluation		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve Bid No. 12-004 for Janitorial Services for City Hall, Library, Central Communications Aquatic Center, Police and Fire Stations to Callie Korth.		
APPROVALS: Terry K. Roberts		



Bid Information Sheet

November 22, 2011

Bid No. 12-004

Bid Opening Date: November 22, 2011, 2:00 P.M.

For: Janitorial Services

Locations:

- A. City Hall**
- B. Nancy Carol Roberts Memorial Library**
- C. Police Department Building**
- D. Central Fire Station Administrative Offices and Emergency Operations Center**
- E. Central Communications**
- F. Blue Bell Aquatic Center**

Pre-bid Meeting was held on November 10, 2011, 10:00 A.M.

Number of bidders requesting bid packet: 6

Number of completed bids returned to Purchasing: 3

<u>Bid Evaluation</u>			
Bid No. 12-004 Janitorial Services	<u>Bidders</u>		
	Callie Korth Brenham, TX.	C & S Janitorial Houston, TX.	GCA Janitorial Dallas, TX.
=====			
A. <u>City Hall</u>			
32,000 Sq. Ft.			
Annual Bid	\$39,519.96	\$42,240	\$48,384
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	.12¢ Sq. Ft.
Restore(Cleaning)Grout	.20¢ Sq. Ft.	.28¢ Sq. Ft.	.21¢ Sq. Ft.
Complete Maintenance Resilient Floors	.20¢ Sq. Ft.	.28¢ Sq. Ft.	.40¢ Sq. Ft.
<u>Services Beyond this Contract</u>			
<u>Per Hour</u>	\$17.00	\$18.95	\$18.00
Prompt Payment Discount	None	1/2% Net 10	.05% Net 10
B. <u>Library</u>			
11,900 Sq. Ft.			
Annual Bid	\$15,476.04	\$17,136	\$21,542.53
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	*12¢ Sq. Ft.
Exterior Windows Clean inside/outside	\$5/\$150 Max	\$5.00 Per Pane(window)	**\$500
* No charge for periodic spot cleaning of carpets.			
** No charge for periodic cleaning of individual windows.			
<u>Services Beyond This Contract</u>			
<u>Per Hour</u>	\$17.00	\$18.95	\$18.00
<u>Prompt Payment Discount</u>	None	1/2% Net 10	.05% Net 10

	<u>Bidders</u>		
	Callie Korth Brenham, TX.	C & S Janitorial Houston, TX.	GCA Janitorial Dallas, TX.
=====			
C. <u>Police Department Bldg.</u>			
17,600 Sq. Ft.			
Annual Bid	\$33,279.95	\$23,232	\$42,218.06
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	.12¢ Sq. Ft.
<u>Services Beyond this Contract</u>			
<u>Per Hour</u>	\$17.00	\$18.95	\$18.00
Prompt Payment Discount	None	1/2% Net 10	.05% Net 10
D. <u>Central Fire Station Administrative Offices and Emergency</u>			
<u>Operations Center</u>			
3,017 Sq. Ft.			
Annual Bid	\$2,912.04	\$3,981.72	\$4,087.52
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	.12¢ Sq. Ft.
Complete Maintenance Resilient Floors	.20¢ Sq. Ft.	.25¢ Sq. Ft.	.40¢ Sq. Ft.
Exterior Windows Clean inside/outside	\$5.00 per Window	\$5.00 per Window	*\$150.00 Total
*No charge for periodic cleaning			
<u>Services Beyond This Contract</u>	\$17.00	\$18.95	\$18.00
<u>Per Hour</u>			
<u>Prompt Payment Discount</u>	None	1/2% Net 10	.05% Net 10

	<u>Bidders</u>		
	Callie Korth Brenham, TX.	C & S Janitorial Houston, TX.	GCA Janitorial Dallas, TX.
=====			
E. <u>Central Communications</u>			
2,500 Sq. Ft.			
Annual Bid	\$2,080.08	\$3,600	\$2,710.86
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	.12¢ Sq. Ft.
<u>Services Beyond This Contract</u>	\$17.00	\$18.95	\$18.00
<u>Per Hour</u>			
<u>Prompt Payment Discount</u>	None	1/2% Net 10	.05% Net 10
F. <u>Blue Bell Aquatic Center</u>			
5,000 Sq. Ft.			
Annual Bid	\$1,999.98	\$6,600	\$3,581.37
<u>Special Cleaning</u>			
Carpet Cleaning	.10¢ Sq. Ft.	.15¢ Sq. Ft.	.12¢ Sq. Ft.
Windows			
Clean inside/outside	\$5.00 per Window \$225.00 Max	\$5.00 per Window	*\$200.00 Total Job
*No charge for periodic spot cleaning			
<u>Services Beyond This Contract</u>	\$17.00	\$18.95	\$18.00
<u>Per Hour</u>			
<u>Prompt Payment Discount</u>	None	1/2% Net 10	.05% Net 10



AGENDA ITEM 16

DATE OF MEETING: 12/15/11		DATE SUBMITTED: 12/8/11	
DEPT. OF ORIGIN: Public Utilities		SUBMITTED BY: Dane Rau	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-11-026 Authorizing the Submission of a Grant Application to the Brazos Valley Council of Governments Under the Solid Waste Grant Program for the Purchase of 500-18 Gallon Recycling Bins and 25-60 Gallon Standalone Recycling Containers			
SUMMARY STATEMENT: Each year the Brazos Valley Council of Governments Solid Waste Committee provides an opportunity for municipalities, counties, schools, and organizations to apply for grant funds issued by the State of Texas. This year the City of Brenham will be applying for a grant for the purchase of 500-(18) gallon recycling bins and 25-(60) gallon standalone recycling containers. If the grant is received we will distribute the 500 recycling bins out to the general public on Earth Day on April 22, 2012. We will then use the 25-(60) gallon standalone recycling containers in our local attractions such as the Blue Bell Aquatic Center, Hohlt Park, Fireman's Park Kitchen and Pavilion along with other sites that currently do not offer the option to recycle. We will concentrate on recycling plastic bottles in these venues by utilizing the standalone containers. The grant requested will be in the amount of \$7,435.21. Currently the TCEQ has approved \$51,672.00 for distribution through the BVCOG for these grants. Grant applications are due on December 16, 2011 with grant scoring taking place on Jan 5, 2012. The City of Brenham has applied for these grants in the past and most recently in 2010 the City of Brenham received \$16,622.05 for the purchase of a truck. Staff recommends that Council approve the resolution allowing the City of Brenham to apply for a grant from the Brazos Valley Council of Governments under the Solid Waste Grant Program for 500-(18) gallon recycling bins and 25-(60) gallon standalone recycling containers in the amount of \$7,435.21.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Receive grant and utilize bins and containers to promote recycling efforts in local venues along with supplying bins to local recyclers. B. CONS: None			

ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Resolution No. R-11-026; and (2) Copy of grant application
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION Approve Resolution No. R-11-026 authorizing the submission of a grant application to the Brazos Valley Council of Governments under the Solid Waste Grant Program for the purchase of 500 - 18 gallon recycling bins and 25 - 60 gallon standalone recycling containers
APPROVALS: Lowell Ogle Jr.

RESOLUTION NO. R-11-026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE BRAZOS VALLEY COUNCIL OF GOVERNMENTS FOR A REGIONAL SOLID WASTE GRANTS PROGRAM GRANT; AUTHORIZING DANE RAU, ASSISTANT DIRECTOR OF PUBLIC UTILITIES TO ACT ON BEHALF OF THE CITY OF BRENHAM IN ALL MATTERS RELATED TO THE APPLICATION; AND PLEDGING THAT IF A GRANT IS RECEIVED THE CITY OF BRENHAM WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE BRAZOS VALLEY COUNCIL OF GOVERNMENTS, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE STATE OF TEXAS.

WHEREAS, the Brazos Valley Council of Governments (“BVCOG”) is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation of the BVCOG’s adopted regional solid waste management plan; and

WHEREAS, the City of Brenham, Texas is qualified to apply for grant funds under the Request for Applications.

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

1. That Dane Rau, Assistant Director of Public Utilities is authorized to request grant funding under the Brazos Valley Council of Governments Request for Applications of the Regional Solid Waste Grants Program and act on behalf of the City of Brenham in all matters related to the grant application and any subsequent grant contract and grant project that may result.
2. That if the project is funded, the City of Brenham will comply with the grant requirements of the Brazos Valley Council of Governments, Texas Commission on Environmental Quality and the State of Texas.
3. The grant funds and any grant-funded equipment or facilities will be used only for the purposes for which they are intended under the grant.
4. That activities will comply with and support the regional and local solid waste management plans adopted for the geographical area in which the activities are performed.

PASSED AND APPROVED on the _____ day of _____, 2011.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

**BRAZOS VALLEY COUNCIL OF GOVERNMENTS
FY 2012/2013 Regional Solid Waste Grants Program**

Form 1. Application Information and Signature Page

City of Brenham

Applicant:

P.O. Box 1059

Brenham, TX 77834

Address

Dane Rau

Contact Person

\$7435.21

Funding Amount Proposed:

(979)337-7407

Phone

(979)337-7406

Fax

12/8/11

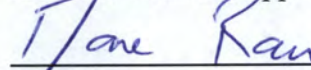
Date Submitted:

Project Category

- ☐ Local Enforcement
- ☐ Litter and Illegal Dumping Cleanup and Community Collection Events
- ☒ Source Reduction and Recycling
- ☐ Local Solid Waste Management Plans
- ☐ Citizens' Collection Stations and "Small" Registered Transfer Stations
- ☐ Household Hazardous Waste (HHW) Management
- ☐ Technical Studies
- ☐ Educational and Training Projects
- ☐ Other (The COG should add other project categories if authorized)

Signature

By the following signature, the Applicant certifies that it has reviewed the certifications, assurances, and deliverables included in this application, that all certifications are true and correct, that assurances have been reviewed and understood, and that all required deliverables are included with this application.


Signature

Dane Rau

Typed/Printed Name

Asst. Director of Public Utilities

Title

12/8/11

Date

For Use By BRAZOS VALLEY COUNCIL OF GOVERNMENTS

Date application was received: _____

Does the application meet all of the required screening criteria: _____ Yes _____ No

Is the application administratively complete: _____ Yes _____ No

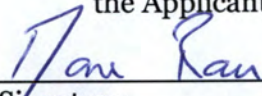
Project Application

Form 1

Form 2. Authorized Representatives

The Applicant hereby designates the individual(s) named below as the person or persons authorized to receive direction from the BVCOG, to manage the work being performed, and to act on behalf of the Applicant for the purposes shown:

1. **Authorized Project Representative.** The following person is authorized to receive direction, manage work performed, sign required reports, and otherwise act on behalf of the Applicant.


Signature

Asst. Director of Public Utilities
Title

Dane Rau
Typed/Printed Name

12/8/11
Date

Authorized Financial Representative. In addition to the authorized project representative, the following person is authorized to act on behalf of the Applicant in all financial and fiscal matters, including signing financial reports and requests for reimbursement.

Signature

Chief Financial Officer
Title

Carolyn D. Miller
Typed/Printed Name

12/8/11
Date

Project Application
Form 2

RESOLUTION

RESOLUTION OF KEEP WASHINGTON COUNTY BEAUTIFUL RECOGNIZING CITY OF BRENHAM AS BEING A PARTNER IN GOOD STANDING WITH KEEP WASHINGTON COUNTY BEAUTIFUL.

WHEREAS, the Brazos Valley Council of Governments is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation the COG's adopted regional solid waste management plan; and

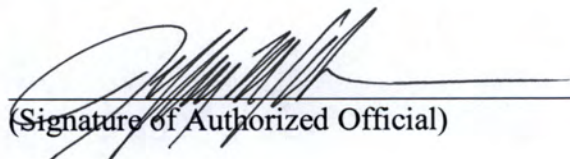
WHEREAS, City of Brenham, in the State of Texas, is qualified to apply for grant funds under the Request for Applications; and

WHEREAS, City of Brenham and Keep Washington County Beautiful are partners in working toward a clean, healthy environment.

NOW, THEREFORE, BE IT RESOLVED BY KEEP WASHINGTON COUNTY BEAUTIFUL IN BRENHAM, TEXAS;

1. That City of Brenham is a partner in good standing with Keep Washington County Beautiful, and Keep Washington County Beautiful supports and endorses City of Brenham's proposed Source Reduction and Recycling project.

PASSED AND APPROVED by Keep Washington County Beautiful in Brenham, Texas, on this the 5th day of December, 2011.


(Signature of Authorized Official)

Jeff Sadler

President, Keep Washington County Beautiful
(Title)

Form 5: Explanation Regarding Private Industry Notification

Applicable to Applicants under the following grant categories:

- A. Source Reduction and Recycling
- B. Citizens' Collection Stations and "Small" Registered Transfer Stations
- C. A demonstration project under the Educational and Training Projects category
- D. Other *(If the BVCOG receives authorization to fund additional types of projects, that authorization may include requirements for notification of private industry. When applicable, those additional project categories should be listed here.)*

Form 5a. List of Private Service Providers Notified

Private Service Providers Contacted	Name and Position	Telephone Number	Date Notified
Premier Metal Buyers	Mike Brannon	830-9060	11/30/11
City Recycling	Alan Herzog	277-4591	11/30/11

Project Application
Form 5a

Form 5b. Summaries of Discussions with Private Industry

(Refer to instructions concerning information to include on this form. Attach any written comments or input provided)

On November 30, 2011, the owners of both Premier Metal Buyers/Budget Roll-Offs and City Recycling were contacted by phone regarding the grant application. The City of Brenham explained to the private businesses that it would be seeking a grant through the BVCOG requesting the funding in the amount of \$7,435.21 for the purchase of 500-18 gallon recycling bins and 25-60 gallon standalone recycling containers. The City of Brenham explained to private businesses that these bins and containers would be used to promote recycling in the public during everyday occurrences and weekly events. Each owner was fine with the grant application and understood all aspects of the grant requested.

Form 6: Project Summary

Please provide a complete project summary. Reference the goals, objectives, and/or recommendations from the regional solid waste management plan that apply to the project, and how the project will assist in implementing the plan. Refer to the application instructions when completing these forms. If necessary, attach additional pages for each form.

Form 6a. Project Description

The City of Brenham would like to propose the purchase of 500 (18) gallon recycling containers and 25 (60) gallon recycling standalone bins. These containers and bins will be a vital part of the future promotion of recycling for residents, customers, visitors, and the community who utilize the Brenham Parks System, the Bluebell Aquatic Center and the Brenham Recycling Center.

The City of Brenham takes great pride in operating and maintaining numerous facilities such as the Blue Bell Aquatic Center, Brenham Recycling Center, and 9 Parks totaling 183.5 acres. These facilities accommodate over 250,000 guests per year and average approximately 700 users per day. The City of Brenham offers many options for both local residents and visitors who utilize these facilities. These facilities include 15 soccer fields, 12 baseball/softball fields, 3 community kitchens, 2-walking/jogging trails, 1 antique carousel, 3 pavilions, 1 hike and bike trail, and 3 swimming pools (leisure/therapeutic/competitive).

The City of Brenham is very fortunate to own and operate these facilities but as I visited these facilities I noticed a very unfortunate attribute missing. In today's society each and every day we hear "Go Green", "Reduce, Reuse, Recycle" and yet the City of Brenham has forgotten to promote this message in our most prominent areas of the city. The City of Brenham even offers numerous recyclable products through vending machines and concessions but yet the only option for a user of these facilities is a 55 gallon trash can to dispose of millions of plastic bottles each year. Through the help of this grant we are dedicated to make a difference and "Go Green" and reduce waste in our facilities that attract thousands of people each year. We want to allow them to have a choice when holding a plastic bottle. Do I recycle this or throw it away? It has been a goal of the Recycling Department to give citizens and visitors a choice at our parks when it comes to disposing of a plastic bottle.

Throughout the next two years it is our goal to offer a choice to users of these facilities by providing recycling standalone bins in each of these facilities. We will begin by buying 25 (60) gallon Recycle Away (Plastic Bottles Only)" bins and place 2-3 of these bins at each facility throughout the first year. We will continue this mission by buying bins throughout the next year in order to increase the awareness of recycling in these highly active areas.

In another mission to increase and promote recycling the City of Brenham will be purchasing 500-18 gallon personal recycling bins. By purchasing these bins it will allow citizens who utilize the Brenham Recycling Center an efficient, durable means to transport recyclable material from their home to the centralized recycling center. The City of Brenham has had very good luck with these bins and they are very popular to both active recyclers, school kids and the elderly who

utilize the center. Our plans are to pass out the bins on Earth Day 2012 and show support for both the Earth and our active recyclers who use the facility on a weekly basis.

We ask that you consider awarding this grant to the City of Brenham in the amount of \$7435.21 to purchase 25 (60) gallon standalone recycling containers and 500(18) gallon recycling bins. All collection from the standalone containers will be conducted by City of Brenham staff on a weekly basis and will not require additional staff. See attachments for pictures of containers and bins.

Form 6b. Project Cost Evaluation

(add additional pages as necessary)

Provide an evaluation of the costs associated with the proposed project. Explain how the total related costs of the proposed project were adequately considered; compare project costs to established averages or to normal costs for similar projects. Present the costs in unit terms, such as cost per ton, cost per customer, or cost per capita, as applicable. Describe any measurable costs savings, or reasonably justified costs of the project.

The City of Brenham has researched several vendors and has obtained a price estimate for both the 25 (60) gallon standalone containers and the 500 (18) gallon recycling bins. The lowest quote received for the 60 gallon standalone recycling containers was from Recycle Away Systems and Solutions for \$108.00 per unit. Additional charges for shipping was \$292.21 and for applying the City of Brenham logo to the containers at a flat rate of \$200.00. We have received a sample container from Recycle Away Systems and Solutions and it met our expectations. The lowest quote received for the purchase of 500 (18) gallon recycling bins was from Orbis Corporation in the amount of \$6.83 per unit. Freight is estimated at \$828.00. Since we have used Orbis Corporation in the past, a brand plate charge will not apply. These bins are very durable and have been used for several years at the City of Brenham.

The total value of the proposed project is listed below.

500	18 Gallon Recycling Bin	\$6.83/ea.	\$3415.00
	(Shipping of Bins)		\$828.00
25	60 Gallon Standalone Containers	\$108.00	\$2700.00
	(Shipping of Containers)		\$292.21
	(Custom Stamping Charges)		\$200.00
			\$7435.21

Form 6c. Level of Commitment of the Applicant

(add additional pages as necessary)

Provide information related to the Applicant's level of commitment to preferred solid waste management practices. If the proposed project is an ongoing service, demonstrate the ability to sustain the program beyond the term of the grant. Explain the extent to which the appropriate governing bodies support the proposed project.

The City of Brenham has always maintained a strong commitment to preferred solid waste management practices. The City of Brenham has demonstrated this by operating and maintaining both a Citizens Collection Station and a full-time Recycling Center. We have strived to provide both visitors to Washington County along with local citizens a user friendly, reliable, cost effective method to dispose of and recycle waste. Over the past 8 years the City of Brenham Recycling Center has diverted approximately 13,514.25 tons of recyclable materials. This includes items such as cardboard, newspaper, mixed paper, plastics, aluminum cans, scrap metal, and glass. The center also accepts items such as used oil, oil filters, automotive batteries, and ink jet cartridges. Over the last two years the City of Brenham has even expanded its recycling efforts by offering electronic waste recycling, dry cell battery recycling (AA, AAA, C, and D), along with used cooking oil. The Recycling Center is centrally located and is fully manned (6) days a week for customer convenience.

List any previously demonstrated commitment to preferred solid waste management practice, such as: implementing other solid waste management projects; involvement in a local or subregional solid waste management plan or study; membership in Keep Texas Beautiful; or, participation with the TCEQ's Lake and Waterway Cleanup Program, or other TCEQ predecessor program, e.g., TCEQ's Clean Texas Program.

The City of Brenham continues to search for new avenues of source reduction and environmental awareness to extend the life of our natural resources along with our landfills. The City of Brenham has partnered with local organizations such as Keep Washington County Beautiful and Washington County on many events such as Texas Recycles Day, Tire Cleanup Events, and the Annual Spring Cleanup. These events allow residents to dispose of items for free that normally would be charged for. This project will further advance our mission to reduce waste by providing an option to recycle whether it is at their home or in the park. We will be able to provide 18 gallon bins to new recyclers and will allow the many visitors to recycle that plastic bottle rather than disposing of it in the trash.

If the proposed project has received previous grant funding under this program, explain to what extent the proposal involves expansion of current services or operations, and present quantifiable documentation of the success of the project in order to warrant further funding. Demonstrate a good record of past grant contractual performance.

In the past the City of Brenham has received grant funding for a similar project which involved passing out the 18 gallon bins to local school children who visited the recycling center. We also receive grant funding on a minimum amount of 55 gallon standalone receptacles which are used for downtown events, Brenham Maifest, Fun Runs, and Community Festivals. Both items which were funded

turned out to work extremely well and as planned. We are now looking at expanding our outreach of the initial program. We currently do not have enough standalone containers to expand into the parks and are hoping to fulfill that goal by receiving funding through this grant. We have also issued out all of our 500 (18) gallon recycling containers as planned and have been asked numerous times from perspective recyclers about receiving them again. Each time the City of Brenham has been awarded a grant we have quickly and accurately completed our grant obligations well prior to grant deadlines. We are very appreciative of the support that both the SWAC and the BVOG has awarded to us in the past and we take great pride in representing both of these groups in our recycling endeavors.

Form 6d. Scope of Work

(See application instructions. Add additional pages as necessary)

Provide a work program with a schedule of deliverables for the proposed project or program. The work program with the schedule of deliverables will be considered the Scope of Work to be performed under the contract agreement, if funded. Once the details of the work program have been negotiated with the Applicant and approved by the COG, the work program will be entered into the grant contract.

As concisely as possible, for each task of the proposed project, describe the major steps or activities involved, identify the responsible entities and establish a specific timeframe to accomplish each task. The scope of work for the project or program must include:

- Detailed purpose and goal of the project (should be consistent with implementing the goals, objectives, and recommendations from the regional solid waste management plan, as stated in the project description on Form 6a).
- Specific task statements with responsible entity identified.
- List of deliverables/products/activities under each task.
- Schedule of deliverables.

25-(60) Gallon Standalone Recycling Container

1. Task

- a. Verify quotes received prior to receiving grant**
-Jan 6, 2012

2. Task

- a. Order 18 gallon bins and 60 gallon standalone containers**
-Jan 12, 2012

3. Task

- a. Receive standalone containers from vendors**
-March 15, 2012

4. Task

- a. Start placing standalone bins out at designated areas (Blue Bell Aquatic Center, Fireman's Park Pavilion, Holt Park Pavilion, and all Sports Fields)**
- March 19, 2012

5. Task

- a. Collect materials from bins on a weekly basis beginning with each Monday**
-On-Going

500- (18) Gallon Recycling Bins

- 1. Task**
 - b. Verify quotes received prior to receiving grant
-Jan 6, 2012**
- 2. Task**
 - a. Order 18 gallon bins and 60 gallon standalone containers
-Jan 12, 2012**
- 3. Task**
 - a. Receive 18 gallon bins from vendors
-March 15, 2012**
- 4. Task**
 - a. Place 500 bins in storage until Earth Day 2012
-March 21, 2012**
- 5. Task**
 - a. Hand bins out at Brenham Recycling Center on Earth Day 2012
- April 22, 2012**

Form 7. Grant Budget Summary

Please provide the following breakdown of the total amount of grant funding being requested:

Budget Category		Funding Amount
1.	Personnel/Salaries	\$
2.	Fringe Benefits	\$
3.	Travel	\$
4.	Supplies	\$ 6,115.00
5.	Equipment	\$
6.	Construction	\$
7.	Contractual	\$
8.	Other (Shipping and Custom Stamping)	\$ 1,320.21
9.	Total Direct Charges (sum of 1-8)	\$ 7,435.21
10.	Indirect Charges*	\$
11.	Total (sum of 9 - 10)	\$
12.	Fringe Benefit Rate:	%
13.	Indirect Cost Rate:	%
Identify, in detail, each budget category to which your indirect cost rate applies and explain any special conditions under which the rate will be applied: *In accordance with the UGMS, indirect charges may be authorized if the Applicant has a negotiated indirect cost rate agreement signed within the past 24 months by a federal cognizant agency or state single audit coordinating agency. Alternatively, the Applicant may be authorized to recover up to 10% of direct salary and wage costs (excluding overtime, shift premiums, and fringe benefits) as indirect costs, subject to adequate documentation. If you have an approved cost allocation plan, please enclose documentation of your approved indirect rate.		
Please complete any of the following detailed budget forms that are applicable.		

Project Application
Form 7

Form 7a: Detailed Matching Funds/In-Kind Services

This budget form should be completed if the Applicant is providing any level of matching funds or in-kind services directly related to the proposed project.

Matching Funds: **\$0**

In the space below, please explain in detail the application of any matching funds to be provided by the Applicant, as directly related to the proposed project:

In-Kind Services: **\$0** (monetary equivalent)

In the space below, please explain in detail the application of any in-kind services to be provided by the Applicant, as directly related to the proposed project:

What is the TOTAL COST of the proposed project, considering the total grant funding requested, any matching funds being provided by the Applicant, and the monetary equivalent of any in-kind services being provided by the Applicant:

\$ 7,435.21

Form 7d: Detailed Supply Expenses

This budget form provides a more detailed breakdown of the total expenses for supplies indicated on Line 4 of the Overall Budget Summary.

Please list the general types of supplies you expect to purchase with grant funding.

General Types of Supplies	Estimated Cost
General office/desk supplies	\$
Other supplies (<i>explain below</i>):	\$ 6,115.00
500-18 gallon Recycling Bins (\$6.83/ea.) \$3415.00	
25-60 gallon Standalone Containers (108.00/ea) \$2,700	
TOTAL (<i>Must equal Line 4 of the Overall Budget Summary</i>)	\$ 6,115.00

Project Application
Form 7d

Additional Other Expenses

The specific details of additional Other category expenses, not included on the list of basic Other expenses, must be pre-approved by the BVCOG. If the specific details of the additional Other expenses are not known at this time, list the general details on this form. The more specific details will then need to be provided to and approved by the BVCOG before the costs are incurred.

Additional Other Expenses	Unit Cost	No. of Units	Total Cost
Computer hardware not listed under the Equipment category (itemize each expense below including description, type, model, etc.):	\$		\$
Computer software (itemize each expense below including description, type, model, etc.):	\$		\$
Additional Other expenses (itemize each expense below including description, type, model, etc.): Shipping 500 Recycling Bins \$828.00 25 Standalone Containers \$292.21 Custom Stamping 25 Standalone Containers \$200.00 (One-time)	\$		\$ 1,320.21
Total Other Expenses (Must equal Line 8 of the Overall Budget Summary)		\$ 1,320.21	

Project Application



Quote Date 11/16/2011

Quote Number 4441

Recycle Away, LLC
 PO Box 1757
 Brattleboro, VT 05302
 800-664-5340
 RecycleAway.com

**To Submit Purchase Orders
 send to:**
Email: info@recycleaway.com
Fax: (800) 664-5340

Bill To:
City Of Brenham

Ship To

Description	Qty	Per Unit	Total
Recycle Bin I, 60 Gallon Square	25.00	108.00	2,700.00T
Art set-up for Custom Stamping		200.00	200.00T
Shipping	1.00	292.21	292.21T
Out-of-state sale, exempt from sales tax		0.00%	0.00
Total			\$3,192.21

All Quotes are valid for 90 days

All shipments are insured against damage in transit. If your shipment shows any sign of visual damage, it should be noted on the freight bill or receiving ticket and signed by the driver. If damage to the shipment is not visible until the carton is opened, please keep all of the packing materials and the original carton. In either case, please notify Recycle Away within five days. If your order is damaged in shipment, we will either issue credit for the product and the shipping costs, or ship a replacement product at no cost for the product and shipping. If you need to return the purchase for any other reason you must contact us within five days. Please note that special orders are non-refundable. The customer must pay for the return shipping and a re-stocking fee of 25% for returned items. The items must be returned in their original cartons in new condition. Sustainability products are all special

Recycle Away, LLC
 PO Box 1757, Brattleboro Vermont 05302 Tel: (800) 664-5340 Fax: (800) 664-5340

KETTLE CREEK CORPORATION

PRICE QUOTATION



PRICE QUOTATION

Quote #: 20110371

Date: 11/16/11

Valid for 30 Days

Prepared For:

Brenham, City of

Ship To:

Brenham, City of
315 West Second St
Brenham, TX 77833

TERMS		SHIP VIA		F.O.B.		PG.
Net 30		Best Way		Kempton, PA		1
QTY.	ITEM NO.	DESCRIPTION	Price	DISC	EXTENDED	
25	NC 5511	55 gal Clear Canable w /Painted Metal Lid & Base	\$245.00	5%	\$5,818.75	
This quotation is provided as a courtesy for the customer to purchase line items as they appear in our catalog and published price lists. It is not to be used as a competitive bid for the purchase of products that meet broad specifications. Windsor Barrel Works requires a written request for competitive bids accompanied by written specifications. This applies to both formal and informal bid processes.			SUB TOTAL		\$5,818.75	
			SALES TAX		\$0.00	
			FREIGHT		\$533.84	
			TOTAL		\$6,352.59	

PO Box 47, Kempton, Pennsylvania 19529
Toll-free (800) 527-7848 Telephone (610) 756-4344 Fax (610) 756-6389

Windsor Barrel Works is a division of The Kettle Creek Corporation



1055 Corporate Center Drive
Oconomowoc, WI 53066-0389
Ph: 800-558-9563 Fax: 800-999-4211

www.orbiscorporation.com

QUOTATION

OUR QUOTE NUMBER	QUOTE DATE
0000055333.0	11/17/2011
PLEASE REFER TO ABOVE QUOTE NUMBER ON ANY INQUIRIES OR CORRESPONDENCE	

Prices guaranteed
for orders placed by: 12/16/2011

CUSTOMER INFORMATION		CONTACT INFORMATION		TO ORDER	
BRENHAM, CITY OF 307 S MARKET ST PO BOX 1059 BRENHAM, TX 77833 ATTN: Dane Rau		ORBIS Customer Support Contact Cyrus Billimoria (416-745-6372 x 771) cyrus.billimoria@orbiscorporation.com ORBIS Sales Contact Karen Alderdice (888-675-2878) karen.alderdice@norsemanenvironmental.com		By Fax: 800-999-4211 By Email: customer.supportfax@orbiscorporation.com For questions, contact Customer Support at : 800-558-9563	
Payment Terms		Shipping Terms	Currency	FOB	
NET 30 DAYS		(DDP) Destination City (Duty Paid) Address	USD	F1-Monticello, IA 52310 F2-Manchester, IA 52057 F3-Urbana, OH 43078 F4-Menasha, WI 54952	F5-Mentor, OH 44060 F6-Other (US) F45-Georgetown, KY 40324 F46-Bardstown, KY 40004 F66-Osage City, KS 66523 F67-Kissimmee, FL 34758 F76-Rexdale, ON M9W 1P7 F78-Other (Canada)

Quote Description:

Line	PRODUCT/DESCRIPTION	FOB UOM	Qty	Unit	Extd
1	1104364 ENVIRONMENTAL - CURBSIDE - CONTAINER - 18 GALLON, NPL265-1019 Color: GREEN Material: POLYETHYLENE Features 1: DRAIN HOLES Sales Text: HOT STAMP AS918-7 (OLD 15814) IN WHITE ON 1 LONG SIDE TO READ: 1) CITY OF BRENHAM 2) BRENHAM RECYCLING CENTER 3) 307 S. MARKET ST 4) BRENHAM, TX 77833 5) (979) 337-7454 AND HOT STAMP AS080-7 (OLD 14618) IN WHITE ON OPPOSITE LONG SIDE TO READ: 1) KEEP WASHINGTON COUNTY BEAUTIFUL (LOGO) REF OPTION AS721 A1-1019-00042	F67 EA	500	\$6.83	\$3,415.00
2	Destination Freight 3 SKIDS 2585# KISSIMMEE TO 77833	F67	1	\$828.00	\$828.00



Facilities Located:
 1000 Raco Court, Lawrenceville, GA 30046
 625 West Mockingbird Lane, Dallas, TX 75247
 1738 W. 20th St, Erie, PA 16502
 7452 Presidents Dr, Orlando, FL 32809
 8875 Commerce Dr, DeSoto, KS 66018
 7800 100th St, Pleasant Prairie, WI 53158
 4010 East 26th St, Los Angeles, CA 90058

Proposal

Proposal #: 77834 111128

November 28, 2011

PREPARED FOR:	SHIP TO:
City of Brenham, TX Dane Rau	To Be Determined

ITEM DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
18 Gallon Recycling Bins	500	\$6.10	\$ 3,050.00
Bin Color: To Be Determined Brand Color: White			
One Time Brand Plate Fee	2	\$325.00	\$ 650.00
Subtotal =			\$ 3,700.00
Truckload Freight Rate =			\$ 1,249.00
Total =			\$ 4,949.00

ADDITIONAL INFORMATION:

Freight Info: Shipping from Kenosha, WI facility
Wheel Type: N/A
Leadtime: 3-4 Weeks After Receipt of Order
Terms: Net 30
Warranty: 5 year unprorated warranty
Quote Valid: 30 Days
Taxes: All applicable taxes shall be paid by the Buyer unless a proper exemption is provided and validated.

PRESENTED BY:	ACCEPTED BY:
 11/28/2011 Date Christal Blaim Environmental Customer Service Office 262-947-5957 Fax 262-947-3355 cblaim@rehrigpacific.com	City of Brenham, TX Sign and Print Name Date Title: _____

To initiate order, please call or send signed proposal via fax or email to Presented By representative.





PAVILLION



BEFORE



AFTER

HOHLT PARK



BEFORE



AFTER

BLUE BELL AQUATIC CENTER



BEFORE



AFTER



AGENDA ITEM 17

DATE OF MEETING: December 15, 2011		DATE SUBMITTED: December 12, 2011	
DEPT. OF ORIGIN: Public Works		SUBMITTED BY: Doug Baker	
MEETING TYPE: ☐ REGULAR ☐ SPECIAL ☒ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property for Westwood Drive Improvements			
SUMMARY STATEMENT: Executive Session discussion			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS:			
FUNDING SOURCE (Where Applicable):			
RECOMMENDED ACTION: Discussion only			
APPROVALS: Terry Roberts			



AGENDA ITEM 18

DATE OF MEETING: December 15, 2011		DATE SUBMITTED: December 12, 2011	
DEPT. OF ORIGIN: Public Works		SUBMITTED BY: Doug Baker	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1ST READING ☐ 2ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-11-027 Determining the Public Need and Necessity for the Acquisition of Certain Real Property for the Public Uses of Construction, Widening, Improvements, Use, Repair, and Maintenance of Street Improvements as Part of the Westwood Drive Improvements, Authorizing the City Manager to Agree on Amounts to be Paid to the Property Owner(s) as Compensation for Said Property, and Authorizing the City Attorney to Institute Condemnation Proceedings, (Use of Eminent Domain), if Necessary, To Acquire Said Property Situated in the City of Brenham, Washington County, Texas out of the Phillip H. Coe Survey, A-31, Owned by Glenn & Eloisa Whorton			
SUMMARY STATEMENT: As Discussed in Executive Session			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Resolution No. R-11-027			
FUNDING SOURCE (Where Applicable):			
RECOMMENDED ACTION: I move that the City of Brenham authorize the use of the power of eminent domain to acquire a 0.2158 parcel of land situated in the City of Brenham, Washington County, Texas out of the P.H. Coe Survey, Abstract 31, and owned by Glenn and Eloisa Whorton, for the public uses of construction, widening, improvement, use, repair, and maintenance of street improvements as part of the Westwood Lane Widening Construction Project, by the adoption of Resolution No. R-11-027			
APPROVALS: Terry Roberts			

RESOLUTION NO. R-11-027

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, DETERMINING THE NECESSITY OF ACQUIRING CERTAIN REAL PROPERTY NEEDED FOR THE PUBLIC USES OF CONSTRUCTION, WIDENING, IMPROVEMENT, USE, REPAIR, AND MAINTENANCE OF STREET IMPROVEMENTS AS PART OF THE WESTWOOD LANE WIDENING CONSTRUCTION PROJECT FOR THE CITY OF BRENHAM, TEXAS; AUTHORIZING THE CITY MANAGER TO AGREE ON COMPENSATION FOR SAID REAL PROPERTY; AUTHORIZING THE CITY ATTORNEY TO INSTITUTE CONDEMNATION PROCEEDINGS (USE OF EMINENT DOMAIN), IF NECESSARY, TO ACQUIRE SAID PROPERTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Brenham is authorized by Chapter 251, Texas Local Government Code, Chapter 21, Texas Property Code, and Art. II, Sec. 3 of the Brenham City Charter to acquire property by condemnation to extend, straighten, widen, or otherwise improve any public street; and

WHEREAS, the City Council of the City of Brenham hereby finds and determines that public need and necessity require the City of Brenham to acquire fee simple title to certain real property for the public uses of construction, widening, improvement, use, repair and maintenance of street improvements as part of the Westwood Lane Widening Construction Project, in the City of Brenham, Washington County, Texas, as described herein and as further described in Exhibit “A” attached hereto and made a part hereof for all purposes (hereinafter the “Property”); and

WHEREAS, the City Council hereby finds and determines that the Property described herein is suitable for such public uses and that it is necessary to acquire said Property for the Westwood Lane Widening Construction Project to provide for improved traffic flow in the City of Brenham, Texas;

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

Section 1. The facts and recitals set forth in the preamble of this Resolution are hereby found to be true and correct, and are incorporated herein for all purposes.

Section 2. The City Council of the City of Brenham hereby finds and determines that public need and necessity require the City of Brenham to acquire the following described Property for the public uses of construction, widening, improvement, use, repair and maintenance of street improvements as part of the Westwood Lane Widening Construction Project:

Being all that 0.2158 acre tract or parcel of land lying and being situated in the City of Brenham, Washington County, Texas out of the P.H. Coe Survey, Abstract 31 and being out of Tract 1 of the Brian O'Leary Division No. 1 as recorded on Plat Slide 548-A of the Plat Records of Washington County (P.R.W.C.). Said 0.2158 acre parcel being more particularly described in Exhibit "A" attached hereto and incorporated herein for all purposes.

Section 3. The City Manager is hereby authorized on behalf of the City of Brenham to take all appropriate actions to attempt to agree on compensation and damages, if any, to be paid to the owner(s), and any others having any interest in the Property, for the acquisition of the Property, including but not limited to the authority to make bona fide final offers to the owner(s) of the Property, in accordance with the laws of the State of Texas, for the acquisition of the Property as herein described. In the event the City Manager determines that an agreement as to compensation and damages, if any, cannot be reached, then the City Attorney is hereby authorized and directed to file, against the owner(s) and any interested parties, condemnation proceedings (proceedings in eminent domain) to acquire fee simple title to the Property described herein and to conduct all parts of the condemnation in accordance with the laws and procedures of the State of Texas.

Section 4. The Property is needed for the public uses of construction, widening, improvement, use, repair and maintenance of street improvements as part of the Westwood Lane Widening Construction Project to improve traffic flow in the City of Brenham, Texas.

Section 5. It is the intent of the City Council that this Resolution authorizes the condemnation of all property required for the public uses of construction, widening, improvement, use, repair and maintenance of street improvements as part of the Westwood Lane Widening Construction Project. If it is later determined that there are any errors in the descriptions contained herein or if later surveys contain more accurate revised descriptions, the City Attorney is authorized to have such errors corrected or revisions made without the necessity of obtaining a new City Council resolution authorizing the condemnation of the corrected or revised property.

Section 6. This Resolution shall become effective immediately from and after its approval.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Brenham, Texas this the 15th day of December, 2011.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

MALLOY LIVING TRUST
CALLED 2.748 ACS.
VOL.1250/747 ORWC

P.O.B. DESC.
1/2" I.R. FND.

1/2" I.R. SET

N 38°51'04"E
394.77'

N 07°56'46"W 91.29'

1/2" I.R. SET

S 05°34'00"E 223.71'

1/2" I.R. FND.

D 09°10'45"
R 770.00'
A 123.36'
C N 03°21'24"W
123.23'

BRIAN O'LEARY DIVISION NO.1
TRACT 1
PLAT SLIDE 548-A PRWC

D 01°39'37"
R 770.00'
A 22.31'
C N 02°03'48"W
22.31'

1/2" I.R. SET

1/2" I.R. SET

N 01°13'59"E 91.46'

0.2158 ACRE

WESTWOOD LANE

S 02°52'14"E 76.92'

N 22°22'00"E 100.00'

S 04°01'04"W 143.27'

N 02°53'36"E 123.41'

N

EX. 30' ACCESS ESMNT.
(PLAT SLIDE 548-A)

EX. 15' UTIL. ESMNT.
(PLAT SLIDE 548-A)

3/8" I.R. FND.

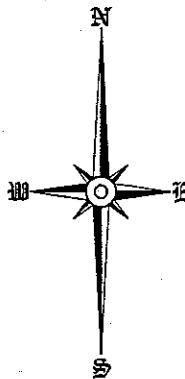
N 84°10'20"W
(REFERENCE BEARING) 1/2" I.R. SET

TERRY SMITH ENTERPRISES, INC.
CALLED 1.000 AC.
VOL.475/216 ORWC

EX. 10' UTIL. ESMNT.
(VOL.462/48 ORWC)

3/8" I.R. FND.

0 25 50 100
SCALE 1"=50'



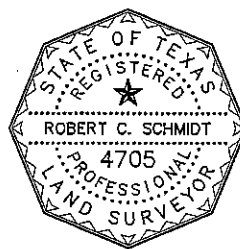
NOTES:

1. Bearings are based on the south line of Tract 1 of the Brian O'Leary Division No. 1 as recorded on Plat Slide 548-A, Plat Records of Washington County (P.R.W.C.).
2. The surveyor has not abstracted the property. This survey was performed without the benefit of a current abstract of property or title report and may be subject to any conditions, easements, restrictions, additions, or exceptions that a current title opinion might disclose.
3. All set 1/2" iron rods are marked with a cap stamped "RPLS 4705".
4. This survey is valid only if it bears the seal and original signature of the surveyor.
5. This plot is accompanied by a metes and bounds description of even date herewith.

The information shown on this plot is based on a survey performed on the ground under my supervision and completed March 16, 2011. It is my professional opinion that this map represents the facts as found.

Robert C. Schmidt

Robert C. Schmidt, RPLS
Texas Registered Professional
Land Surveyor No. 4705



Plat showing survey of a 0.2158 acre tract or parcel of land lying and being situated in the P.H. Coe Survey, Abstract 31, Washington County, Texas, being out of Tract 1 of the Brian O'Leary Division No. 1 as recorded on Plat Slide 548-A, P.R.W.C.

O'MALLEY ENGINEERS

203 S. JACKSON ST. BRENNHAM, TEXAS
(979) 836-7937 FAX (979) 836-7936

JOB NO.1006.68 MD DWG. NO. PARCEL1.DWG

Exhibit "A"
1 of 2
141



STATE OF TEXAS)
COUNTY OF WASHINGTON)

ALL THAT CERTAIN 0.2158 acre tract or parcel of land lying and being situated in the P.H. Coe Survey, Abstract 31, Washington County, Texas, being out of Tract 1 of the Brian O'Leary Division No.1 as recorded on Plat Slide 548-A of the Plat Records of Washington County (P.R.W.C.). Said 0.2158 acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found in the west margin of Westwood Lane for the east corner of a tract said to contain 2.748 acres conveyed to Malloy Living Trust by deed recorded in Volume 1250, Page 747, et seq. of the Official Records of Washington County (O.R.W.C.) and being the north corner of said parent tract;

THENCE with the west margin of Westwood Lane, South 05°34'00" East, a distance of 223.71 feet to a 24 inch oak found, South 02°52'14" East, a distance of 39.57 feet to a 1/2 inch iron rod found, South 00°57'22" West, a distance of 76.67 feet to a point and South 04°01'04" West, a distance of 143.27 feet to a 3/8 inch iron rod found for the northeast corner of a tract said to contain 1.000 acre conveyed to Terry Smith Enterprises, Inc. by deed recorded in Volume 475, Page 216, et seq. O.R.W.C.;

THENCE with the north line of said Terry Smith Enterprises, Inc. tract, North 84°10'20" West (reference bearing), a distance of 19.65 feet to a 1/2 inch iron rod set, from which a 3/8 inch iron rod found for the northwest corner of said Terry Smith Enterprises, Inc. tract bears North 84°10'20" West, a distance of 150.81 feet;

THENCE severing said parent tract, North 02°53'36" East, a distance of 123.41 feet to a 1/2 inch iron rod set for the beginning of a curve to the left;

THENCE with said curve to left having a central angle of 01°39'37", a radius of 770.00 feet, an arc length of 22.31 feet and a chord which bears North 02°03'48" West, a distance of 22.31 feet to a 1/2 inch iron rod set;

THENCE North 01°13'59" East, a distance of 91.46 feet to a 1/2 inch iron rod set for the beginning of a curve to the left;

THENCE with said curve to left having a central angle of 09°10'45", a radius of 770.00 feet, an arc length of 123.36 feet and a chord which bears North 03°21'24" West, a distance of 123.23 feet to a 1/2 inch iron rod set;

THENCE North 07°56'46" West, a distance of 97.29 feet to a 1/2 inch iron rod set in the northwest line of said parent tract and the southeast line of said Malloy Living Trust tract, from which a 1/2 inch iron rod found for the east corner of said parent tract bears South 38°51'04" West, a distance of 394.77 feet;

THENCE with the northwest line of said parent tract and the southeast line of said Malloy Living Trust tract, North 38°51'04" East, a distance of 30.05 feet to the Place of Beginning and containing 0.2158 acre of land.

Notes:

1. Bearings are based on the south line of Tract 1 of the Brian O'Leary Division No. 1 as recorded on Plat Slide 548-A, Plat Records of Washington County (P.R.W.C.).
2. All set 1/2 inch iron rods are marked with a cap stamped "RPLS 4705".
3. This survey is valid only if it bears the seal and original signature of the surveyor.
4. This description is accompanied by a plat of even date herewith.

March 16, 2011.

Robert C. Schmidt

Robert C. Schmidt, TX RPLS No. 4705

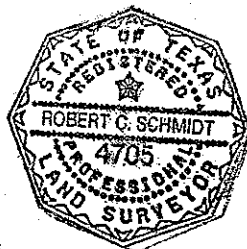


Exhibit "A"
442f2