



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, NOVEMBER 5, 2020 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Councilmember Adonna Saunders**
- 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. Approve Ordinance No. O-20-025 on Its Second Reading Providing for Increased Prior and Current Service Annuities in the Texas Municipal Retirement System ('TMRS') for Retirees and Beneficiaries of Deceased Retirees of the City of Brenham and Electing to Make Current Service and Prior Service Contributions to the City's TMRS Benefit Accumulation Fund at the Actuarially Determined Rate of Total Employee Compensation**
- 4-b. Approve Ordinance No. O-20-026 on Its Second Reading Amending Chapter 23 – “Subdivisions” of the Code of Ordinances of the City of Brenham**
- 4-c. Approve an Ordinance on Its First Reading Amending the FY2020-21 Adopted Budget**

- 4-d. Approve the Purchase of a Mustang CAT M318F Wheeled Excavator for the City of Brenham Street and Drainage Departments from Mustang CAT, Through BuyBoard Contract No. 515-06, in the Amount of \$298,200.00 and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-e. Approve an Equipment Financing Proposal with Citizens State Bank in the Amount of \$298,200.00, with a Seven-Year Note and an Interest Rate of 1.48 Percent and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-f. Approve a Contract Between the City of Brenham and the Lower Colorado River Authority (LCRA), In the Amount of \$141,674.78, for Tree Trimming Services and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-g. Approve the Purchase of a Kubota Skid Steer for the City of Brenham's Electric Department from Washington County Tractor, Through Sourcewell Contract No. 1809913, in the Amount of \$73,965.20 and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-h. Approve the Purchase of a Bucket Truck for the City of Brenham Electric Department from Terex Utilities, Inc., Through Sourcewell Contract No. 012418-TER, in the Amount of \$141,743.00 and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-i. Approve Change Order No. 1 and Final Payment on Contract No. 2017-03 to Barclays Premier Utility Services, LLC in the Amount of \$70,792.50 for the Industrial Blvd Drainage Repairs and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-j. Acceptance of a Grant from the Hancher Foundation in the Amount of \$15,000.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-k. Approve the City of Brenham 2021 Holiday Calendar and Authorize the Mayor to Execute Any Necessary Documentation**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

5. **Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham's Official Zoning Map in Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham to Amend the Planned Development District Ordinance No. O-20-013 to Correct an Error in Section IV for the Lakes at Vintage Farms, Being Approximately 52.428 Acres of Land Being Located South and West of Dixie Road and Further Described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-036)**

WORK SESSION

6. **Presentation of the FY2019-20 Municipal Court Statistics**
7. **Presentation of 4th Quarter Tourism Report by Visit Brenham**
8. **Presentation of 4th Quarter Economic Development Report**
9. **Discussion and Update on 2020 Holiday Events and COVID-19 Restriction and Recovery Efforts**

REGULAR SESSION

10. **Discuss and Possibly Act Upon a Joint Proclamation of the City of Brenham and Washington County Related to the 2020 Christmas Stroll and Lighted Parade to be held on December 4-5, 2020 and Authorize the Mayor to Execute Any Necessary Documentation**
11. **Discuss and Possibly Act Upon Resolution No. R-20-031 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2020 Lighted Christmas Parade to be held on Saturday, December 5, 2020**
12. **Discuss and Possibly Act Upon Resolution No. R-20-032 Amending Resolution No. R-20-008 Approving the Submission of a Grant Application to the Office of the Governor Criminal Justice Division for the Rifle-Resistant Body Armor Grant Program**
13. **Discuss and Possibly Act Upon Resolution No. R-20-033 for the Acceptance a Grant in the Amount of \$28,696.35 from the Office of the Governor Criminal Justice Division for the Rifle-Resistance Body Armor Grant Program**
14. **Discuss and Possibly Act Upon a Master Subscription Service Agreement between City of Brenham and MUNIRevs, Inc. for the MUNIRevs Vacation Rental Compliance Module, LODGINGRevs, and Authorize the Mayor to Execute Any Necessary Documentation**
15. **Discuss and Possibly Act Upon Resolution No. R-20-034 Consenting to the Creation of the Pecan Glen Road District Within the Extraterritorial Jurisdiction of the City of Brenham**

EXECUTIVE SESSION

16. **Section 551.087 - Texas Government Code - Economic Development Negotiations - Discuss and Deliberate Project BK Regarding Commercial or Financial Information that the City Has Received from a Business Prospect and the Offer of Financial or Other Incentives to a Business Prospect that the City Seeks to Have Locate, Stay or Expand In or Near the City of Brenham and With Which the City is Conducting Economic Development Negotiations**

RE-OPEN REGULAR SESSION

17. **Discuss and Possibly Act Upon Resolution No. R-20-035 Approving the Amendment of the Chapter 380 Economic Development Agreement Between the City of Brenham and BK Stringer, Ltd.**

18. **Administrative/Elected Officials Report**

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

Adjourn

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

CERTIFICATION

I certify that a copy of the November 05, 2020 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on November 2, 2020 at 10:00 a.m.

Jeana Bellinger, TRMC, CMC

City Secretary

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

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

Signature

Title



TMRS-CPI

ORDINANCE NO. O-20-025

TEXAS MUNICIPAL RETIREMENT SYSTEM

AN ORDINANCE PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY OF BRENHAM, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE.

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

Increase in Retirement Annuities.

(a) On the terms and conditions set out in Section 854.203 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the "TMRS Act"), the City hereby elects to allow and to provide for payment of the increases below stated in monthly benefits payable by the System to retired employees and to beneficiaries of deceased employees of the City under current service annuities and prior service annuities arising from service by such employees to the City. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of the annuity increase under this section is computed as the sum of the prior service and current service annuities on the effective date of retirement of the person on whose service the annuities are based, multiplied by **70%** of the percentage change in Consumer Price Index for All Urban Consumers, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the effective date of the increase under this Section.

(c) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(d) If a computation hereunder does not result in an increase in the amount of an annuity, the amount of the annuity will not be changed hereunder.

(e) The amount by which an increase under this Section exceeds all previously granted increases to an annuitant is an obligation of the City and of its account in the Benefit Accumulation Fund of the System.

Effective Date. Subject to approval by the Board of Trustees of the System, this ordinance shall be and become effective on the 1st day of January 2021.

Passed and approved this the 5th day of November, 2020.

ATTEST:

APPROVED:

City Secretary or Clerk

Mayor

ORDINANCE NO. O-20-026

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 23 – “SUBDIVISIONS” OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS BY AMENDING SECTION 23-30 – “REQUIRED IMPROVEMENTS” TO REQUIRE ALL UTILITIES TO BE LOCATED UNDERGROUND THROUGHOUT ALL DEVELOPMENT; AMENDING SECTION 23-31 “COSTS-PAYMENT FOR INSTALLATION OF IMPROVEMENTS BY SUBDIVIDER” TO CLARIFY RESPONSIBILITIES OF DEVELOPERS IN THE INSTALLATION AND CONSTRUCTION OF PUBLIC INFRASTRUCTURE; AMENDING SECTION 23-10 TO REMOVE SUBSECTION (B)(4); PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR PROPER NOTICE OF MEETINGS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances, City of Brenham, Texas (“Code of Ordinances”), Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries and extraterritorial jurisdiction of the City of Brenham; and

WHEREAS, the City Council recognizes the need from time to time to amend these regulations to help facilitate high quality and orderly development and the protection of the public health and general welfare of the community; and

WHEREAS, the City Council deems it appropriate to approve and adopt the amendments herein below to Chapter 23 – “Subdivisions” of the Code of Ordinances.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS THAT CHAPTER 23 – “SUBDIVISIONS” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS BE AMENDED IN THE FOLLOWING MANNER:

SECTION 1.

That Chapter 23 – “Subdivisions” of the Code of Ordinances of the City of Brenham, Texas Section 23-30 – Required Improvements, is hereby amended to read as follows:

Section 23-30. – Required Improvements.

(4) *City utilities.* Each developer shall provide city utilities within the subdivision that conform to construction standards of the city for water, sanitary sewerage, gas and electric systems as provided in the current design standards.

(5) *Private utilities.* All private, franchised utilities, including, but not limited to, electric lines, telephone cables, television cables and natural gas mains, shall be located underground throughout any new development; except that overhead electric lines may be utilized in the perimeter easements of a development, where primary electric lines and/or feeders are necessary to provide services to the development and adjacent areas. Such underground utilities shall be buried in dedicated utility easements or in street rights-of-way, as appropriate and approved by the city engineer. The placement and separation of the various utilities within an easement or street right-of-way shall be determined by the city engineer in accordance with city design standards and any other specifications as approved by the city engineer.

SECTION 2.

That Chapter 23 – “Subdivisions” of the Code of Ordinances of the City of Brenham, Texas Section 23-31 – Costs-payment for installation of improvements by subdivider, is hereby amended to read as follows:

Sec. 23-31. – Assurances for Completion of Improvements.

The subdivider shall have the responsibility for construction costs for street and utility improvements within a subdivision and for off-site utility extensions.

- (1) Purpose. The provisions of this Chapter, as set forth in this section, are designed and intended to insure that, for all subdivisions of land within the jurisdiction of the City, all improvements as required herein are installed in a timely manner in order that:
 - (a) The City can provide for the orderly and economical extension of public facilities and services; and
 - (b) All purchasers of property within the subdivision shall have a usable, buildable parcel of land; and
 - (c) All required improvements are constructed in accordance with the City’s applicable rules, regulations, standards, and specifications.

(2) Policy. Upon approval of a final plat by the Planning and Zoning Commission, and prior to it being signed by the chairperson of the Planning and Zoning Commission, and before said final plat shall be allowed to be recorded in the plat records of Washington County, Texas the applicant requesting final plat approval shall, within the time period for which the final plat has been conditionally approved by the City:

- (a) Construct all improvements as required by this Chapter, and provide a surety instrument guaranteeing their maintenance as required herein; or
- (b) Provide a surety instrument guaranteeing construction of all improvements required by this Chapter, and as provided for herein.
- (c) In all instances, the original copy of the final plat, without benefit of required signatures of City officials, shall be held in escrow by the City and shall not be released for any purpose until such time as the conditions of this section are complied with.
- (d) Upon the requirements of this section being satisfied, the final plat shall be considered fully approved, except as otherwise provided for in this Chapter, and the original copy of the final plat shall be signed by the appropriate persons and City staff shall record said final plat in the plat records of Washington County, Texas.

(3) Completion of improvements.

- (a) Prior to the signing of the approved final plat by the chairperson of the Planning and Zoning Commission, the applicant shall complete all improvements required by this Chapter in accordance with the approved construction plans and subject to the approval of the Development Services Director or designee and acceptance by the City Council, except as otherwise provided for in this Chapter.
- (b) Alternative to completing improvements. The Development Services Director or designee may waive the requirement that the applicant complete all improvements required by this Chapter prior to the signing of the approved final plat, contingent upon securing from the applicant a guarantee, as provided for by this Section, for completion of all required improvements, including the City's cost for collecting the guaranteed funds and administering the completion of improvements, in the event the applicant defaults. Such guarantee shall take one (1) of the following forms:
 - (1) Performance bond. The applicant shall post a performance bond with the City, as set forth herein, in an amount equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements, using the standard City form.

- (2) Escrow account. The applicant shall deposit cash, or other instrument readily convertible into cash at face value, either with the City, or in escrow with a bank, savings and loan or other financial institution acceptable to the City. The use of any instrument other than cash shall be subject to the approval of the City. The amount of the deposit shall equal one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements. In the case of any escrow account, the applicant shall provide the City with an agreement between the financial institution and the applicant, the form and substance of which is subject to approval of the City, guaranteeing the following:
- (A) That the funds of said escrow account shall be held in trust until released by the City and may not be used or pledged by the applicant as security in any other matter during that period; and
 - (B) That in the case of a failure on the part of the applicant to complete said improvements, the financial institution shall immediately make the funds in said account available to the City for use in the completion of those improvements.
- (3) Letter of credit. The applicant shall provide an irrevocable letter of credit from a bank, savings and loan or other financial institution acceptable to the City. This letter shall be submitted to the City and shall certify the following:
- (A) That the creditor does guarantee funds equal to one hundred ten percent (110%) of the estimated construction costs for all remaining required improvements; and
 - (B) That, in the case of failure on the part of the applicant to complete all remaining required improvements within the required time period, the creditor shall pay to the City immediately upon written request of the City, and without further action, such funds as are necessary to fully pay for the completion of those improvements, up to the limit of credit stated in the letter; and
 - (C) That this letter of credit may not be withdrawn, or reduced in amount, until approved by the City according to provisions of this Section.
- (4) Cost estimates. A licensed professional engineer licensed to practice in the State of Texas shall furnish estimates of the costs of all required improvements to the Development Services Director or designee for approval, who shall review the estimates to determine the adequacy of the guarantee instrument for ensuring the construction of all remaining required improvements.

- (5) Surety acceptance. The bank, financial institution, insurer, person or entity providing any letter of credit, bond or holding any escrow account pursuant to this Chapter shall meet or exceed the minimum requirements established by this Chapter and all other applicable ordinances, laws and regulations, and shall be subject to the approval of the City.
 - (6) Sufficiency. Such surety shall comply with all statutory requirements, and all associated documents and instruments shall be subject to the approval of the City Attorney as to form, sufficiency, and manner of execution. All such surety instruments shall be both a payment and performance guarantee.
- (c) Time limit for completing improvements. The period within which required improvements must be completed shall be incorporated in the surety instrument and shall not in any event, without prior written approval of the City, exceed one (1) year from date of final plat approval.
- (1) The Development Services Director or designee may, upon application of the applicant and upon proof of hardship, extend the completion date set forth in such bond or other instrument for a maximum period of one (1) additional year. An application for extension shall be accompanied by an updated estimate of construction costs prepared by a professional engineer licensed to engage in the practice of engineering in the State of Texas. A surety instrument for guaranteeing completion of remaining required improvements must be filed in an amount equal to one hundred ten percent (110%) of the updated estimate of construction costs as approved by the Development Services Director or designee.
- (d) Assurances for completion shall be posted or improvements shall be completed within two (2) years of final plat approval, unless otherwise approved by the City. In those cases where a surety instrument has been required and posted, and improvements have not been completed within the terms of said surety instrument, the City may declare the applicant and/or surety to be in default and require that all of the required improvements be installed.
- (e) Inspection and acceptance of improvements. The Development Services and Public Utility Departments shall inspect all required improvements, to ensure compliance with City requirements and the approved construction plans.
- (1) The applicant shall provide a certificate of compliance from the state department of licensing and regulation for all pedestrian improvements within the subdivision.
 - (2) When all required improvements have been satisfactorily completed, the applicant shall request a final inspection.
 - (3) The Development Services Department shall have ten (10) working days to complete this inspection upon notification by the applicant that all required improvements have been completed and are ready for inspection by the City.

- (4) Within ten (10) working days after the date of inspection the Development Services Department shall issue an inspection report including issuance of a punch list to the applicant denoting remaining items to be completed.
- (5) Provided that all improvements have been satisfactorily completed, the City Council shall accept in writing the improvements having been satisfactorily completed. The City shall not accept dedications of required improvements or release or reduce a performance bond or other assurance until such time it is determined that:
 - i. All improvements have been satisfactorily completed.
 - ii. One (1) set of as-built plans measuring twenty-two by thirty-four inches (22" x 34") has been submitted to and approved by the Development Services Director or designee, along with a statement prepared by a professional engineer licensed to engage in the practice of engineering in the State of Texas that all improvements have been installed and constructed in accordance with the submitted as-built plans and the City's applicable rules, regulations, standards, and specifications.
 - iii. Copies of all inspection reports, shop drawings and certified test results of construction materials have been submitted to and approved by the Development Services Director or designee.
 - iv. Two (2) copies of the approved maintenance bond meeting the requirements of this Chapter have been provided to the City.
 - v. Electronic copy containing computed generated Auto CAD drawings of all public improvements shown on the construction plans, and all lot lines shown on the plat, have been submitted to the Development Services Department to update City maps.
 - vi. An affidavit of all bills paid and a release of liens have been provided to the City.
 - vii. An inventory of infrastructure including infrastructure type, location (latitude and longitude coordinates), length, size and dollar value has been provided, using the standard City form.
 - viii. Any and all other requirements identified in the final plat process have been satisfied.

(f) Reduction or release of improvement surety instrument.

- (1) The principal amount of a surety instrument may be reduced with the approval of the Development Services Director or designee, and the City Manager or designee, upon actual construction of required improvements by a ratio that the improvement bears to the total public improvements required for the subdivision, as determined by the Development Services Director or designee.

- (2) Before the City may reduce said surety instrument, the applicant shall provide a new surety instrument in an amount equal to one hundred ten percent (110%) of the estimated cost of the remaining required improvements, and such new surety instrument shall comply with this Chapter and all other applicable ordinances, laws and regulations.
- (3) The substitution of a new surety instrument shall in no way change or modify the terms and conditions of the performance surety instrument or the obligation of the applicant as specified in the performance surety instrument.
- (4) In no event shall a surety instrument be reduced below ten percent (10%) of the principal amount of the original estimated total costs of improvements for which surety was given, prior to completion and acceptance of all required improvements.
- (5) The City shall not release a surety instrument unless and until all of the requirements and conditions of this Chapter have been fulfilled.

(g) Maintenance bond required.

- (1) Before the release of any surety instrument guaranteeing the construction of all required subdivision improvements, or the signing of the final plat where subdivision improvements were made prior to the filing of the final plat for recordation, the applicant shall furnish the Development Services Department with a maintenance bond or other acceptable surety to assure the quality of materials, workmanship, and maintenance of all required improvements including but not limited to the City's costs for collecting the guaranteed funds and administering the correction and/or replacement of covered improvements.
- (2) The maintenance bond or other surety instrument:
 - i. Shall be satisfactory to the City Attorney as to form, sufficiency, and manner of execution.
 - ii. Shall clearly state both the applicant as the principal and the City as the obligee.
 - iii. Shall cover all improvements and facilities requested for City acceptance, including but not necessarily limited to water, wastewater, gas, electric, street and drainage improvements.
 - iv. Shall be in an amount equal to ten percent (10%) of the cost of improvements for one (1) calendar year from the date of City Council acceptance of operation and maintenance of the subdivision. A statement of construction value or final pay estimate shall be provided to the Development Services Department to support said warranty and maintenance bond amounts.
 - v. Shall require the surety to notify the City at least thirty (30) days prior to the expiration of the one (1) year maintenance period.

- (3) In an instance where a maintenance bond or other surety instrument has been posted and a defect or failure of any required improvement occurs within the period of coverage, the City may declare the principal on said bond or surety instrument to be in default of its repair and/or maintenance obligations. Surety shall, within thirty (30) days following written notice of default and request for performance from obligee:
- i. Notify obligee in writing of its election to correct all defects and workmanship in the subdivision improvements and shall commence and complete construction, re-construction, replacement, repair or maintenance of the subdivision improvements; or
 - ii. Notify obligee in writing that surety elects not to complete, re-construct, replace, repair, or maintain the subdivision improvements.
 - iii. If the surety fails to give such written notice, then it will be deemed to have elected not to complete, re-construct, replace, repair, or maintain the subdivision improvements. In either event, surety shall be obligated to pay obligee for all loss, cost and expense which the obligee incurs to correct all defects and workmanship in the subdivision improvements. In the event that surety elects to proceed under 3(i) above, the contractor selected by surety to perform such work shall be approved by obligee, which approval shall not be unreasonably withheld.
- (4) Whenever a defect or failure of any required improvement occurs within the period of coverage, the City shall require that a new maintenance bond or surety instrument be posted for a period of one (1) full calendar year sufficient to cover the corrected defect or failure.

SECTION 3.

That Chapter 23 – “Subdivisions” of the Code of Ordinances of the City of Brenham, Texas Section 23-10 – Final Plat Application, is hereby amended by deleting subsection 23-10(b)(4).

SECTION 4. SAVINGS CLAUSE.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 5. 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. City hereby declares that it would have passed this Ordinance, and each section, subsection, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6. REPEALER.

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

SECTION 7. 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.

SECTION 8. EFFECTIVE DATE.

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 15th day of October 2020.

PASSED and **APPROVED** on its second reading this the 5th day of November 2020.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 4-C.

Agenda Item: Approve an Ordinance on Its First Reading Amending the FY2020-21 Adopted Budget

Meeting Type: Regular Meeting-November 05, 2020

Department: Finance

Staff Contact: Carolyn Miller

Classification: Consent

SUMMARY STATEMENT:

See attached memo from Strategic Budget Officer.

ATTACHMENTS:

- (1) Memo from Strategic Budget Officer
- (2) Ordinance for First Reading
- (3) Exhibit A

RELEVANCE TO COMPREHENSIVE PLAN:

Plan 2040 implementation is made possible by the City's adherence to the annual budget which identifies how essential capital projects and annual priorities will be funded and maintained.

RECOMMENDED ACTION:

Approve an Ordinance in its first reading amending the FY2020-21 adopted budget.



MEMORANDUM

To: Mayor, Council and City Manager

From: Debra D. Gaffey, Strategic Budget Officer

Subject: FY20-21 Budget Amendment #1

Date: October 12, 2020

The FY 20-21 Budget is being amended for the following:

- a. Hickory Lane Drainage Improvements - Fund 107 - The Hickory Lane Drainage Improvement Project was not included in the FY20-21 budget. A budget amendment is needed to establish an appropriation for this project. The Drainage Fund finished FY19-20 with \$234,296 in unrestricted fund balance. The F20-21 Budget projects net revenues of \$329,337 before the Hickory Lane Drainage Improvement Project. Total project costs are estimated at \$187,000 which includes \$31,500 for engineering, \$147,500 in construction, and \$8,000 for contingencies.

Questions regarding this memorandum may be referred to the writer.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING THE FY20-21 ADOPTED BUDGET; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Brenham, Texas has previously approved a budget for the fiscal year ending September 30, 2021, after having filed the same with the City Secretary and after holding public hearings on same, all after due notice as required by statute; and

WHEREAS, due to unforeseen circumstances and/or conditions, the City Council finds it is necessary to amend the FY20-21 Budget for municipal purposes; and

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

SECTION I.

That the City Council of the City of Brenham, Texas, does hereby amend the budget for the City of Brenham, Texas for the fiscal year ending September 30, 2021, as shown on Exhibit A.

SECTION II.

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

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

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

ATTEST:

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT A

FUND 107 - DRAINAGE FUND

GL#	ACCOUNT NAME	ACCOUNT TYPE	AMENDMENT ACTION	CURRENT BUDGET	AMENDMENT	AMENDED BUDGET	REASON
1. 5-041-815.41	OTHER CAPITAL	EXPENDITURE	INC/(DEC)	-	187,000	187,000	1. Budget amendment is set up expenditure authorization for Hickory Lane Drainage Improvements. Estimated engineering costs are \$31,500 and estimated construction costs are \$147,500. An additional \$8,000 is for contingencies.



Regular City Council
AGENDA ITEM 4-D.

Agenda Item: Approve the Purchase of a Mustang CAT M318F Wheeled Excavator for the City of Brenham Street and Drainage Departments from Mustang CAT, Through BuyBoard Contract No. 515-06, in the Amount of \$298,200.00 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Consent

SUMMARY STATEMENT:

During the 2020-2021 budget process Council approved the purchase of a Wheeled Excavator, formally known as a "Gradall" for the Street and Drainage Departments. The Mustang Cat M318F Wheeled Excavator will replace Unit 4, a 1998 Gradall that is a vital piece of the Street and Drainage Departments fleet. This piece of equipment is very versatile and is used for ditch cleaning, storm debris removal, street reconstruction, and loading drainage pipe. We have relied on the older Gradall for many years, but it has become un-reliable due to its age. We are looking forward to having a reliable, versatile unit that can handle many jobs.

The Wheeled Excavator was budgeted at \$300,000. This unit will be purchased by using Buy Board Quote #515-06 through Mustang Cat for \$298,200.

We have included pictures along with the buy board price sheet. Once approve we should receive the unit within 6-8 weeks.

ATTACHMENTS:

- (1) Mustang Cat Quote JW20-1055
- (2) Equipment Photos

RELEVANCE TO COMPREHENSIVE PLAN:

Continuing with Equipment Replacement Program by replacing old and maintenance prone, avoiding expensive repairs.

RECOMMENDED ACTION:

Approve the purchase of a Gradall Excavator for the City of Brenham Street and Drainage Departments from Mustang CAT, through BuyBoard Contract No. 515-06, in the amount of \$298,200.00 and authorize the Mayor to execute any necessary documentation.



Brian Smith
City Of Brenham

JW20-1055

September 24, 2020

512-3079	M318F WHEELED EXCAVATOR DCA-3	CAT LIST \$305,120
503-4942	BOOM, VA, AUTO-LUBE	
503-2177	STICK, 8'6" AUTO-LUBE	
423-0706	UNDERCARRIAGE-BLADE FRONT/OUTRIGGER REAR	
373-6030	SEAT, COMFORT WITH 2" SEAT BELT	
489-2995	CAB, 70/30 WINDOW WITH WIPER	
474-7221	TIRES, MITAS 10.00-20 DUAL	
123-4968	PIN, BUCKET, ADJUSTOR	
383-3964	PEDAL, HPF/HAMMER AUX	
422-9762	BEACON, ROTATING, REMOVABLE	
423-0582	8600 LB COUNTERWEIGHT	
423-0667	BOOM LOWERING CHECK VALVE	
425-0170	SPEED, 21.7 MPH	
431-9304	JOYSTICK STEERING CONTROLS	
459-6004	CELLULAR PRODUCT LINK PL641	
491-8396	LED WORK LIGHTS	
492-8468	CONTROLLER, ELECTRONIC XL	
494-0903	SETTING, QC CONTROL, PIN GRABBER	
497-1005	JOYSTICK, 1- SLIDER	
506-7504	CONTROL, 1 PC & VA	
509-9862	JOYSTICK PATTERN, CHANGER	
	ROTOTILT MODEL R6 ROTATING/TILTING COUPLER	\$42,000
	ROTOTILT SORTING GRAPPLE	\$13,700
	ROTOTILT DITCHING BUCKET-62"	\$9460
Total List Price		\$370,280
Buy-Board Discount (18%)		(\$66,651)
Additional Mustang Discount		(\$5,429)
Machine Sale Price		\$298,200

Warranty: -Warranty: 36 Months or 5000 Hour Premier (CAT Products)
-No Travel Time and Mileage for Warranty Repairs the First Year

CURRENT APPROXIMATE DELIVERY-5 WEEKS FROM DATE OF PURCHASE ORDER
(Quote Good for 30 Days)

BUYBOARD QUOTE # 515-06









Regular City Council
AGENDA ITEM 4-E.

Agenda Item: Approve an Equipment Financing Proposal with Citizens State Bank in the Amount of \$298,200.00, with a Seven-Year Note and an Interest Rate of 1.48 Percent and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Finance

Staff Contact: Carolyn D. Miller

Classification: Consent

SUMMARY STATEMENT:

Included in the FY20-21 adopted budget is the purchase of a Gradall Excavator through debt financing. The total cost of the Gradall is \$298,200 and will be split 50/50 between the Drainage Fund and the Street Department via the Vehicle and Equipment Replacement Fund (VERF) . We obtained three financing proposals (see below) for a 7-year note with annual payments beginning in FY21. The proposal offering the lowest interest rate is Citizens State Bank at 1.48%.

- Bank of Brenham 2.49%
- Brenham National Bank 2.10%
- Citizens State Bank 1.48%

ATTACHMENTS:

None

RELEVANCE TO COMPREHENSIVE PLAN:

Goal GC1. Continued investment in maintenance and upgrades to City-owned utilities and facilities.

RECOMMENDED ACTION:

Approve an equipment financing proposal with Citizens State Bank in the amount of \$298,200.00, with a seven-year note and an interest rate of 1.48% and authorize the Mayor to execute any necessary documentation.



Regular City Council
AGENDA ITEM 4-F.

Agenda Item: Approve a Contract Between the City of Brenham and the Lower Colorado River Authority (LCRA), In the Amount of \$141,674.78, for Tree Trimming Services and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Consent

SUMMARY STATEMENT:

Each year the City of Brenham contracts with LCRA for our annual tree trimming services. This contract is executed through our Technical Services Agreement between LCRA and the City of Brenham dated January 18, 1980. This agreement allows the City to use services or programs that LCRA has available. McCoy Tree Surgery, Inc. will perform the work in accordance with the terms and specifications between LCRA and the Contractor.

The contract is for \$141,674.78 and was budgeted during the 2020-2021 budget process at \$150,000.00.

ATTACHMENTS:

(1) LCRA Customer Services Contract

RELEVANCE TO COMPREHENSIVE PLAN:

Continued investment in maintenance to City-owned utilities.

RECOMMENDED ACTION:

Approve a Contract between the City of Brenham and the Lower Colorado River Authority (LCRA) in the amount of \$141,674.78 for Tree Trimming Services and authorize the Mayor to execute any necessary documentation.

**CUSTOMER
SERVICES CONTRACT**

CUSTOMER: City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059
Attn: Alton Sommerfield

DATE SUBMITTED: September 24, 2020

SCOPE OF SERVICES:

JOB NUMBER:

The Lower Colorado River Authority ("LCRA") will provide the Customer access to LCRA's tree trimming services contract (the "Agreement") with McCoy Tree Surgery ("McCoy"). The City will specify which lines McCoy is to clear prior to the start of work.

Per hour rates will depend on individual classification of each employee. (See attached rate schedule). McCoy will bill Customer directly, on a weekly basis, and Customer will pay invoices directly to McCoy in accordance with the terms and conditions of the Agreement.

Scope of Tree Trimming:	Estimated at 8 crew-weeks of trimming
Estimated Services Value:	\$ 134,928.36 per year (direct charge from McCoy)
Total Amount of Services (includes LCRA Fee):	\$ 141,674.78 Estimate

See Attached Terms and Conditions.

SCHEDULE:

Customer and McCoy will determine a mutually acceptable time for the start of services. Services have a target start of April 12, 2021 with a 8 week completion.

CONTRACT PRICE:

LCRA Administration Fee: \$ 6,746.42
The Administration Fee will be added to the Customer's monthly power bill upon execution of contract.
(or invoiced direct as applicable).

Customer and the Lower Colorado River Authority agree that the work described above shall be performed in accordance with the terms and conditions on the front and *reverse* (or attached) sides of this form.

City of Brenham

Lower Colorado River Authority

By: _____
Title: _____
Date: _____

By: _____
Robert C. Mechler
Title: Director, Business Development
Transmission Strategic Services
Date: _____

OFFICE USE ONLY

Accounting: 0 _____

Approved By: _____
Completion Date: _____

TERMS AND CONDITIONS

The Lower Colorado River Authority ("LCRA") will provide the Customer access to LCRA's tree trimming services contract (the "Agreement") with McCoy Tree Surgery ("McCoy").

LCRA will add a 5% fee to Customer's wholesale power bill to cover administration of this program.

The services under this Customer Services Contract are provided pursuant to the Technical Services Agreement between LCRA and the City, dated January 18, 1980 and under the authority of Chapter 791 of the Texas Government Code, Chapter 271, Subchapter F of the Texas Local Government Code, and in furtherance of LCRA's statutory and constitutional authority to provide electric utility services. The purpose of this Customer Services Contract is to increase the reliability of electric service within Customer's service territory, and to realize savings and efficiencies by cooperatively procuring services.

Customer will purchase services from McCoy under the same terms and conditions and pricing contained in the Agreement. All orders and payments for such purchases will be issued directly from Customer to McCoy, and McCoy will provide the services and associated invoices directly to Customer. LCRA is not a party to, and will in no way be responsible to either Customer or McCoy for, such orders, including without limitation any payments, performance, costs, expenses, losses or damages arising from such transactions between McCoy and Customer. Customer releases LCRA from any liability associated with Customer's transactions under the Agreement.

Customer represents that (i) all payments made pursuant to this Customer Services Contract will be paid from current revenues and (ii) it has the authority to enter into this Customer Services Contract.



Personnel Level	Rates	1	Rate
Supervisor/General Foreperson	\$50.53	1 \$	50.53
Foreperson	\$40.00	1 \$	40.00
Trimmer	\$34.30	1 \$	34.30

Equipment

Chain Saws (each)	0.92	0.9 \$	0.83
Bucket Truck with Chip bed	15.3	15 \$	229.50
Chipper	5.82	5.71 \$	33.23
GF PickUp	10.97	1 \$	10.97

Crew Rate (using Max Rates)

Supervisor/General Foreperson	\$50.53	1 \$	50.53
GF PickUp	\$10.97	1 \$	10.97
Foreperson	\$40.00	3 \$	120.00
Trimmer	\$34.30	6 \$	205.80
Chain Saws (each)	\$ 0.92	9 \$	8.28
Bucket Truck with Chip bed	\$15.30	3 \$	45.90
Chipper	\$ 5.82	3 \$	17.46

Total Hourly Crew Rate		\$	458.94
Total Weekly Crew Rate		\$	18,357.60
Total weeks (estimated)	7.4	\$	134,928.36
Total Trimmers		10	

Includes per diem costs for Lodging and meals

Total (using max rates)	\$	134,928.36	Note: This is the estimated direct
Average/week	\$	18,357.60	charge from McCoy

Actual Charges according to the rate schedule will be billed.

LCRA will bill a fee to cover the cost of scheduling and administering the program

The Administration fee is: \$ 6,746.42

FOR BUDGETING PURPOSES ONLY

Total (LCRA and McCoy)	\$	141,674.78	7 PERSON CREW
Total (LCRA and McCoy) weekly avg.	\$	19,275.48	



Regular City Council
AGENDA ITEM 4-G.

Agenda Item: Approve the Purchase of a Kubota Skid Steer for the City of Brenham's Electric Department from Washington County Tractor, Through Sourcewell Contract No. 1809913, in the Amount of \$73,965.20 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Consent

SUMMARY STATEMENT:

During the budget process Council approved the purchase of a new Skid Steer. This equipment is used for brush clearing, trenching, pulling wire, and backfilling. This unit will replace Unit 268, a 2006 model that has begun to have many maintenance issues. The old unit will be sold on GovDeals.

The unit was budgeted at \$75,000.00 and is coming in at \$73,965.20. This unit will be purchased using a Sourcewell (formerly known as National Joint Powers Alliance) Cooperative through Washington County Tractor.

ATTACHMENTS:

- (1) WC Tractor Quote #1809913
- (2) Equipment Description and Photo

RELEVANCE TO COMPREHENSIVE PLAN:

Continuing with Equipment Replacement Program by replacing old and maintenance prone, avoiding expensive repairs.

RECOMMENDED ACTION:

Approve the purchase of the Kobota Skid Steel for the City of Brenham's Electric Department from Washington County Tractor, through Sourcewell Contract No. 1809913, in the amount of \$73,965.20 and authorize the Mayor to execute any necessary documentation.



GM - 062117, CE - 040319, AG - 021815
NJPA Arkansas 480041718
NJPA Delaware GSS-17673
Nebraska 14777 (GC)
Mississippi (CE Only) 820036654

SVL75-2HFWC WEB QUOTE #1809913

Date: 10/14/2020 12:06:04 PM

-- Customer Information --
Lange, Jason
City of Brenham
jlange@cityofbrenham.org
979-337-7200

Quote Provided By
WC TRACTOR
MAURICE GRAEBER
2106 HWY. 290 EAST
BRENNHAM, TX 77833
email: mauriceg@wctractor.com
phone: 9798300692

-- Standard Features --

-- Custom Options --



Kubota

S Series

SVL75-2HFWC

*** EQUIPMENT IN STANDARD MACHINE ***

FEATURES

Vertical Lift Path Loader Frame
Standard Front Quick Coupler,
Float Standard
Hydraulic Quick Coupler
Option, High Flow Hydraulics
Loader Boom Lock
Open ROPS & Air Conditioned
ROPS/FOPS Cab Models
High Back, Adjustable, Vinyl,
Suspension Seat
2" Retractable Seat Belt and 2-
Piece Seat Bar
12V Electric Outlet
17.4 gpm Auxiliary Hydraulics
standard, 29.3 gpm Option
Direct To Tank Return Line
Rigid Mounted Undercarriage, 4
Lower Track Rollers
Rubber Tracks, 12.6" Standard,
15" Optional
Two Speed Travel System
Automatic Wet Disk Parking
Brake
Kubota 4 Hydraulic Pump Load
Sensing System
2 Gear, 2 Variable
Displacement Pumps
Hydraulic Joystick Controls
ISO Operating Pattern
Hand And Foot Throttle
Controls
Electronic Travel Torque
Management
Automatic Glow Plugs
Key Switch Stop/Start System
Self Bleed Fuel System
2 Front and 2 Rear Working
Lights
Hour Meter, Engine
Temperature and Fuel
Gauges and Warning Lights
Horn and Backup Alarm
Lockable Fuel Cap
Bolt On Grab Handles to enter
machine

BASIC UNITS

SVL75-2, 15.0" Rubber Tracks,
A/C ROPS/FOPS Cab
Hydraulic Quick Coupler, High
Flow Hydraulics

ENGINE
V3307 Kubota CR-TE4, Tier 4
Diesel Engine
4 Cylinder, 4 Cycle, Turbo Charged
74.3 Gross HP @ 2400 rpm

DIMENSIONS

Cab Height 82.0"
Width (without attachment) 65.9"
Width with wide track option
(without attachment) 68.3"
Length (without attachment) 109.0"
Length of Track on Ground 56.5"

OPERATIONAL

DIMENSIONS
Operating Weight*, SVL75H, 12.6"
Rubber Tracks, Open
ROPS/FOPS Cab, Mechanical
Quick Coupler 9,039 lbs.
Rated Operating Capacity (@ 35%
of Tipping Load) 2,300 lbs.
Rated Operating Capacity (ROC)
@ 35% of Tipping Load complies
with ISO 14397-1 and SAE J 816
for crawler loaders
Rated Operating Capacity (ROC)
@ 50% of Tipping Load 3,285 lbs.
Tipping Load 6,570 lbs.
Auxiliary Hydraulics Flow 17.4
gpm
Travel Speed (Low / High) 4.7 / 7.1
mph
Reach @ Maximum Height 41.7"
Height to Hinge Pin 119.1"
Ground Pressure 5.6 psi.
Traction Force 9,678 lbf.

* Includes operator's weight, 175
lbs.

SVL75-2HFWC Base Price: \$67,526.00

(1) 74" HEAVY DUTY LOW PROFILE LONG FLOOR BUCKET (19.2 CU-FT) W/CUTTING EDGE AP-H074LLC-74" HEAVY DUTY LOW PROFILE LONG FLOOR BUCKET (19.2 CU-FT) W/CUTTING EDGE	\$1,763.00
(1) SPECIAL APPLICATION DOOR KIT FOR CAB S6658-SPECIAL APPLICATION DOOR KIT FOR CAB	\$3,095.00
(1) REAR VIEW MIRROR KIT S6841-REAR VIEW MIRROR KIT	\$22.00
(1) HOSE STAY S6689-HOSE STAY	\$98.00
(1) AIR RIDE SEAT SUSPENSION KIT S6579-AIR RIDE SEAT SUSPENSION KIT	\$541.00
Configured Price:	\$73,045.00
Sourcewell Discount:	(\$17,530.80)
SUBTOTAL:	\$55,514.20
Dealer Assembly:	\$391.00
Freight Cost:	\$710.00
PDI:	\$250.00
Demo Door Install	\$300.00
AP-SC6072	\$10,500.00
AP-SSG2524	\$6,300.00

Total Unit Price: \$73,965.20
Quantity Ordered: 1
Final Sales Price: \$73,965.20

**Purchase Order Must Reflect
the Final Sales Price**

To order, place your Purchase Order directly with the quoting
dealer

*All equipment specifications are as complete as possible as of the date on the quote. Additional attachments, options, or accessories may be added (or deleted) at the discounted price. All specifications and prices are subject to change. Taxes are not included. The PDI fees and freight for attachments and accessories quoted may have additional charges added by the delivering dealer. These charges will be billed separately. Prices for product quoted are good for 60 days from the date shown on the quote. All equipment as quoted is subject to availability.

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SC70 SKID CUTTERS



AVAILABLE FOR: SVL95-2s

- 7" Diameter cut capacity
- 1/4" Deck thickness
- 4 Swinging blades, reversible
- Replaceable carbide teeth on bottom of blade carrier
- Patent pending retractable front door
- Wide, angled full length skid shoes

Contractors and developers with extreme ground-clearing needs will easily eliminate brush and trees up to 7" in diameter.



Patent pending bi-folding retractable front door will fold open when cutting brush and trees. Covers the cutting chamber when not operating in extreme conditions.



Push bar forces trees away from the operator.



Replaceable carbide teeth on bottom of blade carrier.

SC7072	
Cutter Weight w/skid shoes (kg)	2,580 lbs (1,170)
Cutting Width (m)	73-1/2" (1.87)
Overall Width (m)	84-3/8" (2.14)
Overall Length (m)	92-1/4" (2.34)
Cutting Capacity (cm)	7" (17.78) Diameter
High Volume Drive Motor (lpm)	26-43 gpm flow (98.4-162.8)
Hydraulic Pressure	Up to 3500 psi
Deck Thickness (mm)	1/4" (6)
Side Skirt Construction (mm)	1/4" (6)
Blade Carrier (mm)	Two round 1/2" (12.7) plate weldments
Blade Size (mm)	3/4" (19.05) Double edge
Blade Tip Speed (mps/lpm)	14,870 fpm (75) at 43 gpm (162.8)
Skid Shoes Construction (mm)	3/8" (10) Plate
Front Deck Protection	Bi-fold door w/single row chain guard
Deck Lift Height Protection	Height adjustment safety chain
Mulching Teeth (mm)	3/4" (19.05) SQ carbide

SSG25 STUMP GRINDER



AVAILABLE FOR: SSV65 / SSV75 / SVL65-2 / SVL75-2 / SVL95-2s

- Maximum cutting arc of 55°
- Hydraulic motor with electric over hydraulics
- Depth of 8" below ground
- 1/2" by 20" diameter wheel with carbide teeth

A great choice for contractors, landscapers, and forestry departments, the SSG25 turns large stumps into small chips.



Discharge deflector pivots up while the cutting wheel is digging into the ground. The high speed cutting wheel cuts fast with less vibration.

Replaceable carbide cutting teeth offer extra long life and are easy to replace.



		SSG2584
Mounting Plate		Universal Quick-Attach
Overall Mounting Width (m)		48" (1.22)
Overall Length (m)		60" (1.52)
Weight (kg)		540 lbs (244.9)
Main Frame (mm)		6" x 6" x 1/4" (152x152x6) Tube
Drive and Control System		Hydraulic motor with electric over hydraulic
Hydraulic Requirements (Lpm)		17 to 32 gpm (64.4-121.1)
Articulate Cylinder (cm)		3' x 6' (7.6x15.2) stroke with 1-1/4" (3.2) rod diameter
Tilt Cylinder (cm)		3' x 6' (7.6x15.2) stroke with 1-1/4" (3.2) rod diameter
Number of Cutting Teeth	Straight	8 Replaceable carbide teeth
	Left-Hand	12 Replaceable carbide teeth
	Right-Hand	12 Replaceable carbide teeth
Cutting Wheel Speed		470 rpm @ 17 gpm; 875 rpm @ 32 gpm
Cutting Arc		55°
Max. Cutting Depth Below Ground (cm)		8" (20.3)
Outside Cutting Wheel Diameter (cm)		23-3/4" (60.3)
Cutting Wheel Thickness (mm)		1/2" (13)
Max. Pressure Rating (mPa)		3500 psi (24.1)



Regular City Council
AGENDA ITEM 4-H.

Agenda Item: Approve the Purchase of a Bucket Truck for the City of Brenham Electric Department from Terex Utilities, Inc., Through Sourcewell Contract No. 012418-TER, in the Amount of \$141,743.00 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Consent

SUMMARY STATEMENT:

During the budget process Council approved the purchase of a new bucket truck for the Electric Dept. This equipment is used to maintain our electric distribution system. This unit will replace Unit 66, a 2011 Dodge. Unit 66 will be moved to the Fleet Department to replace their Unit 150 which will be sold on GovDeals.

The new unit was budgeted at \$140,000.00. The current pricing for this truck is \$141,743.00. Due to the COVID pandemic, some automotive manufactures shut down manufacturing during 2020 therefore, we are forced to purchase a 2021 model and they are running slightly higher. This unit will be purchased through Sourcewell Contract #012418-TER (formerly known as National Joint Powers Alliance) through Terex Utilities.

ATTACHMENTS:

- (1) Terex Utilities Quote QU10305
- (2) Terms and Conditions of Sale

RELEVANCE TO COMPREHENSIVE PLAN:

Continuing with Equipment Replacement Program by replacing old, outdated equipment to ensure constant maintenance of electric distribution system.

RECOMMENDED ACTION:

Approve the purchase of a bucket truck for the City of Brenham Electric Department from Terex Utilities, Inc., through Sourcewell Contract No. 012418-TER, in the amount of \$141,743.00 and authorize the Mayor to execute any necessary documentation.



TEREX®

CUSTOMER ORDER ACKNOWLEDGEMENT

Terex Utilities, Inc. - 500 Oakwood Road - Watertown, SD 57201 - Phone: 605-882-4000 - Fax: 605-882-5595

Date: 10/14/2020
City of Brenham Utilities
200 W. Vulcan
Brenham, TX 77834
(979) 451-1793
Attention: Alton Sommerfield

Sourcewell Contract #:012418-TER
Reference Quote QU10305
Quote Number: QU14568 Unit: LTM40

Sourcewell (QU10305) Price: \$127,517

Sourced Features QU14568: \$13,097

Grand Total Each: \$140,614

Prices are subject to change until shipment. Applicable taxes and surcharges will be added. Taxes, shipping & handling and lead times are estimates and subject to change. Quoted prices are based on total quoted package and subject to change if all items not purchased. All prices quoted are in U.S. dollars unless otherwise specified. Payment by cash or certified check only. Chassis payment is due upon chassis receipt at our facility. Quote withdrawn after 30 days.

Please ensure the accuracy of the specifications and drawings you provide. Changes made after receipt of order may incur additional charges. If you are trading equipment in, you warrant that: You have good title to the trade-in; it is free of all liens and encumbrances; all information you have provided related to the trade-in is true and correct.

Terex purchased chassis through Terex preferred International Dealer will include at no additional cost a special tow package for 12 months/unlimited mileage to nearest International Dealership for a warrantable failure. Coverage limited to \$550 per incident. Roadside assistance call 1-800-448-7825

Terex purchased chassis through Terex preferred Freightliner Dealer will include at no additional cost a special tow package for 12 months/unlimited mileage/KM extended towing coverage \$550 cap FEX applies. Roadside assistance call 1-800-FTL-HELP

Notes:

- 1) Delivery Terms are: FCA, Shipping Point
- 2) Terms: Net 30 days.
- 3) Delivery days from receipt of order shall be 270-330

Buyer hereby agrees to purchase the products in this quotation, subject to acceptance by Seller. Buyer has read and agrees

Terex Utilities Inc.

Dan Relph

Sales Coordinator

Wade Smith

Account Manager

⚠WARNING Cancer and Reproductive Harm
www.P65Warnings.ca.gov

Accepted By: _____

PO Number: _____

Quantity: _____

Grand Total: _____

Date: _____

Options			
Date	10/14/20		
Quote(s) #	QU14568		
Customer Name	City of Brenham Utilities		
Customer PO #			
No.	Description	Selling Price	Options:
1	Chevy 5500 4x4 ILO Ford 550 4x4	\$1,908	☐ Add Option
2	Ford F600 ILO Ford F550	\$2,666	☐ Add Option
3	Backup Camera	\$1,129	☒ Add Option
4		\$0	☐ Add Option
5		\$0	☐ Add Option
6		\$0	☐ Add Option
7		\$0	☐ Add Option
8		\$0	☐ Add Option
9		\$0	☐ Add Option
10		\$0	☐ Add Option
11		\$0	☐ Add Option
12		\$0	☐ Add Option
13		\$0	☐ Add Option
14		\$0	☐ Add Option
15		\$0	☐ Add Option

16		\$0	☐ Add Option
17		\$0	☐ Add Option
18		\$0	☐ Add Option
19		\$0	☐ Add Option
20		\$0	☐ Add Option
		Total:	



Terex Utilities, Inc.
3140 15th Ave SE, Watertown, SD 57201
Phone: 605-882-4000 Fax: 605-882-1842

10/14/2020

Quote Number: QU14568-12

CITY OF BRENHAM UTIL.
200 W. VULCAN
BRENHAM, TX 77834
Attention: ALTON SOMMERFIELD

Phone: (979)451-1793

Qty. Description

UNIT

- 1 One (1) New Terex Hi-Ranger LTM40 Articulating / Telescoping Aerial Device providing a working height of 44.5 ft (13.6 m).
Unit will be mounted behind the cab.

Design Criteria:

- * Design criteria is in accordance with current industry and engineering standards applicable and accepted for structural and hydraulic design.

Aerial device is designed as a Category C machine in accordance and is dielectrically tested and rated for operation on systems up to 46 Kv phase to phase per ANSI/SIA A92.2-2015

Hydraulic System:

- * Full pressure open center hydraulic system.
- * Hydraulic hoses are equipped with permanent type fittings.

Miscellaneous:

- * All metallic components of the complete aerial device are powder coat white.
- * The fiberglass upper boom, boom inserts, platforms, and covers are white.
- * Two complete manuals providing operation and maintenance procedures and a replacement parts listing.
- * Warning decals provided with unit.

- 1 Turntable and Lower Boom Assembly:

Lower Boom:

- * Filament wound high strength fiberglass insert providing an insulation gap.
- * The lower boom articulation is from -5 to 90 degrees.
- * Side reach of 30.7 ft.(9.4 m)

Lower Controls:

- * Individual control levers are located in an accessible location on the turntable.

Rotation:

- * Self-locking worm gear rotation drive is provided and equipped with bi-directional motor.

Upper Boom:

TERMS AND CONDITIONS OF SALE
TEREX SOUTH DAKOTA, INC./TEREX UTILITIES, INC.
U.S. and CANADA (except Quebec)

1. Terms and Conditions. The provision by Seller to Buyer of any Equipment or Parts (collectively referred to as "Products") shall be exclusively governed by these Terms and Conditions of Sale ("Terms and Conditions") and Seller's sales order acknowledgement (collectively referred to as "Agreement"). This Agreement cancels and supersedes any and all terms and conditions previously issued by Seller and shall remain in effect unless and until superseded in writing by Seller. Acceptance of an order for Products by Seller shall be deemed to constitute a binding agreement between the parties pursuant to these Terms and Conditions and Buyer agrees that the order may not thereafter be countermanded or otherwise changed without the explicit prior written consent of Seller. No other terms and conditions shall apply, including the terms of any purchase order submitted to Seller by Buyer, whether or not objected to by Seller or whether or not such terms are inconsistent or conflict with or are in addition to these Terms and Conditions. These Terms and Conditions shall be deemed accepted by Buyer if any of the following occurs: (i) if confirmed by Buyer, (ii) if undisputed by Buyer within ten (10) days after receipt, or (iii) if Seller delivers Products to Buyer. Any communication construed as an offer by Seller and acceptance thereof is expressly limited to these Terms and Conditions. The Products are intended for industrial/commercial use by professional contractors and their trained employees and are not intended for use by consumers.

2. Terms of Payments. Payment for Products purchased by Buyer shall be made in accordance with any of the following terms, provided they have been previously arranged with and expressly approved by Seller in writing: (1) cash in advance; (2) confirmed, irrevocable letter of credit established in such amount and form and at such time and at such bank as shall be approved by Seller in respect of each order; (3) credit account purchases for which payment will be due and payable on net thirty (30) day terms, plus service and other charges applicable to past due amounts in accordance with Seller's written notices; or (4) other payment arrangements expressly approved by Seller in writing prior to or at the time the order is placed. If any Buyer credit account purchase is not paid in accordance with Seller's credit payment terms, in addition to any other remedies allowed in equity or by law, Seller may refuse to make further shipments without advance payment by Buyer. Nothing contained herein shall be construed as requiring Seller to sell any Products to Buyer on credit terms at any time, or prohibiting Seller from making any and all credit decisions which it, in its sole discretion, deems appropriate for Seller. Seller shall have the right, at its option, to charge interest on all amounts not paid when due and Buyer agrees to pay such interest calculated on a daily basis, from the date that payment was due until the Seller receives payment in full, at the rate of 1.5% per month or the maximum rate permitted by applicable law. Unless otherwise agreed in writing between Seller and Buyer, Seller may, in its sole discretion, increase or decrease the price of any Product, as Seller deems reasonably necessary, at any time prior to shipment and invoice Buyer for the same. If Buyer orders the chassis through Seller, the chassis payment is due upon receipt of chassis by Seller and the balance owed for the completed unit is due in accordance with agreed upon payment terms. When supplied by Buyer, Seller will inspect the chassis upon receipt and will notify Buyer of any chassis mounted components (including but not limited to fuel tanks, air tanks, battery boxes and exhaust systems) that require relocation. Buyer will be invoiced for such work upon completion of the finished Equipment.

3. Taxes and Duties. Unless otherwise noted, prices quoted do not include taxes or duties of any kind or nature. Buyer agrees that it will be responsible for filing all tax returns and paying applicable tax, duty, export preparation charge and export documentation charge resulting from the purchase of the Products. In addition, in the event any other similar tax is determined to apply to Buyer's purchase of the Products from Seller, Buyer agrees to indemnify and hold Seller harmless from and against any and all such other similar taxes, duties and fees. All prices quoted are U.S. dollars unless otherwise specified. The amount of any present or future taxes applicable to the sale, transfer, lease or use of the Products shall be paid by Buyer; or in lieu thereof, Buyer shall provide Seller with a tax exemption certificate satisfactory to the applicable taxing authority proving that no such tax is due and payable upon such sale, transfer, lease or use.

4. Title, Property, Risk and Delivery. Unless otherwise stated in writing, for all intra-continental United States shipments, all prices and delivery are FCA, point of manufacture (Incoterms 2010); for all other shipments, all prices and delivery are FAS, named port of shipment (Incoterms 2010). Title and all risk of loss or damage to Products shall pass to Buyer upon delivery, as per Incoterms 2010. Any claims for loss, damage or delay in transit must be entered and prosecuted by the Buyer directly with the carrier, who is hereby declared to be the agent of the Buyer. Seller shall not be liable for any delay in performance of this agreement or delivery of the Products, or for any damages suffered by Buyer by reason of delay, when the delay is caused, directly or indirectly, by a force majeure event described in Section 20 herein or any other cause beyond Seller's control. Claims for shortages in shipments shall be deemed waived and released by Buyer unless made in writing within five (5) days after Buyer's receipt of shipment. Seller's responsibility for shipment shall cease upon delivery of the Products to the place of shipment, and all claims occurring thereafter shall be made to or against the carrier by Buyer. Delivery shall generally be 240 to 270 days after receipt by Seller of a signed Order, provided that, where applicable: (1) Seller receives the chassis a minimum of 90 days prior to scheduled delivery, (2) drawings are timely sent by Buyer and the approved drawings are returned to Seller by Buyer by the requested date, (3) all vendor-supplied components and Buyer-supplied accessories are received by Seller by the date necessary to comply with scheduled delivery. Seller shall not be liable for any delay in performance of this agreement or delivery of the Products, or for any damages suffered by Buyer by reason of delay, when the delay is caused, directly or indirectly, by a force majeure event described in Section 20 herein or any other cause beyond Seller's control. Claims for shortages in shipments shall be deemed waived and released by Buyer unless made in writing

within fifteen (15) days after Buyer's receipt of shipment. Seller's responsibility for shipment shall cease upon delivery of the Parts and or Equipment to the place of shipment, and all claims occurring thereafter shall be made to or against the carrier by Buyer.

5. Delays Caused By Buyer. In the event of a delay in shipment or delivery due to delay by Buyer in furnishing delivery instructions, arranging a method of payment satisfactory to Seller, submitting valid import permits or licenses, or any other delay caused by Buyer or at Buyer's request, if the Products are not shipped or delivered within five (5) days from the first date they are ready to be shipped or delivered, then Seller shall be entitled to charge, as compensation, any additional costs incurred related to such delay. If the Products are not shipped or delivered by the date which is ten (10) days from the first date they are ready to be shipped or delivered, then Buyer's order shall be deemed cancelled and Seller may, in its sole discretion, sell such Products to another buyer without any liability or responsibility to Buyer whatsoever. Seller shall have the right to keep payments on account already received from Buyer, and the difference between the sales price (increased by any other and all further costs, including but not limited to attorney's fees and expenses, storage and other costs, and interest accrued thereon) and the price received from another buyer shall constitute a debt of Buyer and bear interest at the same rate set forth in Section 2 herein. Seller shall be entitled to claim for any further damages suffered as a consequence of Buyer's breach of its obligations hereunder.

6. Cancellation. Prior to delivery to place of shipment, a Product order may be cancelled only with Seller's prior consent and upon terms indemnifying Seller from all resulting losses and damages. Seller shall have the right to cancel and refuse to complete a Product order if any term and/or condition governing this agreement is not complied with by Buyer. In the event of cancellation by Seller, or in the event Seller consents to a request by Buyer to stop work or to cancel the whole or any part of any order, Buyer shall, in the event that Seller asks Buyer to do so, make reimbursement to Seller, as follows: (i) any and all work that can be completed within thirty (30) days from date of notification to stop work on account of cancellation shall be completed, shipped and paid in full; and (ii) for work in progress and any materials and supplies procured or for which definite commitments have been made by Seller in connection with the order, Buyer shall pay such sums as may be required to fully compensate Seller for actual costs incurred, plus fifteen percent (15%). Buyer may not cancel any order after Seller's delivery to place of shipment. Orders for "Special" Equipment may not be cancelled after acceptance, except by Seller. Items of "Special" Equipment are those that differ from standard Seller specifications, have a limited market, or incorporate specifications that have been determined for a specific application. Determination of whether an item of Equipment is "Special" shall be made by Seller in its sole discretion.

7. Inspection and Acceptance. Buyer agrees that it shall inspect the Products immediately after receipt and promptly (in no event later than fifteen (15) days after receipt) notify Seller in writing of any non-conformity or defect. Buyer further agrees that failure to give such prompt notice or the commercial use of the Products shall constitute acceptance. Acceptance shall be final and Buyer waives the right to revoke acceptance for any reason, whether or not known by Buyer at the time of such acceptance. The giving of any such notice by Buyer shall automatically cause the provisions of Seller's warranty to apply and govern the rights, obligations and liabilities of the parties with respect to such nonconformity or defect, provided under no circumstances shall rejection give rise to any liability of Seller for incidental or consequential damages or losses of any kind. Seller shall not be bound by any agent's, employee's or any other representation, promise or inducement not set forth herein. Seller's catalogues, technical circulars, price lists, illustrations, drawings and any other similar literature are for Buyer's general guidance only and the particulars contained in them shall not constitute representations by Seller and Seller shall not be bound by them.

8. Warranty for New Products. Seller warrants its new Equipment and Parts manufactured and sold worldwide, to be free, under normal use and service, of any defects in material or workmanship for a period of twelve (12) months from the date of delivery (as limited by Seller's Limited Product Warranty); provided that Buyer sends Seller written notice of the defect within thirty (30) days of its discovery and establishes that: (i) the Equipment has been operated and maintained in strict compliance with Seller's operating and maintenance manuals ; and (ii) the defect did not result in any manner from the intentional or negligent action or inaction of Buyer, its agents or employees and (2) a new machine registration certificate has been completed, signed and delivered to the Seller within thirty (30) days of the Equipment's "in-service" date. If requested by Seller, Buyer must return any defective Product to Seller's manufacturing facility, or other location designated by Seller, for inspection, and if Buyer cannot establish that conditions (i) and (ii) above have been met, then this warranty shall not cover the alleged defect. Failure to give written notice of defect within such period shall be a waiver of this warranty and any assistance rendered thereafter shall not extend or revive it. Accessories, assemblies and components included in the Products of Seller, which are not manufactured by Seller, are subject to the warranty of their respective manufacturers. This warranty shall not cover any item on which serial numbers have been altered, defaced or removed. Maintenance and wear parts are not covered by this warranty and are the sole maintenance responsibility of Buyer. This warranty is limited to the original purchaser or end-user if sold to a distributor, and is not assignable or otherwise transferable without written agreement of Seller. **THIS WARRANTY IS EXPRESSLY IN LIEU OF AND EXCLUDES ALL OTHER WARRANTIES, EXPRESS OR IMPLIED (INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE) AND ALL OTHER OBLIGATIONS OR LIABILITY ON SELLER'S PART. THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE LIMITED WARRANTY CONTAINED HEREIN.** Seller neither assumes nor authorizes any other person to assume for Seller any other liability in connection with the sale of Seller's Products. This warranty shall not apply to any of Seller's Products or any part thereof which has been subject to misuse, alteration, abuse, negligence, accident, acts of God or sabotage. No action by either party shall operate to extend or revive this limited warranty without prior written consent of Seller.

9. Warranty for Used Equipment. Used Equipment sold hereunder is sold on an "AS IS, WHERE IS, WITH ALL FAULTS" BASIS WITH NO WARRANTIES WHATSOEVER, EXCEPT AS TO TITLE, UNLESS OTHERWISE SPECIFICALLY AGREED IN WRITING BY BUYER AND SELLER. SELLER ASSUMES NO RESPONSIBILITY FOR THE CONDITION, SAFETY, LEGAL COMPLIANCE, OR USABILITY OF THE USED EQUIPMENT AND MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE USED EQUIPMENT INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. SELLER MAKES NO REPRESENTATION OR WARRANTY REGARDING THE CONDITION OF THE USED EQUIPMENT, NOR THE SUFFICIENCY OF ANY WARNINGS, INSTRUCTIONS OR MANUALS PROVIDED WITH THE USED EQUIPMENT. Seller recommends and Buyer acknowledges that Buyer should contact the original manufacturer to obtain all available information for the used Equipment, including but not limited to product manuals, warnings, safety bulletins, recall notices, and instructional placards before using the used Equipment. Seller shall not be responsible for providing such information. Buyer agrees not to assert any claims against Seller with respect to the used Equipment or its use. Buyer agrees that it shall inspect the used Equipment prior to issuance of a purchase order for such Equipment and acknowledges that it is not relying upon any photographs, images, videos, representations, statements or other assertions made by Seller with respect to the used Equipment's condition, but is relying upon its own knowledge and/or inspection of the used Equipment.

10. Remedies for Breach. IN THE EVENT OF ANY BREACH OF THE WARRANTY BY SELLER, THE PARTIES AGREE THAT SELLER'S LIABILITY SHALL BE LIMITED EXCLUSIVELY TO THE REMEDIES OF REPAIR OR REPLACEMENT (AT SELLER'S SOLE DISCRETION) OF ANY DEFECTIVE EQUIPMENT COVERED BY THE WARRANTY. In no event shall any repair or replacement of any defective equipment covered by the Seller's warranty extend the length of the warranty beyond the period specified in Section 8 herein.

11. Limitation of Liability. NOTWITHSTANDING ANYTHING CONTAINED IN THIS AGREEMENT TO THE CONTRARY, SELLER AND ITS AFFILIATES SHALL NOT BE LIABLE FOR, AND SPECIFICALLY DISCLAIM, ANY LIABILITY FOR ANY: (A) LOST PROFITS AND/OR BUSINESS INTERRUPTION (WHETHER DIRECT OR INDIRECT); AND (B) INDIRECT, INCIDENTAL, CONSEQUENTIAL (WHETHER DIRECT OR INDIRECT) OR OTHER DAMAGES OR LOSSES OF ANY KIND WHATSOEVER, including, without limitation, labor costs, lost profits, loss of use of other equipment, third party repairs, personal injury, emotional or mental distress, improper performance or work, penalties of any kind, loss of service of personnel, or failure of Products to comply with any federal, state, provincial or local laws, regardless of whether arising from a breach of contract, or warranty, legal claims or otherwise. Nothing in this Section shall operate to exclude Seller's liability for death or personal injury when directly related to Seller's negligent act or omission.

12. Limitation of Actions. Any action for breach of this agreement must be commenced within one (1) year after the cause of action has accrued.

13. Specification Changes. In the event Seller incurs additional expense because of changes in specifications or drawings previously approved by Buyer, or in the event Seller is required to modify the ordered Equipment, perform any additional work or supply any additional Products, the additional expense shall be added to the purchase price. Buyer must submit to Seller a revised purchase order specifying any and all requested changes. Upon receipt of Buyer's revised purchase order, Seller shall have the right, in its sole discretion, to accept or reject any changes in specifications requested by Buyer.

14. Trade-in Offers. Trade-in offers are subject to Seller's inspection and acceptance of the equipment, which must have been maintained to U.S. Department of Transportation operating and safety standards. All accessories on the equipment, including without limitation jibs, winches, pintle hooks and trailer connectors, must remain with the equipment unless otherwise agreed by Seller and Buyer in writing. Seller reserves the right to cancel any trade-in offers or agreements if these conditions are not met, or if Buyer has misrepresented any information about the trade-in unit.

15. Insurance. Until the purchase price of any Products is paid in full, the Buyer shall provide and maintain insurance equal to the total value of the Equipment delivered hereunder against customary casualties and risks; including, but not limited to fire and explosion, and shall also insure against liability for accidents and injuries to the public or to employees, in the names of Seller and Buyer as their interest may appear, and in an amount satisfactory to Seller. If the Buyer fails to provide such insurance, it then becomes the Buyer's responsibility to notify the Seller so that the Seller may provide same; and the cost thereof shall be added to the contract price. All loss resulting from the failure to affect such insurance shall be assumed by the Buyer.

16. Patents, Copyrights, Trademarks, Confidentiality. No license or other rights under any patents, copyrights or trademarks owned or controlled by Seller or under which Seller is licensed are granted to Buyer or implied by the sale of Products hereunder. Buyer shall not identify as genuine products of Seller products purchased hereunder which Buyer has treated, modified or altered in any way, nor shall Buyer use Seller's trademarks to identify such products; provided, however, that Buyer may identify such products as utilizing, containing or having been manufactured from genuine products of Seller as treated, modified or altered by Buyer or Buyer's representative, upon prior written approval of Seller. All plans, photographs, designs, drawings, blueprints, manuals, specifications and other documents relating to the business of Seller ("Information") shall be and remain the exclusive property of Seller and shall be treated by Buyer as confidential information and not disclosed, given, loaned, exhibited, sold or transferred to any third party without Seller's prior written approval;

provided, however, that these restrictions shall not apply to Information that Buyer can demonstrate: (a) at the time of disclosure, is generally known to the public other than as a result of a breach of this Agreement by Buyer; or (b) is already in Buyer's possession at the time of disclosure by from a third party having a right to impart such Information.

17. Default and Seller's Remedies. In the event of default by Buyer, all unpaid sums and installments owed to Seller, shall, at Seller's sole option, become immediately due and payable without notice of any kind to Buyer. In addition to its right of acceleration, Seller may pursue any and all remedies allowed by law or in equity, including but not limited to any and all remedies available to it under the Delaware Uniform Commercial Code. In addition to the foregoing, and not in limitation thereof, Seller shall have the right to set off any credits or amounts owed to Buyer against any amounts owed by Buyer to Seller.

18. Indemnification by Buyer. Buyer hereby agrees to indemnify, release, defend and hold harmless Seller, its directors, officers, employees, agents, representatives, successors, and assigns against any and all suits, actions or proceedings at law or in equity (including the costs, expenses and reasonable attorney's fees incurred in connection with the defense of any such matter) and from any and all claims demands, losses, judgments, damages, costs, expenses or liabilities, to any person whatsoever (including Buyer's and Seller's employees or any third party), or damage to any property (including Buyer's property) arising out of or in any way connected with the performance or the furnishing of Products under this agreement, regardless of whether any act, omission, negligence (including any act, omission or negligence, relating to the manufacture, design, repair, erection, service or installation of or warnings made or lack thereof with respect to any Products furnished hereunder) of Seller, its directors, officers, employees, agents, representatives, successors or assigns caused or contributed thereto. If Buyer fails to fulfill any of its obligations under this paragraph or this agreement, Buyer agrees to pay Seller all costs, expenses and attorney's fees incurred by Seller to establish or enforce Seller's rights. The provisions of this paragraph are in addition to any other rights or obligations set forth in this agreement.

19. Installation. Unless otherwise expressly agreed in writing, Buyer shall be solely responsible for the installation and erection of the Products purchased. Although Seller may in some cases provide a serviceman, data and drawings to aid Buyer with installation or start-up, Seller assumes no responsibility for proper installation or support of any Products when installed and disclaims any express or implied warranties with respect to such installation and support. Notwithstanding whether data and drawings are provided or a serviceman aids in the installation, Buyer shall indemnify and hold Seller harmless and at Seller's request, defend Seller from all claims, demands or legal proceedings (including the costs, expenses and reasonable attorney's fees incurred in connection with the defense of any such matter) which may be made or brought against Seller in connection with damage or personal injury arising out of said installation or start-up.

20. Force Majeure. Seller shall not be liable to Buyer or be deemed to be in breach of this agreement by reason of any delay in performing, or any failure to perform, any of Seller's obligations in relation to the Products if the delay or failure was due to any cause beyond the reasonable control of Seller including (without limitation) strike, lockout, riot, civil commotion, fire, accident, explosion, tempest, act of God, war, epidemic, stoppage of transport, terrorist activity, supply shortage or changes in government, governmental agency, laws, regulations or administrative practices.

21. Anti-Corruption; Export Controls; No Boycotts. Buyer agrees that it shall, and that any party retained or paid by the Buyer ("Retained Party") shall, comply with all applicable laws including, but not limited to, laws prohibiting public corruption and commercial bribery. Buyer further agrees that it shall, and that any Retained Party shall, comply with all applicable export controls, economic sanctions, embargoes and regulations regarding the export, re-export, shipment, distribution and/or sale of Products, technology, information or warranty related services. Buyer further agrees that it shall not, and any Retained Party shall not, export or re-export Products, technology, information or warranty related services directly or with its knowledge indirectly into Iran, Cuba, Syria, North Korea, the Crimea Region of the Ukraine or Russia without Buyer first obtaining written approval from Seller. Failure to comply strictly with this section and all applicable laws, regulations and licensing/approval requirements shall be grounds for immediate termination of this agreement by Seller. Notwithstanding anything to the contrary contained in any agreement between the Buyer and Seller or in any other document or agreement relating to the Products sold hereunder, Seller will not comply with requests related to the boycott of any country or other jurisdiction, except to the extent such boycott is required by or otherwise not inconsistent with United States law.

22. Telematics. If a telematics system is included with the Equipment, the telematics system is administered by a third party ("Teleservice Provider") and collects a range of operational data about the Equipment including, but not limited to, usage, performance and reliability. Buyer shall gain any prior explicit consent from its employees and/or any third party, as required by applicable laws, enabling Seller and/or third parties to provide teleservices and data to Buyer. Buyer shall comply with all applicable laws relating to the provision of teleservices, including without limitations any applicable data protection laws. In addition to the foregoing, Buyer consents to Seller's collection, management and reporting of non-personal data about the Equipment including, but not limited to, performance, usage, fuel consumption, up /down times, defects, parts replacement, movement and location. Such information and data may also be used by Seller for warranty, product improvement, marketing, customer support, and research and development purposes, and to monitor, maintain, diagnose, update or repair the Equipment.

23. Construction and Severability. These Terms and Conditions of Sale constitute the entire agreement between the parties regarding the subject matter hereof and shall be construed and enforced in accordance with the laws of Delaware. The United

Nations Convention on Contracts for the International Sale of Goods (1980) (CISG) shall not apply. The invalidity or unenforceability of any provisions of this agreement shall not affect any other provision and this agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

24. Jurisdiction. The parties agree that the proper and exclusive forum and venue in all legal actions brought to enforce or construe any provisions herein shall be in United States District Court, District of Delaware or, if federal jurisdiction is lacking in such action, in New Castle County Superior Court in Delaware.

25. No Assignment. No rights arising under this agreement may be assigned by the Buyer unless expressly agreed to in writing by the Seller.

26. No Set-off. Buyer shall have no right to set-off any amounts it may owe Seller against amounts Seller may owe Buyer under this or any other agreement between Buyer and Seller.

27. Miscellaneous. Buyer represents that: (i) it is solvent and has the financial ability to pay for the Equipment and Parts purchased hereunder and (ii) it has all requisite right, power and authority to perform its obligations under this agreement.

Buyer's Initials: _____



Regular City Council
AGENDA ITEM 4-I.

Agenda Item: Approve Change Order No. 1 and Final Payment on Contract No. 2017-03 to Barclays Premier Utility Services, LLC in the Amount of \$70,792.50 for the Industrial Blvd Drainage Repairs and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Consent

SUMMARY STATEMENT:

On October 17, 2019 City Council awarded Barclays Premier Utility Services LLC the bid in the amount of \$321,885 for the Industrial Blvd Drainage Repairs.

The repairs/improvements have been completed. The work consisted of the removal/disposal of metal culverts, asphalt pavement, guardrail and vegetation, adding concrete box culverts, new asphalt pavement, guardrail, riprap and concrete sloped paving. The project also included one change order. Change order No. 1 resulted in a credit of (\$15,000) due to a quantity change involving three items, making the final payment due \$70,792.50. Total project amount paid to Barclays Premier Utility Services LLC is \$306,885.

ATTACHMENTS:

- (1) Application for Payment No. 7 & Final
- (2) Change Order No. 1
- (3) Certificate of Final Completion
- (4) Certification of Payment to Subcontractors and Suppliers
- (5) Consent of Surety to Final Payment

RELEVANCE TO COMPREHENSIVE PLAN:

Growth Capacity Goal GC3: Balancing infrastructure investments with reinvestments/rehabilitation needs of existing developed areas.

RECOMMENDED ACTION:

Approve Change Order No. 1 and final payment of Contract No. 2017-03 to Barclays Premier Utility Services, LLC in the amount of \$70,792.50 for the Industrial Blvd drainage repairs and authorize the Mayor to execute any necessary documentation.

APPLICATION FOR PAYMENT NO. 7

TO OWNER: CITY OF BRENHAM, 200 WEST VULCAN STREET, BRENHAM, TEXAS 77833
 FROM CONTRACTOR: BARCLAYS PREMIER UTILITY SERVICES, LLC, 1630 GAULT ROAD, HOUSTON, TX 77039
 PROJECT: 2017 STORM DAMAGE REPAIRS PROJECT-INDUSTRIAL BOULEVARD
 STRAND PROJECT NO. 3900.107
 CITY OF BRENHAM PROJECT NO. 2017-03

CONTRACT AWARDED: October 17, 2019
 PERIOD FROM: January 1, 2020
 CONST. TIME ALLOTTED: 180

NOTICE TO PROCEED: November 25, 2019
 PERIOD TO: October 7, 2020
 TIME USED: 318

Item No.	BASE BID	Contract Quantity	Completed Quantity			Unit Price	Total Value of Work Completed
			Previous Period	Current Period	Total		
1.	Mobilization	1 LS	1	0	1	\$ 70,500.00	\$ 70,500.00
2.	Rock filter dam (Type 4)	100 LF	0	0	0	\$ 10.00	\$ -
3.	Traffic control	1 LS	0.5	1	1.0	\$ 25,650.00	\$ 25,650.00
4.	Remove and dispose of existing pavement	260 SY	260	0	260	\$ 5.00	\$ 1,300.00
5.	Remove and dispose of existing guardrail	160 LF	160	0	160	\$ 5.00	\$ 800.00
6.	Remove and dispose of existing CMP	110 LF	110	0	110	\$ 25.00	\$ 2,750.00
7.	Remove and dispose of existing debris	150 CY	150	0	150	\$ 50.00	\$ 7,500.00
8.	Remove and dispose of existing vegetation	1 LS	1	0	1	\$ 2,500.00	\$ 2,500.00
9.	Remove and reinstall fence	1 LS	1	0	1	\$ 250.00	\$ 250.00
10.	Embankment (eroded/undermined areas)	100 CY	100	0	100	\$ 10.00	\$ 1,000.00
11.	Excavation (channel)	1,000 CY	1,000	0	1,000	\$ 5.00	\$ 5,000.00
12.	6-FT by 5-FT reinforced concrete box	228 LF	228	0	228	\$ 560.00	\$ 127,680.00
13.	Culvert headwall (three 6-FT by 5-FT RCB)	2 EA	2	0	2	\$ 5,800.00	\$ 11,600.00
14.	Construct new MBGR	220 LF	0	220	220	\$ 35.00	\$ 7,700.00
15.	Perform backfilling and asphalt pavement repair in city streets	325 SY	0	325	325	\$ 5.00	\$ 1,625.00
16.	Cement stabilized sand	172 CY	172	0	172	\$ 35.00	\$ 6,020.00
17.	Reinforced concrete slope paving (5-IN)	20 CY	20	0	20	\$ 50.00	\$ 1,000.00
18.	3-FT thick riprap (stone type R) (dry) (24-IN)	886 CY	260	626	886	\$ 35.00	\$ 31,010.00
19.	Broadcast seeding	5,600 ST	0	0	0	\$ 1.25	\$ -
20.	Soil retention blankets	5,600 SY	0	0	0	\$ 1.25	\$ -
21.	Block sodding	500 SY	0	500	500	\$ 1.00	\$ 500.00
22.	Trench Safety	1 LS	1	0	1	\$ 2,500.00	\$ 2,500.00

Original Contract: \$ 321,885.00
 Plus Additions:
 Less Deductions: \$ 15,000.00
 Adjusted Contract: \$ 306,885.00

Value of Work Performed to Date \$ 306,885.00
 Plus Materials Stored at Close of Period \$ -
 Net Amt Earned to Date \$ 306,885.00
 Less 10% Retainage \$ -
 Subtotal \$ 306,885.00
 Less Previous Pay Applications \$ 236,092.50
 Amount Due this Application \$ 70,792.50

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

STATE OF TEXAS

COUNTY OF Harris

WHEREAS, the undersigned, Victor Bocanegra, who being duly sworn, on oath, says that he is the legal representative of Barclays Premier Utility Services, LLC, has been employed by the City of Brenham to furnish labor and materials for the installation of the 2017 Storm Damage Repairs Project, Industrial Boulevard in Brenham, Texas.

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

BY: [Signature]

DATE: 10/12/2020

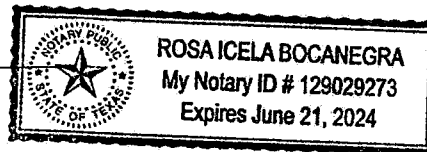
BARCLAYS PREMIER UTILITY SERVICES, LLC

PRINTED NAME: Victor Bocanegra

TITLE: president

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 12th DAY OF October, 20 20

[Signature]
NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS.



RECOMMENDED BY: Brent Field

DATE 10/13/20

STRAND ASSOCIATES, INC.®

APPROVED BY:

DATE

CITY OF BRENHAM, TEXAS

**Strand Associates, Inc.®**

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

October 8, 2020

CHANGE ORDER NO. 1

PROJECT: 2017 Storm Damage Repairs Project–Industrial Boulevard
OWNER: City of Brenham, Texas
CONTRACT: 2017-03
CONTRACTOR: Barclays Premier Utility Services LLC

Description of Change

1a	Decrease Base Bid Item No. 2 quantity from 100 to 0 linear feet (LF).	DEDUCT	(\$1,000.00)
1b	Decrease Base Bid Item No. 19 quantity from 5,600 to 0 Square Yards (SY).	DEDUCT	(\$7,000.00)
1c	Decrease Base Bid Item No. 20 quantity from 5,600 to 0 SY.	DEDUCT	(\$7,000.00)
TOTAL VALUE OF THIS CHANGE ORDER:		DEDUCT	(\$15,000.00)

Contract Price Adjustment

Original Contract Price	\$321,885.00
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	(\$15,000.00)
Current Contract Price including this Change Order	\$306,885.00

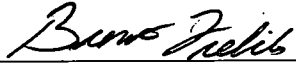
Contract Final Completion Date Adjustment

Original Contract Final Completion Date	May 22, 2020
Contract Final Completion Date Adjustments due to previous Change Orders	0 Days
Contract Final Completion Date Adjustments due to this Change Order	138 Days
Current Final Contract Completion Dates including all Change Orders	October 7, 2020

City of Brenham, Texas-Barclays Premier Utility Services, LLC
Contract 2017-03, Change Order No. 1
Page 2
October 8, 2020

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

RECOMMENDED

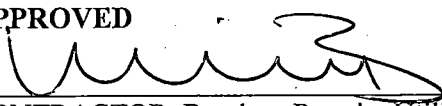


ENGINEER-Strand Associates, Inc.®

10/8/20

Date

APPROVED



CONTRACTOR-Barclays Premier Utility Services LLC

10/12/2020

Date

APPROVED

OWNER-City of Brenham, Texas

Date

Document 00641

CERTIFICATE OF FINAL COMPLETION

CERTIFICATE OF FINAL COMPLETION OF: 2017 Industrial Boulevard Storm Drainage Repairs

Project No.: 2017-03

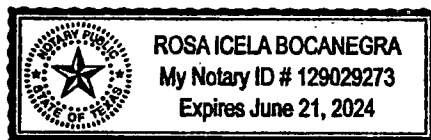
Contract Dated: 11/7/2019

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

[Signature]
Affiant's Signature

SWORN AND SUBSCRIBED before me on

October 12th 2020
Date



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

Rosa Icela Bocanegra
Print or type name

My Commission Expires: June 21, 2024
Expiration Date

THIS IS TO CERTIFY that I have observed the Work performed by the above named Contractor on the above described Contract and find all things in accordance with the Contract documents governing this Work to the best of my knowledge and belief.

[Signature]
Inspector Resident Project Representative

[Signature]
[Project Manager or Construction Manager]

Approved:

[Title of Approval Authority], [Contracting Department]

END OF DOCUMENT

00641-1
04-01-2017

CITY OF BRENHAM
STANDARD SPECIFICATION

CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS

Document 00642

CERTIFICATION OF PAYMENT
TO SUBCONTRACTORS AND SUPPLIERS

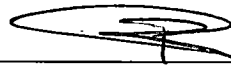
The undersigned, Victor Bocanegra, states that he is the President,
Affiant Title
of Bardays Premier Utility Services, LLC.
Contractor

and that he is duly authorized to execute this Certification of Payment to Subcontractors and Suppliers; that Contractor has made payments to Subcontractors and Suppliers for all labor, materials, equipment, and services furnished to date for Work on Project No. 2017-03 in the amounts for which Contractor has been paid; that the labor, materials, equipment, and services covered by this Certificate of Payment have been furnished in accordance with and all in compliance with the Contract Documents; that no sums have been withheld by Contractor for Subcontractors and Suppliers as a result of any allegations of deficiencies in the Work; and that such payments were made in accordance with the Contract Documents and with the laws of the State of Texas.

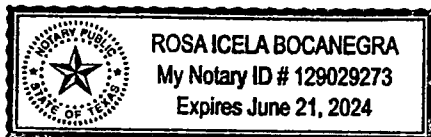


Affiant's Signature

SWORN AND SUBSCRIBED before me on October 12th 2020
Date



Notary Public in and for the State of TEXAS



Rosa Icela Bocanegra
Print or type name

My Commission Expires: June 21, 2024
Expiration Date

END OF DOCUMENT

CONSENT OF SURETY TO FINAL PAYMENT

ALA Document G707

(Instructions on reverse side)

BOND NO.: 18L004236

OWNER	☐
ARCHITECT	☐
CONTRACTOR	☐
SURETY	☒
OTHER	☐

TO OWNER:

(Name and address)

City of Brenham

200 West Vulcan St., Suite 206

Brenham, Texas 77833

ARCHITECT'S PROJECT NO.: 3900.107

CONTRACT FOR: OCP \$321,885.00
FCP \$306,885.00

PROJECT:

(Name and address)

CONTRACT DATED:

2017 Industrial Boulevard Storm Drainage Repairs - Storm Drain Repairs

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

The Ohio Casualty Insurance Company

2200 Renaissance Blvd., Ste. 400

King of Prussia, PA 19406-2755

on bond of

, SURETY.

(insert name and address of Contractor)

Barclays Premier Utility Services, LLC

1630 Gault Rd.

Houston, Texas 77039

, CONTRACTOR.

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

(insert name and address of Owner)

City of Brenham

200 West Vulcan St., Suite 206

Brenham, Texas 77833

, OWNER.

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: **October 22, 2020**
(insert in writing the month followed by the numeric date and year)

The Ohio Casualty Insurance Company

(Surety)

By: Sean McCauley, Jr.

(signature of authorized representative)

Sean McCauley, Jr.

(Printed name and title)

Attest:

(Seal): Benjamin K. Farley, Witness



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



AIA DOCUMENT G707 • CONSENT OF SURETY TO FINAL PAYMENT • 1994 EDITION • AIA
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INGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copy-
right laws and will subject the violator to legal prosecution.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: **8202286 - 976311**

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Sean McCauley, Jr., Claudia Nunez, all of the city of Dallas, state of TX and Edward N. Hackett, Christine Maestas

all of the city of Aliso Viejo state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of October, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 3rd day of October, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By:

Teresa Pastella
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization – By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 22nd day of October, 2020.



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

Texas Department of Insurance



Sircon Co. No. 1874

License No. 62750

Certificate of Authority

THIS IS TO CERTIFY THAT

THE OHIO CASUALTY INSURANCE COMPANY
(a Foreign Stock Fire and Casualty company)

KEENE, NEW HAMPSHIRE

has complied with the laws of the State of Texas applicable thereto and is hereby authorized to transact the business of

Fire; Allied Coverages; Hail-growing crops only; Inland Marine; Ocean Marine; Aircraft--Liability & Physical Damage; Accident; Health; Workers' Compensation & Employers' Liability; Employers' Liability; Automobile--Liability & Physical Damage; Liability other than Automobile; Fidelity & Surety; Glass; Burglary & Theft; Forgery; Boiler & Machinery; Livestock and Reinsurance on all lines authorized to be written on a direct basis

insurance within the state of Texas. This Certificate of Authority shall be in full force and effect until it is revoked, canceled or suspended according to law.

IN TESTIMONY WHEREOF, witness my hand and seal of
office at Austin, Texas, this

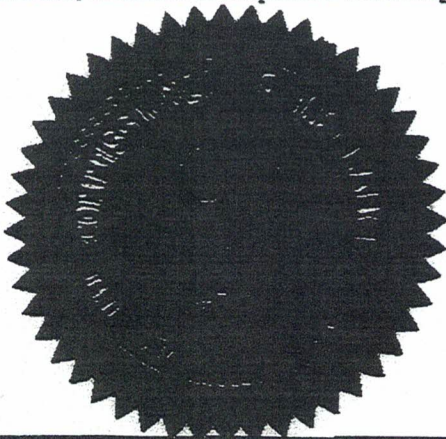
25th day of February A.D. 2013

ELEANOR KITZMAN
COMMISSIONER OF INSURANCE

BY

A handwritten signature in dark ink, appearing to read "Godwin Ohaechesi", written over a horizontal line.

Godwin Ohaechesi, Director
Company Licensing & Registration
Commissioner's Order No. 12-0052





Regular City Council
AGENDA ITEM 4-J.

Agenda Item: Acceptance of a Grant from the Hancher Foundation in the Amount of \$15,000.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Library

Staff Contact: Andria Heiges

Classification: Consent

SUMMARY STATEMENT:

The Ladd and Katherine Hancher Library Foundation, a non profit out of Columbus, Texas, offers grants to fund projects for public libraries serving populations of 50,000 or less. Proposed projects are reviewed for the level of educational contribution to the community. The Nancy Carol Roberts Memorial Library has been awarded \$15,000 to the ongoing digitization project of the Library's Brenham Banner-Press microfilm collection. The money will fund the digitization of microfilm rolls from the year 1937 through 1952, making those newspapers accessible to the public from the Portals to Texas Digital Newspaper site. No contract or matching funds are required.

ATTACHMENTS:

None

RELEVANCE TO COMPREHENSIVE PLAN:

Contributes to a priority listed by all departments in the comprehensive plan which is to, 'Continue to strengthen Brenham's tourism industry and support preservation of Brenham's history'.

RECOMMENDED ACTION:

Accept a grant from the Hancher Foundation in the amount of \$15,000.00 for the Nancy Carol Roberts Memorial Library and authorize the Mayor to execute any necessary documentation.



Regular City Council
AGENDA ITEM 4-K.

Agenda Item: Approve the City of Brenham 2021 Holiday Calendar and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Human Resources

Staff Contact: Susan Nienstedt

Classification: Consent

SUMMARY STATEMENT:

The Holiday Schedule for 2021 is presented for approval by the City Council. The schedule provides for 13 observed holidays, including New Year's Day 2022 being observed on Friday, December 31, 2021, and 1 floating (birthday holiday) for a total of 14 paid holidays.

ATTACHMENTS:

(1) 2021 Holiday Calendar

RELEVANCE TO COMPREHENSIVE PLAN:

Funding for holiday pay is provided in FY21 budget, and part of the City of Brenham's excellent benefit package.

RECOMMENDED ACTION:

Approve the City of Brenham 2021 Holiday Schedule as presented.

January						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

July						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

October						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

February						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28						

May						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

August						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

November						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

March						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

June						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

September						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

December						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	



2021 City Holidays	
Jan 1	New Year's Day
Jan 18	Martin Luther King Day
April 2	Good Friday
	OR
April 4	Easter Sunday (24-hour departments)
May 31	Memorial Day
July 4	Independence Day (24-hour departments)
	OR
July 5	Independence Day Observed
Sept 6	Labor Day
Sept 15	Washington County Fair
Nov 11	Veteran's Day
Nov 25	Thanksgiving Day
Nov 26	Day after Thanksgiving
Dec 24	Christmas Eve
	Christmas Day (24-hour departments)
	OR
Dec 25	Monday Dec 27th New Year's Day 2022
Dec 27	Observed
Dec 31	Floating Birthday Holiday *Designated as September 11th Holiday for Firefighters



Regular City Council
AGENDA ITEM 5.

Agenda Item: Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the City of Brenham's Official Zoning Map in Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham to Amend the Planned Development District Ordinance No. O-20-013 to Correct an Error in Section IV for the Lakes at Vintage Farms, Being Approximately 52.428 Acres of Land Being Located South and West of Dixie Road and Further Described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-036)

Meeting Type: Regular Meeting-November 05, 2020

Department: Development Services

Staff Contact: Stephanie Doland

Classification: Public Hearing

SUMMARY STATEMENT:

The subject property is located generally south and west of Dixie Road and north of Muscadine Trail. The property is currently vacant land and was annexed into the City of Brenham city limits on May 21, 2020 and assigned the zoning distinction of Planned Development District. The subject tract is north of the existing Vintage Farms Subdivision which is currently under construction by Stylecraft Builders. The subject 52+ acres of land is planned to be developed with additional Single-Family homes by Stylecraft Builders.

The proposed rezoning is scheduled for consideration because it has come to staff's attention that the original signed, recorded and adopted Ordinance contains an error. The adopted Ordinance (Exhibit A), contains six sections which outline development standards for the proposed subdivision. However, Section VI (4) of the adopted ordinance should not have been included with this Planned Development District Ordinance. Since Planned Development District Ordinances can only be amended by re-writing and re-adopting a new Ordinance, Staff is initiating a rezoning to correct the scrivener's error, specifically to remove Section VI. Included in Exhibit A is a redlined version of the adopted Ordinance which depicts the section to be removed with the proposed rezoning request.

The Planning and Zoning Commission met on October 26, 2020 and unanimously recommend approval of the proposed rezoning to correct a scrivener's error, by removing Section VI of Ordinance No. O-20-013 for a Planned Development District (PD) on a 52.428-acre tract known as the Lakes of Vintage Farms Planned Development.

ATTACHMENTS:

- (1) Ordinance for First Reading
- (2) Redlined Ordinance

RELEVANCE TO COMPREHENSIVE PLAN:

Land Use and Development Goal #1 (Page 12): 'An increased housing supply within the City limits, capturing an increased amount of county and regional growth within the City.'

RECOMMENDED ACTION:

Approve an Ordinance on Its first reading amending the City of Brenham's Official Zoning Map in Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham to amend the Planned Development District Ordinance No. O-20-013 to correct an error in Section IV for the Lakes at Vintage Farms, being approximately 52.428 acres of land being located South and West of Dixie Road and further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-036)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES BY AMENDING ORDINANCE NO. O-20-013 WHICH ESTABLISHED A PLANNED DEVELOPMENT (PD) DISTRICT ON APPROXIMATELY 52.428 ACRES OF LAND LOCATED SOUTH AND WEST OF DIXIE ROAD, BEING FURTHER DESCRIBED AS TRACT 7 OF THE PHILLIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS; ADOPTING A MASTER DEVELOPMENT PLAN AND REGULATIONS APPLICABLE TO THIS PLANNED DEVELOPMENT (PD) DISTRICT.

WHEREAS, the 52.428 acres of land generally located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, (the "Property"), was annexed into the City of Brenham and assigned the zoning classification of Planned Development (PD) District; and

WHEREAS, the previously assigned Ordinance contained a scrivener's error and therefore the City has initiated a rezoning to correct said error; and

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

WHEREAS, the Planning & Zoning Commission recommended on October 26, 2020 that City Council grant such request to amend the Planned Development (PD) District zoning designation; and

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

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

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, is hereby amended to change property currently zoned as Planned Development (PD) District to correct a scrivener's error in the regulations applicable to the Planned Development (PD) District, said District being approximately 52.428 acres of land generally located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, said area of land being further described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

SECTION I.

PURPOSE AND INTENT. The Lakes at Vintage Farms Planned Development District (“The Lakes PD”) is intended to guide land use and physical development of the subject property. This development plan is enacted as a means to provide the City of Brenham and the Developer with alternative standards set forth by the City for their mutual benefit. The Lakes PD is intended to add this approximately 52.428 acre tract of land to the existing Vintage Farms Subdivision (“Vintage Farms”) development by incorporating the existing design and feel of Vintage Farms while providing new elements which will differentiate The Lakes at Vintage Farms as unique. Additionally, The Lakes PD looks to improve property utilization by facilitating the highest and best uses, provide quality cost-efficient housing, strengthen the area economy, and enhance the general welfare of the surrounding community. The Lakes PD reflects the goals of the City’s adopted Comprehensive Plan - Historic Past, Bold Future: Plan 2040 which establishes recommendations for developing quality neighborhood design. To this end, The Lakes at Vintage Farms shall include public amenities such as, but not limited to, sidewalks, landscaping, and parkland which exceed City of Brenham subdivision standards and are intended to provide a valuable product for the Brenham community. The Lakes PD shall allow only single-family residential uses on approximately 52.428 acres of land out of the Phillip Coe Survey, being generally west of Dixie Road and State Highway 36 (Concept Plan - Exhibit A).

SECTION II.

LAND USE AND PHYSICAL DEVELOPMENT.

The Lakes at Vintage Farms by Stylecraft Builders will be managed and maintained by the existing Vintage Farms Homeowners Association (“HOA”) but shall be subject to a separate Declaration of Covenants, Conditions and Restrictions from the current Declaration pertaining to Vintage Farms. Nothing herein shall modify or amend the existing ordinances or Declaration applicable to Vintage Farms.

- A. No floor plan shall be repeated on the lot directly across the street, diagonally across the street, or within two (2) lots on either side of the subject lot.
- B. Minimum square footage of each home shall be 1,200 square feet exclusive of garages, porches, patios and areas of the home that are not conditioned space (heat/AC). This square footage minimum matches the existing restrictions in Vintage Farms.
- C. Each single-family dwelling shall include, at a minimum, a two-car private, enclosed garage.
- D. Each home in Planning Area 1 (Exhibit A) shall have a minimum of 60% masonry on its front face exclusive of windows, doors, eaves, gables, trim work, walls above roof lines, and entryways/porches/patios.
- E. Each home in Planning Area 2 (Exhibit A) shall have a minimum of 20% masonry on its front face exclusive of windows, doors, eaves, gables, trim work, walls above roof lines, and entryways/porches/patios.

- F. The required minimum right-of-way shall be a 55-foot wide publicly dedicated right-of-way with 30-foot wide pavement, measured back-of-curb to back-of-curb.
- G. A minimum of 4,500 linear feet of five foot (5') wide concrete sidewalks and concrete trails shall be constructed within the residential area, and a minimum of 2,800 linear feet of eight foot (8') wide concrete sidewalks shall be constructed in the greenspace/common areas. The Developer shall provide:
 - a. Minimum of 4,500 linear feet of five foot (5') wide concrete sidewalks on one side of the streets, which shall correspond with the same look and feel of the design and layout of Vintage Farms.
 - b. Minimum of 2,800 linear feet of eight foot (8') wide concrete trails within the greenspace around the lakes and common areas throughout the development to be consistent with the trail system of Vintage Farms. The final location of the trail system may differ from what is shown on Exhibit A because the exact location and design shall be determined by the topography and location of preserved trees.
 - c. Pedestrian connectivity to the existing phase of Vintage Farms sidewalks and trails, as shown on Exhibit A.
 - d. Five (5) pedestrian access points connecting the greenspace trails to the neighborhood sidewalk system.
- H. Landscape/Fencing
 - a. Perimeter fencing shall be installed along Dixie Road, and shall be stained, capped and trimmed wooden privacy fence with steel posts to match the existing perimeter fence in Vintage Farms, Phase 1. This fencing will be maintained by the HOA.
 - b. Ten (10) masonry columns shall be installed in the perimeter fencing installed along Dixie Road, and shall be maintained by the HOA.
 - c. Each lot shall be landscaped and irrigated, at a minimum, with full sod in the front yard.
 - d. Single-family residential lots shall have at least one (1) two inch (2") or larger caliper (measured six inches (6") above the tree base) canopy or shade tree or two (2) non-canopy ornamental trees, as well as a minimum of five (5) one-gallon shrubs, planted in the front yard of the residence prior to the Certificate of Occupancy being issued by the City.
 - e. Community Trees - Prior to the first Certificate of Occupancy being issued by the City for each phase of the development, community trees shall be planted throughout the development at a ratio of at least one-half (1/2) of the total number of lots in each phase as reflected on the final plat. Required trees shall be planted in common areas, greenspace, along trails and sidewalks and other areas viewable to the public. Fifty percent (50%) of the required trees shall be canopy trees measuring at least six feet (6') tall and two inches (2") in caliper when measured six inches (6") from the ground.
 - f. Preservation of trees – In accordance with Appendix A - Zoning, Part II, Division 1, Section 12.05 (3) of the City of Brenham Code of Ordinances, developer shall receive credit for each existing tree that is preserved towards the number of community trees that are required by Section II (H)(e) herein above.

I. Greenspace

- a. Developer shall reserve a minimum of fifteen (15) acres of greenspace and common area for neighborhood use, including four (4) acres of lakes, all of which shall be maintained by the HOA.
- b. Developer shall install signage around the lakes with posted rules and warnings regarding usage and safety. This signage shall be maintained and updated by the HOA.
- c. Developer shall provide at minimum a 400 square foot pavilion in the greenspace/park area with the location and size to be determined based on topography, location of preserved trees, and final design of trail system. Pavilion and associated landscaping shall be maintained by the HOA.

SECTION III.

SUBDIVISION OF LAND. The development of land within The Lakes at Vintage Farms includes two different single-family dwelling products. Dwellings located in Planning Area 1 (Exhibit A) shall comply with the development standards applicable to properties in a Single-Family Residential (R-1) zoning district, and dwellings located in Planning Area 2 (Exhibit A) shall comply with the development standards applicable to properties in a Mixed Residential (R-2) zoning district, except as follows:

A. Planning Area 1 - The Lakes at Vintage Farms – Single-Family Residential Detached Homes

- a. 100% of the lots shall be a minimum of 6,600 square feet.
- b. 35% of the lots shall be a minimum of 7,000 square feet.
- c. Minimum lot width shall be 55 feet except for radial lots which shall be a minimum 50 feet measured at the front setback.
- d. Minimum lot depth shall be 120 feet (determined by the average of the two side lot lines) except for radial lots which shall have an average minimum lot depth of 110 feet.
- e. Front yards shall be setback a minimum of 25 feet as per current City development requirements.
- f. Side yards shall be setback a minimum of 7.5 feet unless adjacent to a side street in which case the minimum shall be 15 feet.
- g. Rear yards shall be setback a minimum of 20 feet.

B. Planning Area 2 - The Cove at Vintage Farms – Patio Homes

- a. 100% of the lots shall be a minimum of 4,400 square feet.
- b. 30% of the lots shall be a minimum of 5,700 square feet.
- c. Minimum lot width shall be 40 feet.
- d. Minimum lot depth shall be 120 feet (determined by the average of the two side lot lines). Three lots shall be permitted to have a minimum lot depth of 100 feet, as established in current City development requirements.
- e. Front yards shall be setback a minimum of 20 feet.

- f. Side yards shall be setback a minimum of 5 feet unless adjacent to a side street in which case the minimum shall be 15 feet. Distances between adjacent patio homes shall not be less than 10 feet. Lots adjacent to common areas shall maintain the 5 foot side setback.
- g. Rear yards shall be setback a minimum of 15 feet.

SECTION IV.

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

SECTION V.

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

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

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

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT A



68-428 Acres
OUT OF THE CALLED 6100 ACRES RANGE TRACT
RECORDED IN VOLUME 810, PAGE 93
JANUARY 20, 1920
HARRISON COUNTY, TEXAS
SCALE 1" = 100'

Exhibit "A"

Existing Redlined Planned Development District and Exhibits

ORDINANCE NO. O-20-013

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, TO ASSIGN A ZONING CLASSIFICATION OF PLANNED DEVELOPMENT DISTRICT (PDD) ON APPROXIMATELY 52.428 ACRES OF LAND LOCATED SOUTH AND WEST OF DIXIE ROAD, BEING FURTHER DESCRIBED AS TRACT 7 OF THE PHILLIP COE SURVEY, A-31, IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the owners of the 52.428 acres of land generally located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, (the "Property"), have requested that the Property be annexed into the City of Brenham and assigned zoning; and

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

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

WHEREAS, the Planning & Zoning Commission recommended on April 27, 2020 that City Council grant such request to assign the Property as Planned Development District upon annexation into the City of Brenham city limits; and

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

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

That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by assigning the zoning district classification of Planned Development District (PDD) on approximately 52.428 acres of land generally located south and west of Dixie Road, being further described as Tract 7 of the Phillip Coe Survey, A-31, in Brenham, Washington County, Texas, said area of land being further described and depicted in Exhibits "A" and "B" attached hereto and incorporated herein for all purposes.

SECTION I.

PURPOSE AND INTENT. The Lakes at Vintage Farms Planned Development District ("The Lakes PD") is intended to guide land use and physical development of the subject property. This development plan is enacted as a means to provide the City of Brenham and the Developer with alternative standards set forth by the City for their mutual benefit. The Lakes PD is intended to add this approximately 52.428 acre tract of land to the existing Vintage Farms Subdivision ("Vintage Farms") development by incorporating the existing design and feel of Vintage Farms while providing new elements which will differentiate The Lakes at Vintage Farms as unique. Additionally, The Lakes PD looks to improve property utilization by facilitating the highest and best uses, provide quality cost-efficient housing, strengthen the area economy, and enhance the general welfare of the surrounding community. The Lakes PD reflects the goals of the City's adopted Comprehensive Plan - Historic Past, Bold Future: Plan 2040 which establishes recommendations for developing quality neighborhood design. To this end, The Lakes at Vintage Farms shall include public amenities such as, but not limited to, sidewalks, landscaping, and parkland which exceed City of Brenham subdivision standards and are intended to provide a valuable product for the Brenham community. The Lakes PD shall allow only single-family residential uses on approximately 52.428 acres of land out of the Phillip Coe Survey, being generally west of Dixie Road and State Highway 36 (Concept Plan - Exhibit A).

SECTION II.

LAND USE AND PHYSICAL DEVELOPMENT. The Lakes at Vintage Farms by Stylecraft Builders will be managed and maintained by the existing Vintage Farms Homeowners Association ("HOA") but shall be subject to a separate Declaration of Covenants, Conditions and Restrictions from the current Declaration pertaining to Vintage Farms. Nothing herein shall modify or amend the existing ordinances or Declaration applicable to Vintage Farms.

- A. No floor plan shall be repeated on the lot directly across the street, diagonally across the street, or within two (2) lots on either side of the subject lot.
- B. Minimum square footage of each home shall be 1,200 square feet exclusive of garages, porches, patios and areas of the home that are not conditioned space (heat/AC). This square footage minimum matches the existing restrictions in Vintage Farms.
- C. Each single-family dwelling shall include, at a minimum, a two-car private, enclosed garage.
- D. Each home in Planning Area 1 (Exhibit A) shall have a minimum of 60% masonry on its front face exclusive of windows, doors, eaves, gables, trim work, walls above roof lines, and entryways/porches/patios.
- E. Each home in Planning Area 2 (Exhibit A) shall have a minimum of 20% masonry on its front face exclusive of windows, doors, eaves, gables, trim work, walls above roof lines, and entryways/porches/patios.
- F. The required minimum right-of-way shall be a 55-foot wide publicly dedicated right-of-way with 30-foot wide pavement, measured back-of-curb to back-of-curb.

G. A minimum of 4,500 linear feet of five foot (5') wide concrete sidewalks and concrete trails shall be constructed within the residential area, and a minimum of 2,800 linear feet of eight foot (8') wide concrete sidewalks shall be constructed in the greenspace/common areas. The Developer shall provide:

- a. Minimum of 4,500 linear feet of five foot (5') wide concrete sidewalks on one side of the streets, which shall correspond with the same look and feel of the design and layout of Vintage Farms.
- b. Minimum of 2,800 linear feet of eight foot (8') wide concrete trails within the greenspace around the lakes and common areas throughout the development to be consistent with the trail system of Vintage Farms. The final location of the trail system may differ from what is shown on Exhibit A because the exact location and design shall be determined by the topography and location of preserved trees.
- c. Pedestrian connectivity to the existing phase of Vintage Farms sidewalks and trails, as shown on Exhibit A.
- d. Five (5) pedestrian access points connecting the greenspace trails to the neighborhood sidewalk system.

H. Landscape/Fencing

- a. Perimeter fencing shall be installed along Dixie Road, and shall be stained, capped and trimmed wooden privacy fence with steel posts to match the existing perimeter fence in Vintage Farms, Phase 1. This fencing will be maintained by the HOA.
- b. Ten (10) masonry columns shall be installed in the perimeter fencing installed along Dixie Road, and shall be maintained by the HOA.
- c. Each lot shall be landscaped and irrigated, at a minimum, with full sod in the front yard.
- d. Single-family residential lots shall have at least one (1) two inch (2") or larger caliper (measured six inches (6") above the tree base) canopy or shade tree or two (2) non-canopy ornamental trees, as well as a minimum of five (5) one-gallon shrubs, planted in the front yard of the residence prior to the Certificate of Occupancy being issued by the City.
- e. Community Trees - Prior to the first Certificate of Occupancy being issued by the City for each phase of the development, community trees shall be planted throughout the development at a ratio of at least one-half (1/2) of the total number of lots in each phase as reflected on the final plat. Required trees shall be planted in common areas, greenspace, along trails and sidewalks and other areas viewable to the public. Fifty percent (50%) of the required trees shall be canopy trees measuring at least six feet (6') tall and two inches (2") in caliper when measured six inches (6") from the ground.
- f. Preservation of trees – In accordance with Appendix A - Zoning, Part II, Division 1, Section 12.05 (3) of the City of Brenham Code of Ordinances, developer shall receive credit for each existing tree that is preserved towards the number of community trees that are required by Section II (I)(f) herein above.

I. Greenspace

- a. Developer shall reserve a minimum of fifteen (15) acres of greenspace and common area for neighborhood use, including four (4) acres of lakes, all of which shall be maintained by the HOA.
- b. Developer shall install signage around the lakes with posted rules and warnings regarding usage and safety. This signage shall be maintained and updated by the HOA.
- c. Developer shall provide at minimum a 400 square foot pavilion in the greenspace/park area with the location and size to be determined based on topography, location of preserved trees, and final design of trail system. Pavilion and associated landscaping shall be maintained by the HOA.

SECTION III.

DEVELOPMENT OF LAND. The development of land within The Lakes at Vintage Farms includes two different single-family dwelling products. Dwellings located in Planning Area 1 (Exhibit A) shall comply with the development standards applicable to properties in a Single-Family Residential (R-1) zoning district, and dwellings located in Planning Area 2 (Exhibit A) shall comply with the development standards applicable to properties in a Mixed Residential (R-2) zoning district, except as follows:

A. Planning Area 1 - The Lakes at Vintage Farms – Single-Family Residential Detached Homes

- a. 100% of the lots shall be a minimum of 6,600 square feet
- b. 35% of the lots shall be a minimum of 7,000 square feet
- c. Minimum lot width shall be 55 feet except for radial lots which shall be a minimum 50 feet measured at the front setback.
- d. Minimum lot depth shall be 120 feet (determined by the average of the two side lot lines) except for radial lots which shall have an average minimum lot depth of 110 feet.
- e. Front yards shall be setback a minimum of 25 feet as per current City development requirements.
- f. Side yards shall be setback a minimum of 7.5 feet unless adjacent to a side street in which case the minimum shall be 15 feet.
- g. Rear yards shall be setback a minimum of 20 feet

B. Planning Area 2 - The Cove at Vintage Farms – Patio Homes

- a. 100% of the lots shall be a minimum of 4,400 square feet
- b. 30% of the lots shall be a minimum of 5,700 square feet
- c. Minimum lot width shall be 40 feet
- d. Minimum lot depth shall be 120 feet (determined by the average of the two side lot lines). Three lots shall be permitted to have a minimum lot depth of 100 feet, as established in current City development requirements.
- e. Front yards shall be setback a minimum of 20 feet

- f. Side yards shall be setback a minimum of 5 feet unless adjacent to a side street in which case the minimum shall be 15 feet. Distances between adjacent patio homes shall not be less than 10 feet. Lots adjacent to common areas shall maintain the 5-foot side setback.
- g. Rear yards shall be setback a minimum of 15 feet

SECTION IV.

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

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

SECTION V.

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

SECTION VI.

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

PASSED and APPROVED on its first reading this the 7th day of May 2020.

PASSED and APPROVED on its first reading this the 21st day of May 2020.



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

ATTEST:

Jeanne Bellinger
Jeanne Bellinger, TRMC, CMC
City Secretary

EXHIBIT A

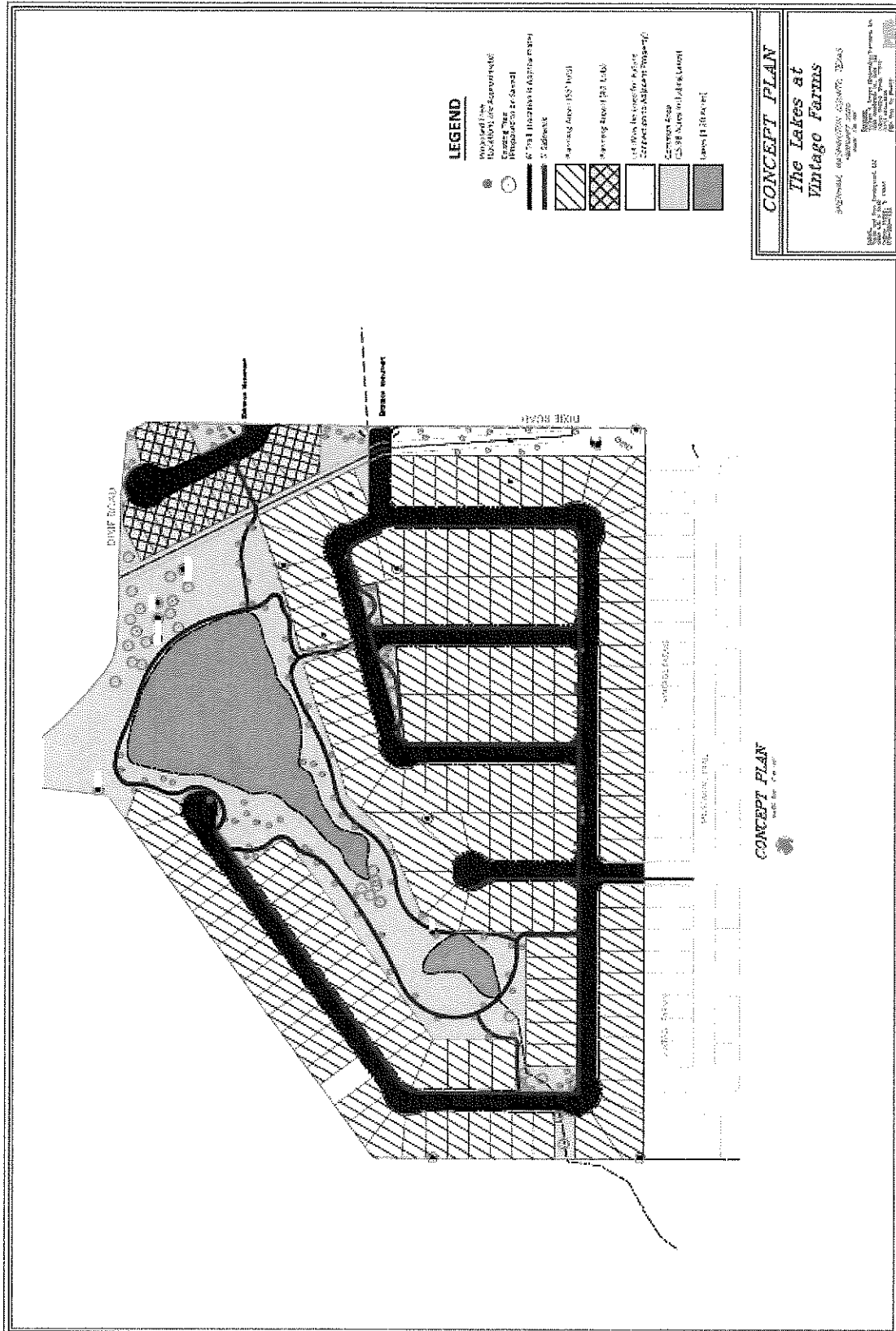
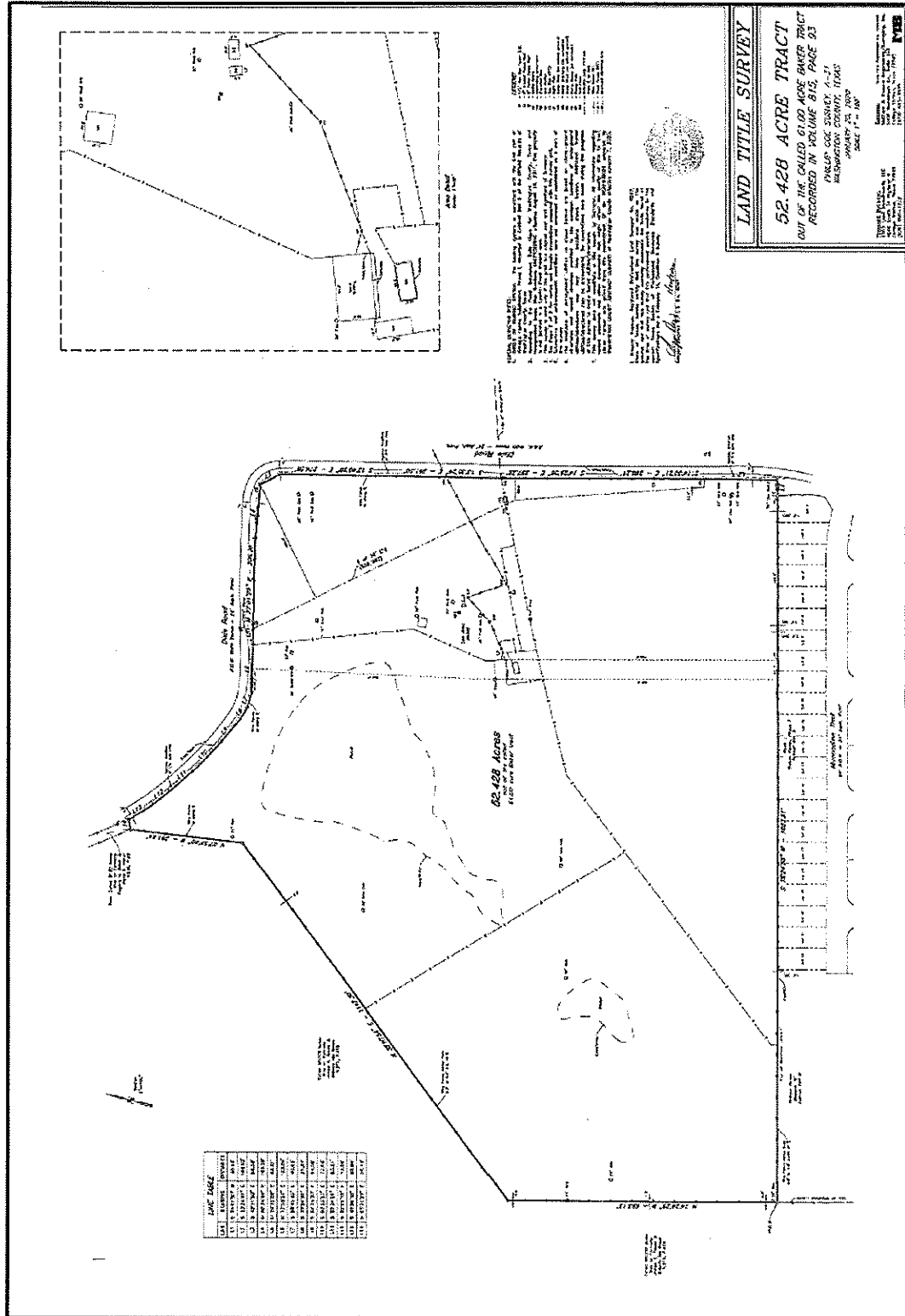


EXHIBIT B





Regular City Council
AGENDA ITEM 6.

Agenda Item: Presentation of the FY2019-20 Municipal Court Statistics

Meeting Type: Regular Meeting-November 05, 2020

Department: Municipal Court

Staff Contact: Tiwana Brown

Classification: Work Session

SUMMARY STATEMENT:

The Municipal Court statistics for FY2019-20 will be discussed and presented by Municipal Court Administrator Tiwana Brown.

ATTACHMENTS:

(1) Municipal Court Statistics for FY2019-20

RELEVANCE TO COMPREHENSIVE PLAN:

N/A - For informational purposes only.

RECOMMENDED ACTION:

None-discussion only

MUNICIPAL COURT STATISTICS					
	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>
Total Cases Filed	6689	5733	4258	5264	4209
Traffic Misdemeanors					
Non-Parking	4,434	3,726	2,479	2,884	2,540
Parking	41	21	44	152	82
Dispositions Prior to Court Appearance or Trial	2,579	1,984	1,771	1,638	1,801
Dispositions at Court Appearance or Trial	91	99	110	123	108
Cases Dismissed	1,937	1,244	1,389	1,047	494
Non-Traffic Misdemeanors					
Penal Code	262	215	249	229	129
State Law	1,785	1,594	1,422	1,869	1,331
City Ordinance	167	177	64	130	127
Dispositions Prior to Court Appearance or Trial	1,280	1,316	1,213	1,209	1,468
Dispositions at Court Appearance or Trial	204	219	195	218	168
Cases Dismissed	638	563	649	616	902
Juvenile Activity	102	108	92	111	100
Warrants Issued	2,197	1,875	728	64	3,414
Total Revenue Collected	\$ 1,312,736	\$ 1,116,622	\$ 988,804	\$ 948,028	\$ 868,886
Total Remitted to State	\$ 416,196	\$ 355,875	\$ 288,450	\$ 278,125	\$ 254,936
General Gov't Revenues	\$ 896,540	\$ 760,740	\$ 700,350	\$ 669,897	\$ 613,943



Regular City Council
AGENDA ITEM 7.

Agenda Item: Presentation of 4th Quarter Tourism Report by Visit Brenham

Meeting Type: Regular Meeting-November 05, 2020

Department: Tourism & Marketing

Staff Contact: Jennifer Eckermann

Classification: Work Session

SUMMARY STATEMENT:

4th Quarter highlights from the Visit Brenham DMO will be presented to City Council, including:

- Visitor Journey A2D hospitality training program
- Data concerning the new, award-winning VisitBrenhamTexas.com website
- Advertising and Media Outreach
- Social Media
- Brenham/Washington County Visitor Center
- Group Sales
- The Barnhill Center
- Texas Music Friendly Certification, and more

A copy of the report will be available to Council following the meeting, if requested.

ATTACHMENTS:

None

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

None. Discussion only.



Regular City Council
AGENDA ITEM 8.

Agenda Item: Presentation of 4th Quarter Economic Development Report

Meeting Type: Regular Meeting-November 05, 2020

Department: Economic Development

Staff Contact: Susan Cates

Classification: Work Session

SUMMARY STATEMENT:

The Economic Development Quarterly Report is intended to provide a snapshot of economic development opportunities that are active in our community, summarize the plan of work, and update the Council on goals accomplished.

ATTACHMENTS:

- (1) 4th Quarter ED Presentation Slides
- (2) Project Tracker Spreadsheet

RELEVANCE TO COMPREHENSIVE PLAN:

This report is in support of the Comprehensive Plan Guiding Principle 4 to be collaborative. Maintaining strong communication between economic development partners supports collaboration.

RECOMMENDED ACTION:

None



Brenham
Washington County
Economic Development

4th Quarter 2020 Economic Development Report

July-September, 2020

1



Brenham
Washington County
Economic Development

Business Attraction

New Inquiries:

- 15 Governor's Office RFIs
- 2 GHP RFIs
- 7 Direct RFIs

8 completed responses
3 Site visits

Actively engaged with:

- 13 Projects
- Est. \$204M CapEx
- Over 700 new jobs

2



Brenham
Washington County
Economic Development

Project Silver Crayon

- Texas Capital Fund Grant approved
- Texas Enterprise Fund nearing final approval
- County Tax Phase-In in progress
- Land under contract
- Formal announcements forthcoming

3



Brenham
Washington County
Economic Development

Project Black Stamp

- Spanish company
- Initial site visit 9/23
 - Food Mfg CEOs
 - Blinn College
 - City, County, EDF
- Video translation follow-up
- We remain on short(er) list
- Anticipate next phase of site selection in Nov.

4



Marketing

- Tesla Supply Chain
- Tech incubator
- TX Economic Development Connection

5



Partnerships

- Economic Development Joint Committee
- Revised ILA
- Regional XLR8
- Retail Partner RFQ

6



Brenham
Washington County
Economic Development

Recognition

- IEDC Gold Award for Website
- Susan Cates appointed to TEDC Board of Directors
- Susan Cates received BREC certification

**Business Development
4th Quarter 2020**

	Date	Source	Name	Acreage	SF Building	Building Specs	Employees	CapEx	Industry	Misc Project Specs	Submitted
1	1/14/2019	Direct	BK Retail	35+		200,000 sf retail			Retail	Continuing to work with Developer on this project Anticipating 1 yr delay due to COVID	NA
4	1/24/2019	Direct	Nursing Home						Healthcare	Continuing to work with Mike Adams toward renovation of Brenham Nursing Home Mike working with VA on the project Stacking PACE, OZ, and Historic Tax Credits in capital stack	NA
5	1/28/2019	Direct	Market Square	50		mixed use: retail along 290 frontage with office and multi-family behind			Retail/Commercial	Continuing to work with Developer and CRE on this project Hospitality and Retail have LOIs	NA
6	1/30/2019	Direct	Silver Crayon	200	200,000	Looking for land with gas 6,500 cf per hour, electric min 480V 3phase with 6K min amps (prefer 4160V), water & sewer to site they will build to suit	30	\$50M	Advanced Mfg Distribution	Min Inv \$20M Avg wage \$80K Final site selection TEF app in to GovOfc TCF approved for gas line	Y
18	4/2/2019	Direct	Red River	120		Industrial development, multiple businesses, transportation hub			Industrial	Existing local business requesting assistance with a relocation within the community and expansion of operations. Initial project approvals received 7/2019	NA
20	4/28/2019	Direct	290 Com	3.5	42K	Retail / Commercial Office			Retail/Commercial	Development underway, actively marketing to retail & comm'l tenants for BTS	NA
23	5/8/2019	Direct	Res1	15+		Mkt rate + senior housing credit project			Residential	Multi-family residential Meeting 5/5 Developer selected mtg 11/5	NA
28	7/9/2019	Direct	Local Expansion	10	30K	Tilt wall 3K office, 5K production, remainder warehouse, Likely BBC	40		Industrial	Tax credit app approved Local business expansion	NA
29	7/30/2019	RE	Family Relo	2	10K	Metal building, small office, remainder WH, SWIP	5		Industrial	Project placed on hold CV Oil field supply business, in site design	NA
30	8/1/2019	Dev	QSR1	3	3K				Restaurant	In site layout Pad site land closed	NA
51	1/9/2020	Direct	Aloha	7-10		24' height, test pit	10			Land in SWIP Project placed on hold CV/Energy	

**Business Development
4th Quarter 2020**

	Date	Source	Name	Acreage	SF Building	Building Specs	Employees	CapEx	Industry	Misc Project Specs	Submitted
52	1/17/2020	Direct	Decal	2	7500	Manufacturing	7			Looking at existing bldgs	
53	1/21/2020	Direct	Chow			Misc.			Real Estate	Investor looking for projects Project on hold CV	
54	1/29/2020	Direct	Barrel	1	5000	Manufacturing	5			Downtown adjacent area 2 locations have fallen thru working on another	
57	2/24/2020	Direct	Salad	15-20	20-50K	Manufacturing	100+		Food Mfg	Existing bldg Contact no longer with Co. researching project	
59	2/27/2020	Direct	Scout	50		RV/Tiny home	5-10		Residential	County location Project on hold CV	
60	3/4/2020	GovOfc	Black Stamp	50		USDA food grade	120	\$20-50M	Food Mfg	waster, gas, electricity, sewer to site near transportation arteries proximity to slaughter house workforce with knowledge of food safety	Yes
81	7/16/2020	GovOfc	Huron Mute	15-25	60-100K	clear height 24' overhead doors dock height and 1 drive up ramp Fire suppression sprinklers	100	\$2.2M	plastics mfg	400-800 amp service natural gas salary \$30-100K in/outbound shipping via truck	Yes
84	7/28/2020	Direct	Rameses	15-25	100K	Will build to suit	40		mfg	two access points for trucks	
85	7/30/2020	Direct	Brightly			Build to suit			mfg	looking at Waller, Fort Bend, Brazos, Grimes, Washington Co.	
91	8/25/2020	Direct	Miranda	5-8	15-30K	BTS 12K mfg, 3K ofc	22		plastics mfg	relo & exp w/in county	
92	8/28/2020	Direct	Nutty								
93	8/31/2020	Direct	Workspace								
94	9/1/2020	GovOfc	Phoenix Rising	5-10	50-100K	120V, 3-phase to site Broadband access in place	330	\$5.5M	Steel construction components	Within 10 mi of interstate hwy Zoned for Light Industrial If BTS, must have Phase 1 Environmental to submit Prefer Enterprise/Opportunity Zone with NMTC eligibility	no
95	9/9/2020	GovOfc	Neowise Arrow		70K	6" minimum concrete footings 20' Ceiling height					no
96	9/11/2020	Direct	Fit Passport						Sales/Service		yes

**Business Development
4th Quarter 2020**

Date	Source	Name	Acreage	SF Building	Building Specs	Employees	CapEx	Industry	Misc Project Specs	Submitted
97	9/16/2020	Direct	Gallegos	vary	Looking to build spec industrial/distribution buildings in Brenham for sale or lease					
98	9/23/2020	GovOfc	Am Flex II	1300	345kv line and nearby substation 350MW capacity w/access to renewables 3.5-4MGD clean water or 8MGD of grey water or 3.5MGD of ground water w/in 3 mi of site >633Kmmbtu natural gas	500	\$2B	Steel mill	Preference for deep water port access Waterfront dock access preferred Proximity to TX & Mexico Rail (esp dual rail) is advantageous Attainment sites strongly preferred	no
99	9/23/2020	GovOfc	QK Relocation	100	1 million sf existing with expansion to 2 million sf Access to mass transit within 5 mi of major highway	1000	\$200M	Healthcare distribution	Warehouse/Distribution and Corporate Head quarters relocation from NY Within 60 mi of major hub airport Within 30 mi of university	no



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discussion and Update on 2020 Holiday Events and COVID-19 Restriction and Recovery Efforts

Meeting Type: Regular Meeting-November 05, 2020

Department: Parks and Recreation

Staff Contact: Crystal Locke, Community Services Specialist

Classification: Work Session

SUMMARY STATEMENT:

See the attached memo from Crystal Locke, Community Services Specialist.

ATTACHMENTS:

(1) City of Brenham 2020 Holiday Events

RELEVANCE TO COMPREHENSIVE PLAN:

Continue to support active event programming throughout the city, recognizing the positive impact on livability and economic development.

RECOMMENDED ACTION:

No action - discussion only.



To: Mayor and Council

From: Crystal Locke, Community Services Specialist

Subject: Discussion and Update on the City of Brenham 2020 Holiday Events and COVID-19 Restriction and Recovery Efforts

Date: October 29, 2020

Per the Texas Department of State Health Services (DSHS) guidance for Opening the State of Texas, outdoor events, and other large gatherings with an estimated attendance of 10 or more, are permissible to hold in Texas. The county judge or the mayor, as appropriate, in coordination with the local public health authority, must give approval to such an outdoor gathering or event prior to being held.

Below is a list of City of Brenham Outdoor Holiday Events:

Date	Event
November 6	Brenham Farmers Market in Downtown Brenham
December 4	Brenham Farmers Market in Downtown Brenham
December 5	Christmas Stroll & Lighted Parade in Downtown Brenham

Per the DSHS, fine arts performance halls may operate in Texas. Fine arts performance halls may operate indoors up to 75% of the total listed occupancy; 6 feet distancing between groups is needed and groups cannot exceed 10 persons.

Below is a list of Holiday Events at The Barnhill Center:

Date	Event
November 14	Ray Benson
November 27	The Music of John Denver by Jim Curry
December 12	Gary Morris Christmas

Below is a list of City of Brenham Indoor Holiday Events:

Date	Event
November 6-7	Holiday House Craft & Bake Sale for Brenham Pet Adoption
November 23-25	Friends, Family, & Fun Inflatables at Blue Bell Aquatic Center
December 12	Adoption Event & Gift Wrapping for Brenham Pet Adoption Center
December 15	Holiday Open House at Blue Bell Aquatic Center



Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon a Joint Proclamation of the City of Brenham and Washington County Related to the 2020 Christmas Stroll and Lighted Parade to be held on December 4-5, 2020 and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

During the Work Session discussion related to 2020 Holiday Events, the Council will be asked to consider approving a Proclamation between the City and County in support of the 2020 Christmas Stroll and Lighted Parade.

ATTACHMENTS:

(1) Proclamation

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

No staff recommendation - this item is for Council discussion and consideration.

**JOINT PROCLAMATION BY THE
MAYOR OF THE CITY OF BRENHAM, TEXAS
AND THE
COUNTY JUDGE OF WASHINGTON COUNTY, TEXAS**

WHEREAS, on July 2, 2020, Governor Greg Abbott issued a Proclamation amending Executive Order GA-28, said GA-28 being further amended by Executive Order GA-30 issued on September 17, 2020, which mandates that any outdoor gathering in excess of 10 people (with certain exceptions) is prohibited unless certain local government officials approve of such gathering; and

WHEREAS, the Christmas Stroll and Lighted Parade is scheduled to be held on December 4-5, 2020 in the Brenham, Washington County, Texas, and involves various outdoor gatherings that are anticipated to exceed 10 people; and

WHEREAS, in our respective capacities as the Mayor of the City of Brenham, Texas, and the County Judge of Washington, County, Texas, in considering whether to approve the Christmas Stroll and Lighted Parade, we have evaluated the “local approval factors” consisting of the overall number of projected attendees, the likelihood of individuals over the age of 65 attending, the density of the forum and the ability to ensure social distancing of 6 feet between individuals, and the level of transmission in Washington County, Texas;

NOW THEREFORE, WE, MILTON Y. TATE, JR., MAYOR OF THE CITY OF BRENHAM, TEXAS, AND JOHN DURRENBERGER, COUNTY JUDGE OF WASHINGTON COUNTY, TEXAS, in accordance with Governor Abbott’s Executive Order GA-28, as amended by the Governor’s Proclamation issued July 2, 2020 and Executive Order GA-30, do hereby approve of the Christmas Stroll and Lighted Parade to be held on December 4-5, 2020, including the various outdoor gatherings associated with the Christmas Stroll and Lighted Parade that are anticipated to exceed 10 people.

All persons attending the Christmas Stroll and Lighted Parade are strongly encouraged to wear face coverings, wash their hands frequently, practice social distancing, and to further observe the protocols designed to minimize the transmission and spread of COVID-19 as set forth in all applicable guidance from the Centers for Disease Control and Prevention (“CDC”), the Texas Department of State Health Services (“DSHS”), the Texas Division of Emergency Management (“TDEM”), and the Executive Orders issued by Texas Governor Greg Abbott.

SIGNED THIS THE ____ DAY OF OCTOBER, 2020.

**HON. MILTON Y. TATE, JR., MAYOR
CITY OF BRENHAM, TEXAS**

**HON. JOHN DURRENBERGER, COUNTY JUDGE
WASHINGTON COUNTY, TEXAS**



Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-20-031 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2020 Lighted Christmas Parade to be held on Saturday, December 5, 2020

Meeting Type: Regular Meeting-November 05, 2020

Department: Parks and Recreation

Staff Contact: Crystal Locke, Community Services Specialist

Classification: Regular

SUMMARY STATEMENT:

The City of Brenham hosts the annual Christmas Stroll & Lighted Parade on the first weekend in December. The City is requesting the closure of Alamo Street and Main Street (Business 290) from Market Street to Austin Street in Brenham, Texas (Washington County) from 2:00 pm until 9:00 pm on Saturday, December 5, 2020.

Closures more than four (4) hours need approval per the Texas Department of Transportation (TxDOT) agreement.

ATTACHMENTS:

- (1) Resolution R-20-031
- (2) TxDOT Agreement
- (3) Detour Map - 2pm-4pm
- (4) Detour Map - 4pm-9pm

RELEVANCE TO COMPREHENSIVE PLAN:

Continue to support active event programming throughout the city, recognizing the positive impact on livability and economic development.

RECOMMENDED ACTION:

Approve Resolution No. R-20-031 authorizing the execution of an agreement with TxDOT for the temporary closure of state right of way in connection with the 2020 Lighted Christmas Parade to be held Saturday, December 5, 2020.

RESOLUTION NO. R-20-031

THE STATE OF TEXAS

COUNTY OF WASHINGTON

WHEREAS, the Texas Department of Transportation operates certain state highways within the City limits of the City of Brenham;

WHEREAS, the City of Brenham has received requests for street closings along state highways within the City of Brenham;

WHEREAS, the Texas Department of Transportation and the City of Brenham have agreed to certain terms and conditions regarding the closing of a portion of the state highway within the City limits for the purpose of said closings;

WHEREAS, the City Council of the City of Brenham has considered the foregoing and the aforesaid contract and have agreed to be bound by the provisions thereof for the purpose of closing said streets for the 2020 Christmas Stroll and Lighted Parade.

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

The Mayor of Brenham, acting on behalf of the City Council of the City of Brenham is hereby authorized to execute the attached agreement with the Texas Department of Transportation in connection with the closure of state highways within the City of Brenham associated with the 2020 Christmas Stroll and Lighted Parade. This Resolution is effective upon its adoption.

Adopted this the 5th day of November 2020.

Milton Y. Tate, Jr.,
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

STATE OF TEXAS §
COUNTY OF TRAVIS §

**AGREEMENT FOR THE TEMPORARY CLOSURE
OF STATE RIGHT OF WAY**

THIS AGREEMENT is made by and between the State of Texas, acting by and through the Texas Department of Transportation, hereinafter called the “State,” and the City of Brenham, a municipal corporation, acting by and through its duly authorized officers, hereinafter called the “local government.”

W I T N E S S E T H

WHEREAS, the State owns and operates a system of highways for public use and benefit, including Alamo Street and Main Street (Business 290), in Washington, County; and

WHEREAS, the local government has requested the temporary closure of Alamo and Main Streets (Business 290) for the purpose of the 2020 Lighted Christmas Parade, from 2:00 pm to 9:00 pm on Saturday, December 5 as described in the attached “Exhibit A,” hereinafter identified as the “Event;” and

WHEREAS, the Event will be located within the local government’s incorporated area; and

WHEREAS, the State, in recognition of the public purpose of the Event, wishes to cooperate with the City so long as the safety and convenience of the traveling public is ensured and that the closure of the State’s right of way will be performed within the State’s requirements; and

WHEREAS, on the 5th day of November 2020, the Brenham City Council passed Resolution / Ordinance No. _____, attached hereto and identified as “Exhibit B,” establishing that the Event serves a public purpose and authorizing the local government to enter into this agreement with the State; and

WHEREAS, 43 TAC, Section 22.12 establishes the rules and procedures for the temporary closure of a segment of the State highway system; and

WHEREAS, this agreement has been developed in accordance with the rules and procedures of 43 TAC, Section 22.12;

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

A G R E E M E N T

Article 1. CONTRACT PERIOD

This agreement becomes effective upon final execution by the State and shall terminate upon completion of the Event or unless terminated or modified as hereinafter provided.

Article 2. EVENT DESCRIPTION

The physical description of the limits of the Event, including county names and highway numbers, the number of lanes the highway has and the number of lanes to be used, the proposed schedule of start and stop times and dates at each location, a brief description of the proposed activities involved, approximate number of people attending the Event, the number and types of animals and equipment, planned physical modifications of any man-made or natural features in or adjacent to the right of way involved shall be attached hereto along with a location map and identified as "Exhibit C."

Article 3. OPERATIONS OF THE EVENT

A. The local government shall assume all costs for the operations associated with the Event, to include but not limited to, plan development, materials, labor, public notification, providing protective barriers and barricades, protection of highway traffic and highway facilities, and all traffic control and temporary signing.

B. The local government shall submit to the State for review and approval the construction plans, if construction or modifications to the State's right of way is required, the traffic control and signing plans, traffic enforcement plans, and all other plans deemed necessary by the State. The State may require that any traffic control plans of sufficient complexity be signed, sealed and dated by a registered professional engineer. The traffic control plan shall be in accordance with the latest edition of the Texas Manual on Uniform Traffic Control Devices. All temporary traffic control devices used on state highway right of way must be included in the State's Compliant Work Zone Traffic Control Devices List. The State reserves the right to inspect the implementation of the traffic control plan and if it is found to be inadequate, the local government will bring the traffic control into compliance with the originally submitted plan, upon written notice from the State noting the required changes, prior to the event. The State may request changes to the traffic control plan in order to ensure public safety due to changing or unforeseen circumstances regarding the closure.

C. The local government will ensure that the appropriate law enforcement agency has reviewed the traffic control for the closures and that the agency has deemed them to be adequate. If the law enforcement agency is unsure as to the adequacy of the traffic control, it will contact the State for consultation no less than 10 workdays prior to the closure.

D. The local government will complete all revisions to the traffic control plan as requested by the State within the required timeframe or that the agreement will be terminated upon written notice from the State to the local government. The local government hereby agrees that any failure to cooperate with the State may constitute reckless endangerment of the public and that the Texas Department of Public Safety may be notified of the situation as soon as possible for the appropriate action, and failing to follow the traffic control plan or State instructions may result in a denial of future use of the right of way for three years.

E. The local government will not initiate closure prior to 24 hours before the scheduled Event and all barriers and barricades will be removed and the highway reopened to traffic within 24 hours after the completion of the Event.

F. The local government will provide adequate enforcement personnel to prevent vehicles from stopping and parking along the main lanes of highway right of way and otherwise prevent interference with the main lane traffic by both vehicles and pedestrians. The local government will prepare a traffic enforcement plan, to be approved by the State in writing at least 48 hours prior to the scheduled Event. Additionally, the local government shall provide to the State a letter of certification from the law enforcement agency that will be providing traffic control for the Event, certifying that they agree with the enforcement plan and will be able to meet its requirements.

G. The local government hereby assures the State that there will be appropriate passage

allowance for emergency vehicle travel and adequate access for abutting property owners during construction and closure of the highway facility. These allowances and accesses will be included in the local government's traffic control plan.

H. The local government will avoid or minimize damage, and will, at its own expense, restore or repair damage occurring outside the State's right of way and restore or repair the State's right of way, including, but not limited to, roadway and drainage structures, signs, overhead signs, pavement markings, traffic signals, power poles and pavement, etc. to a condition equal to that existing before the closure, and, to the extent practicable, restore the natural and cultural environment in accordance with federal and state law, including landscape and historical features.

Article 4. OWNERSHIP OF DOCUMENTS

Upon completion or termination of this agreement, all documents prepared by the local government will remain the property of the local government. All data prepared under this agreement shall be made available to the State without restriction or limitation on their further use. At the request of the State, the Local Government shall submit any information required by the State in the format directed by the State.

Article 5. TERMINATION

A. This agreement may be terminated by any of the following conditions:

- (1) By mutual written agreement and consent of both parties.
- (2) By the State upon determination that use of the State's right of way is not feasible or is not in the best interest of the State and the traveling public.
- (3) By either party, upon the failure of the other party to fulfill the obligations as set forth herein.
- (4) By satisfactory completion of all services and obligations as set forth herein.

B. The termination of this agreement shall extinguish all rights, duties, obligations, and liabilities of the State and local government under this agreement. If the potential termination of this agreement is due to the failure of the local government to fulfill its contractual obligations as set forth herein, the State will notify the local government that possible breach of contract has occurred. The local government must remedy the breach as outlined by the State within ten (10) days from receipt of the State's notification. In the event the local government does not remedy the breach to the satisfaction of the State, the local government shall be liable to the State for the costs of remedying the breach and any additional costs occasioned by the State.

Article 6. DISPUTES

Should disputes arise as to the parties' responsibilities or additional work under this agreement, the State's decision shall be final and binding.

Article 7. RESPONSIBILITIES OF THE PARTIES

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

Article 8. INSURANCE

A. Prior to beginning any work upon the State's right of way, the local government and/or its contractors shall furnish to the State a completed "Certificate of Insurance" (TxDOT Form 1560, latest edition) and shall maintain the insurance in full force and effect during the period

that the local government and/or its contractors are encroaching upon the State right of way.
B. In the event the local government is a self-insured entity, the local government shall provide the State proof of its self-insurance. The local government agrees to pay any and all claims and damages that may occur during the period of this closing of the highway in accordance with the terms of this agreement.

Article 9. AMENDMENTS

Any changes in the time frame, character, agreement provisions or obligations of the parties hereto shall be enacted by written amendment executed by both the local government and the State.

Article 10. COMPLIANCE WITH LAWS

The local government shall comply with all applicable federal, state and local environmental laws, regulations, ordinances and any conditions or restrictions required by the State to protect the natural environment and cultural resources of the State's right of way.

Article 11. LEGAL CONSTRUCTION

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

Article 12. NOTICES

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified U.S. mail, postage prepaid, addressed to such party at the following respective addresses:

Local Government:	State:
Milton Y. Tate, Jr., Mayor City of Brenham P.O. Box 1059 Brenham, Texas 77834-1059	Texas Department of Transportation

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change to the other in the manner provided herein.

Article 13. SOLE AGREEMENT

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

IN TESTIMONY WHEREOF, the parties hereto have caused these presents to be executed in duplicate counterparts.

THE CITY OF BRENHAM

Executed on behalf of the local government by:

By _____ Date _____
City Official

Typed or Printed Name and Title: Milton Y. Tate, Jr.
Mayor

THE STATE OF TEXAS

Executed for the Executive Director and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs heretofore approved and authorized by the Texas Transportation Commission.

By _____ Date _____
District Engineer

Exhibit A

The annual Lighted Christmas Parade is hosted by the City of Brenham and happens the first Saturday of December – December 5, 2020. Main and Alamo Streets (Business 290) will feature a lighted parade beginning at 6:00 pm. Parade entries will include vehicles, semi-trucks, tractors, animals such as horses and dogs, and floats.

Exhibit B

RESOLUTION NO. R-

THE STATE OF TEXAS

COUNTY OF WASHINGTON

WHEREAS, the Texas Department of Transportation operates certain state highways within the City limits of the City of Brenham;

WHEREAS, the City of Brenham has received requests for street closings along state highways within the City of Brenham;

WHEREAS, the Texas Department of Transportation and the City of Brenham have agreed to certain terms and conditions regarding the closing of a portion of the state highway within the City limits for the purpose of said closings;

WHEREAS, the City Council of the City of Brenham has considered the foregoing and the aforesaid contract and have agreed to be bound by the provisions thereof for the purpose of closing said streets for the 2020 Christmas Stroll and Lighted Parade.

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

The Mayor of Brenham, acting on behalf of the City Council of the City of Brenham is hereby authorized to execute the attached agreement with the Texas Department of Transportation in connection with the closure of state highways within the City of Brenham associated with the 2020 Christmas Stroll and Lighted Parade. This resolution is effective upon its adoption.

Adopted this the 5th day of November 2020.

Milton Y. Tate, Jr.,
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

Exhibit C

This request is for closure of Alamo and Main Streets (Business 290) from Market Street to Austin Street in Brenham, Texas (Washington County) as follows on Saturday, December 5, 2020.

2:00 pm to 4:00 pm – close Main Street and Alamo Street (Business 290) between Market Street and Austin Street allowing street parked vehicles time to clear the parade route. Attached is a map showing the location of street closures and detour routes for thru traffic - Christmas Parade Detour Map – 2:00 pm-4:00 pm.

4:00 pm to 9:00 pm – full parade street closures including the parade route and parade staging and unloading areas. Attached is a map showing the location of street closures and detour routes for thru traffic - Christmas Parade Detour Map – 4:00 pm-9:00 pm.

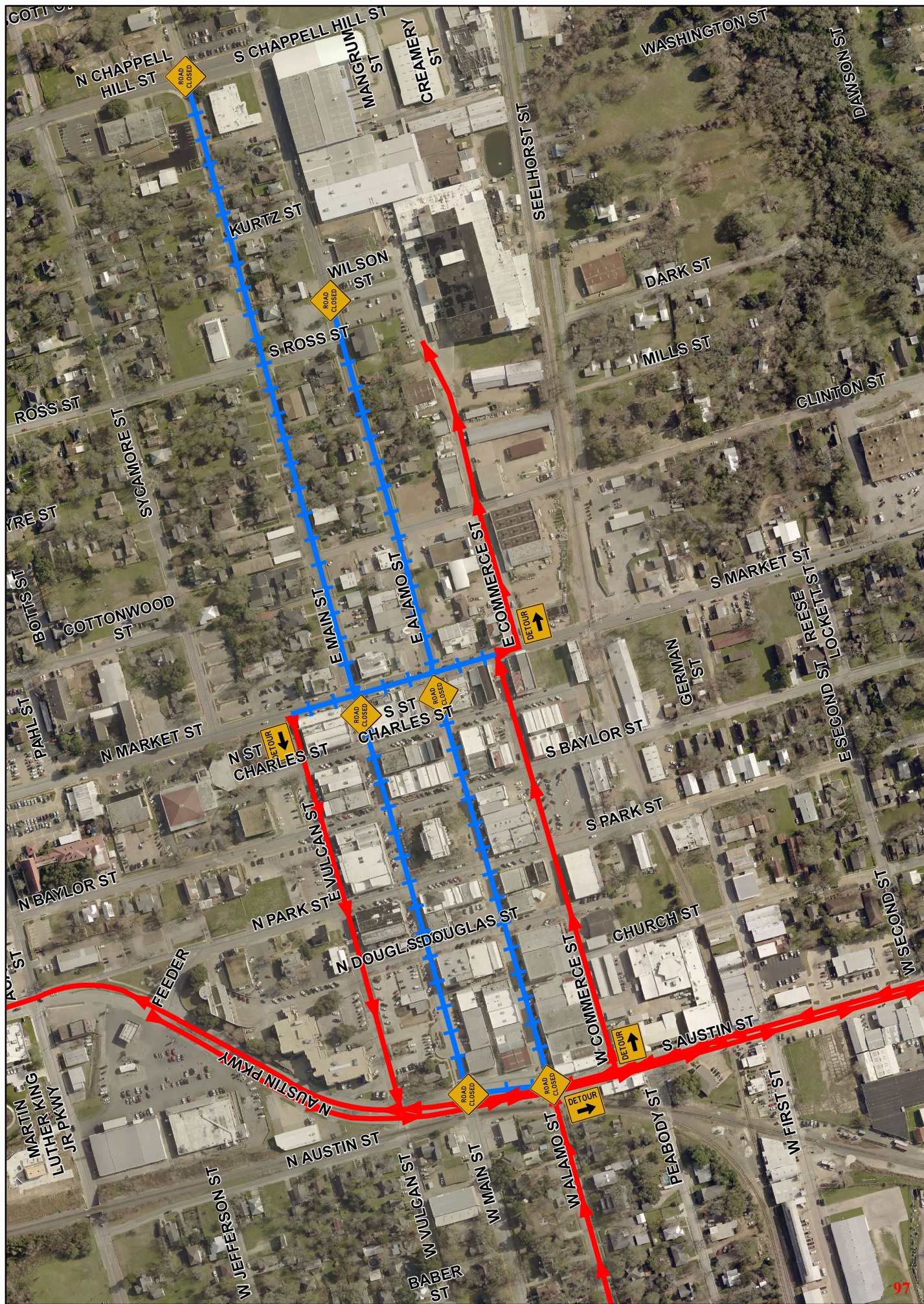
Streets will be barricaded with traffic control devices and staffed with personnel from the Brenham Police Department and Citizens on Patrol.

Electronic message boards will be placed at Hwy 105 at K&H Toliets detouring thru traffic to Academy Street and Alamo at High Street detouring thru traffic from Burleson to MLK.

The proposed activity that requires these street closures is the 2020 Lighted Christmas Parade. Estimated attendance for the Lighted Parade is approximately 4,500 people.

No planned physical modifications of any manmade or natural features in or adjacent to the right of way.





1 inch = 364 feet



Christmas Parade Detour Map - 4:00 pm-9:00 pm



Regular City Council
AGENDA ITEM 12.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-20-032 Amending Resolution No. R-20-008 Approving the Submission of a Grant Application to the Office of the Governor Criminal Justice Division for the Rifle-Resistant Body Armor Grant Program

Meeting Type: Regular Meeting-November 05, 2020

Department: Administration

Staff Contact: Jeana Bellinger

Classification: Regular

SUMMARY STATEMENT:

The City Council approved Resolution No. R-20-008 on February 6, 2020 authorizing staff to submit an application to the Office of the Governor Criminal Justice Division for the Rifle-Resistant Body Armor Grant Program. After approval by the Council, staff submitted the Resolution and all other documentation to the Governor's office.

On October 12, 2020 staff was advised by the Grant Manager, Jan Adkins, that our Resolution needed to be amended to include some additional language. The recommended corrections have been included in Resolution No. R-20-032 and are ready for Council approval.

ATTACHMENTS:

(1) Resolution No. R-20-032

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve Resolution No. R-20-032 amending Resolution No. R-20-008 approving the submission of a grant application to the Office of the Governor Criminal Justice Division for the Rifle-Resistant Body Armor Grant Program

RESOLUTION NO. R-20-032

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS AMENDING RESOLUTION NO. R-20-008 APPROVING THE SUBMISSION OF A GRANT APPLICATION TO THE OFFICE OF THE GOVERNOR CRIMINAL JUSTICE DIVISION FOR THE RIFLE-RESISTANT BODY ARMOR GRANT PROGRAM TO INCLUDE REQUIRED WORDING

WHEREAS, in response to the July 2016 shooting of police officers in Dallas, Texas, Senate Bill 12 was passed during the 85th Legislature's Regular Session; and

WHEREAS, when Texas Governor Greg Abbott signed Senate Bill 12 into law it authorized the Criminal Justice Division of the Governor's Office to create a grant program to assist agencies in the purchase of rifle-resistant body armor; and

WHEREAS, the Office of the Governor Criminal Justice Division is now taking applications for projects under this Program to increase the safety of Texas law enforcement officers; and

WHEREAS, on the 6th day of February 2020 the City Council of the City of Brenham approved Resolution No. R-20-008 authorizing City staff to prepare and submit a grant application to the Criminal Justice Division of the Office of the Governor for the Rifle-Resistant Body Armor Grant; and

WHEREAS, on October 12, 2020 the City was notified that Resolution No. R-20-008 needed to be amended to include required wording as outlined by the Grant Manager administering the Rifle-Resistant Body Armor Grant Program; and

WHEREAS, by the adoption of this Resolution No. R-20-032, the City Council desires to amend Resolution No. R-20-008 to include the required wording as outlined by the Grant Manager administering the Rifle-Resistant Body Armor Grant Program;

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

1. That the City Council hereby finds it in the best interest of the citizens of Brenham, Texas that the Rifle-Resistant Body Armor Grant Program project be operated in Fiscal Year 2020-21.
2. That the City Council agrees to provide applicable matching funds for the project as required by the Rifle-Resistant Body Armor Grant Program grant application.

3. That the City Council agrees that in the event of loss or misuse of the Office of the Governor funds, the City Council assures that the funds will be returned to the Office of the Governor in full.
4. The City Council designates the Mayor and/or the Chief of Police as the grantee's authorized official(s). The authorized official(s) is/are given the power to apply for, accept, reject, alter, or terminate the grant on behalf of the City of Brenham, Texas.

PASSED AND APPROVED on this the 5th day of November 2020.

Milton Y. Tate, Jr.,
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 13.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-20-033 for the Acceptance a Grant in the Amount of \$28,696.35 from the Office of the Governor Criminal Justice Division for the Rifle-Resistance Body Armor Grant Program

Meeting Type: Regular Meeting-November 05, 2020

Department: Police Department

Staff Contact: Chief Parker

Classification: Regular

SUMMARY STATEMENT:

The Department is requesting the acceptance of a grant, in the amount of \$28,696.35, from the Criminal Justice Division of the Governor's Office for the Rifle Resistant Body Armor Program. There is no requirement for matching City funds on this grant.

ATTACHMENTS:

(1) Resolution No. R-20-033

RELEVANCE TO COMPREHENSIVE PLAN:

Goal GC2-Continued budget support for public safety services to maintain responsiveness and levels of service as Brenham grows.

RECOMMENDED ACTION:

Approve Resolution No. R-20-033 for the acceptance of a grant in the amount of \$28,696.35 from the Office of the Governor Criminal Justice Division for the Rifle-Resistance Body Armor Grant Program.

RESOLUTION NO. R-20-033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR FOR THE RIFLE-RESISTANT BODY ARMOR GRANT PROGRAM FOR THE BRENHAM POLICE DEPARTMENT, AND AUTHORIZING THE MAYOR AND/OR POLICE CHIEF TO EXECUTE ANY NECESSARY DOCUMENTATION

WHEREAS, in response to the July 2016 shooting of police officers in Dallas, Texas, Governor Greg Abbott signed Senate Bill 12 into law authorizing the Criminal Justice Division of the Office of the Governor to create a grant program to assist agencies in the purchase of rifle-resistant body armor; and

WHEREAS, on the 6th day of February, 2020, the City Council of the City of Brenham enacted Resolution No. R-20-008, as amended by Resolution No. R-20-032 enacted on November 5, 2020, authorizing City staff to prepare and submit a grant application to the Criminal Justice Division of the Office of the Governor for the Rifle-Resistant Body Armor Grant Program; and

WHEREAS, the City of Brenham has been notified of the award of Grant No. 3990901 in the amount of \$28,696.35 from the Criminal Justice Division of the Office of the Governor for the Rifle-Resistant Body Armor Grant Program; and

WHEREAS, the City Council of the City of Brenham desires to accept said grant award and any applicable match requirements for this grant; and

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

1. The City of Brenham hereby accepts of Grant No. 3990901 in the amount of \$28,696.35 from the Criminal Justice Division of the Office of the Governor Rifle-Resistant Body Armor Grant Program.
2. The City of Brenham will comply with all requirements of the Criminal Justice Division of the Office of the Governor Rifle-Resistant Body Armor Grant Program.
3. That the Mayor and/or Police Chief are hereby authorized to execute any necessary documentation related to the grant described herein.

PASSED AND APPROVED on this the 5th day of November 2020.

ATTEST:
ATTEST:

Milton Y. Tate, Jr.,
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 14.

Agenda Item: Discuss and Possibly Act Upon a Master Subscription Service Agreement between City of Brenham and MUNIRevs, Inc. for the MUNIRevs Vacation Rental Compliance Module, LODGINGRevs, and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-November 05, 2020

Department: Development Services/City Secretary

Staff Contact: Stephanie Doland

Classification: Regular

SUMMARY STATEMENT:

Recently the prospect of the City of Brenham pursuing a Short Term Rental (STR) ordinance has been discussed. This is largely due to a citizen inquiry by a local hotelier who requested Staff consider the City of College Station recently passing a STR ordinance that took effect on October 1, 2020. Following staff consideration and research, the Tourism and Marketing Subcommittee met and identified a STR ordinance would not be appropriate at this time. STR ordinances are costly to enforce, would require a rental registration program, annual registration fees (imposed on property owners) and annual inspections by the Building department and/or Fire Marshal.

The Tourism and Marketing Subcommittee was receptive to the idea of a Hotel Occupancy Tax collection portal. Staff has met multiple times with LodgingRevs, a division of MuniRevs, which offers Short Term Rental Detection and Compliance monitoring. The software will significantly reduce staff time to track and collect monthly hotel occupancy taxes from both STR owners, bed and breakfasts' and hotel/motels within the City limits. The software uses "scrubbing" technology to review and track advertisements, clicks, reviews, and bookings to provide the City with a report on taxes expected to be collected by any given STR. LodgingRevs anticipates that there are around 100 STR's located within the City limits alone and will assist the City in customizing forms and notifications to bring STR's that do not currently report and pay occupancy tax into compliance.

LodgingRevs has prepared a contract with both the City of Brenham and Washington County to provide their online portal and aide both entities in the collection of the respective occupancy taxes. The cost to each entity is \$8,800 the first year and \$6,000 thereafter. While the funds for said annual contract are not included in the FY2020-2021 budget, the contract will be paid with operational efficiencies from outsourcing this function.

A copy of the Master Subscription Service Agreement is attached. At the time of packet publication the contract was still in review by the MuniRevs legal team following requested revisions by City Attorney Cary Bovey. A copy of the approved, final contract will be provided prior to Council consideration of the item.

ATTACHMENTS:

(1) LodgingRevs Contract

RELEVANCE TO COMPREHENSIVE PLAN:

Strategic Action Priority #21: 'Continue to support local entities highlighting Brenham and Washington County's unique elements and tourism focus...' (Page 113)

RECOMMENDED ACTION:

Approve a Master Subscription Service Agreement between City of Brenham and MUNIRevs, Inc. for the MUNIRevs Vacation Rental Compliance Module, LODGINGRevs, and authorize the Mayor to execute any necessary documentation.

LODGINGRevs
CAPTURE EVERY RENTAL

Powered by
MUNIRevs

DELIVERABLES

Short Term Rental Detection & Compliance Monitoring

- The LODGINGRevs system will discover all available City of Brenham & Washington County short-term rental ad listings posted on 30+ RELEVANT sites.
- LODGINGRevs will maintain a City of Brenham & Washington County ad listing and property database in our system of all relevant ad and property data that is discovered.
- All aspects of the system and the databases are accessible online by City of Brenham & Washington County staff with unlimited licenses
- The system and our expert review team will analyze all City of Brenham & Washington County ad listings, which are not in the City of Brenham & Washington County existing database, connect the ad listings to property record data, and determine compliance & permit status.

Tax Collection

- Custom tax forms with auto calculation fields and penalty & interest.
- All reporting, registration, and tax collection data can be exported anytime in excel CSV formatting.
- Marketplace Booking Reporting.
- Tax Remittance Audit Tool to leverage captured booking data in comparison to tax data.

Registration & Licensing

- Online property owner/manager task portal for new and renewal licensing.
- Registration process online forms and uploads with user prompts.
- Automated reminder notifications and easily customizable notification templates.
- Custom application approval workflows and interdepartmental collaboration.
- All reporting and registration data can be exported anytime in Excel/CSV formatting.

Additional Included Services

Notifications

- Simple integrated notification system with complete data integration via “smart fields.”

Data Reporting

- Extensive reporting and filtering functionality to provide City of Brenham & Washington County users with readily available short-term rental owner/manager contact data and compliance status. ALL data belongs to the City of Brenham & Washington County.

Master Subscription Service Agreement

This Master Subscription Service Agreement (“**Agreement**”) is entered between MUNIRevs, Inc., a Colorado limited liability company (**MR**), and City of Brenham & Washington County, political subdivisions of the State of Texas (“**Customer**”) for the MUNIRevs Vacation Rental Compliance Module, LODGINGRevs.

1. **VACATION RENTAL AUDITING MODULE.** This Agreement provides Customer access to a proprietary vacation rental audit module (“LODGINGRevs”) which integrates to the MUNIRevs online revenue collection system. All Services of MR, including but not limited to consulting, shall be governed by and subject to the terms and conditions of this Agreement, whether or not provided pursuant to one or more orders of Customer.
2. **VACATION RENTAL REGISTRATION MODULE.** Listings are integrated with our integrated online Registration system to confirm compliance and instruct non-compliant properties as to how to register with their activation code to complete compliant requirements in the Registration. LODGINGRevs staff will review each listing and perform the following: 1) review and update the compliance status; 2) for non-compliant listings, send an email / or create the PDF of notices to be mailed by the City of Brenham & Washington County to the property owner informing them of their failure to comply; and 3) generate necessary CONTRACTORS workflows for the non-compliant property owner to complete (i.e. new business application and license forms). This Agreement provides Customer access to a proprietary online vacation rental fee collection automation and integration service to be provided by MR through a unique URL within a hosted server environment under the terms and conditions of this Agreement (the “Service”).
3. **ONLINE REVENUE COLLECTION SERVICE.** This Agreement provides Customer access to a proprietary online revenue collection automation and integration service to be provided by MR through a unique URL within a hosted server environment under the terms and conditions of this Agreement (the “Service”).
4. **USE OF SERVICE.**
 - a. **Vacation Rental Listing Integration.** LODGINGRevs locates vacation rental listings on 30+ sites, via the combined data processing that we provide from Airbnb.com, Craigslist, Flipkey, Invited Home, Luxury Retreats, Mountain Ski Trips, One Fine Stay, Tripz and VRBO / Homeaway. Note that some of these sites are aggregator sites that pull listings from other platforms, and by that mechanism we are pulling data from the 30+ sites. Our team continues to monitor new listing platforms and adds data processing capability as new platforms emerge that may have new, unique listings that are not also listed on the other platforms we already process.
Through our automated jobs and our property review team, we review each listing and perform the following:
 1. review and update the compliance status;
 2. for non-compliant listings, create the Notifications via our Notification Module.
The Customer can have an unlimited number of notifications for the various states of compliance.
 3. The Notifications module automatically emails any notifications that have an email address available (via the MUNIRevs system or other data on the account). Customer staff will print and mail, via a single PDF document, any notifications that either do not have an email address or

the Customer would like to deliver via official mail. Customer staff can review all notifications, email delivery and email opens on every property.

4. **LODGINGRevs** integrates to the MUNIRevs system as follows:

- I. When a new non-compliant property is discovered, an account (if necessary) and the required workflows for compliance are generated. For example, of a new listing is discovered, an account in MUNIRevs is created by our team and we assign the workflows for licensing and any tax forms due (hotel & sales tax) for all periods of rental.
- II. In the MUNIRevs system, Customer users can link to the actual advertisements for advertising rentals.

5. **LODGINGRevs** includes a dashboard that assists the Customer in monitoring our compliance efforts, the Customer's compliance rates, and the ability to see the details and our teams notes and audit efforts for every advertisement and property.

- b. **Customer Revenue Disbursements.** Business revenues associated with the registration and licensing of vacation rentals that are paid through Service will be deposited directly to Customer's bank account. Customer agrees to set up a separate bank account expressly for collection of MR system deposits and to pay all merchant account fees for Customer's accounts by merchant service, ACH providers and payment gateway (USAePay/ VeriCheck).
- c. **MR Support and Responsibilities.** As with the MUNIRevs system, notifications from the LODGINGRevs portal can include MUNIRevs support contact and our support and property review team will provide customer support for the Services as further detailed in Exhibit A which terms are incorporated into this Agreement for all purposes.
- d. Reserved
- e. Reserved
- f. **Third Party Contractor Use.** Customer may allow its third party contractors to use the Service solely on behalf of and for the benefit of Customer and only in compliance with the terms and conditions of this Agreement. Customer is responsible for compliance with the terms of this Agreement by its third party contractors.

5. **PAYMENT TERMS.** Payment for all MR fees shall be as specified in Exhibit A which is incorporated herein and made a part of this Agreement. Unless otherwise provided in Exhibit A, all MR invoices shall be due and payable within 30 days of the date of the invoice. Customer must provide proof of its exemption from sales tax (if applicable), otherwise the Customer is responsible for all sales, use and similar taxes. Interest shall accrue at the rate of one percent (1%) per month, from the date of the invoice, on any payments not received when due.

6. **MUTUAL CONFIDENTIALITY.**

- a. **Definition of Confidential Information.** Confidential Information means all confidential information disclosed by a party ("Discloser") to the other party ("Recipient"), whether orally or in writing, that is designated as confidential ("Confidential Information"). MR's Confidential Information includes without limitation the Service, Licensed Documentation (defined in section 8.d. below), and Customer's Confidential Information, which includes without limitation, the Customer Data.
- b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own Confidential Information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the

Service under this Agreement. The Recipient must make all commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and third party contractors who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this Agreement.

- c. **Exclusions.** Confidential Information excludes information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information of the Discloser. The Recipient may disclose Confidential Information to the extent required by law, including a Colorado Open Records request. The parties acknowledge that a Colorado Open Records Request may seek information about MR's proprietary computer software programs and that computer software is not included in the definition of "Public Records" pursuant to C.R.S. 24-72-202(7) as computer software is specifically excluded from the definition of "Writings"; thus, making requests related to the computer software exempt from an Colorado Open Records Request.
- d. If MR's data system crashes or otherwise becomes disabled, MR shall use good faith and reasonable efforts to immediately recover the system and all Customer Data and shall be fully responsible for all costs incurred in the recovery of such data, with no additional costs to be borne by the Customer.

7. PROPRIETARY RIGHTS.

- a. **Reservation of Rights by MR.** The software, workflow processes, user interface, designs, know-how and other technologies provided by MR as part of the Service are the sole property of MR, and all right, title and interest in and to such items, including all associated intellectual property rights, are and shall remain only with MR. MR reserves all rights not expressly granted in this Agreement.
- b. **Customer Restrictions.** Customer may not:
 - 1. Use the Service or the Licensed Documentation beyond its internal operations;
 - 2. Reverse engineer the Service, the Licensed Documentation, the software or any other technology or Confidential Information associated therewith;
 - 3. Remove or modify any proprietary marking or restrictive legends in the Service and Licensed Documentation; or
 - 4. Access the Service or the Licensed Documentation to build a competitive product or service; or copy or derive any feature, function or graphic of the Service for competitive purposes.
- c. Reserved
- d. **Licensed Documentation.** Any Service user guides, sample data, marketing, training and other items provided through the Service or by MR, are licensed to Customer as follows: MR grants Customer a non-exclusive, license for the duration of the Service to such items for Customer's internal use solely with the Service, with the right to make additional copies of the material for the duration and purpose of the Service ("Licensed Documentation").

8. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY.

EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND OTHER THAN FOR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, NEITHER PARTY IS LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING,

WITHOUT LIMITATION, COSTS OF DELAY, LOSS OF DATA OR INFORMATION, AND ANY FAILURE OF DELIVERY OF THE SERVICE).

9. EFFECTIVE DATE, TERM, TERMINATION, RETURN OF DATA AND SUSPENSION OF SERVICE.

This Agreement shall be effective upon execution by both parties. The term of this Agreement shall be for the period of time set forth in Exhibit A ("Term").

- a. Upon termination by right by Customer for any reason or no reason, Customer shall pay any unpaid fees through the date of termination, and shall return or destroy all MR property. Customer upon request will confirm that it has complied with these requirements.
- b. Within 30-days after termination of this Agreement, MR shall export to Customer all Customer Data from within the Service only in CSV format. MR does not ensure the availability of all of Customer Data for export after such 30-day period and MR shall have no obligation to store the Customer Data and may destroy such data without further notice to Customer.
- c. **Annual Appropriation.** This Agreement is subject to annual appropriations by the Customer Council (the "Council").
- d. **Termination for Material Breach.** Notwithstanding the provisions of subparagraph a) of this section, if either party is in material breach of any term of this Agreement, the other party may terminate this Agreement effective at the end of a written 30-day notice/cure period, if the breach has not been cured.

10. COOPERATION. The parties shall reasonably cooperate to ensure timely and accurate delivery of Service.

Specifically, Customer agrees to provide complete and accurate information to MR when and as requested. MR shall not be responsible or liable for delays resulting from Customer's failure to provide timely or accurate information. Payment of MR's fees set forth in Exhibit A shall not be reduced, delayed or modified as a result of Customer's failure to provide timely or accurate information.

11. MISCELLANEOUS.

- a. **Governing Law.** This Agreement is governed by the law of the State of Texas without regard to conflicts of law principles. Venue and jurisdiction is proper in the state courts sitting in ,Washington County, Texas.
- b. **Attorney Fees and Costs.** The prevailing party in any litigation or other legal proceeding shall recover its reasonable attorneys' fees and costs from the other party.
- c. **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.
- d. **Entire Agreement and Changes.** This Agreement and **Exhibit A** constitute the entire agreement between the parties, and supersede all prior or contemporaneous negotiations, agreements and representations, whether oral or written, related to this subject matter. No modification or waiver of any term of this Agreement is effective unless in a written instrument signed by both parties.
- e. **No Assignment.** Neither party may assign or transfer this Agreement to a third party.
- f. **Enforceability.** If any term of this Agreement is invalid or unenforceable, the other terms remain in effect.
- g. **No Additional Terms.** MR rejects additional or conflicting terms of any Customer form-purchasing document.

- h. **Order of Precedence.** If there is an inconsistency between this Agreement and Exhibit A, Exhibit A prevails.
- i. **Survival of Terms.** Any terms that by their nature survive termination or expiration of this Agreement, will survive.
- j. **Headings.** Headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- k. **Notices.** Any notices permitted or required under this Agreement shall be deemed given upon the date of personal delivery or 72 hours after deposit in the United States mail, postage fully prepaid, addressed to the recipient address as set forth below their signature or at any other address as any party may, from time to time, designate by notice given in compliance with this section.
- l. **Counterparts Facsimiles; E-Mail.** This Agreement may be signed in any number of counterparts, which together shall constitute one and the same instrument. Original signatures of the parties hereto on copies of this Agreement transmitted by facsimile or electronically/scanned and e-mailed copies shall be deemed originals for all purposes hereunder, and such copies shall be binding on all parties hereto.
- m. **Independent Contractor.** It is understood that MR is an independent professional contractor and that MR will not in any event be construed as or hold themselves to be employees of Customer. It is also agreed that MR, as an independent contractor, is not restricted to working exclusively for Customer during the Term of the Agreement. MR and any persons employed by MR for the performance of the Service hereunder shall be independent contractors and not agents of the Customer. As an independent contractor, MR is not entitled to workers' compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits.. MR is obligated to pay all federal and state income tax on any moneys earned or paid pursuant to this Agreement.
- n. **Sharing Data.** MR understands that the information from the Customer is strictly protected under Colorado Law as confidential data. If MR shares any data from its services employed under this Agreement such data shall only be in the aggregate form and shall not identify, in any way, a specific business along with confidential data of such specific business.
- o. **Insurance.** MR shall procure and maintain, and shall cause any subcontractor of the MR to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to Customer. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the MR. In the case of any claims made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
 - 1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of Services under this Agreement, and Employers' Liability insurance with minimum limits of five hundred thousand dollars (\$500,000) each accident, five hundred thousand dollars (\$500,000) disease - policy limit, and five hundred thousand dollars (\$500,000) disease - each employee.
 - 2. Commercial General Liability insurance with minimum single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including

- coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.
3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence and one million dollars (\$1,000,000) aggregate with respect to each of MR's owned, hired, and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interest provision. If the MR has no owned automobiles, the requirements of this paragraph 3) shall be met by each employee of MR providing Services to the Customer under this Agreement.

The policies referenced above, with the exception of Worker's Compensation, shall be endorsed to include Customer and Customer's officers and employees as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by Customer, its officers, or its employees, or carried by or provided through any insurance pool of Customer, shall be excess and not contributory insurance to that provided by MR. MR shall be solely responsible for any deductible losses under any policy required above.

MR shall procure insurance via the MRs online payment system Master Subscription Service Agreement and no additional coverage is required for this additional product contract.

Exhibit A
MUNIRevs Hosting Support Order Form and Terms
Vacation Rental Audit Module

Renewals of this Support Order: This annual Application Hosting Order (“**Support Order**”) renews annually, automatically on the contract anniversary of each year unless either Customer or MR provides the other with written notice of non-renewal at least 120 days prior to termination of the Agreement.

Terms: This Support Order is governed by the terms of the Master Subscription Services Agreement (“**Agreement**”) between the parties, which terms are fully incorporated into this Support Order for all purposes. If there is a conflict between the terms of this **Exhibit A** and the Agreement, this **Exhibit A** governs. This **Exhibit A** and the Agreement are the entire agreement between the parties, and they supersede and replace all prior and contemporaneous negotiations, agreements, representations and discussions regarding this subject matter. MR expressly rejects any additional or differing terms of Customer not agreed to in a written instrument signed by MR and Customer.

Due Dates: MR’s monthly fees for LODGINGRevs are billed at the beginning of each month and can be added to the Customer’s current monthly ACH payment to MUNIRevs, Inc or paid by check to MUNIRevs, Inc 27696 Highway 145 Dolores, CO 81323. Payments are due by the first of the month for that month’s services / system access. For example, payment for May, 2020 LODGINGRevs should be received by 5/1/2020.

Support Terms:

Support Hours: 7 am to 6 pm, MST (Monday – Friday), excluding Federal Holidays

Support Phone: 888-751-1911

Support E-mail: support@munirevs.com

Included Components

- Phone & E-mail support to property owners from compliance notifications.
- Hosted server, including daily & weekly back up
 - Maximum data loss of 24 hours
- Unlimited logins by Customer and Customer’s Business Owners

Excluded Services. The following shall not be provided unless otherwise agreed:

- The LODGINGRevs system includes robust reporting for auditing under-reported rental revenues and other metrics. Outside the access to these reports for Client use and analysis, no audit services are provided.

From the initial implementation through any future month, our automated compliance includes the following:

1. Ongoing monitoring of property listings, following this process:
 - **Identify:** Initial load of property advertisements from major rental sites into MRs system (i.e. vrbo.com, flipkey.com, airbnb.com).
 - **Reconcile:** Reconciliation of property advertisements with existing business records to isolate noncompliant listings.
 - **Notify:** Generation of noncompliant property registration letters. Letters include MRs registration instructions and MRs support contact information **so our team can start helping them right away!**
 - **Automate:** Creation of required tasks for noncompliant properties to complete once registered. For example, license application & fees, prior period tax forms.
2. Customized, branded and integrated **Registration System**. This allows us to connect readily with owners and managers to help them update and maintain compliance.
3. **Online form** for complaints.
4. **Unlimited** email & phone **support** for all businesses.
5. **Unlimited** user logins for both businesses and jurisdiction users
6. **Unlimited** phone & email support to business and administrative users
7. Software hosting & license fees for compliance module
8. Server & IT Infrastructure, including 365x7x24 maintenance and support
9. **Daily data backup**, managed by our expert IT team
10. Enhancements released to all similar MRs versions

City of Brenham	One Time Implementation	Annual
Short Term Rental Detection, Monitoring, and Compliance - Initial Census, including reconciliation, by our team of experts, to each registration and initial registration compliance notices. Also includes training of staff on utilizing the platform and accessing reports. - Vacation Rental Census Monitoring & Discovery, and Ongoing Compliance Database. Includes reconciliation by our team of experts. - Non-Compliant Evidence Capture - Listing Tracker – Evidence Capture Every 5 Minutes on Non-Compliant Properties - Notifications Module – Unlimited Notification Templates, Targeted & Customized Notices by Compliance Status - Online Complaint Form	\$1,000.00	\$3,600.00
Tax Remittance System - Automated Online Tax Remittance and Reporting System* - Remittance Audit Tool, Marketplace Booking Reporting, and Unlimited User and Staff Support	\$1,800.00	\$2,400.00

First Year Total \$8,800.00

Washington County	One Time Implementation	Annual
Short Term Rental Detection, Monitoring, and Compliance - Initial Census, including reconciliation, by our team of experts, to each registration and initial registration compliance notices. Also includes training of staff on utilizing the platform and accessing reports. - Vacation Rental Census Monitoring & Discovery, and Ongoing Compliance Database. Includes reconciliation by our team of experts. - Non-Compliant Evidence Capture - Listing Tracker – Evidence Capture Every 5 Minutes on Non-Compliant Properties - Notifications Module – Unlimited Notification Templates, Targeted & Customized Notices by Compliance Status - Online Complaint Form	\$1,000.00	\$3,600.00

☐ Registration & Licensing System - Online Registration/Licensing System (Short Term Rentals Only) - Property Owner/Manager Business Center, Custom Workflows, Notifications, and Online Payments CLICK BOX to add Registration & Licensing System	\$2,200.00	\$3,600.00
Tax Remittance System - Automated Online Tax Remittance and Reporting System* - Remittance Audit Tool, Marketplace Booking Reporting, and Unlimited User and Staff Support	\$1,800.00	\$2,400.00

First Year Total \$8,800.00

First Year Totals: Including the one-time implementation fee and ongoing fees.

The above ongoing fees for per property pricing will be locked in for the first two years of the contract. 90 days before renewal, the number of properties will be reviewed with City of Brenham & Washington County to determine if there is any price change needed for a contract extension.

City of Brenham: Above pricing assumes 100 properties.

Washington County: Above pricing assumes 100 properties.

*Payment Processing: Jurisdiction contracts directly with gateway and payment processor and fees are approximately ~\$.40 per e-check plus statement & gateway fees of \$20 / month. Credit Card fees are also competitive rates, and we can implement a credit card convenience fee if desired that is automatically collected to offset these fees.

City of Brenham	Washington County	MUNIRevs, Inc
By:	By:	By:
Name:	Name:	Name:
Title:	Title:	Title:
Date:	Date:	Date:



Regular City Council
AGENDA ITEM 15.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-20-034
Consenting to the Creation of the Pecan Glen Road District
Within the Extraterritorial Jurisdiction of the City of Brenham

Meeting Type: Regular Meeting-November 05, 2020

Department: Administration

Staff Contact: Cary Bovey, City Attorney

Classification: Regular

SUMMARY STATEMENT:

See attached memo from City Attorney Cary Bovey.

ATTACHMENTS:

- (1) Memo from City Attorney
- (2) Resolution No. R-20-034

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

Approve Resolution No. R-20-024 consenting to the creation of the Pecan Glen Road District with the extraterritorial jurisdiction of the City of Brenham.

BOVEY & COCHRAN, PLLC

2251 Double Creek Drive, Suite 204 ♦ Round Rock, Texas 78664 ♦ Phone: (512) 904-9441 Fax: (512) 904-9445
cary@boveycochran.com

Confidential / Privileged Attorney-Client Communication

MEMORANDUM

**TO: Hon. Mayor and City Council, City of Brenham
James Fisher, City Manager, City of Brenham**

FROM: Cary L. Bovey, City Attorney

DATE: October 29, 2020

**RE: November 5, 2020 City Council Meeting – Agenda Item Concerning Request for
City Council’s Consent to the Creation of the Pecan Glen Road District**

I am writing with regard to the above-referenced item on the agenda for the November 5, 2020 Regular City Council meeting. The Pecan Glen Subdivision (originally platted as Cedar Glen Subdivision) was replatted and developed beginning in 2001. All roads in the subdivision are private roads. The roads in Pecan Glen have deteriorated significantly and are in great need of reconstruction. It is my understanding that the property owners in the Subdivision have determined that, due in part to the lack of an active HOA in the Pecan Glen Subdivision, a desirable option for financing the reconstruction of the roads in Pecan Glen is through the creation of a road district.

State law authorizes the Commissioners Court to create a road district in Washington County. However, a road district may not be created in the extraterritorial jurisdiction (“ETJ”) of a municipality unless the governing body of the municipality gives its written consent by ordinance or resolution. A portion of the proposed Pecan Glen Road District (“District”) is located within the ETJ of the City of Brenham; therefore the City’s consent is required before the Commissioners Court may create the District. Once created, the District may issue bonds to construct, purchase, maintain or operate roads, if a petition is submitted to the Commissioner’s Court and an election is ordered. In order for the bonds to be approved, two-thirds of the District voters voting in the bond election must vote in favor of the issuance of the bonds. The bonds are repaid by a special property tax levy assessed on real property located within the District. If the District is created and bonds are approved by the voters, the District will reconstruct the roads to meet or exceed Washington County standards for road construction. It is anticipated that the roads will be turned over to Washington County for future maintenance and repair.

Due to recent changes in state law and the location of the Pecan Glen Subdivision in relation to the Brenham city limits, future annexation of the Subdivision by the City is very unlikely.

Please let me know if you have any questions or if I can provide additional information.

RESOLUTION NO. R-20-034

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS CONSENTING TO THE CREATION OF THE PECAN GLEN ROAD DISTRICT WITHIN THE EXTRATERRITORIAL JURISDICTION OF SAID CITY

WHEREAS, Pecan Glen Roads Association, LLC, a Texas limited liability company, requested the City of Brenham, Texas (the “City”) consent to the creation of a road district; and

WHEREAS, the name of the proposed district is Pecan Glen Road District (the “District”); and

WHEREAS, the District will be created and organized under the terms and provisions of Article III, Section 52, of the Constitution of Texas, as amended, Chapter 257 of the Texas Transportation Code, as amended, and Subchapter B of Chapter 1471 of the Texas Government Code, as amended; and

WHEREAS, the District will contain a total of approximately 138 acres of land, as further described and shown in Exhibit A hereto, situated in Washington County, within the extraterritorial jurisdiction of the City; and

WHEREAS, the District shall acquire and/or pay certain costs of the acquisition, construction and improvements of certain road facilities inside the boundaries of the District for the benefit of the residents of the District to serve the land in the District; and

WHEREAS, as authorized by Section 42.042 of the Texas Local Government Code, as amended, the City may require as conditions to its consent to the creation of the District that (i) road facilities to be constructed for or acquired by the District are constructed in accordance with plans and specifications which have been approved by the City and (ii) the City shall have the right to inspect all facilities constructed for or acquired by the District; and

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

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

SECTION 1. Findings. The findings and determinations set forth in the preamble above are hereby deemed to be true and correct and incorporated herein.

SECTION 2. Consent to Creation. The City Council gives its consent to the creation of the District within the extraterritorial jurisdiction of the City, subject to the following conditions:

- (a) All roads constructed for or acquired by the District must meet or exceed all applicable public road/street design and construction standards of Washington County, Texas, and be constructed in accordance with plans and specifications which have been approved by the City; and
- (b) The City shall have the right to inspect all facilities constructed for or acquired by the District.

SECTION 3. Governing Law. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 4. Effect of Headings. The Section headings herein are for convenience only and shall not affect the construction hereof.

SECTION 5. Severability. If any provision of this Resolution or the application thereof to any circumstance shall be held to be invalid, the remainder of this Resolution or the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION 6. Construction of Terms. If appropriate in the context of this Resolution, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 7. Effective Date. This Resolution shall become effective from and after its date of passage in accordance with the law.

[Remainder of Page Intentionally Left Blank; Signatures Follow]

PASSED AND ADOPTED, this 5th day of November, 2020.

CITY OF BRENHAM, TEXAS

Milton Y. Tate, Jr., Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC, City Secretary

EXHIBIT A

Boundaries of the District

The area of land encompassed within Pecan Glen lots 10-46 (including the area located between lots 30 and 31), lots 76-98, and Reserve C, together with the areas located within the roads abutting thereon designated on the plat as Desirable Circle, Success Court, Pecan Glen Road, and Stuart Road, such land being a portion of the land included in the Pecan Glen Plat, lying in and being part of the I. Jameison Survey A-67, the Phillip Coe Survey A-31 and the James Schrier Survey A-98, Washington County, Texas being a re-plat of Cedar Glen, a subdivision having plat filed in Slides 220B, 221A, 221B, 222A, 222B and 223A of the Washington County Plat File, such re-plat being filed in Slides 444B – 446B of the Plat Records of Washington County, Texas.



Regular City Council
AGENDA ITEM 16.

Agenda Item: Section 551.087 - Texas Government Code - Economic Development Negotiations - Discuss and Deliberate Project BK Regarding Commercial or Financial Information that the City Has Received from a Business Prospect and the Offer of Financial or Other Incentives to a Business Prospect that the City Seeks to Have Locate, Stay or Expand In or Near the City of Brenham and With Which the City is Conducting Economic Development Negotiations

Meeting Type: Regular Meeting-November 05, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Executive Session

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RELEVANCE TO COMPREHENSIVE PLAN:

RECOMMENDED ACTION:

No action - discussion only.



Regular City Council
AGENDA ITEM 17.

Agenda Item: Discuss and Possibly Act Upon Resolution No. R-20-035 Approving the Amendment of the Chapter 380 Economic Development Agreement Between the City of Brenham and BK Stringer, Ltd.

Meeting Type: Regular Meeting-November 05, 2020

Department: Development Services

Staff Contact: Stephanie Doland

Classification: Regular

SUMMARY STATEMENT:

Over the past few months City staff and representatives of BK Stringer, Ltd. (Baker Katz) have drafted revisions to the existing Chapter 380 Agreement. Amending the existing 380 agreement is in the best interest of both parties, as the proposed amendments to the existing contract include the following:

- Provisions requiring Baker Katz to purchase certain building materials locally; and,
- Provisions requiring Baker Katz contractors to utilize separated building materials and labor contracts for contracts greater than \$50,000; and,
- The opportunity to receive additional reimbursement dollars, not to exceed \$1,000,000, if buildings within the proposed development adhere to certain “Decorative Elements Threshold” (see enclosed agreement); and,
- Provisions committing Baker Katz to additional funds for the installation of underground electricity costs along the west side of Chappell Hill Road.

Staff received direction to offer additional reimbursement dollars for the Baker Katz project if additional masonry and certain approved building materials could be provided by the Developer. Staff has worked closely with Baker Katz and their architect to define certain façade masonry requirements and establish building material thresholds in an effort to provide the community with a development that is compatible with the adjacent Brenham Family Park and is a premier shopping center in the community. To summarize, buildings within the development (anchor buildings and pad-site buildings alike) shall provide a minimum of each of the following elements:

- “Primary Building Materials” (only brick, natural stone, fiber cement nichia panels, glass or glazing)
- “Secondary Building Materials” (only concrete masonry unit, concrete panel construction (tilt wall) stucco, cement board siding, EIFS or architectural metal pan)
- “Accent Materials”, such as door and window frames, lintels, canopies, cornices, architectural metalwork, glass block, copper flashing, EIFS or similar materials

The proposed amendment to the 380 agreement was discussed by the Brenham Community Development Corporation during their October 7, 2020 meeting. Since the BCDC meeting the proposed amendment has been accepted and executed by Baker Katz and is now ready for Council review and execution.

ATTACHMENTS:

- | |
|--|
| (1) Resolution No. R-20-035
(2) Exhibit A |
|--|

RELEVANCE TO COMPREHENSIVE PLAN:

Economic Opportunity Goal #1 (Page 56): 'An expanded retail base and mix within Brenham, to increase local spending, increase City revenues and respond to residents' desire for more varied shopping opportunities.'

RECOMMENDED ACTION:

Approve Resolution No. R-20-035 approving the amendment of the Chapter 380 Economic Development Agreement between the City of Brenham and BK Stringer, Ltd.

RESOLUTION NO. R-20-035

This Resolution authorizes the Mayor of the City of Brenham, Texas to enter into the Second Amendment to the Chapter 380 Economic Development Agreement (“Agreement”) by and between the City of Brenham, a Texas home-rule municipal corporation located in Washington County, State of Texas (“City”), and BK Stringer, Ltd., located at 3700 Buffalo Speedway, Suite 400, Houston, Texas (“Baker Katz”).

WHEREAS, in accordance with Resolution No. R-19-005 approved by the City Council of the City of Brenham, Texas on January 17, 2019 the City and Baker Katz entered into a Chapter 380 Economic Development Agreement (“Agreement”); and

WHEREAS, in accordance with Resolution No. R-19-016 approved by the City Council of the City of Brenham, Texas on June 6, 2019 the City and Baker Katz entered into the First Amendment to the Chapter 380 Economic Development Agreement (“Agreement”); and

WHEREAS, the City and Baker Katz desire to approve the amendment of certain provisions of the Agreement by adopting this Resolution authorizing the attached Second Amendment to the Agreement to promote and stimulate desirable business and commercial activity.

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

SECTION 1: That the City Council of the City of Brenham hereby approves the attached Second Amendment to the Chapter 380 Economic Development Agreement with Baker Katz set forth in “Exhibit “A” to promote and facilitate economic development in the City of Brenham, and authorizes the Mayor to execute any necessary documentation.

SECTION 2: That this Resolution shall take effect immediately from and after its passage.

PASSED AND APPROVED this 5th of November, 2020

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jenna Bellinger, TRMC, CMC
City Secretary

SECOND AMENDMENT TO THE
CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF BRENHAM, TEXAS AND BK STRINGER, LTD.

This "Second Amendment to the Chapter 380 Economic Development Agreement Between the City of Brenham, Texas and BK Stringer, Ltd.", hereinafter called the "Second Amendment" is made and entered into on the ____ day of _____, 2020, by and between the City of Brenham, Texas (the "City"), and BK Stringer, Ltd., a Texas limited partnership ("Baker Katz"), collectively referred to herein as the (the "Parties").

WHEREAS, City and Baker Katz previously entered into the "Chapter 380 Economic Development Agreement Between the City of Brenham, Texas and BK Stringer, Ltd." having an effective date of January 25, 2019 ("380 Agreement"), relating to the purchase of certain real property and improvements (the "Property"); and

WHEREAS, City and Baker Katz also previously entered into the "First Amendment to the Chapter 380 Economic Development Agreement Between the City of Brenham, Texas and BK Stringer, Ltd." having an effective date of June 7, 2019 ("First Amendment"), relating to the purchase of certain real property and improvements (the "Property"); and

WHEREAS, the City and Baker Katz desire to further amend the 380 Agreement, as amended, as set forth herein below;

NOW THEREFORE, for and in consideration of the mutual covenants contained in this Second Amendment and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the City and Baker Katz contract and agree as follows:

1. Section 3.01 of the 380 Agreement shall be amended and revised to read as follows:

3.01 The term ("Term") of this Agreement shall commence on the Effective Date herein above and, unless otherwise terminated earlier in accordance with this Agreement, shall terminate on December 31, 2034. The initial Grant Payment to be paid to Baker Katz by the City pursuant to this Agreement shall be paid on or before the initial Sales Tax Grant Payment Due Date of December 1, 2023, and annual Grant Payments shall be paid to Baker Katz on or before the Sales Tax Grant Payment Due Date of December 1 of each following year, with the last Grant Payment to be paid to Baker Katz on or before the final Sales Tax Grant Payment Due Date of December 1, 2034 (for a total of twelve (12) Grant Payments) subject to the maximum reimbursement amount of \$6,000,000, unless Baker Katz is entitled to an increase in said total amount of Program Grant Payments in accordance with the provisions set forth in Section 5.01 of this Agreement. Notwithstanding the preceding sentence in this Section 3.01, or any other provision of this Agreement, this Agreement shall terminate no later than December 31, 2034.

2. Section 4.01(A) of the 380 Agreement shall be amended and revised to read as follows:

- (A) Complete the dried in phase of construction of at least one or more buildings (comprising a cumulative total of at least 50,000 square feet) to be occupied by the first tenant(s) in the Project no later than November 1, 2021, and obtain a Certificate of Occupancy issued by the City for said building(s) no later than May 1, 2022.

3. Section 4.01 of the 380 Agreement shall be amended and revised by adding paragraphs (G) and (H) to read as follows:

- (G) Baker Katz shall utilize, and/or cause its contractors to utilize, separated building materials and labor contracts for all taxable building material contracts related to the Project in the amount of Fifty Thousand Dollars (\$50,000.00) or more, providing for site payment of the sales tax on building materials for the Project to the Property.
- (H) Baker Katz shall purchase/procure at least seventy-five percent (75%) of the concrete for the Project from Local Sources (as such term is defined herein), but only to the extent that such Local Sources are available to provide the concrete for the Project at competitive, market rates and of the desired quality within the time frame required by the construction schedules prepared by Baker Katz's contractor(s). "Local Sources" shall mean suppliers and vendors having their principal office or physical location from which they will serve the Project located in Washington County, Texas. Larger firms that maintain offices in Washington County, Texas may be considered Local Sources.

4. Section 5.01 of the 380 Agreement shall be amended and revised to read as follows:

- 5.01 Subject to Baker Katz complying with its duties and obligations in this Agreement, the City agrees that Baker Katz shall be entitled to receive a percentage share of the City's 1% Sales Tax Revenue generated by the Project for each year of the Term until the cumulative total Grant Payments equal six million dollars (\$6,000,000). The Grant Payment obligation of the City shall be satisfied by the percentage contribution established in this Agreement and not by the Estimated Annual or Cumulative Grant dollars produced. The cumulative total Program Grant Payments of the City shall not exceed six million dollars (\$6,000,000), unless Baker Katz is entitled to an increase in said total amount of Program Grant Payments in accordance with the provisions set forth in this Section 5.01 herein below.

Anchor Buildings

Baker Katz shall include the architectural enhancements, in compliance with this Section 5.01, which provide greater variations in material, color and texture to the exterior walls (elevations) of each Anchor Building (as such term is defined in **Attachment IV** attached hereto) in the Project. These architectural enhancements are collectively referred to herein as the "Decorative Elements Threshold" and the

elevations of each Anchor Building in the Project must include and satisfy all of the following elements: 1) "Primary Building Materials" (only brick, natural stone, fiber cement nichiha panels, glass or glazing) shall cover at least fifty-three percent (53%) of each Anchor Building elevation; 2) "Secondary Building Materials" (only concrete masonry unit, concrete panel construction (tilt wall) stucco, cement board siding, EIFS or architectural metal pan) shall cover no more than thirty-seven percent (37%) of each Anchor Building elevation; and 3) "Accent Materials" such as door and window frames, lintels, canopies, cornices, architectural metalwork, glass block, copper flashing, EIFS accent features such as cornices, or similar materials may be used on no more than fifteen percent (15%) of each Anchor Building elevation. To the extent Baker Katz exceeds fifty-three percent (53%) of Primary Building Materials installed on the north elevation of each Anchor Building constructed on the approximate 39.57 acre tract (the "39.57 Acre Tract"), the total amount of Program Grant Payments will increase by \$50,000 for every whole one percent (1.0%) increment increase in Primary Building Materials installed on the north elevation(s) on each Anchor Building on the 39.57 Acre Tract, up to a maximum of sixty-three percent (63%). For the avoidance of doubt, the maximum increase in the total amount of Program Grant Payments resulting from the installation of additional Primary Building Materials on the elevations of one (1) or more Anchor Buildings on the 39.57 Acre Tract shall be limited to \$500,000. Within thirty (30) days after completion of construction of the Anchor Building(s) on the 39.57 Acre Tract, Baker Katz shall deliver a written certification to the City Manager, with sufficient supporting documentation, that Baker Katz has reached or exceeded the Decorative Elements Threshold in the construction of the Anchor Building(s), and such certification shall include, without limitation, the percentage of architectural enhancements used and any increase in the amount of Program Grant Payments due to Baker Katz. Within thirty (30) days after the City Manager's receipt of the written certification from Baker Katz, the City Manager shall provide a written notice to Baker Katz approving the certification or stating the specific item(s) within the certification of which the City Manager does not approve based on the as-built construction of the Anchor Building(s) on the 39.57 Acre Tract, such approval of the City Manager not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything herein to the contrary, the awning(s) on each Anchor Building and any temporary elevation shall be disregarded for purposes of calculating whether Baker Katz has met the Decorative Elements Threshold. The term "Anchor Building" and certain other terms included in the Decorative Elements Threshold requirements set forth herein are defined and further described in detail in **Attachment IV** to this Agreement.

Notwithstanding anything in this Section 5.01 to the contrary, Baker Katz shall have the option to elect to forego the Decorative Elements Threshold for the east elevation of the Anchor Building on the 39.57 Acre Tract which faces Chappell Hill Street to the east, provided that Baker Katz installs live, dense vegetative landscaping the entire length of the east elevation, to a reasonable height (no shorter than three feet (3')), and which shall be no less than fifteen feet (15') in width. Further, Baker Katz shall have the option to elect to forego the Decorative Elements Threshold for the west side elevation of the Anchor Building located closest to, and

southeast of, the detention pond on the 39.57 Acre Tract, provided that Baker Katz improves the area near the detention pond to the west and northwest of said Anchor Building in a manner that creates an attractive amenity that complements the natural surroundings of the Project and the adjacent Brenham Family Park. In addition, Baker Katz shall have the option to elect to forego the Decorative Elements Threshold for the rear (south) side elevations of each Anchor Building on 39.57 Acre Tract which faces the Brenham Family Park to the south, provided that Baker Katz paints the rear (south) side elevations a natural color (such as a shade of tan, brown or green), such color being subject to written approval by the City Manager or designee prior to the painting of the rear elevations, such approval not to be unreasonably withheld, conditioned or delayed. Additionally, there shall be no requirement that Baker Katz meet the Decorative Elements Threshold for the east side of any Anchor Building(s) located on the approximate 9.513 acre site located on the southeast corner of Hwy 290 and Chappell Hill Street. Lastly, Baker Katz shall have the option to elect to forego the Decorative Elements Threshold for the south side elevations of any Anchor Building(s) located on the 9.513 acre site located on the southeast corner of Hwy 290 and Chappell Hill Street (the "9.513 Acre Tract"), provided that Baker Katz installs live, dense vegetative landscaping the entire length of the south elevations, to a reasonable height (no shorter than three feet (3')), and which shall be no less than fifteen feet (15') in width. Notwithstanding any other provision of this Agreement to the contrary, at a minimum, each Anchor Building located on the 39.57 Acre Tract shall be constructed with Primary Building Materials covering at least fifty-three percent (53%) of the front (north) side elevation, and each Anchor Building located on the 9.513 Acre Tract shall be constructed with Primary Building Materials covering at least fifty-three percent (53%) of the front (north) and west elevations. **Attachment V** is attached hereto as a representation of the intent of the architectural enhancements described in this Section 5.01, and Baker Katz reserves the right to make modifications to the elevations as allowed by the terms and conditions of this Agreement.

In the event Baker Katz chooses to exercise one or more of the landscaping-related options to forego the Decorative Elements Threshold as described herein above, Baker Katz shall submit written plans and specifications to the City Manager in connection with the exercise of each option, and such plans and specifications are subject to written approval of the City Manager and must be approved in writing by the City Manager or designee prior to Baker Katz installing any vegetative screening/landscaping or making any improvements required by the exceptions, such approval not to be unreasonably withheld, conditioned or delayed. Except as otherwise provided in this Agreement to the contrary, said landscaping shall be installed and maintained in compliance with Appendix A – Zoning, Part II – District Regulations, Division 1 – Regulations of General Applicability, Section 12 – Landscaping and buffering, of the Code of Ordinances, City of Brenham, Texas.

Non-Anchor Buildings

Baker Katz may include the architectural enhancements, in compliance with this Section 5.01, which provide greater variations in material, color and texture of each non-Anchor Building exterior wall (elevation) constructed within the Project (including buildings in the Project constructed by tenants and others). These architectural enhancements are collectively referred to herein as the Decorative Elements Threshold and each non-Anchor Building elevation may include and satisfy all of the following elements: 1) Primary Building Materials (only brick, natural stone, fiber cement nichiha panels, glass or glazing) shall cover at least forty percent (40%) of all non-Anchor Building elevations constructed on a non-Anchor Building pad site; 2) Secondary Building Materials (only concrete masonry unit, concrete panel construction (tilt wall) stucco, cement board siding, EIFS or architectural metal pan) shall cover no more than forty-eight percent (48%) of all non-Anchor Building elevations constructed on a non-Anchor Building pad site; and 3) Accent Materials such as door and window frames, lintels, canopies, cornices, architectural metalwork, glass block, copper flashing, EIFS accent features such as cornices, or similar materials may be used on no more than twenty percent (20%) of all non-Anchor Building elevations constructed on a non-Anchor Building pad site. The total amount of Program Grant Payments will increase by \$55,555 for each non-Anchor Building pad site constructed within the Project that satisfies the Decorative Elements Threshold requirements as described herein, as determined in writing by the City Manager. The maximum increase in the total amount of Program Grant Payments resulting from the installation of the required percentages of Decorative Elements Threshold on non-Anchor pad site buildings shall be limited to \$500,000. Within thirty (30) days after completion of construction of a non-Anchor Building(s) on the 39.57 Acre Tract, Baker Katz shall deliver a written certification to the City Manager, with sufficient supporting documentation, that Baker Katz has satisfied the Decorative Elements Threshold in the construction of the non-Anchor Building(s), and such certification shall include, without limitation, the percentage of architectural enhancements used and any increase in the amount of Program Grant Payments due to Baker Katz. Within thirty (30) days after the City Manager's receipt of the written certification from Baker Katz, the City Manager shall provide a written notice to Baker Katz approving the certification or stating the specific item(s) within the certification of which the City Manager does not approve based on the as-built construction of the non-Anchor Building(s) on the 39.57 Acre Tract, such approval of the City Manager not to be unreasonably withheld, conditioned or delayed. Notwithstanding anything herein to the contrary, the awning(s) on each Anchor Building and any temporary elevation shall be disregarded for purposes of calculating whether Baker Katz has met the Decorative Elements Threshold. Certain terms included in the Decorative Elements Threshold requirements hereinabove are defined and further described in detail in **Attachment IV** to this Agreement.

5. Section 5.02 of the 380 Agreement shall be amended and revised to read as follows:

5.02 The percentage share of the Sales Tax Revenue for years 1 through 5 shall be 90%, as depicted on the following Estimated Program Grant Schedule. The percentage share of the Sales Tax Revenue shall remain at 90% for additional 1 year increments for each additional 20,000 square feet of retail space constructed on the Property as part of the Project. For example, 165,000 square feet constructed no later than December 31, 2028 shall result in two (2) additional years of 90% City contribution percentage amount of Sales Tax Revenue occurring in years 6 and 7. In the first year in which Baker Katz is not entitled to 90% of the Sales Tax Revenue, the City's contribution shall be 80% for the following four (4) years; provided that in any year thereafter in which Baker Katz constructs additional retail space in increments of additional 20,000, the percentage share of the Sales Tax Revenue shall be 90% accordingly.

6. Section 5.04 of the 380 Agreement shall be amended and revised to read as follows:

5.04 Chappell Hill Road Widening

The City shall reimburse Baker Katz six hundred thousand dollars (\$600,000) (the "Reimbursement Amount"), or the Adjusted Reimbursement Amount (defined herein below) of \$520,000, as applicable, for the design and construction of the widening of Chappell Hill Road as described in detail in Attachment II. If the cost to design and construct Chappell Hill Road exceeds either the Reimbursement Amount or Adjusted Reimbursement Amount, as applicable, as approved by the City Manager, the Reimbursement Amount or Adjusted Reimbursement Amount, as applicable, will be amended to include the actual costs as supported by design and construction invoices paid by Baker Katz. In the event that Baker Katz does not exhaust the full Reimbursement Amount or Adjusted Reimbursement Amount, as applicable, in connection with the construction of the widening of Chappell Hill Road, then the City agrees to use the remaining amount of the Reimbursement Amount or Adjusted Reimbursement Amount, as applicable ("Remaining Amount"), to reimburse Baker Katz for the costs of purchasing and installing the Primary Building Materials on the Anchor Buildings. The City will pay the Reimbursement Amount or Adjusted Reimbursement Amount, as applicable, to Baker Katz for construction of the Chappell Hill Road widening, or in connection with the costs of purchasing and installing the Primary Building Materials on the Anchor Buildings (if applicable), within ninety (90) days after completion of construction, written acceptance of the improvements by the City Engineer, and the City's receipt and approval of associated invoices. The total amount of Program Grant Payments payable to Baker Katz pursuant to this Agreement shall be reduced in an amount equal to the "Remaining Amount" as said term is defined in this Section 5.04. Notwithstanding any other provision of this Agreement to the contrary, Baker Katz shall contribute the total sum of \$80,000.00 to the City, which represents (i) \$50,000 for the costs incurred by the City for the underground installation of the electric lines associated with the Chappell Hill Road widening

project, and (ii) \$30,000 Baker Katz would have incurred in constructing the utility lines overhead. The contribution of Baker Katz set forth in the preceding sentence shall be in the form of an \$80,000 reduction in the Reimbursement Amount, resulting in an Adjusted Reimbursement Amount total of \$520,000 (“Adjusted Reimbursement Amount”), and said \$80,000 shall be deemed contributed as of the date of this Second Amendment. The City shall use commercially reasonable efforts to cause Bluebonnet Electric Cooperative to complete the underground installation of the electrical lines along the west side of Chappell Hill Street, from Hwy 290 to the south of the southern property line of the 39.57 Acre Tract by June 1, 2021.

7. Section 5.05 of the 380 Agreement shall be amended and revised to read as follows:

5.05 The City agrees to begin the construction and installation of the public utilities of sufficient size and capacity necessary to serve the Project as shown on the attached **Attachment III** within three (3) months after the Effective Date of this Agreement. The City further agrees to complete the construction and installation of said public utilities within eighteen (18) months after the City begins construction. The City further agrees to bring the connections for such utilities to a mutually agreed upon location(s) at both the southeast and southwest corners of Highway 290 and Chappell Hill Drive. The utilities shall be located and designed by the City in such a manner that Baker Katz will not need to construct a lift station or force main. Baker Katz, at no cost to the City, shall grant to City any and all public utility easements (for gas, electric, water, wastewater, and other utilities) necessary to serve the Project with public utilities of sufficient size and capacity. Additional easements for installation, construction and maintenance of utilities, drainage and storm water detention facilities shall be dedicated by separate instrument or as shown on the replat(s) of all or portions of the Property as the Project is developed and as part of the City’s platting process.

8. Section 7.03(A) and (F) of the 380 Agreement shall be amended and revised to read as follows:

7.03 This Agreement shall terminate upon any one of the following:

(A) On December 31, 2034; unless mutually extended by Baker Katz and the City acting through its City Council, or at such time when the City has paid cumulative Grant Payments totaling six million dollars (\$6,000,000) (unless Baker Katz is entitled to an increase in said total amount of Program Grant Payments in accordance with the provisions set forth in Section 5.01 of this Agreement), whichever occurs first.

...

(F) By the City, immediately upon written notice to Baker Katz, with no right to cure as described in this Article 7, if one hundred twenty five thousand (125,000) square feet of improvements in the Project are not completed and have received a Certificate of Occupancy from the City by January 1, 2024. Additionally, sixty-two thousand five hundred (62,500) square feet of said

125,000 square feet must have Certificates of Occupancy issued by the City by January 1, 2024 for occupancy by regionally or nationally recognized retailers and restaurants.

9. The 380 Agreement shall be amended by adding **Attachment IV** and **Attachment V**, attached hereto and incorporated into the 380 Agreement for all purposes.

10. This Second Amendment may be executed in multiple counterparts, which, when combined together, shall constitute an original of this Second Amendment. In addition, facsimile signatures of the parties shall be effective on all counterparts of this Second Amendment.

11. Effect of Amendment. Except as specifically provided in this Second Amendment, the terms of the 380 Agreement will continue to govern the rights and obligations of the parties, and all terms of the 380 Agreement remain in full force and effect. If there is any conflict or inconsistency between this Second Amendment and the 380 Agreement, this Second Amendment will control and modify the 380 Agreement. For the purposes of this Second Amendment, the term "380 Agreement" shall be interpreted to include the First Amendment to the 380 Agreement.

IN WITNESS WHEREOF, City and Baker Katz execute this Second Amendment to be effective on _____, 2020.

CITY OF BRENHAM, TEXAS

By: _____
Name: Milton Y. Tate, Jr.
Title: Mayor

STATE OF TEXAS

COUNTY OF WASHINGTON

This instrument was acknowledged before me on the ____ day of _____, 2020 by Milton Y. Tate, Jr., Mayor of the City of Brenham, a Texas home-rule municipal corporation, on behalf of said municipal corporation.

[Notary Seal]

Notary Public, State of Texas

APPROVED AS TO FORM

By: _____
Cary Bovey, City Attorney

BK STRINGER, LTD., a Texas limited partnership

By: Reatta Building and Development Corp.,
a Texas corporation, its general partner

By: _____
Name: Kenneth Katz
Title: Vice President

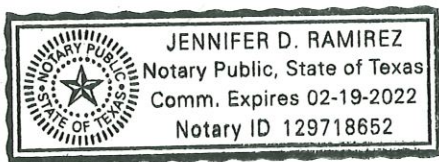
STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on the 26 day of October, 2020 by Kenneth Katz, the Vice President of Reatta Building and Development Corp., a Texas corporation, general partner of BK Stringer, Ltd., a Texas limited partnership.

[Notary Seal]

Notary Public, State of Texas



ATTACHMENT IV

The following words, terms and phrases, when used in this Agreement shall have the meanings ascribed to them in this Attachment IV, except where the context clearly indicates a different meaning. Words and terms that are not expressly defined in this Attachment IV have their ordinary dictionary meanings, based on the latest edition of Merriam-Webster's Unabridged Dictionary. When not inconsistent with the context, words used in the present tense include the future; words used in the singular number include the plural; and words used in the plural number include the singular.

Anchor Building: A single building occupying more than 25,000 square feet of gross floor area used for retail or any combination of retail uses. Notwithstanding the preceding sentence, if one or more buildings are constructed within ten (10) feet of each other, then such buildings shall be considered one Anchor Building so long as such buildings contain 25,000 square feet or more of gross floor area.

BRICK: A masonry building block of clay baked in a kiln until hard.



NATURAL STONE: Masonry construction using stone material may consist of granite, marble, limestone, slate, river rock, and other hard and durable naturally occurring all weather stone. Cut stone and dimensioned stone techniques are acceptable.



GLASS OR GLAZING . Shall mean, glass wall, glass storefront systems, spandrel glass, glass doors and faux glass. An exterior wall with a maximum reflectance of twenty (20) percent, which carries no structural loads and consists of a combination of metal, glass, or other surfacing material supported in a metal framework. Glass walls include glass curtain walls.



CONCRETE MASONRY UNIT: Concrete masonry units used for masonry construction shall meet the latest standard contained within the building code. Concrete masonry units shall have an indented, hammered, split face finish or other similar architectural finish, and be integrally colored. Lightweight concrete block or cinder block construction is not acceptable as an exterior finish.



CONCRETE PANEL CONSTRUCTION (TILT WALL): Concrete finish, pre-cast panel or tilt wall construction shall be painted, fluted, or exposed aggregate. Smooth or untextured concrete finishes are not acceptable unless painted.



Exterior Insulation Finishing System (EFIS): a non-load bearing, exterior wall cladding system that consists of an insulation board attached either adhesively or mechanically, or both, to the substrate; an integrally reinforced base coat; and a textured protective finish coat.



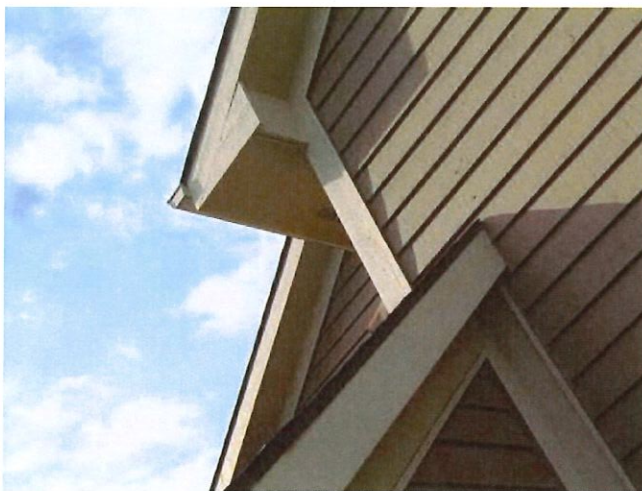
STUCCO: An approximately 7/8-inch, cement-based, three-coat system that is applied over an approved, weather-resistive barrier and metal lath by spraying or troweling. The three-coat system is comprised of a scratch coat, brown coat and a finish coat that is color integrated and sealed.



FIBER CEMENT NICHIIHA PANELS: Fiber cement panels of the Nichiha brand, specifically the architectural wall panels of the vintage brick and vintage wood variety.



CEMENT BOARD SIDING (OR PANELS): Shall be fiber cement composite material made of cement reinforced with cellulose fibers.

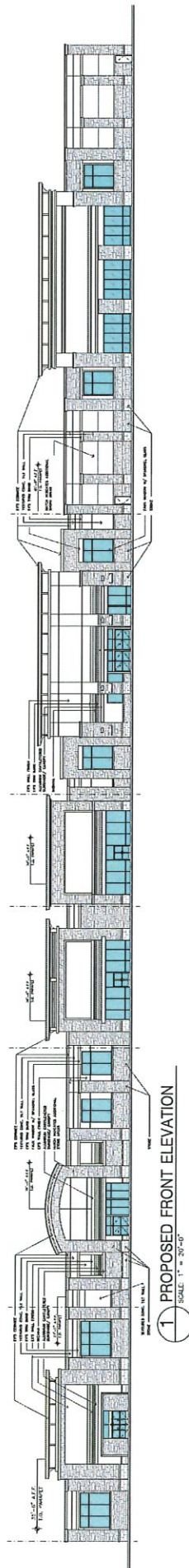


ATTACHMENT V

**DEPICTION OF POSSIBLE ELEVATION
OF ANCHOR BUILDING ON 39.75 ACRE TRACT**

Attachment V is attached to the Second Amendment to the Chapter 380 Economic Development Agreement as a representation of the intent of the architectural enhancements described in Section 5.01, and Baker Katz reserves the right to make modifications to the elevations as allowed by the terms and conditions of this Agreement.

[See Attached]



MAIN BLDG. + LARGE ANCHOR (PRIMARY BUILDING MATERIAL) = 53.45%
 MAIN BLDG. + LARGE ANCHOR (SECONDARY BUILDING MATERIAL) = 32.80%
 MAIN BLDG. + LARGE ANCHOR (ACCENT MATERIAL) = 13.56%