



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, NOVEMBER 1, 2018 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN ST.
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Herring**
- 3. Proclamation**
 - **National American Indian Heritage Month** **Page 1**
- 4. Special Recognitions**
 - **GFOA Certificate of Achievement for Excellence in Financial Reporting**
 - *Tenth Consecutive Year*
- 5. Citizens Comments**

CONSENT AGENDA

6. 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.

- 6-a. Minutes from the October 4, 2018 Regular City Council Meeting** **Pages 2-7**
- 6-b. Ordinance No. O-18-015 on Its Second Reading Amending Chapter 18, Oil and Gas Production, of the Code of Ordinances for the City of Brenham** **Pages 8-45**
- 6-c. Accept a Grant in the Amount of \$14,500.00 from the Ladd and Katherine Hancher Library Foundation for the Nancy Carol Roberts Memorial Library for the Digitization of a Portion of the Brenham Banner Press and Authorize the Mayor to Execute Any Necessary Documentation** **Page 46**

6-d. Approve a Contract with Game Time in the Amount of \$89,384.69 for the Purchase and Installation of Playground Equipment for Fireman's Park and Authorize the Mayor to Execute Any Necessary Documentation **Pages 47-51**

6-e. Approve a Contract with Miracle Recreation Equipment Co. in the Amount of \$66,280.00 for the Purchase and Installation of Playground Equipment for Hohlt Park and Authorize the Mayor to Execute Any Necessary Documentation

Pages 52-57

6-f. Approve a Contract with Professional Turf Products, L.P. in the Amount of \$75,122.48 for the Purchase of Parks Mowing Equipment Through the BuyBoard Local Government Purchasing Cooperative and Authorize the Mayor to Execute Any Necessary Documentation

Pages 58-62

6-g. Approve an Updated Engagement Letter for Legal Services with the Law Office of Cary L. Bovey, PLLC and Authorize the Mayor to Execute Any Necessary Documentation

Pages 63-67

6-h. Approve a Noise Variance for "McCaul for Congress" for a Rally for Congressman Michael McCaul to be Held on November 3, 2018 from 4:00 p.m. – 6:00 p.m. at the Washington County Courthouse Gazebo and Authorize the Mayor to Execute Any Necessary Documentation

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6-i. Approve a Noise Variance for the City of Brenham for a Pop-Up Play Day to be Held on November 10, 2018 from 11:00 a.m. – 2:00 p.m. at Hattie Mae Flowers Park and Authorize the Mayor to Execute Any Necessary Documentation

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6-j. Approve a Noise Variance for Mount Rose Missionary Baptist Church for a Community Outreach Event to be Held on November 17, 2018 from 10:00 a.m. – 2:00 p.m. at Henderson Park and Authorize the Mayor to Execute Any Necessary Documentation

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WORK SESSION

7. Presentation and Discussion Regarding the Roles and Responsibilities of the Comprehensive Plan Advisory Committee (CPAC) **Pages 71-73**

PUBLIC HEARING

8. Public Hearing to Consider Amending Appendix A – "Zoning" of the Code of Ordinances of the City of Brenham, Texas to Amend the Planned Development (PD) District Ordinance No. O-17-005 for Vintage Farms Subdivision in Brenham, Washington County, Texas (Case No. P-18-024) **Pages 74-94**

REGULAR SESSION

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to Amend Planned Development (PD) District Ordinance No. O-17-005 for the Vintage Farms Subdivision in Brenham, Washington County, Texas (Case No. P-18-024)
Pages 95-102
10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Building Setback Requirements, as Outlined in Section 23-22(1) of the City of Brenham Code of Ordinances, on a Tract of Land Being Described as Part of Lots 50-53, of the College Heights Addition, Located at 810 Brown Street in Brenham, Washington County, Texas
Pages 103-118
11. Discuss and Possibly Act Upon Resolution No. R-18-018 Adopting a Fee Schedule Related to Permits, Inspections and Other Requirements of Chapter 18, Oil and Gas Production, of the Code of Ordinances for the City of Brenham
Pages 119-121
12. Discuss and Possibly Act Upon Proposed Changes to the City Council Meeting Dates for November and December 2018, and January 2019
Page 122
13. Discuss and Possibly Act Upon Resolution No. R-18-019 Adopting a Social Media Policy for the City of Brenham
Pages 123-131
14. Discuss and Possibly Act Upon the 2019 Holiday Schedule
Pages 132-133
15. Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for an Increase in Retirement Annuities in the Texas Municipal Retirement System Effective January 1, 2019
Pages 134-137
16. Discuss and Possibly Act Upon Resolution No. R-18-020 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2018 Christmas Stroll and Lighted Parade to be Held on Saturday, December 1, 2018
Pages 138-152
17. Discuss and Possibly Act Upon a Shelter Agreement Between the City of Brenham’s Pet Adoption and Care Center and Hill’s Pet Nutrition Through the Hill’s Food, Shelter & Love Program for Pet Food and Authorize the Mayor to Execute Any Necessary Documentation
Pages 153-170
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 salutory recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

Adjourn

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

CERTIFICATION

I certify that a copy of the November 1, 2018 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on October 29, 2018 at **12:50 PM**.

Kacey A. Weiss, TRMC

Deputy City Secretary I

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 _____, 2018 at _____ AM PM.

Signature

Title

PROCLAMATION

- WHEREAS,** The history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and
- WHEREAS,** The contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and
- WHEREAS,** Their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and
- WHEREAS,** Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November as National American Indian Heritage Month; and
- WHEREAS,** In honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational and historical activities have been planned; and
- WHEREAS,** The Daughters of the American Revolution urge all citizens to observe this month with appropriate programs, ceremonies and activities;

NOW, THEREFORE I, Milton Y. Tate Jr., Mayor of the City of Brenham, Texas do hereby proclaim November as

National American Indian Heritage Month

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

Milton Y. Tate Jr., Mayor
City of Brenham

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on October 4, 2018 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Andrew Ebel
Councilmember Susan Cantey
Councilmember Danny Goss
Councilmember Albert Wright

Members absent:

Councilmember Keith Herring
Position 5 - Vacant

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary I Kacey Weiss, Assistant City Manager – Chief Financial Officer Carolyn Miller, Sara Parker, Director of Tourism & Marketing Jennifer Eckermann, Crystal Locke, Fire Chief Ricky Boeker, Police Chief Allwin Barrow, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Director Lori Lakatos, Kevin Boggus, Shelley Addison, Amber Ortega, Ellie Mariscal, Dallas Bozich and Leah Rogers

Citizens present:

None

Media Present:

Arthur Hahn, Brenham Banner Press; and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Goss**

3. **Service Recognitions**
 - **Crystal Locke, Community Programs and Marketing** 10 Years
 - **Shelley Addison, Utility Billing** 30 Years
4. **Proclamation**
 - **Fire Prevention Week**
5. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

6. Statutory Consent Agenda

- 6-a. Minutes from the August 16, 2018 and September 6, 2018 Regular City Council Meetings and September 17, 2018 Special City Council Meeting**
- 6-b. Ordinance No. O-18-014 on Its Second Reading Providing for a No Parking Zone Along W. Fifth Street, Old Mill Creek Rd. and Saeger St.**
- 6-c. Resolution No. R-18-015 Reauthorizing an Investment Policy for the City of Brenham**
- 6-d. Resolution No. R-18-016 Appointing Karen Stack as Deputy City Secretary II**

A motion was made by Councilmember Cantey and seconded by Councilmember Goss to approve the Statutory Consent Agenda Items 6-a. through 6-d. as presented.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
At Large, Position 5	Vacant

WORK SESSION

7. Presentation and Discussion Regarding Updates to and Revision of Chapter 18, Oil and Gas Production, of the Code of Ordinances for the City of Brenham

City Attorney Cary Bovey presented this item. Bovey stated that the Texas Legislature passed House Bill 40 in 2015. Bovey explained that the bill was enacted in response to a ban on hydraulic fracturing approved by voters in Denton, Texas. Bovey advised that HB40 effectively overturned the Denton fracking ban by providing that oil and gas operations (exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracturing, and other activities) are subject to the exclusive jurisdiction of the state, and Texas cities may not enact or enforce ordinances or other regulations that ban, limit or otherwise oil and gas operations. Bovey noted that however, the bill also provided cities with authority to reasonably regulate aboveground activity related to oil and natural gas operations such as setbacks from other structures, traffic, and noise.

Bovey explained that since the City's ordinance dealing with oil and gas production has not been updated since 1969 coupled with the passage of HB40, the City Manager asked him to prepare an updated ordinance that would protect the City's interests while complying with the new state law.

REGULAR SESSION

8. Discuss and Possibly Act Upon a Master License and Services Agreement Between the City of Brenham and Ion Wave Technologies for Electronic Bidding and Contract Management Software and Authorize the Mayor to Execute Any Necessary Documentation

Purchasing Manager Sara Parker presented this item. Parker explained that over the past two years, it has become evident that the traditional bid system requiring delivery of hard copy bids for all of the formal bid purchases and contracts is no longer viable. Parker stated that electronic bidding was determined to be a solution. Parker advised that the Ion Wave system is reasonable in price, involves no cost to bidders and offers other features such as contract management, vendor registration and management of insurance certificates. Parker noted that Ion Wave is used by several other entities in this area, including the Cities of Bryan and College Station.

After further discussion with the Council about the software, a motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Wright to table Item 8.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
At Large, Position 5	Vacant

9. Discuss and Possibly Act Upon a Professional Services Agreement with Strand Associates, Inc. for Services Related to FY19 Water Main Replacements and Authorize the Mayor to Execute Any Necessary Documentation

Assistant City Manager of Public Utilities Lowell Ogle presented this item. Ogle explained that the agreement from Strand Associates, Inc. is for engineering services related to improvements within the Water Distribution System. Ogle stated these improvements would involve replacing old asbestos concrete (AC) and cast iron (CI) water lines with new C-900 PVC pipe. Ogle advised that approximately 11,000 linear feet of existing water main would be replaced. Ogle noted that some of the areas where mains are to be replaced are Blinn Blvd., Vulcan St., N. Douglas, N. Park, Prairie Lea, with others to be determined later.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Cantey to approve a Professional Services Agreement with Strand Associates, Inc., not to exceed \$117,750, for services related to FY19 water main replacements and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
At Large, Position 5	Vacant

10. Discuss and Possibly Act Upon a Request for a Noise Variance from Christ Lutheran Day School for a Fundraiser to be Held on October 19, 2018 from 6:00 p.m. – 9:00 p.m. at 1104 Carlee Drive and Authorize the Mayor to Execute Any Necessary Documentation

Deputy City Secretary Kacey Weiss presented this item. Weiss stated that Christ Lutheran Day School wanted to have an outdoor movie, which would include an inflatable movie screen and amplified sound system, at their annual fundraiser.

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve a request for a noise variance from Christ Lutheran Day School for a fundraiser to be held on October 19, 2018 from 6:00 p.m. – 9:00 p.m. at 1104 Carlee Drive and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Andrew Ebel	Yes
Councilmember Susan Cantey	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Absent
Councilmember Albert Wright	Yes
At Large, Position 5	Vacant

11. Administrative/Elected Officials Report

City Manager James Fisher reported on the following:

- TML Conference is October 9-12 in Fort Worth
- Council retreat will be held on October 24-26 at the LCRA Riverside Conference Center in Bastrop
- There will be an item on the October 18th Council agenda to discuss possibly rescheduling the November through January Council meeting dates

Police Chief Allwin Barrow reported on the following:

- National Night Out was a huge community success
- Corp. Todd Ashorn competed in an Iron Man contest in Georgia and finished 1st place in his age group

Council adjourned into Executive Session at 2:16 p.m.

EXECUTIVE SESSION

12. **Section 551.087 – Texas Government Code – Economic Development Negotiations – Discuss and Deliberate Project Cardinal and Project BK Regarding Commercial or Financial Information that the City Has Received from Business Prospects and the Offer of Financial or Other Incentives to Business Prospects that the City Seeks to Have Locate In or Near the City of Brenham and With Which the City is Conducting Economic Development Negotiations**

Executive Session adjourned at 2:46 p.m.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

ORDINANCE NO. O-18-015

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 18, OIL AND GAS PRODUCTION, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS PROVIDING FOR THE REGULATION OF SURFACE ACTIVITY RELATED TO OIL AND GAS OPERATIONS; PROVIDING FOR A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS

WHEREAS, The City of Brenham (“City”) is a Texas home-rule municipality; and

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

WHEREAS, the City Council of the City of Brenham is aware that oil and gas deposits may exist under portions of the City; and

WHEREAS, the City desires any development of these natural resources to be done in a manner that protects the health, safety, and welfare of the public; and

WHEREAS, § 81.0523 of the Texas Natural Resources Code expressly authorizes the City to enact, amend, or enforce an ordinance or other measure that regulates above ground activity related to oil and gas operations so long as the regulations are: commercially reasonable; do not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and are not otherwise preempted by state or federal law; and

WHEREAS, the City Council finds the following regulations governing above ground activity related to oil and gas operations within the City to be reasonable and beneficial to the general health, safety and welfare of the citizens of Brenham;

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

SECTION 1.

Chapter 18, Oil and Gas Production, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended in its entirety to read as follows:

Sec. 18-1. Purpose

The exploration, development, and production of oil and gas deposits in the city necessitate reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this chapter to establish reasonable and uniform limitations, safeguards and regulations for present and future above ground activity related to oil and gas operations including the exploring, drilling, developing, producing, transporting and storing of oil and gas and other substances produced in association with oil and gas operations within the city to protect the health, safety and general welfare of the public.

Sec. 18-2. Definitions

All technical industry words or phrases related to the drilling and production of oil and gas wells not specifically defined in this chapter shall have the meanings customarily attributable thereto by prudent and reasonable oil and gas industry operators. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment: As defined by the Railroad Commission of Texas and includes the plugging of the well and the restoration of any drill site as required by this chapter.

Above ground activity: Oil and gas operations that occur at or above the surface of the ground.

Agent: A person designated or appointed by an operator to sign the application for a permit and other documents on behalf of the operator.

Ambient noise level: The all-encompassing noise level associated with a given environment, being a composite of sounds from all sources at the location, constituting the normal or existing level of environment noise at a given location.

Building or habitable building: Any structure used or intended for supporting or sheltering any use or occupancy. The term “building” shall be construed as if followed by the words “or portions thereof.”

City: The City of Brenham.

City code: The Code of Ordinances of the City of Brenham.

City attorney: The city attorney of the City of Brenham.

Closed loop mud system: A system utilized while drilling so that reserve pits are not used and instead steel bins are used to collect all drilling waste.

Commission: The Railroad Commission of Texas.

Daylight: The period from sunup to sundown as established for the city area by the NOAA Solar Calculator, adjusted for daylight savings as necessary.

Decible (dB): A unit of measuring the intensity of a sound/noise and is equal to 10 times the logarithm to the base 10 of the ratio of the measured sound pressure squared to a reference pressure, which is 20 micropascals.

Derrick: Any portable framework, tower, mast and/or structure, which is required or used in connection with drilling or re-working a well for the production of oil and gas.

Drilling: Digging or boring a new well for the purpose of exploring for, developing or producing oil, gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling operations: Drilling with drill pipe and pit, running casing, circulating mud and fluids, tripping tools and setting production casing/tubing.

Drill site: The premises used during the drilling or reworking of a well or wells located there and subsequent life of a well or wells or any associated operation.

Drought contingency plan: The City of Brenham drought contingency plan.

Exploration: Geologic or geophysical activities, including seismic surveys, related to the search for oil, gas or other subsurface hydrocarbons.

Extraterritorial jurisdiction (ETJ): The extraterritorial jurisdiction of the city as defined by state law.

Fee schedule: The list of fees referenced in Section 18-21 of this Code of Ordinances.

Federal Motor Carrier Safety Administration (FMCSA): An agency within the United States Department of Transportation (USDOT), established pursuant to the Motor Carrier Safety Improvement Act of 1999, dedicated to improving the safety of commercial motor vehicles (CMV) and saving lives.

Fire department: The fire department of the city.

Firewall, berm and/or secondary containment: The rules and regulations of the commission and other state or federal agencies describing the methods used to contain spills from storage tanks.

Flowback: The process of flowing a completed/fractured well for the purpose of recovering water and residual sand from the gas stream prior to sending gas down a sales line.

Fracture or fracturing: The process of breaking up/fracture stimulation fracture of a rock formation.

Gas: Any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Inspector: The city inspector or inspectors designated by the city manager of the city, including city staff or technical advisory consultants.

Nighttime: The period between sundown to sunup as established for the city area by the NOAA Solar Calendar, adjusted for daylight savings as necessary.

Oil and gas well: Any well drilled, to be drilled, or used for the intended or actual production of oil or natural gas. The terms “oil” or “gas” used in this chapter shall be interchangeable and shall mean either an oil well or gas well operation.

Operation site: The area used for development and production and all operational activities associated with oil or gas after drilling activities are complete.

Operator: For each well, the person listed on the railroad commission form W-1 or form P-4 for an oil or gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under an oil or gas lease of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no oil or gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

Pad site: The operations area containing the well or wells and accessory building and equipment.

Permit: The surface permit required by the city for any proposed drill site.

Person: Both the singular and the plural and means a natural person, a corporation, association, guardian, partnership, receiver, trustee, administrator, executor, and fiduciary or representative of any kind.

Protected use: A habitable building, including but not limited to: a residence, religious institution, public building, hospital building, or school; and a public park. Structures such as equipment buildings, pump houses and agricultural barns that are occupied on a daily basis for less than four (4) hours each day shall not be considered a protected use.

Public building: All buildings used or designed to and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, business and commercial activities, amusement, or health care. Public buildings include, but shall not be limited to, churches, schools, theaters, assembly halls, malls, shopping centers, office buildings auditoriums, armories, mortuary chapels, dance halls, exhibition halls, museums, gymnasiums, bowling lanes, libraries, skating rinks, courtrooms, restaurants, hospitals, medical clinics and offices, or any other building to which the public has access.

Public park: Any land area dedicated to and/or maintained by the city for traditional parklike recreational purposes.

Religious institution: Any building in which persons regularly assemble for religious worship and activities intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Residence: A house, duplex, apartment, townhouse, condominium, manufactured home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a surface permit is filed with the city secretary.

Rights-of-way: Public rights-of-way including streets, easements and other property within the city and which is dedicated to the use and benefit of the public.

Safety data sheet (SDS): Formerly known as MSDS or material safety data sheets to communicate the hazards of hazardous chemical products.

School: Any public or private, primary and secondary educational facilities providing education up through and including the twelfth grade level; any public or private technical institute, junior college, senior college or university, medical or dental unit, public state college, or other agency of higher education; and any licensed day care centers, meaning a facility licensed by the state or by the city that provides care, training, education, custody, treatment or supervision for more than six children under 14 years of age, and for less than 24 hours per day.

Street: Any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Surface permit: The permit required by the city signifying the city regulation of the above ground activity related to an approved commission permit to drill an oil or gas well.

Tank: A container, covered or uncovered, used in conjunction with the drilling or production of oil, gas or other hydrocarbons for holding or storing fluids.

Technical advisor: Such person(s) familiar with and educated in the oil or gas industry or the law as it relates to oil or gas matters who may be retained from time to time by the city.

Well: A hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

Sec. 18-3. City inspector

- (a) Authority to issue orders. The city inspector shall have the authority to issue any orders or directives required to carry out the intent and purpose of this chapter and its particular provisions. Failure of any person to comply with any such order or directive shall constitute a violation of this chapter. The city inspector may be a city staff member or may be a third-party consultant retained by the city.
- (b) Authority to enter and inspect. The city inspector shall have the authority to enter and inspect any premises covered by the provisions of this chapter to determine compliance with the provisions of this chapter and all applicable laws, rules, regulations, standards or directives of the state. Failure of any person to permit access to the city inspector shall constitute a violation of this chapter. The city inspector shall conduct periodic inspections at least once a year of all permitted drill sites in the city to determine that the drill sites are operating in accordance with proper safety parameters as set out in this chapter and all regulations of the commission.
- (c) Authority to request records. The city inspector shall have the authority to request and receive any records, including any records sent to the commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable surface permit. Failure of any person to provide any such requested material shall be deemed a violation of this chapter.
- (d) Report violations. The city inspector will report any perceived violation of commission rules and regulations (i.e. spillage) to the commission within twenty-four (24) hours after observation or after confirming a report from a citizen.

Sec. 18-4. Operator's agent

Every operator of any well shall designate an agent, who is a resident of the state, upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten (10) days notify the city inspector in writing of any change in such agent or such mailing address unless operations within the city are discontinued.

Sec. 18-5. Surface permit required

- (a) Permit required. A person wanting to engage in and operate in oil or gas production activities shall apply for and obtain a surface permit from the city after receiving the approved commission permit to drill. The city permit shall be for all above ground activity related to oil and gas operations. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, reworking, fracturing or operation of any such well or to conduct any activity related to the production of oil or gas without first obtaining a surface permit issued by the city in accordance with this chapter. Such activities include, but are not limited to reworking, initial site preparation, drilling, operation, construction of rigs or tank batteries, fracturing and pressurizing.

- (b) No blanket permits. The operator must apply for and obtain a surface permit for each drill site. Each proposed drill site shall require a separate permit and shall not be permitted on a “blanket” basis.
- (c) Permit required to re-enter abandoned well. A surface permit shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new surface permit in accordance with the provisions of this chapter if the operator is re-entering and/or drilling an abandoned well.
- (d) Permit expiration date. A surface permit shall automatically terminate, unless extended by the city inspector, if drilling is not commenced within one hundred eighty (180) calendar days from the date of the issuance of the surface permit. The city inspector may extend a surface permit for an additional one hundred eighty (180) calendar days upon request by the operator and proof that the engineering site plan for the requested surface permit for such location has not changed.
- (e) Other permits may be necessary. The surface permits required by this chapter are in addition to and are not in lieu of any permit, which may be required by any other provision of this code or by any other governmental agency.
- (f) No additional permits or fees. No additional surface permit or filing fees shall be required for:
 - (1) Existing wells. Any wells, existing, previously permitted or approved by the city, within the corporate limits of the city on the effective date of this chapter;
 - (2) Drilling commenced on effective date of chapter. Any wells which drilling has commenced on the effective date of this chapter;
 - (3) Land annexed after effective date of chapter. Any wells in existence or on any wells on which drilling has commenced on land annexed into the city after the effective date of this chapter; or
 - (4) Application filed prior to annexation. Any well that was planned for the land before the ninetieth (90th) calendar day before the effective date of its annexation and one or more licenses, certificates, permits, approvals, or other forms of authorization by a governmental entity were required by law for such well and the completed application for the initial authorization was filed before the date the annexation proceedings were instituted.
- (g) No permit issued in floodway. No surface permit shall be issued for any well to be drilled within any floodway as defined by the most current FEMA map.
- (h) Permits in floodplains. Surface permits may be issued on property located in a floodplain, provided that all water and drilling materials must be in steel containers except for the concrete pad. An engineer's certificate shall be provided showing no negative impact on water flow in the floodplain.

- (i) City-owned property. No surface permit shall be issued for any well to be drilled on city-owned property without the prior consent of the city council.
- (j) Operator agrees to comply with chapter. By acceptance of any surface permit issued pursuant to this chapter, the operator expressly stipulates and agrees to be bound by and comply with the provisions of this chapter. The terms of this chapter shall be deemed to be incorporated in any surface permit issued pursuant to this chapter with the same force and effect as if this chapter was set forth verbatim in such surface permit.

Sec. 18-6. Surface permit application and filing fees

- (a) The surface permit may only be issued subsequent to a commission approved permit associated with exploration, drilling, production and transportation.
- (b) Application in writing. Every application for a surface permit issued pursuant to this chapter shall be in writing signed by the operator, or an appointed agent duly authorized to sign on his behalf, and filed with the city secretary of the city. As soon as practical, the city secretary shall have the application delivered to the city inspector.
- (c) Application accompanied by permit fee. Every application shall be accompanied by a permit fee for each drill site as set forth in the fee schedule referenced in Section 18-21.
- (d) Application shall include. An application for a surface permit shall include all the requirements of this section of this chapter as well as impacted vegetation, creeks and other topographic features, adjacent building and other structures and the measured distance from the well site to these buildings and structures, temporary and permanent fencing and landscaping. The application shall include the following information:
 - (1) Date. The date of the application for a surface permit.
 - (2) Legal description. An accurate legal description of the tract or parcel of real property, leased or owned, to be used for the oil or gas operation. Property recorded by plat should reference subdivision, block and lot numbers.
 - (3) Map. Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the oil or gas operation and the number of truck trips, truck types and weight, loaded and unloaded, turning movements associated with truck and vehicle traffic, proposed access points and proposed traffic-control devices.
 - (4) Well name. Proposed well name.
 - (5) Surface owner name. Surface owner names(s) and address(es) of the lease property.
 - (6) Name mineral owner/lessee. Mineral owner/lessee name and address.
 - (7) Name operator. Operator/applicant name and address and if the operator is a corporation, the state of incorporation, and if the operator is a partnership, the names and addresses of the general partners.

- (8) Person to receive reports. Name and address of individual designated to receive notice.
- (9) Supervisory authority. Name of representative with supervisory authority over all oil or gas operation site activities and a 24-hour phone number.
- (10) Location of improvements. Location and description of all improvements and structures within six hundred (600') feet of the proposed well.
- (11) Owners. Owner and address of each parcel of property within six hundred (600') feet of the proposed drill site.
- (12) Site plan. A site plan of the proposed operation site showing the location of all improvements and equipment, including the location of the proposed well(s) and other facilities, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds. The site plan shall include all existing utilities, public roadways, driveways, alleys, all public access points, floodways and floodplains.
- (13) Emergency contact person. The name, address and 24-hour phone number of the person to be notified in case of an emergency.
- (14) Road maintenance agreement. An original executed citywide road maintenance agreement signed and approved by city must be filed with the city secretary that provides that the operator shall repair, at his own expense, damage to roads or streets caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, transportation and operation of oil and or gas wells, in accordance with the rights of the city to regulate above ground activity. City shall determine degree of damage and dollar amount owed. Failure of operator to reimburse city within thirty (30) days of billing may result in forfeiture of security bond.
- (15) Public utilities. A description of public utilities required during drilling and operation.
- (16) Water source. A description of the water source to be used during drilling.
- (17) Fees. All required application and surface permit fees.
- (18) Noise management plan. A noise management plan complying with all requirements of the city. The noise management plan shall address the following:
 - (A) Description of proposed equipment and potential noise impacts. This analysis must include a comparison of the potential noise generation with the applicable noise standards;
 - (B) Identify all noise mitigation techniques that will be implemented on the site including blankets/curtains, sound walls, and mufflers for generators and motors, if any;
 - (C) Best management practices used to reduce the impact of noisier operations such as pipe deliveries and use of horns for communication; and
 - (D) Maximum noise levels anticipated at the drill site.

- (19) Screening. A screening, fencing and landscape plan detailing compliance with all landscape and screening requirements required by this chapter, including a proposed schedule detailing the timing of all landscaping, screening and fencing to be installed.
- (20) Irrigation plan. A landscape irrigation plan as designed by a state-licensed professional detailing the appropriate type of irrigation for the site; measures to be taken to adequately irrigate all landscaping, including indicating the water source for irrigation and the proposed efforts to replace dead or dying screening vegetation. All trees on site shall be irrigated by a bubbler system.
- (21) Encroachment agreements. A copy of all applicable right-of-way encroachment agreements.
- (22) Dust mitigation plan. A dust mitigation plan detailing measures to be implemented to mitigate and suppress dust generated at the drill site and the private vehicle access route, including a mud shaker for vehicles exiting the site.
- (23) Waste. A waste management plan that addresses human, solid and drilling production waste.
- (24) Third-party contracts. Copies of all third-party contracts related to:
 - (A) Emergency services, including firefighting and control of well;
 - (B) Site operations and maintenance; and
 - (C) Well monitoring and testing.
- (25) Commission permit required. A copy of the approved commission permit to drill together with attachments and survey plats which are applicable to the drill and operation sites.
- (26) Stormwater pollution. A copy of the stormwater pollution prevention plan as required by the environmental protection agency. A copy of the notice of intent shall be submitted to the city five (5) calendar days prior to the commencement of any onsite activity.
- (27) Depth of usable water. A copy of the determination by the Texas Commission on Environmental Quality (TCEQ) of the depth of useable quality groundwater.
- (28) Insurance and security. Evidence of insurance and security requirements under this chapter.
- (29) Sworn statement. A statement, under oath, signed by the operator, or designated representative, that the information submitted with the application is, to the best knowledge and belief of the operator or designated representative, true and correct.

Sec. 18-7. Surface permits; procedure

- (a) Permit required. A surface permit shall be required for all proposed drill sites.

- (b) Setback. Any application that has proposed a drill site that is six hundred feet (600') or less from a protected use shall be rejected. This provision applies to any existing building, including but not limited to, a residence, religious institution, public building, hospital building, school or public park or any building for which a building permit has been issued on the date the application for a permit is filed with the city secretary. Drill sites located more than six hundred (600') feet from a protected use, may be approved by the city inspector. For the purpose of such surface permit, the measurement of the six hundred (600') foot distance shall be made from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building.
- (c) Notice and sign. Upon notification by the city inspector that the permit application is complete, within ten (10) days, operator/applicant shall publish notice in a local newspaper for two consecutive weeks that a permit application has been submitted to the city. Notice shall contain the location of proposed well, name of operator/applicant, mineral owner/lessee name and contact information for operator/applicant and city inspector. Notice shall direct questions to operator/applicant and concerns to city inspector. In addition, within the ten (10) days, a sign will be erected on the drill site or the nearest public right-of-way, if the sign would not be visible from the drill site. The sign shall indicate that an oil or gas well is proposed for the site, name of operator/applicant and contact information for operator/applicant and the city inspector.
- (d) Permitting procedure. After a complete permit application is submitted, the city inspector shall evaluate the public impact of the proposed activity. The city inspector shall consider the proposed site and the proposed above ground activity related to oil and gas operation or drilling program and shall identify restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, noise reduction levels, screening and any other requirements the city inspector deems appropriate. If the proposed drill site are located more than six hundred (600') feet from a protected use for which a building permit has been issued on the date the application for a permit is filed with the city secretary, the Inspector may, consistent with state law, accept or reject the application in the interest of securing compliance with this chapter, this code and/or to protect the health, safety and welfare of the community. An applicant may appeal a decision of the city inspector through the city manager to the city council.
- (e) Well and tank battery setbacks for surface permit.
- (1) Setback from parks. Tank batteries, storage tanks, facilities and equipment, other than the well itself, shall be located at least six hundred (600') feet from any public park or from any protected use (unless prior consent is obtained through the city manager). The distance shall be calculated from the closest tank batteries, facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the closest exterior point of the building, or to the closest property line of the park.
 - (2) Landscape buffer. There will be a minimum twenty-five (25') feet landscape buffer on all sides of the area adjacent to and outside of the fencing on any pad site.

(f) Fencing for surface permit.

(1) Fences. Fences shall not be required on drill sites during initial drilling, completion or re-working operations as long as 24-hour on-site supervision is provided. Within thirty (30) calendar days after production has been established, the operation site shall be completely enclosed by an opaque fence or separate opaque fences may be installed to enclose individual facilities on drill site, such as pump jack, storage tanks or other production related facilities. The fences shall be a minimum height of five (5') feet and not higher than eight (8') feet. All shall be built in a manner that is safe enough to protect children in accordance with the attractive nuisance doctrine. In addition to fences, a secured entrance gate shall be required. All gates are to be kept locked when the operator or operator's employees are not within the enclosure.

(2) Gate specifications. The gate shall meet the following specifications:

- (A) Each gate shall be not less than twelve feet (12') wide and the height of the fence and be composed of two (2) gates, each of which is not less than six feet (6') wide, or one sliding gate not less than twelve feet (12') wide. If two gates are used, gates shall latch and lock in the center of the span. If fencing is intended to protect pump jack, storage tanks or other production related facilities and no trucks will be inside enclosure, city inspector may specify a reasonable sized walk through gate;
- (B) The gates shall be of metal frame construction that meets the applicable city specifications, or of other approved material;
- (C) The gates shall be provided with a combination catch and locking attachment device for a combination padlock, and shall be kept locked, except when being used for access to the site;
- (D) Operator must provide the fire department chief and the city inspector with a "Knox Padlock" or "Knox Box with a key" to access the drill site to be used only in case of an emergency. The fire chief shall determine the type. In the event a key is not provided or the lock is inoperable, the fire department shall be authorized to cut a lock or chain to gain access.

(g) Landscaping. A plan for landscaping and irrigation shall be provided with the surface permit application. Landscaping and irrigation shall be required as determined by city manager or designee along all sides of the drill site with suitable screening done via a combination of trees and shrubs that complement the natural character of the surrounding neighborhood. A three foot (3') separation should be maintained between the fence and vegetative screening. Care should be taken when selecting trees and shrubs to anticipate the ultimate size of the plant so that the tree or shrub maintains a three foot (3') separation from the fence at maturity. The landscaping within ten years should characterize a natural screening of the pad site within one hundred feet (100') from all sides. The site should be well kept and mowed at all times. The following tree preservation and planting measures are required:

(1) Tree spacing. A minimum twenty-five foot (25') landscape buffer outside the operation site shall contain a tree for every forty linear feet (40'). Existing trees within the buffer may be counted as part of the required plantings. The following requirements apply to all surface permits.

(A) A minimum retention of twenty-five percent (25%) of the existing trees will be required unless removal is necessary for location of equipment as determined by the city inspector.

(B) No more than twenty-five percent (25%) of the same species may be planted at one (1) site.

(C) A minimum of twenty-five percent (25%) of the planted trees must be an evergreen species.

(D) The minimum size of tree planted will be three (3") inches in diameter measured one foot above ground level. If the tree is multi trunk, the main stem will be given full credit for its diameter and all other stems will receive one-half (1/2) credit. The total of all must be three (3") inches or greater.

(E) All trees that die within two (2) years of the date of project completion will be replaced with a new tree. The replacement tree carries the same two-year replacement requirement. A replacement tree that dies within two (2) years of planting will be replaced by the operator or agent, and a new two-year guarantee will begin at the time of replacement.

(F) All other interpretations of the regulations will be made by the city.

(2) Clear cut prohibition. The clear cutting of trees is prohibited within the city. Cutting of trees, grading, and land clearing may be done for an oil or gas well drilling pad site in accordance with the approved site plan. The remainder of the site beyond the pad and the landscape buffer shall not be disturbed without approval in the permit.

(h) Vehicle routes for surface permit.

(1) Routes. Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either State Highway, Farm to Market, or truck routes or commercial delivery routes by the city wherever capable of being used. The vehicles shall be operated on a commercial delivery route only when it is not possible to use a State Highway, Farm to Market, or truck route to fulfill the purpose for which such vehicle is then being operated. Commercial delivery route means any street or highway so designated by the city council for the use by any commercial motor vehicle, truck-tractor, trailer, semitrailer, or any combination thereof. All vehicles shall comply with Federal Motor Carrier Safety Administration (FMCSA) regulations.

- (2) Road maintenance agreement. A citywide road maintenance agreement will be required for the above ground activity associated with any gas or oil well drilling operation that uses city maintained streets for access to their well site, whether the wells are within the city limits or outside the city limits. City shall determine degree of damage, the amount owed and shall bill the operator annually. Failure of the operator to pay the amount owed within thirty (30) days may result in forfeiture of or draw upon the fiscal security provided to the city.
- (3) Streets free from debris. The operator shall keep thoroughfares throughout the city free from dirt, dust, mud or other debris deposited by vehicles involved in the well drilling or servicing or pipeline installation process. The operator shall eliminate dirt, dust, mud or other debris accumulations within two (2) hours of notification by the city. If for safety or other reasons, the city elects to perform the removal, the cost of such removal shall be paid by the operator.
- (i) Work hours for surface permit. Site development, other than drilling, shall be conducted only during daylight hours. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the drill site shall be limited to daylight hours except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production. All formation fracture stimulation operations shall be conducted during daylight hours as defined by this chapter. “Flowback” operations to recover fluids used during fracture stimulation shall be exempt from work hour restrictions, subject to compliance with noise restrictions contained in this chapter. All workover operations shall be restricted to daylight hours.
- (j) Noise restrictions for surface permit. In no case shall any drilling, producing or other operations produce a sound level greater than 78 decibels (dB) when measured at a distance of three hundred feet (300') from the production equipment in question. If ambient noise level exceeds 78 dB, that ambient level will be the maximum allowable noise level under all circumstances.
- (1) Noise management plan. Prior to the issuance of a surface permit and the commencement of operations, the operator shall submit a noise management plan, approved by the city, detailing how the equipment used in the drilling, completion, transportation, or production of a well complies with the maximum permissible noise levels of this section. The noise management plan must:
- (A) Identify operation noise impacts;
 - (B) Provide documentation establishing the ambient noise level prior to construction of any wellhead, compressor or compression facility; and

- (C) Detail how the impacts will be mitigated. In determining noise mitigation, specific site characteristics shall be considered, including but not limited to the following:
- (i) Nature and proximity of adjacent development, location, and type;
 - (ii) Seasonal and prevailing weather patterns, including wind directions;
 - (iii) Vegetative cover on or adjacent to the site; and
 - (iv) Topography.

The operator shall be responsible for verifying compliance with this section and the noise management plan after the installation of the noise generation equipment.

- (2) Noise level. No well shall be drilled, re-drilled or any equipment operated at any location within the city in such a manner so as to create any noise which causes the exterior noise level when measured at the protected use receiver's/receptor's property line or from the closest exterior point of the protected use structure or inside the protected use structure if access to the property is granted by the receiver/receptor, that:
- (A) Exceeds the ambient noise level by more than five (5) dB during daytime hours and more than three (3) dB during nighttime hours;
 - (B) Exceeds the ambient noise level by more than ten (10) dB over the daytime average ambient noise level during fracturing operations during daytime hours. No fracturing shall be allowed during nighttime hours except for flowback operations related to fracturing as provided in subsection (C) below;
 - (C) Exceeds the ambient noise level by more than three (3) dB during flowback operations during nighttime hours.
- (3) Predrilling noise level. Prior to the issuance of a surface permit the operator shall hire an independent third party to take ambient noise readings over a seventy-two (72) hour period, including at least one (1) twenty-four (24) hour reading during a Saturday or Sunday. The operator shall use the seventy-two (72) hour predrilling ambient noise level as the base for the installation of any new noise generation equipment unless the operator can demonstrate that the increase in the ambient noise level is not associated with drilling and production activities located either on or off-site.
- (4) Citation for violation. A citation may be issued immediately for failure to comply with the provisions of this section. However, if the operator is in compliance with an approved noise management plan, and a violation occurs, the operator will be given twenty-four (24) hours from notice of noncompliance to correct the violation from an identified source before a citation is issued or other enforcement action is taken. Additional extensions of twenty-four (24) hour periods may be granted in the event that the source of the violation cannot be identified after reasonable diligence by the operator.

- (k) Tank specifications for a surface permit. The construction and installation of all tanks and permanent structures shall conform to the requirements of the commission and any other local, state or federal agency. The top of the tanks shall be no higher than fifteen feet (15'). All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five feet (25') from any public right-of-way or property line. All transport trucks shall be filled on site, not on public rights-of-way or streets.
- (l) Inclusive of all provisions. All other provisions outlined in this chapter shall be required.

Sec. 18-8. Issuance of surface permits

- (a) Permit approval or denial. It is the responsibility of the city inspector to review and approve or disapprove based on the criteria established by this chapter all applications for surface permits for drill sites located more than six hundred feet (600') from a protected use for which a building permit has been issued on the date the application for a permit is filed with the city inspector. City inspector, within thirty (30) calendar days of the receipt of a complete application demonstrating compliance with all applicable requirements of this chapter, and remittance of all fees, insurance and security per the requirements of this chapter for a surface permit, shall issue a surface permit for the drill site, including the installation of the facilities.
- (b) Building permits issued on date of filing application. The provisions of this chapter shall apply to any dwellings or buildings for which an application for a building permit has been submitted on the date the application for a surface permit is filed with the city inspector.
- (c) Notice of denial. If the city inspector denies a surface permit application, he/she shall notify the operator in writing of such denial stating the reasons for the denial. Within thirty (30) calendar days of the date of the written decision of the city inspector to deny the surface permit, the operator may:
 - (1) Cure the reason(s) for denial. Cure those conditions that caused the denial and resubmit the application to the city inspector for approval and issuance of the surface permit; or
 - (2) Appeal. File an appeal through the city manager to the city council under the provisions outlined in this chapter.

Sec. 18-9. Amended surface permits

An operator may request to amend a surface permit, to relocate a drill site or operation site that was shown on the application, provided the distance from a protected use is not less than six hundred feet (600').

Sec. 18-10. Transfer of surface permit

- (a) Written request. A surface permit may be transferred upon written request by the operator with the consent of the city:
 - (1) Transferee agreement. If the transferee agrees to be bound by the terms and conditions of the current surface permit and citywide road maintenance agreement;
 - (2) Update information. If all information previously provided to the city as part of the current surface permit application is updated to reflect any changes; and
 - (3) Insurance and security. If the transferee provides the insurance and security required by this chapter.
- (b) Insurance and security. The insurance and security provided by the transferor shall be released if a copy of the written transfer is provided to the city. The transfer shall not relieve the transferor from any liability to the city arising out of any activities conducted prior to the transfer.
- (c) Transfer fee. Applications for the transfer of surface permits shall be filed with the city inspector. The application fee for the transfer as set forth in the fee schedule referenced in Section 18-21 and shall accompany each surface permit transfer application.

Sec. 18-11. Suspension or revocation of surface permit; effect

- (a) Suspension or revocation. If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a surface permit (including any requirement incorporated by reference as part of the surface permit), the city inspector shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than thirty (30) calendar days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter.
- (b) Failure to correct. If the operator fails to correct the noncompliance within thirty (30) calendar days from the date of the notice, the city inspector may suspend or revoke the surface permit pursuant to the provisions of this chapter.
- (c) Appeal. Operator may, within thirty (30) calendar days of the date of the decision of the city inspector in writing to suspend or revoke a surface permit, file an appeal through the city manager to the city council under the provisions outlined in this chapter.

- (d) No work performed during suspension or revocation. No person shall carry on any operations performed under the terms of the surface permit issued under this chapter during any period of any surface permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the surface permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the surface permit was ordered for the safety of persons or as required by the city council.

Sec. 18-12. Periodic reports

- (a) Report timing. The operator shall notify the city inspector of any changes to the following information within one business week after the change occurs:
 - (1) Name. The name, address, and phone number of the operator;
 - (2) Name of person to receive notice. The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of the state that can be served in person or by registered or certified mail); and
 - (3) Emergency action response plan. The operator's emergency action response plan (including “drive-to-maps” from public rights-of-way to each drill site).
- (b) Contact information for person with supervisory authority. The operator shall notify the city inspector of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one (1) business day.
- (c) Incident reports. The operator shall provide a copy to the city of any “incident reports” or written complaints submitted to the commission within thirty (30) calendar days after the operator has notice of the existence of such reports or complaints.
- (d) Annual report. Beginning on December 31st after each well is completed, and continuing on each December 31st thereafter, until the operator notifies the city inspector that the well has been abandoned and the site restored, the operator shall submit a written report to the city inspector identifying any changes to the information that was included in the application for the applicable surface permit that have not been previously reported to the city.
- (e) Annual site inspection. The city inspector shall perform an annual site inspection to insure that the operator is conducting operations in compliance with the surface permit and the provisions of this chapter and to verify the accuracy of the information reported pursuant to this section. The operator shall pay an annual inspection fee in an amount that as set forth in the fee schedule referenced in Section 18-21. The annual inspection fee shall be paid no later than May 30th of each year.

- (f) Follow up inspection. Incidents requiring notification to the commission shall require a follow up inspection by the city inspector. The fee for said follow up inspection as set forth in the fee schedule referenced in Section 18-21. Said fee shall be paid within thirty (30) calendar days of being notified of the need for a follow up inspection.

Sec. 18-13. Bond, irrevocable letter of credit, indemnity, insurance

- (a) General requirements. The operator shall be required to perform the items listed below:
- (1) Comply with terms of chapter. Comply with the terms and conditions of this chapter and the surface permit issued hereunder.
 - (2) Restore to conditions existing prior to operation. Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring during operations; and after abandonment or completion grade, level, and restore such property to the same surface conditions as nearly as possible as existed before operations.
 - (3) Indemnify and hold harmless. Indemnify and hold harmless the city, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by operator under a surface permit:
 - (A) Where such injuries, death or damages are caused by operator's sole negligence or the joint negligence of operator and any other person or entity; and
 - (B) Regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of operator.
 - (4) Pay fines. Promptly pay all fines, penalties and other assessments, including but not limited to road damage, imposed due to breach of any terms of the surface permit; and
 - (5) Restore to former condition. Promptly restore to its former condition any public property damaged by the oil or gas operation.

- (b) Bond. Prior to the issuance of a surface permit the operator shall provide the city inspector with a security instrument in the form of a bond. The bond shall be executed by a reliable surety company appearing the in the U.S. Department of the Treasury Circular 570 list of approved sureties, authorized to do business in the state of Texas, acceptable to the city. The bond shall become effective on or before the date the surface permit is issued and shall remain in force and effect for at least a period of six (6) months after the expiration of the surface permit term or until the well is plugged and abandoned and the site is restored, whichever occurs first. The operator shall be listed as principal and the instrument shall be for the benefit of the city, as obligee, and shall be conditioned that the operator will comply with the terms and regulations of this chapter and the city. The city shall be authorized to draw upon such bond to recover any fines, penalties or road damages assessed under this chapter. The original bond shall be submitted to the city secretary with a copy of the same provided to the city inspector.
- (c) Letter of credit. In lieu of a bond, the operator may choose to provide an irrevocable letter of credit which shall be issued by a reliable bank authorized to do business in the state of Texas and shall become effective on or before the date the surface permit is issued. The letter of credit shall remain in force and effect for at least a period of six (6) months after the expiration of the surface permit term. The city shall be authorized to draw upon such letter of credit to recover any fines or penalties or road damages assessed under this chapter. Evidence of the execution of a letter of credit shall be submitted to the city secretary by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the inspector.
- (d) Security amount. The principal amount of any security instrument shall be fifty thousand dollars (\$50,000.00) for any single well. If, after completion of a well, the applicant/operator, who initially posted a fifty thousand dollar (\$50,000.00) bond or irrevocable letter of credit has complied with all of the provisions of this chapter and whose well is in the producing stage and all drilling operations have ceased, may submit a request to the city inspector to reduce the existing bond or irrevocable letter of credit to ten thousand dollars (\$10,000.00) for the remainder of the time the well produces without reworking. During reworking operations, the amount of the bond or irrevocable letter of credit shall be maintained at fifty thousand dollars (\$50,000.00). An operator drilling or reworking between one (1) and five (5) wells at any given time may elect to provide a blanket bond or irrevocable letter of credit in the principal minimum amount of one hundred fifty thousand dollars (\$150,000.00). If the operator drills or reworks more than five wells at a time, the blanket bond or irrevocable letter of credit shall be increased in increments of fifty thousand dollars (\$50,000.00) per each additional well. Once the wells are in the producing stage and all drilling operations have ceased, the operator may elect to provide a blanket bond or irrevocable letter of credit for the remainder of the time the wells produce, without reworking, as follows:

Number of Producing Wells	Blanket Bond or Irrevocable Letter of Credit Amount Required
Up to 10 wells	\$100,000.00
10 to 50 wells	\$150,000.00
More than 50 wells	\$200,000.00

- (e) City council to determine sufficiency of security. If at any time after no less than a fifteen (15) day written notice to the operator and a public hearing, the city council shall deem any operator's bond or irrevocable letter of credit to be insufficient, it may require the operator to increase the amount of the bond or irrevocable letter of credit up to a maximum of two hundred fifty thousand dollars (\$250,000.00) per well.
- (f) Written notice of default. Whenever the city inspector finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice shall be given to the operator. Such notice shall specify the work to be done and the period of time deemed by the city inspector to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall provide the estimated cost and, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city one hundred twenty-five (125%) percent of the estimated cost of doing the work. In no event, however, shall the cure period be less than thirty (30) calendar days, unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter. The city shall be authorized to draw against any bond or irrevocable letter of credit to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the commission and/or this chapter, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this chapter.
- (g) Other legal action. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done, or the issuer of the security instrument refuses to honor any draft by the city against the bond or irrevocable letter of credit, the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods.
- (h) Termination of securities. When the well or wells covered by said bond or irrevocable letter of credit have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the bond or irrevocable letter of credit issued in compliance with these regulations shall be terminated and cancelled.

- (i) Insurance. In addition to the bond or irrevocable letter of credit required pursuant to this chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in the state of Texas. In the event such insurance policy or policies are cancelled, the surface permit shall be suspended on such date of cancellation and the operator's right to operate under such surface permit shall immediately cease until the operator files additional insurance as provided herein.

(1) General requirements applicable to all policies.

- (A) The city, its officials, employees, agents and officers shall be endorsed as an “additional insured” to all policies except employer's liability coverage under the operator's workers compensation policy.
- (B) All policies shall be written on an occurrence basis except for environmental pollution liability (seepage and pollution coverage) and excess or umbrella liability, which may be on a claims-made basis.
- (C) All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A. M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.
- (D) Deductibles shall be listed on the certificate of insurance and shall be on a “per occurrence” basis unless otherwise stipulated herein.
- (E) Certificates of insurance shall be delivered to the City of Brenham, City Manager, P.O. Box 1059, Brenham, Texas 77834, evidencing all the required coverage's, including endorsements, prior to the issuance of a surface permit.
- (F) All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.
- (G) Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.
- (H) Each policy shall be endorsed to provide the city a minimum thirty (30) calendar day notice of cancellation, nonrenewal, and/or material change in policy terms or coverage. A ten (10) calendar days' notice shall be acceptable in the event of nonpayment of premium.
- (I) During the term of the surface permit, the operator shall report, in a timely manner, to the city inspector any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.
- (J) Upon request, certified copies of all insurance policies shall be furnished to the city.

- (2) Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors' protective liability and personal injury. This coverage shall be a minimum combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.

(3) Excess or umbrella liability.

- (A) Five million dollars (\$5,000,000.00) excess, if the operator has a standalone environmental pollution liability (EPL) policy. Ten million dollars (\$10,000,000.00) excess, if the operator does not have a standalone EPL policy.
- (B) Coverage must include an endorsement for sudden or accidental pollution. If Seepage and pollution coverage is written on a “claims made” basis, the operator must maintain continuous coverage and purchase extended coverage period insurance when necessary.

(4) Environmental pollution liability coverage.

- (A) Operator shall purchase and maintain in force for the duration of the surface permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least one million dollars (\$1,000,000.00) per loss, with an annual aggregate of at least five million dollars (\$5,000,000).
- (B) Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.
- (C) The operator shall maintain continuous coverage and shall purchase extended coverage period insurance when necessary. The extended coverage period insurance must provide that any retroactive date applicable to coverage under the policy precedes the effective date of the issuance of the permit by the city.

(5) Control of well.

- (A) The policy shall cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.
- (B) One million dollars (\$1,000,000.00) per occurrence/no aggregate, if available, otherwise an aggregate of five million dollars (\$5,000,000.00). Five hundred thousand dollars (\$500,000.00) sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

- (6) Workers compensation and employers liability insurance.
 - (A) Workers compensation benefits shall be state statutory limits.
 - (B) Employers liability shall be a minimum of five hundred thousand dollars (\$500,000.00) per accident.
 - (C) Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.
- (7) Automobile liability insurance.
 - (A) Combined single limit of one million dollars (\$1,000,000.00) per occurrence for bodily injury and property damage.
 - (B) Coverage must include all owned, hired and not-owned automobiles.
- (8) Certificates of insurance.
 - (A) The company must be admitted or approved to do business in the state of Texas, unless a surplus lines insurer writes the coverage.
 - (B) The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas Department of Insurance, or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage.
 - (C) Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.
 - (D) Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read:

“THIS POLICY WILL NOT BE CANCELLED OR NONRENEWED WITHOUT THIRTY (30) CALENDAR DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED.”
 - (E) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.
- (j) Indemnification and express negligence provisions. Each surface permit issued by the city Inspector shall include the following language:

“Operator does hereby expressly release and discharge, all claims, demands, actions, judgments, and executions which it ever had, or now has or may have, or assigns may have, or claim to have, against the City of Brenham, Texas, and/or its departments, agents, officers, servants, successors, assigns, sponsors, volunteers, or employees, created by, or arising out of personal injuries, known or unknown, and injuries to property, real or personal, or in any way incidental to or in connection with the performance of the work performed by the operator under a surface permit. The operator shall fully defend, protect, indemnify, and hold harmless the City of Brenham, Texas, its departments, agents, officers, servants, employees, successors, assigns, sponsors, or volunteers from and against each and every claim, demand, or cause of action and any and all liability, damages, obligations, judgments, losses, fines, penalties, costs, fees, and expenses incurred in defense of the City of Brenham, Texas, its departments, agents, officers, servants, or employees, including, without limitation, personal injuries and death in connection therewith which may be made or asserted by operator, its agents, assigns, or any third parties on account of, arising out of, or in any way incidental to or in connection with the performance of the work performed by the operator under a surface permit. The operator agrees to indemnify and hold harmless the City of Brenham, Texas, its departments, its officers, agents, servants, employees, successors, assigns, sponsors, or volunteers from any liabilities or damages suffered as a result of claims, demands, costs, or judgments against the city, its departments, its officers, agents, servants, or employees, created by, or arising out of the acts or omissions of the City of Brenham occurring on the drill site or operation site in the course and scope of inspecting and permitting the surface of the oil or gas wells INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF BRENHAM OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE ABOVE GROUND ACTIVITY RELATED TO OPERATIONS OF THE OIL OR GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF BRENHAM, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF BRENHAM, TEXAS AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE.”

- (k) Notice. The individual designated to receive notice shall be a resident of the state of Texas upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator shall within one business week notify the city inspector in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

Sec. 18-14. Technical regulations

(a) Onsite requirements.

- (1) Abandoned wells. All wells shall be abandoned in accordance with the rules of the commission. No structures shall be built over an abandoned well.
- (2) Compliance. Operator shall comply at all times with all applicable federal, state and city requirements.
- (3) Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any oil or gas operation or the contents of any container used in connection with any oil or gas operation in, into, or upon any public right-of-way, alleys, streets, lots, storm drain, pit, ditch or sewer, sanitary drain or any body of water or watercourse that may ultimately enter into waters of the city, state or United States.
- (4) Dust, vibration, odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.
- (5) Electric lines. All electric lines to production facilities shall be located underground. When electric utility lines are located within three hundred feet (300') of the pad site and are determined to be sufficient for operations, the operator may use fuel-powered generators only as a backup in the event of a power failure.
- (6) Emergency response plan. Prior to the commencement of any oil, gas or other hydrocarbons production activities, operator shall submit to the city inspector an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil or gas wells. Said plan shall use existing guidelines established by the commission, and any other local, state or federal agency.

- (7) Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the fire department and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. Operators must identify sites with hydrogen sulfide (H₂S) producing wells and provide wind direction socks for those sites at the operator's sole cost. The operator shall be responsible for the maintenance and upkeep of equipment required herein. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All wellheads shall contain an emergency shut off valve to the well distribution line as required by the commission.
- (8) Freshwater wells. It shall be unlawful to drill any oil or gas well, the center of which, at the surface of the ground, is located within one thousand feet (1,000') to any freshwater well, except for freshwater wells used solely for the oil or gas well operation. The measurement shall be in a direct line from the closest well bore to the freshwater well bore.
- (9) Oil or gas emission or burning restricted. At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank. Venting operations shall be required to comply with the noise regulations contained in this chapter.
- (10) Grass, weeds, trash. All drill and operation sites shall be kept clear of high grass, weeds, and trash. All landscaping shall be continuously maintained in an acceptable manner.
- (11) Hazardous plan. Hazardous materials management plan shall be on file with the fire marshal and the city inspector. A safety data sheet (SDS) will be maintained at each location and shall be readily available for fire personnel to review in the event of an emergency. Additionally, any hazardous materials protected as "trade secret" shall be disclosed to fire personnel in the event of an emergency, in accordance with commission rules.
- (12) Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the drill or operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred feet (300').
- (13) Closed loop mud systems. A closed loop mud system shall be used in conjunction with all drilling and reworking operations for all surface permits, unless specifically waived by the city council.

(14) Private roads and drill sites. Prior to the commencement of any drilling operations, all private roads used for access to the drill site and the operation site itself shall be at least ten (10') feet wide, have an overhead clearance of fourteen (14') feet and shall be surfaced with crushed rock, gravel or ore and maintained to prevent dust and mud. Further, an ample supply of dust suppressant shall be maintained on any private road used for access to the drill site so as to prevent dust during the lifetime use of the road. In particular cases these requirements governing surfacing of private roads may be altered at the discretion of the city inspector after consideration of all circumstances including, but not limited to, the following: distances from public streets and highways; distances from adjoining and nearby property owners whose surface rights are not leased by the operation; the purpose for which the property of such owners is or may be used; topographical features; nature of the soil; and exposure to wind.

(15) Signs.

(A) A sign shall be immediately and prominently displayed adjacent to the public right-of-way at the gate on the temporary and permanent site fencing erected pursuant to this chapter. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the commission, shall have a surface area of not less than two (2) square feet nor more than four (4) square feet and shall be lettered with the following:

(i) Well name and number;

(ii) Name of operator;

(iii) The emergency 911 number; and

(iv) Telephone numbers of two (2) persons responsible for the well who may be contacted in case of emergency.

(B) Permanent weatherproof signs reading “danger no smoking allowed” shall be posted immediately upon completion of the drill site fencing at the entrance of each drill site and tank battery or in any other location approved or designated by the fire marshal of the city. Sign lettering shall be four (4") inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the commission.

(16) Storage of equipment.

(A) Onsite storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.

- (B) No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire department shall be the entity that determines whether equipment on the site shall constitute a fire hazard. Vehicles containing hazardous materials shall be placarded according to National Fire Protection Association requirements.

(17) Storage tanks.

- (A) All storage tanks shall be equipped with firewalls, berms or secondary containment system including lining with an impervious material. The firewall, berms or secondary containment system shall be in accordance with the rules of the commission and any other local, state or federal agency. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank.
- (B) All tanks shall be set back pursuant to the standards of the commission and the National Fire Protection Association, but in all cases, shall be at least twenty-five feet (25') from any public right-of-way or property line. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation in the tank.
- (C) No meters, storage tanks, separation facilities, or other above ground facilities, other than the wellhead and flow lines, shall be placed within any floodway as defined by the most current FEMA map, without the prior consent of the city council.
- (D) To the extent that it is technically feasible, all storage tanks, separators and compressors serving multiple wells shall be kept as a group on a single site.

(18) Tank battery facilities. Tank battery facilities and/or storage tanks shall be equipped with a remote foam line and a lightning arrestor system.

(19) Valves. Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the drill site to enable it to close the shut-off valve in an emergency.

(20) Waste disposal. Unless otherwise directed by the commission, all tanks used for storage shall conform to the following:

- (A) Operator must use portable closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, flame arrester and pressure relief valve. A fence applicable to the issued permit classification must enclose all tanks. No tank battery/storage tank shall be within three hundred feet (300') of any dwelling or other combustible structure.
- (B) Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, reworking or

deepening of any well shall be processed through a closed loop mud system. All disposals must be in accordance with the rules of the commission and any other appropriate local, state or federal agency.

(C) Unless otherwise directed by the commission, waste materials shall be removed from the site and transported to an offsite disposal facility not less often than every thirty (30) calendar days. Water stored in onsite tanks shall be removed as necessary.

(D) All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, and any other appropriate local, state or federal agency.

(21) Watchman. The operator must keep a watchman or security personnel on-site during the drilling or reworking of a well when other workmen are not on the premises.

(22) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks and secondary containment. When requiring painting of such facilities, the city inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue, black and brown, or other neutral colors approved by the city inspector. The color of all tanks, fixed equipment and painted surfaces, including fences, shall be the same throughout the pad site.

(23) Hydrogen sulfide. If a gas or oil field is identified as a hydrogen sulfide (H₂S) field under RRC, TCEQ, or EPA regulations, or if a well is producing hydrogen sulfide (H₂S) gas over applicable commission, and any other appropriate, state or federal agency standards, the operator shall immediately stabilize and cease any additional oil or gas operations of that well or facility.

(24) Saltwater wells. No saltwater wells, or disposal wells shall be located within the city.

(b) Well setbacks. Except as otherwise provided in this section, it shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

(1) Boundary of drill site. Within seventy-five feet (75') from the boundary of the drill/operation site;

(2) Storage tank. Within seventy-five feet (75') from any storage tank, or source of ignition;

(3) Public street. Within six hundred feet (600') of any public street, road, highway or future street, right-of-way or property line, or railroad right-of-way;

(4) Protected use. Within six hundred feet (600') from any protected use;

- (5) Accessory building. Within one hundred feet (100') of any building accessory to, but not necessary to the operation of the well; or
 - (6) Freshwater well. Within one thousand feet (1,000') to any freshwater well. The measurement shall be in a direct line from the closest well bore to the freshwater well bore.
 - (7) Outer boundary line. Within three hundred feet (300') from an outer boundary surface property line or a distance minus the required zoning setback of the adjacent property at the time of permitting the first oil or gas well unless one of the following conditions exist:
 - i. The oil, gas and mineral lease precedes the formation of an outer boundary surface property line; or
 - ii. The adjacent property is owned or under lease by the operator.
- (c) General information. The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed in subsections (b)(1) through (6) above.
- (1) There will be a minimum twenty-five foot (25') landscape buffer on all sides of the area adjacent to and outside of the fence of the operation site.
 - (2) The distances set out in subsection (b)(1), (3) or (6) of this section may be reduced at the discretion of the city council. The reduction of the distance requirement for freshwater wells is subject to the commission regulations and any other appropriate local, state or federal agency.
 - (3) The distance set out in subsection (b)(4) of this section may be reduced to three hundred feet (300') from any protected use, with a:
 - (A) waiver granted by the city council; or
 - (B) written notarized waivers granted by all the protected use property owners within a six hundred foot (600') radius around the proposed well.
- (d) Installation of pipelines on, under or across public property.
- (1) Franchise. The operator shall apply to the city for a franchise agreement on, over, under, along or across the city streets, sidewalks, alleys and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may be continued under a surface permit issued pursuant to this chapter. Operator shall:
 - (A) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of-way.
 - (B) Furnish to the city inspector of the city a plat showing the location of such pipelines.

- (C) Construct such lines out of pipe in accordance with the city codes and regulations properly cased and vented if under a street.
 - (D) Grade, level and restore such property to the same surface condition, as nearly as practicable, as existed when operations for the drilling of the well were first commenced.
- (2) Drilling in streets prohibited. No surface permit shall be issued for any well to be drilled within any of the streets or alleys of the city and/or projected streets or alleys shown by the current master/thoroughfare plan of the city, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the city council. Any consent shall be temporary in nature and state the number of hours and/or days that any street or alley may be blocked, encumbered or closed. The decision to authorize a license agreement in accordance with this section shall be in the sole discretion of the city council.

Sec. 18-15. Cleanup and maintenance

This section applies to new surface permits as well as oil and gas wells that are in existence at the time of adoption of this chapter. All drill sites shall be maintained to this cleanup and maintenance standard.

- (1) Cleanup after well servicing. After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within sixty (60) calendar days.
- (2) Cleanup after spills, leaks and malfunctions. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the city inspector all waste materials from any public or private property affected by such spill, leak or malfunction. Cleanup operations must begin immediately. If the owner fails to begin site cleanup within twenty-four (24) hours, the city shall have the right to contact the commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.
- (3) Free from debris. The property on which a drill site is located shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material.
- (4) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the city inspector shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of green, blue, black and brown, or other neutral colors approved by the city inspector.

- (5) Blowouts. In the event of the loss of control of any well, operator shall immediately take all reasonable steps to regain control regardless of any other provision of this chapter and shall notify the city inspector as soon as practicable. The city inspector shall certify in writing, briefly describing the same, to the city manager. If the city inspector, in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the city inspector may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the city inspector deems necessary to regain control of such well. The city shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the city inspector in gaining control of said well.
- (6) Secondary containment. All storage tanks shall be equipped with a firewall, berm or secondary containment system including lining with an impervious material. The firewall, berm or secondary containment system shall be in accordance with the rules of the commission and any other local, state or federal agency. Drip pots shall be provided at the pump out connection to contain liquids from the storage tank.

Sec. 18-16. Plugged and abandoned wells

- (a) Surface requirements for plugged and abandoned well. Whenever abandonment occurs pursuant to the requirements of the commission, the operator so abandoning shall be responsible for the restoration of the drill site to its original condition as nearly as practicable, in conformity with the regulations of this chapter.
- (b) Abandonment. Abandonment shall be approved by the city inspector after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the city inspector:
 - (1) Derrick. The derrick and all appurtenant equipment thereto shall be removed from drill site;
 - (2) Tanks. All tanks, towers, and other surface installations shall be removed from the drill site;
 - (3) Concrete foundations. All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the commission;
 - (4) Holes and depressions. All holes and depressions shall be filled with clean, compactable soil;
 - (5) Waste. All waste, refuse or waste material shall be removed from the drill site; and
 - (6) Compliance. During abandonment, operator shall comply with all applicable sections in this chapter.

- (7) Permanent marker. A permanent abandonment marker pipe, with well identity and location permanently inscribed shall be welded to casing and shall be at least four inches (4") in diameter with a length of four feet (4') visible above ground level.
- (c) Abandoned well requirement. The operator shall furnish the following at the discretion of the city inspector:
- (1) Commission approval. A copy of the approval of the commission confirming compliance with all abandonment proceedings under the state law; and
 - (2) Notice. A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.
- (d) Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

Sec. 18-17. Technical advisor

The city may from time to time employ a technical advisor or advisors who are experienced and educated in the oil or gas industry or the law as it pertains to oil or gas matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to oil or gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisor(s) is employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this chapter, then the cost the services of the technical advisor(s) shall be assessed against and paid for by the operator in addition to any fees or charges assessed pursuant to this chapter. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor shall be approved by the city manager.

Sec. 18-18. Extraterritorial jurisdiction (ETJ)

- (a) Site plan required. All wells drilled, redrilled/reworked after the passage of this chapter that are located within the ETJ of the city shall file a site plan with the city secretary showing the property boundaries and location of said well and associated equipment. No fee shall be charged by the city for said filing.

- (b) Road maintenance agreement. Any oil or gas well to be drilled or being drilled in the ETJ on the effective date of this chapter, using trucks larger than 3 tons, that will be traveling on city maintained streets during drilling, production, transportation or any other related activity must sign a citywide road maintenance agreement. The agreement shall provide that the operator shall repair, at his own expense, damage to roads or streets caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, transportation and operation of oil and or gas wells. City shall determine degree of damage, dollar amount owed and bill annually. Operator shall provide the number of truck trips, truck types and weights, loaded and unloaded. Agreement may also contain provisions to protect the health, welfare and safety of the citizens along the streets being used, such as, speed limits, other traffic-control devices, days and times of usage, turning movements, noise limitations, etc. Failure to sign and abide by the citywide road maintenance agreement will result in the loss of the privilege to use city streets.

Sec. 18-19. Appeals

- (a) Failure to cure. If the operator does not cure any noncompliance within the time specified in this chapter, the inspector, upon written notice to the operator, may suspend or revoke the surface permit.
- (b) File appeal. Operator may, within thirty (30) calendar days of the date of the decision of the inspector in writing to suspend or revoke a surface use permit, file an appeal through the city manager to the city council under the provisions outlined in this section.
- (c) Council appeal. The city council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the revocation or suspension of any surface use permit issued by the inspector as provided by this chapter. Any person or entity whose permit is suspended or revoked or whose well or equipment is deemed by the inspector to be abandoned may, within thirty (30) calendar days of the date of the written decision of the inspector file an appeal to the city council in accordance with the following procedure.
 - (1) Appeal in writing. An appeal shall be in writing and shall be filed in triplicate with the city secretary. The grounds for appeal must be set forth specifically, and the error described, by the appellant.
 - (2) City council agenda. Within forty-five (45) calendar days of receipt of the records, the city secretary shall transmit all papers involved in the proceeding, place the matter on the city council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need to be given.
- (d) Fee. Appeal fees shall be required for every appeal and as set forth in the fee schedule referenced in Section 18-21.
- (e) Decision final. The decision of the city council shall be final.

Sec. 18-20. Takings determination

- (a) Taking application. Any aggrieved person who believes that an action taken pursuant to this chapter by the city council or any officer, employee or agent of the city would legally constitute a taking of property without just compensation under the state or United States Constitution, must file an application with the city council to request a takings determination.
- (b) File with city secretary. The applicant seeking a takings determination from the city council shall file its application with the office of the city secretary at least thirty (30) days prior to the next regularly scheduled city council meeting. The city secretary shall then forward the takings determination application to the city council for consideration. The application fee as set forth in the fee schedule referenced in Section 18-21 shall accompany each filing.
- (c) Evidence of takings. The application shall state the reasons the applicant believes would support a finding that the city's application of the provisions of this chapter to the applicant's property would legally constitute a taking under the state or United States Constitution and shall include evidence substantiating the purported diminution in value of the applicant's property.
- (d) Burden of proof. At the takings determination hearing conducted by the city council, the applicant must present detailed economic information and other evidence necessary to establish that the city's application of the provisions of this chapter to the applicant's property would legally constitute a taking of the property without just compensation. The applicant has the burden of proof in establishing that the city's application of the provisions of this chapter to the applicant's property legally constitutes a taking of property without just compensation under the state or United States Constitution.
- (e) Council powers. The city council may administer oaths, compel the attendance of witnesses and require the disclosure of financial information from the applicant that the city council determines is necessary to make a determination regarding whether the city's application of the provisions of this chapter to the applicant's property legally constitutes a taking of property without just compensation under the state or United States Constitution.
- (f) Council finding.
 - (1) If the council finds in favor of the applicant it may:
 - (A) Grant the relief requested;
 - (B) Direct the city manager to rescind action taken by city staff or agent that formed the basis of the takings determination application; or
 - (C) Direct the city manager to reconsider action taken by city staff or agent that formed the basis of the takings determination application.

- (2) If the council denies the application, or after a favorable determination the city council fails to take action as specified above, the applicant may appeal the decision or inaction of the city council to the county or district court of the county in which the affected real property is located within thirty (30) calendar days of the date that the council issues its final decision.

Sec. 18-21. Fee Schedule

Oil and gas well drilling and production activities are subject to the following fees which amounts shall be established by resolution adopted by the City Council, and said resolution shall be available in the city secretary's office:

- (1) Surface permit fee.
- (2) Extended permit fee.
- (3) Annual inspection fee.
- (4) Follow-up inspection fee.
- (5) Amended permit fee.
- (6) Transfer permit fee.
- (7) Appeal fee.
- (8) "Taking" application fee.

Sec. 18-22. Penalty

- (a) Unlawful. It shall be unlawful and an offense for any person to do the following:
 - (1) Activities not permitted. Engage in any activity not permitted by the terms of a surface permit issued under this chapter;
 - (2) Failure to comply. Fail to comply with any condition set forth in a surface permit issued under this chapter; or
 - (3) Violate provision. Violate any provision or requirement set forth under this chapter.
- (b) Punishment. Any violation of this chapter shall be punished by a fine of not more than two thousand dollars (\$2,000.00) per day, subject to applicable state law. Each day that a violation exists shall constitute a separate offense. No notice of default required by this chapter shall be a precondition to immediate criminal enforcement due to a violation of this chapter.

SECTION 2. SAVINGS CLAUSE

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

**SECTION 3.
SEVERABILITY**

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

**SECTION 4.
REPEALER**

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

**SECTION 5.
EFFECTIVE DATE**

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

**SECTION 6.
PROPER NOTICE AND MEETINGS**

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

PASSED and APPROVED on its first reading this the 18th day of October, 2018.

PASSED and APPROVED on its second reading this the 1st day of November, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

Ladd and Katherine Hancher Library Foundation

P.O. BOX 878 . COLUMBUS, TEXAS 78934

October 12, 2018

Nancy Carol Roberts Memorial Library
Andria Heiges
100 MLK Jr. Pkwy
Brenham, TX 77833

Dear Andria:

We were able to fund a portion of your project. Enclosed please find a check from the Ladd and Katherine Hancher Library Foundation payable to Nancy Carol Roberts Memorial Library in the amount of \$14,500.00. Please provide written documentation as to how the funds were used on/or before one year from the day the grant is funded.

Very truly yours,


Charlotte Tilotta



To: Mayor, Council and City Manager

From: Dane Rau
Public Works Director

Subject: Purchase and Installation of Playground Equipment for Fireman's Park

Date: October 23, 2018

During the 2018-19, BCDC funding meeting new playground equipment for Fireman's Park was approved for purchase. This equipment will replace an existing playground near the entrance to the park that is slightly over 20 yrs. old. One of our goals when replacing playground equipment was to get a more diverse interactive playscape that would add something different to this park. Game Time has designed just that. The new climber playscapes will bring something different to Fireman's that we do not have in any of our other Parks. This is also something that we have heard from the park users about adding more diversity among our playscape options.

In the budget, BCDC allocated 90,000 to replace the older playscape. We would like to add a KidNetix Eclipse Climber a Spider Net and a new 2-bay swing that will have two toddler swings and two free swings. (See attached rendering) This will also come with the playscape borders and engineered wood fibers for the fall surfacing. The total price falls within budget at \$89,384.69. By adding this is will give park users a different option rather than the slides and platforms that are throughout most of our parks. We will still have slides and platforms in Fireman's Park as the Greenwade playscape will remain along with the other playscape that is closest to the pavilion. The Owsley playscape is also near the Library.

We have already had great reviews from local park users in which we have shared our desires to obtain playscapes that are more interactive.



by Total Recreation Products, Inc.
17802 Grant Road Cypress, Texas 77429
Phone: 281-351-2402
Toll Free: 800-392-9909
Fax: 281-351-2493

QUOTE
#81881

10/01/2018

TJ-08159-18 Rev 2 Fireman's Park

City of Brenham
Attn: Casey Redman
200 West Vulcan Street
Brenham, TX 77834
Phone: 979-337-7235
CRedman@cityofbrenham.org

Ship To Zip: 77301

Quantity	Part #	Description	Unit Price	Amount
1	3144	Game Time - KidNetix Eclipse	\$36,994.00	\$36,994.00
1	3156	Game Time - Spider Net Medium	\$24,519.00	\$24,519.00
1	RDU	Game Time - Two Bay PrimeTime Swing with (2) Belt Seats and (2) Tot Seats	\$2,965.00	\$2,965.00
1	RDU	Game Time - Surfacing Accessories, (72) Playcurbs, (2) 2250 SF Geo Textile Roll and (1) 1125 SF Geo Textile Roll	\$5,195.00	\$5,195.00
1	INSTALL	Game Time - Installation of above equipment and 249 cyds of ewf surfacing provided by others, as well as demo of existing playground. - No other site work, demolition or concrete work included. Acquisition of any and all permits is the sole responsibility of the customer	\$20,921.49	\$20,921.49

Freight calculated to Installer's Zip Code 77301:

SubTotal:	\$90,594.49
Discount:	(\$6,039.00)
Estimated Freight:	\$4,829.20
Total Amount:	\$89,384.69

***Surfacing is NOT included. Per ASTM / CPSC standards,
adequate safety surfacing is required underneath play equipment
with a critical fall height***

DUE TO FLUCTUATING FUEL COSTS, FREIGHT SHOWN IS
ESTIMATED FREIGHT. ACTUAL FREIGHT WILL BE
DETERMINED AT THE TIME OF YOUR ORDER.

PLEASE CONTACT US TO VERIFY CURRENT FREIGHT
CHARGES PRIOR TO PLACING YOUR ORDER.

Contract: [Buy Board Contract #512-16](#)

Important Terms & Conditions - Please Review

To place an order, you must provide one of the following: a Purchase Order assigned to GameTime; or this Price Quotation, signed by an authorized purchaser, with a check made payable to GameTime. GameTime will also accept payment by Visa, MasterCard, or American Express. A current approved credit application is required for Net 30 terms.

10/01/2018

This quotation explicitly excludes any and all items not expressly specified or identified above. No other product, equipment, or service is included, regardless of any Contract Document, Contract Section, Plans, Specifications, Drawing, or Addendum. Delivery for most GameTime equipment is approximately 5-6 weeks after all order documents have been received and payment terms have been approved. A current, approved credit application is required for N30 terms. To place an order, you must provide a purchase order or a signed Total Recreation Products, Inc. (hereafter described as TRP) quote, assigned to GameTime. Neither general contractor nor subcontractor contracts can be accepted. Purchase documents that contain indemnity or hold harmless conditions cannot be accepted. Retainage is not permitted. The following must be received before your order can be processed: complete billing and shipping addresses, a contact name and phone #, and all color choices. Manufacturer's colors may vary from year to year. You are responsible for ensuring that any required submittal approvals are completed before placing your order for processing. TRP reserves the right to limit submittals to one copy. Shop drawings, blueprints, sepia's, are not available. Closeout documents may be limited to GameTime or TRP standard issue. If Sales Tax Exempt, a copy of your tax exemption form or resale certificate must accompany your order, or any applicable sales tax, will be added to your invoice. Most GameTime products are shipped from the Ft. Payne, AL plant. GameTime cannot hold orders or store equipment. Equipment is invoiced when shipped. If a cash sale, your payment must be received in full before the order will be processed. Contractors must also provide copies of current, fully executed bid/performance/payment bonds, as applicable. Pricing shown does not include any charges for permits, bonding, prevailing wage, or additional insured certifications. Unless otherwise noted, any quantity of surfacing or playcurbs quoted has been calculated specifically for the equipment and layout shown. No additional surfacing or curbing is included, and no allowance has been made, for an unlevelled, convoluted or larger site, or for a different layout. Neither GameTime nor TRP is responsible for any surface, curbing, border, or drain that is provided by others. Also please confirm that your area is adequate for the equipment that you are purchasing.

Installation charges, if quoted, are for a "standard" installation unless specifically noted to be otherwise. Installation charges are due upon completion. Standard installations are based upon a soil work site, that is freely accessible by truck, (no fencing, tree/landscaping or utility obstacles, etc.), and level, (+/- 1-2% maximum slope). An accessible water source must be available to the installer. Any site work that is not expressly described is excluded. Standard installation does not include any extra or additional machinery, drillers, etc., for rock excavation. If rock conditions are encountered, additional charges will apply. Standard installations generally require from 2-10 business days to complete, depending upon the amount and type of equipment, site conditions, weather, and the installer's schedule. Work may or may not be performed in consecutive days. Playcurbs are staked in, not set in concrete. Engineered wood fiber and shredded rubber surfacings are spread, not compacted, rolled, or watered. Landscape timbers are not warranted. The Customer is responsible for locating and clearly marking all underground utilities in the installation area before any installation work can begin. The installer is not responsible for damages, repairs, or discontinuance of business due to damaged utilities. If applicable, sprinkler system locates, re-working and repairs are excluded from installation charges. Installation of all products, (equipment, borders, fall surfacing and amenities) are as quoted and approved by acceptance of quotes and drawings. As a precautionary measure, work in progress areas will be taped off at the end of the workday. Pier spoils from installation shall be spread at site, site will be left rough grade. The installer is not responsible for any damages or re-work resulting from after hours events or activities during the work in progress period. Temporary fencing is only provided by specific request, and additional charges will apply. Collectively and/or individually, not the manufacturer, TRP, their representatives, nor the installation company shall be held liable for any damages resulting from misuse, vandalism, or neglect. Any deviations from approved and accepted placement of all items, along with additional work, over and above quoted items, will be chargeable to the customer. Once work is completed the customer will be notified if present at the job site, and all responsibility of any new work will be transferred to the customer. The customer is responsible for maintaining the integrity of completed installation work until all components have seated and/or cured (concrete footings, etc.). Your project site must be completely prepared and ready to receive your equipment before any installation work begins. Acquisition of any and all permits is the sole responsibility of the customer. Additional charges may be billed for any extra hours or trips needed as a result of the work site not being ready. Neither the installation contractor, GameTime nor TRP will be responsible for delays caused by shortages, incorrect parts, weather conditions, other contractors, or lack of site readiness.

If you are receiving your equipment, you are responsible for unloading and accepting delivery from the freight company and reporting any damaged freight or shortages on the freight bill at the time. You will also be responsible for a complete inventory of your received equipment and reporting any discrepancies to us immediately. Neither the freight company nor the manufacturer will resolve shipment discrepancies that are not reported immediately. Make sure that all items have been received before any type of installation work is scheduled. The freight carrier will be instructed to call your designated contact 24 hours before delivery to arrange a delivery appointment.

Once accepted, orders can only be changed or canceled with the consent of GameTime and TRP, and on terms that will indemnify them against loss. Changed or canceled orders are subject to a \$100.00 service charge. Additionally, canceled orders are subject to a 25% restocking fee, plus freight charges (to and from). Built-to-order equipment orders are non-cancelable. Changes to orders that have been shipped and invoiced are subject to the above \$100.00 service charge plus additional restocking/return charges of 25%. Non-returnable items shall be charged at full invoice value. Any return transportation charges shall be for the Buyer's account. Replacement parts are also subject to the cancellation/returns policy. Please carefully review any research information that has been sent to you and confirm that you are ordering the correct replacement parts for your equipment. This quotation is valid 30 days. After 30 days, please request an updated quote. Prices may be subject to material and fuel surcharges at the time of shipment and are subject to change without notice. Current prices will apply at the time of shipment. Acceptance of this quote indicates your agreement to GameTime's credit terms, which are net 30 days, FOB shipping with approved credit. Any deviations from this proposal may invalidate the quoted pricing and/or terms.

THIS QUOTATION IS SUBJECT TO POLICES IN THE CURRENT GAMETIME PARK AND PLAYGROUND CATALOG AND THE FOLLOWING TERMS AND CONDITIONS. OUR QUOTATION IS BASED ON SHIPMENT OF ALL ITEMS AT ONE TIME TO A SINGLE DESTINATION, UNLESS NOTED, AND CHANGES ARE SUBJECT TO PRICE ADJUSTMENT. PURCHASES IN EXCESS OF \$1,000.00 TO BE SUPPORTED BY YOUR WRITTEN PURCHASE ORDER MADE OUT TO GAMETIME, C/O TOTAL RECREATION.

10/01/2018

Please complete and return with your required form of payment:

Acceptance of quotation:

Accepted By (printed): _____

P.O. No: _____

Signature: _____

Date: _____

Title: _____

Phone: _____

Facsimilie: _____

Purchase Amount: **\$89,384.69**

Order Information:

Bill To: _____

Ship To: _____

Company: _____

Company: _____

Attn: _____

Attn: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Contact: _____

Contact: _____

Email Address: _____

Email Address: _____

Tel: _____

Tel: _____

Fax: _____

Fax: _____

For non-taxable purchases: Please also provide a copy of your Sales Tax Exemption Certificate or Resale Certificate.



Intellectual property of Game Time / PlayCore Company. The site shown in rendering is an interpretation and may not reflect exact site conditions.

City of Brenham / Fireman's Park
Brenham, TX
View 2



To: Mayor, Council and City Manager

From: Dane Rau
Public Works Director

Subject: Purchase and Installation of Playground Equipment for Hohlt Park

Date: October 23, 2018

During the 2018-19, BCDC funding meeting new playground equipment for Hohlt Park was also approved for purchase. This equipment will replace an existing playground near the volleyball courts and pavilion that is slightly over 18 yrs. old and is nearing end of life based on recent inspections. One of our goals when replacing playground equipment was to get a more diverse interactive playscape that would add something different to Hohlt Park. We have been eyeing this piece of equipment for the last two year when it came on the market. Miracle Recreation has made a Gravity Rail interactive playscape along with other amenities such as slides and platforms that will fit well in Hohlt Park. This gravity rail playscape will bring something different to Hohlt Park that we do not have in any of our other Parks. This is also something that we have heard from the park users about adding more diversity among our playscape options.

In the budget, BCDC allocated 68,000 to replace the older playscape. We would like to add this gravity rail playscape along with a new 2-bay swing that will have space for either four belt swings or two toddler swings or one expression swing. (See attached rendering) This will also come with the playscape border as well. The total price falls within budget at \$66,280.00. By adding this is will give park users a different option, which no other park will have. We will still have slides and platforms with this playscape, which really makes it unique.

We have already had great reviews from local park users in which we have shared our desires to obtain playscapes that are more interactive.



May Recreation Equipment & Design, L.P.

Park and Playground Design, Supply and Installation

"We Speak Playground!"

Tyler, Texas

bigbie@mayrecreation.com www.mayrecreation.com

Toll Free: (800) 964.6301 • Phone: (903) 539.9992 • Fax: (888) 349.9146

Today's Date:	9/27/18
Project Name:	Hohlt Park
Client Name:	City of Brenham
Contact Name:	Stephen Gerhard
Phone:	979.337.4383

May Recreation Equipment & Design, L.P. is pleased to present the following job estimate based upon plans and/or requests made by the client listed above.

Quantity	Description	Extended
	<u>Miracle Recreation Equipment</u>	
1	714S521 Multi-Deck Play Structure with Gravity Rail	\$60,720.00
1	7188524S 2-Bay Arched Swing w/ 4 Belt Seats - Includes border timbers and ADA ramp	\$5,560.00
(*)	Pricing includes professional installation, & shipping to site for all materials	
	BuyBoard Contract 512-16	
	Shipping address: 2425 North Park Street Brenham, TX 77833	

TOTAL PROJECT ESTIMATE: \$ 66,280.00

Please Note: This proposal is valid for **(30)** days from today's date. Pricing is subject to change without notice thereafter.

Payments will be made according to the following and will be determined by credit information received from customer:

Amount due with acceptance of proposal	PO
Amount due upon completion of project	\$66,280.00

Proposal Acceptance

I hereby authorize Miracle Recreation Equipment Co. (c/o May Recreation Equipment & Design, L.P.) to ship the equipment listed above for which I agree to pay the total amount specified. Payment is due upon receipt of invoice unless otherwise specified. Non-taxable customers will provide proper tax exemption certificate to Miracle Recreation upon request. Purchase orders and payments should be made payable to the order of Miracle Recreation Equipment Co. Purchase orders made out to Miracle Recreation Equipment Co. are required for all orders placed.

Quote Prepared by: *Jeff Bigbie* (May Recreation Equipment & Design, L.P.)

Client Signature	Date
------------------	------

Notes for project: Unless otherwise noted, this proposal does **not** include taxes, site preparation, surfacing or installation. We will make every effort to avoid damaging underground utilities (i.e. cable, water, electric, fax/data lines, and irrigation systems). However, we will not be held responsible for any damages to these items.

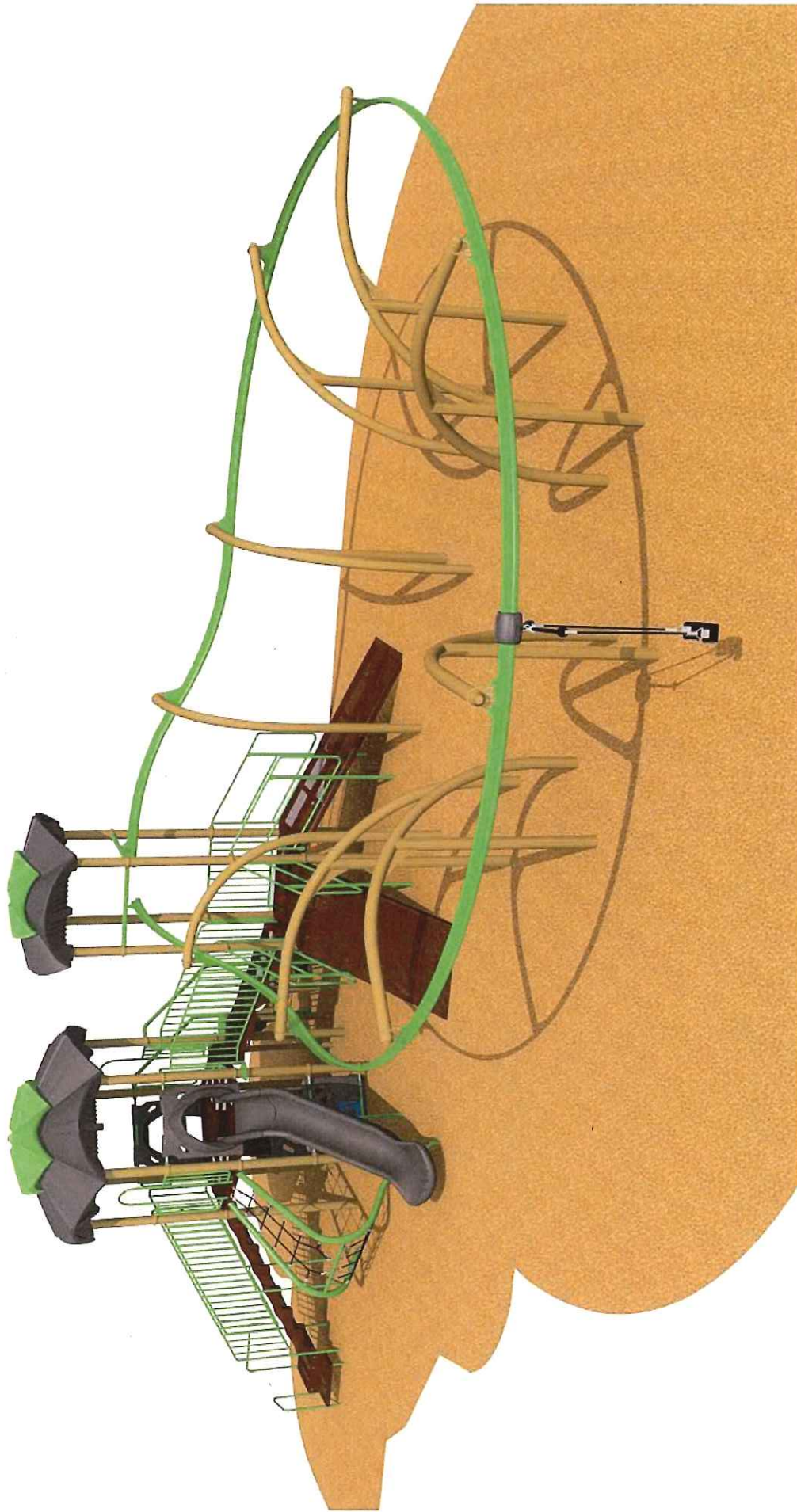
Please sign and fax all pages of this proposal to (888) 349-9146

We also offer the following products for your project

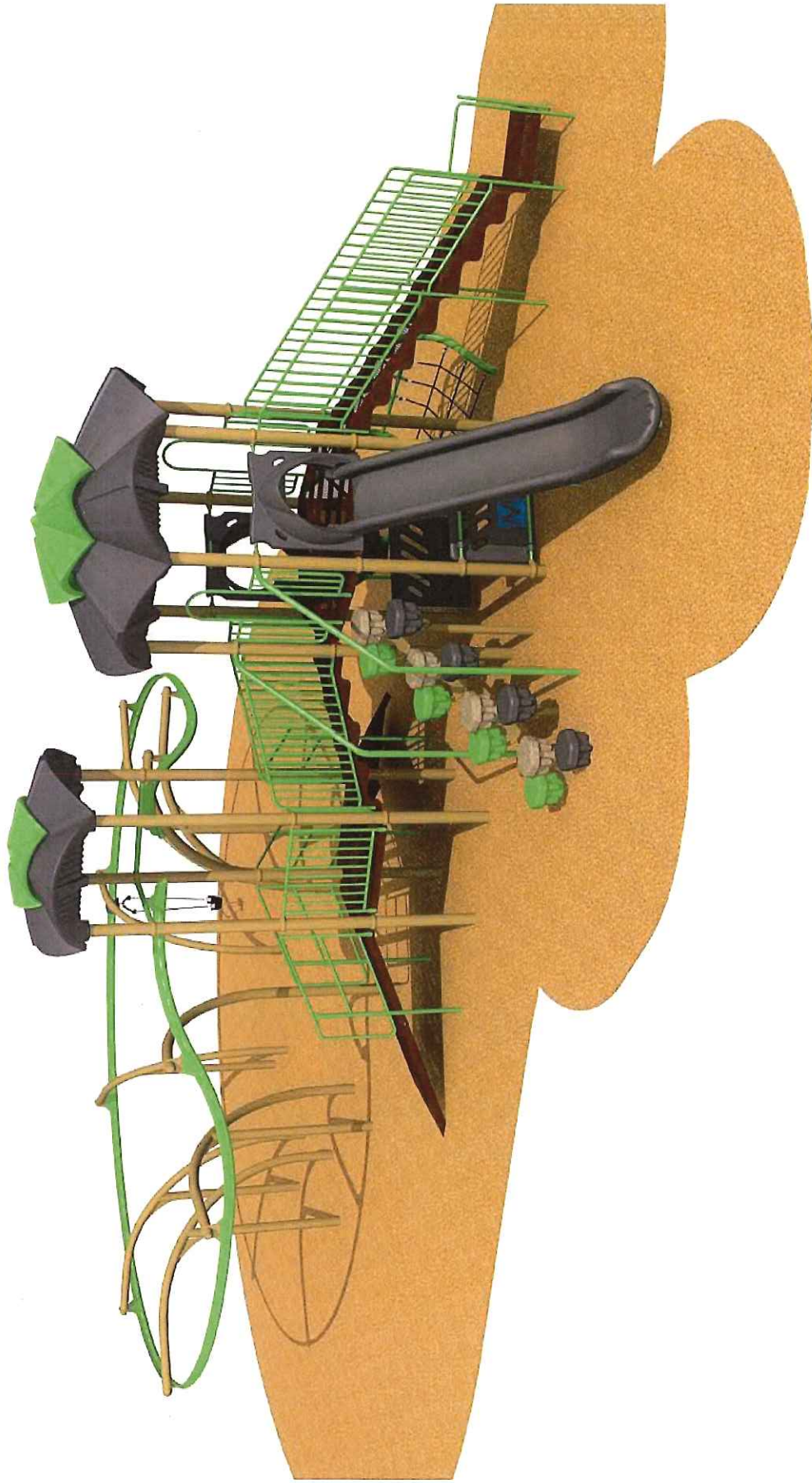
- Playground Equipment
- Pavilion Shelters / Gazebos
- Engineered Wood Fiber Surfacing
- Soccer Goals / Nets
- Picnic Tables / Benches
- Bicycle Racks
- Splash Pads / Spray Grounds
- Rubberized Playground Surfacing
- Drinking Fountains
- Waterslides
- Park Grills
- Shade Structures



Custom Structure (Image 1)



Custom Structure (Image 2)







To: Mayor, Council and City Manager

From: Dane Rau
Public Works Director

Subject: Purchase of Parks Mowing Equipment

Date: October 23, 2018

During the 2018-19 budget process the Parks Dept. was allocated funds to replace older mowers within its mower fleet. We have received our buy board prices from Toro Professional Turf Products L.P. in which we have used for many years. We will be replacing 2 older units with one 100" discharge mower and then replacing an older reel mower with a new one. This is very important as the older units are approaching 18 yrs. old and are costly to maintain.

In the budget, \$43,000 was dedicated to the 100" discharge mower and \$32,000 was dedicate to the 72" reel mower. Prices came in right on target when both are combined. (See buy board price sheet).

We would like to ask council to approve this purchase so that older units in the department can be replaced to improve efficiency and downtime.



Professional Turf Products, L.P.
 9468 Selma Parkway
 Selma, Texas 78154
 Larry Snody
 (682) 330-3676
 sondyl@proturf.com



Ship To	City of Brenham Parks		Date	10/18/2018
	BUYBOARD (CONTRACT # 529-17) - Credit Cards Not Accepted		Tax Rate	
Contact	Casey Redman		Destination	
Address	200 W Vulcan St		Trade-In	
City	Brenham, TX		Finance	
State	TX	Comments:	Account Type	Contract
Postal Code	77833	2337312 (9-26-2018)		
Phone	(979) 337-7250			
Fax	CRedman@cityofbrenham.org			

sat hnl 123

Proposal

Qty	Model #	Description	Unit	Extended
1	31200	GM360 4WD with NO Deck (Tier 4 Final Compliant) (31200 / 31200A)		
1	31101	GM360 100 in Deck (Attachment Kit Required to Mount to GM360)		
1	31103	100 in Deck Attachment Kit for GM360 Models F14 and Newer		
1	30052	MVP KIT		
		Toro GM360 TIV 4WD	\$	43,279.93
1	03170	Reelmaster 3100-D - 21.5 hp diesel		
3	03189	27 IN 8 Blade (RR) Radial Reel EdgeSeries		
1	03244	RM 3100 End Weight Kit (3)		
1	03172	RM3100 27" Lift Arm Kit		
1	119-0635	DPA ROLLER TIPPER KIT		
1	30053	MVP KIT		
		Toro RM3100	\$	31,842.55
SubTotal			\$	75,122.48
Destination				Included
Tax has not been included			\$	-
TOTAL			\$	75,122.48

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.
 For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

1. Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.
2. New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
3. Pricing, including finance options, valid for 30 days from time of quotation.

4. After 30 days all prices are subject to change without notice.
5. Used and Demo equipment is in high demand and availability is subject to change.
 - A. Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - B. In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
 - C. PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
6. "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:

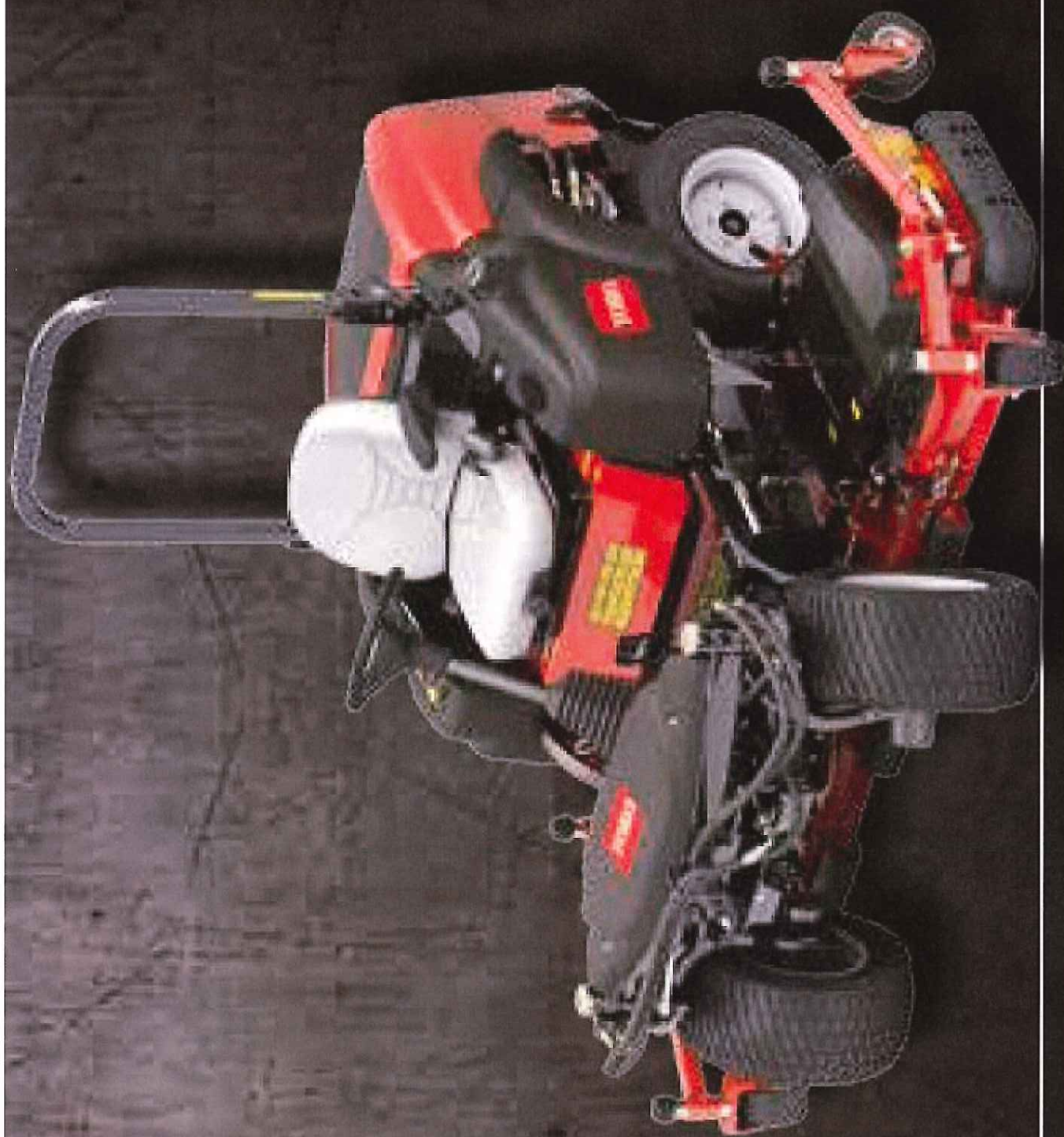
1. All returns are subject to restocking, refurbishing, usage, and shipping fees.
2. All returns must be able to be sold as new.
3. Items missing parts are non returnable.
4. Professional Turf Products will have sole discretion as to the resalable condition of the product.
5. This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

1. Terms are net 10 unless prior arrangements have been made.
2. Quoted prices are subject to credit approval.
 - A. PTP will work with third party financial institutions to secure leases when requested to do so.
 - B. When using third party financiers, documentation fees & advance payments may be required.
 - C. For convenience, monthly payments are estimated based on third party rate factors in effect at time of the quotation.
 - D. PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
3. There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
4. By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.
This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____

Date: _____



GM360 - 254 cm (100") Deck

Reelmaster 3100-D (03170)

Request A Demo



Product Microsite



Testimonials Site



Product
Brochure



Sell Sheet

- Series/Parallel 3WD Traction System
- DPA Cutting Units
- 21.5 hp (16 kw) Diesel Engine
- Rear Mounted Engine



LAW OFFICE OF CARY L. BOVEY, PLLC

2251 Double Creek Dr., Suite 204, Brenham, Texas 78664
(512) 904-9441 Fax (512) 904-9445 cary@boveylaw.com

October 28, 2018

Hon. Milton Y. Tate, Jr., Mayor
Hon. City Councilmembers
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059

**Re: Engagement Letter for Legal Services – City Attorney, General Counseling
and Municipal Court Prosecution**

Dear Mayor Tate and Councilmembers:

On behalf of the Law Office of Cary L. Bovey, PLLC, I want to thank you for the opportunity to continue to serve as City Attorney and to perform Municipal Court prosecution services for the City of Brenham.

The purpose of this letter and the enclosed Terms of Engagement is to memorialize our understanding with respect to the specific nature of our attorney-client relationship. Please review these documents carefully and contact me promptly if you have any questions.

Identity of Client:
City of Brenham, Texas

Nature & Scope of Representation:
While in the future we may be directed to represent you on more specific matters, our present relationship can be described as follows:

Serve as City Attorney, provide general legal services, and perform Municipal Court prosecution services for the City of Brenham.

Financial Arrangements:
Beginning with the December 2018 invoice, the hourly rate for all attorneys at our firm who work on City of Brenham matters will be one hundred and forty-five dollars (\$145.00) per hour. No retainer is necessary prior to our firm performing legal services. Our law firm bills in increments of a tenth of an hour. You will receive a detailed monthly accounting of services rendered by the firm.

Duration:

The terms established by this Letter of Engagement are perpetual, and shall continue until modified by mutual consent of the Client and the firm. Acceptance of these standard terms does not preclude the Client or our firm from proposing alternative arrangements at a later date.

Acceptance of Terms:

If this arrangement is acceptable to you, please sign this letter and return it to me at your earliest convenience. I am truly honored that you are willing to make my firm part of your legal team. If you would like to contact me, please call (512) 904-9441, or e-mail me at cary@boveylaw.com.

Sincerely,

/s/ Cary L. Bovey

Cary L. Bovey

AGREED TO & ACCEPTED:

By: _____
Hon. Milton Y. Tate, Jr., Mayor
City of Brenham, Texas

Date: _____

Please mail/email one signed agreement to Cary.

TERMS OF ENGAGEMENT

This document establishes the terms of our engagement as your attorneys. Unless modified in writing by mutual consent, these terms will be an integral part of our relationship. Therefore, we ask that you carefully review this statement and contact us if you have any questions.

1. Scope of Work

As the client, it is imperative that you have a clear understanding of the legal services the Law Office of Cary L. Bovey, PLLC ("Law Firm") will provide. Any questions that you have should be dealt with promptly. We will provide services related only to matters as to which we have been specifically engaged. The Law Firm will at all times act on your behalf to the best of our ability. Any expressions on our part concerning the outcome of your legal matters are expressions of our best professional judgment, but are not guarantees. Such opinions are necessarily limited by our knowledge of the facts and are based on the state of the law at the time they are expressed. We cannot guarantee the success of any given matter, but we will strive to represent your interests professionally and efficiently.

2. Fees for Legal Services

The charges for professional services provided by the Law Firm will typically be based upon the following: (1) the time devoted to the matter; (2) the novelty and difficulty of the questions presented; (3) the requisite experience, reputation and skill requested to deal with those questions; (4) time limitations imposed by the circumstances; (5) and the quality of the results obtained. Unless otherwise indicated in writing, our fees for legal services are determined on the basis of the hourly rates of the legal staff who perform the services. These rates may vary depending on the expertise and experience of the individual. We will notify you in writing if this fee structure is modified. Currently, the standard billing rate for all attorneys is one hundred forty-five dollars (\$145.00) per hour; the billing rate for paralegals, legal assistants and law clerks is seventy-five dollars (\$75.00) per hour; and the billing rate for administrative support personnel is fifty-five dollars (\$55.00) per hour (fees in U.S. Dollars).

3. Other Charges

All out-of-pocket expenses (such as long distance telephone charges, copying charges, travel expenses, messenger expenses, etc.) incurred by the Law Firm in connection with representing you will be billed to you as a separate item on your monthly statement.

4. Billing Procedures & Terms of Payment

Our billing period begins on the 27th day of the month and ends on the 26th day of the following month. We will render periodic statements to you for legal services and expenses. We usually mail these periodic statements toward the beginning of the month following the latest date covered in the statement. Each statement is payable within thirty (30) days of its stated date and must be paid in U.S. Dollars. If any statement is not paid within thirty (30) days after its stated date, interest at the rate of 1 percent per month (12 percent per annum) will accrue on the balance due. However, if at any time 12 percent

per annum exceeds the highest interest rate permitted by applicable law, then the interest rate that will be applied to any overdue amounts will be reduced to the maximum rate permitted under applicable law. If you have any questions or concerns about any statement that we submit to you for payment, please contact me at your earliest convenience so that we can resolve any problems without delay. Typically, such issues can be resolved satisfactory with little inconvenience or formality.

5. Termination of Services

You have the *right to terminate our services at any time* upon providing written notice to us. Upon receipt of written notice will immediately cease to render additional services, as per your instructions. We reserve the right to discontinue work on pending matters or terminate our attorney-client relationship with you at any time that payment of your account becomes delinquent. We also reserve the right to withdraw when obligated by the Texas Rules of Disciplinary Conduct. Additionally, in the event that you fail to follow our advice and counsel, or otherwise fail to cooperate reasonably with us, we reserve the right to withdraw from representing you upon short notice, regardless of the then status of your matters. No termination shall relieve you of the obligation to pay fees and expenses incurred prior to such termination.

6. Retainer

No retainer shall be required for these matters.

7. Retention of Documents

Although we will attempt to retain for a reasonable time copies of most documents generated by this Law Firm, we cannot be held responsible in any way for failure to do so, and we hereby expressly disclaim any such responsibility or liability. You must retain all originals and among your own files.

8. Fee Estimates

We are often requested to estimate the amount of fees and costs likely to be incurred in connection with a particular matter. Our attorneys do their best to estimate fees and expenses for particular matters when asked to do so. However, an estimate is just that, and the fees and expenses required are ultimately a function of many conditions over which we have little or no control, especially in litigation or negotiation situations where the extent of necessary legal services may depend to a significant degree upon the tactics of the opposition. Unless otherwise agreed in writing with respect to a specific matter, all estimates made by us shall be subject to your agreement and understanding that such estimates do not constitute maximum or fixed fee quotations and that the ultimate cost is frequently more or less than the amount estimated.

9. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, USA. Venue of any case or controversy arising under or pursuant to this Engagement Letter shall be in *Washington County, Texas*, USA.

10. Questions

If during the course of our representation you have any questions about any aspect of our arrangements, please feel entirely free to raise those questions. The Law Firm wants all of our clients to have a clear and satisfactory understanding about every aspect of our billing and payment policies. Accordingly, we encourage an open and frank discussion of any or all of the matters mentioned in this document.

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: McCaul for Congress
2. Name and address of individual making application on behalf of sponsoring organization: Andrew Ross 815 A Brazos St PMB
Austin, TX 78701
3. Purpose of the Event: Rally for Congress McCaul
4. Location of Event: County Courthouse Gazebo
5. Date of the event: 11/3/18
6. Time of Event: 4-6 pm
7. Event Set-up: From: 2 pm To: 3:30 pm
Event Clean-up: From: 6 pm To: 7 pm
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: A program will be put together for some speakers to speak before McCaul
 - b) Bands/Musical Instruments: None
 - c) Sound amplification equipment: Microphone w/ 2 side speakers
 - d) Cleanup provisions: along with base

Andrew Ross
Name of Applicant (Printed or Typed)

Date: 10/17/18

Applicant or Authorized Person's Signature

Phone: 229-425-1470

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? Yes ☒ No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization:
City of Brenham and Boys & Girls Club of Washington County
2. Name and address of individual making application on behalf of sponsoring organization: _____
Crystal Locke - City of Brenham; Angelica Gamboa - Boys & Girls Club of Washington County
3. Purpose of the Event: Pop-up Play Day - bringing free outdoor play for all ages
4. Location of Event: Hattie Mae Flowers Park - 700 Martin Luther King Jr. Pwky
5. Date of the event: Saturday, November 10, 2018
6. Time of Event: 11am-2pm
7. Event Set-up: From: 9am To: 11am
Event Clean-up: From: 2pm To: 3pm
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: _____
Play basketball with Brenham High School teams utilizing the court; tour first responder vehicles, games and prizes with Library and Aquatics, open play area with jump ropes, hula hoops, balls, etc. music, and food.
 - b) Bands/Musical Instruments: No band
 - c) Sound amplification equipment:
Portable PA system for music and announcements throughout the event
 - d) Cleanup provisions: _____

Crystal Locke
Name of Applicant (Printed or Typed)
C. Locke
Applicant or Authorized Person's Signature

Date: 10/18/2018

Phone: 979-337-7854

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? Yes X No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Mt. Rose Missionary Baptist Church
2. Name and address of individual making application on behalf of sponsoring organization: _____
3. Purpose of the Event: Community outreach, coat, blanket giveaway
4. Location of Event: Henderson Park
5. Date of the event: November 17, 2018
6. Time of Event: 10:00 AM - 2:00 PM
7. Event Set-up: From: 8:00 AM To: 10:00 AM
Event Clean-up: From: 2:00 PM To: 3:00 PM
8. You are required to describe the following:
 - a) Types of Activities Planned and any additional information specific to this event: Gospel singing, health screening, food giveaway blankets, coats, & umbrellas to the needy, can food drive
 - b) Bands/Musical Instruments: Speakers, Keyboards, drums, mic
 - c) Sound amplification equipment: Mics, speakers, generators, stage, & chairs
 - d) Cleanup provisions: trash cans, bags

Cheryl Rabera
Name of Applicant (Printed or Typed)

Date: October 7, 2018

Applicant or Authorized Person's Signature

Phone: _____

Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court? Yes ☒ No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

Paid 10/11/18 kw
Cash \$10.00



AGENDA ITEM 7

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 25, 2018	
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Stephanie Doland	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☐ REGULAR ☒ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Presentation and Discussion Regarding the Roles and Responsibilities of the Comprehensive Plan Advisory Committee (CPAC)		
SUMMARY STATEMENT: On September 20, 2018, the City Council approved a professional services agreement with Planning Consultant, Kendig Keast Collaborative (KKC) for the purposes of developing a Comprehensive Plan update. The Comprehensive Plan process includes a large public input component. Citizens, local businesses, local elected and appointed officials, and all community stakeholders are strongly encouraged to participate in the 12-month planning process. KKC has expertise in developing long range planning documents and Comprehensive Plans and is familiar with best practices to encourage and facilitate public participation for the project. KKC will be tasked with collecting public input and formulating community wide goals and objectives in priority order. When the Request for Qualifications was published in April and May 2018, staff included in the scope of the project the formation of a Comprehensive Plan Advisory Committee (CPAC). The CPAC will be tasked with working alongside KKC and City Staff to assist in the development of the plan and to serve as the “sounding board” for the consultants during the formation of the Comprehensive Plan. The CPAC is expected to meet at least four (4) times during the project, and will be encouraged to attend additional public input meetings and related functions. Following Council’s recommendation of three (3) at-large citizen members and one Councilmember representative and alternate, staff will bring forward a draft CPAC member list which will represent a large range of community entities including members from various Boards and Commissions (see attached). City staff is in the process of asking each entity to identify a volunteer interested in serving on the CPAC. Because representatives from City Boards and Commissions are already planned to be represented on the CPAC, staff recommends three at-large members that are not currently serving on boards, committees, or commissions.		

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) List of representatives proposed to comprise the CPAC
FUNDING SOURCE (Where Applicable): NA (On September 20, 2018 Council approved a Professional Services Agreement with Kendig Keast Collaborative for professional services related to development of a Comprehensive Plan for an amount not to exceed \$259,825.00)
RECOMMENDED ACTION: Discussion only
APPROVALS: James Fisher

Comprehensive Plan Advisory Committee (CPAC) Make-up

15 members:

- **Airport Advisory Board** (Representative and Alternate)
- **Board of Adjustment** (Representative and Alternate)
- **Brenham Community Development Corporation** (Representative and Alternate)
- **Library Advisory Board** (Representative and Alternate)
- **Mainstreet Board** (Representative and Alternate)
- **Parks & Recreation Board** (Representative and Alternate)
- **Planning & Zoning Commission** (Representative and Alternate)
- **City Council** (Representative and Alternate)
- **Brenham Independent School District** – Professional
- **Brenham Independent School District** – Student Representative
- **Blinn College** – Professional
- **Blinn College** – Student Representative
- **City Council Appointee**
- **City Council Appointee**
- **City Council Appointee**



AGENDA ITEM 8

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 24, 2018
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Stephanie Doland

MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	☒ PUBLIC HEARING ☐ CONSENT ☐ REGULAR ☐ WORK SESSION	☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION

AGENDA ITEM DESCRIPTION: Public Hearing to Consider Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to Amend the Planned Development (PD) District Ordinance No. O-17-005 for Vintage Farms Subdivision in Brenham, Washington County, Texas (Case No. P-18-024)

SUMMARY STATEMENT: This is the Public Hearing for the request by CTX Land Investments, LLC, d/b/a Stylecraft Builders, to amend Planned Development District Ordinance No. O-17-005 for the Vintage Farms Subdivision.

On behalf of Stylecraft Builders, Doug French is requesting a PD amendment to remove the following section of the PD: *Section 5.b.iv. “Encroachment by building eaves ~~and air conditioning compressor units~~: building eaves ~~and air conditioning compressor units~~ may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.”*

During the regularly scheduled Planning and Zoning Commission meeting on October 22, 2018, Mr. French amended his request to add additional language which if approved would read as follows:
Section 5.b.v. “Encroachment by air conditioner compressor units: Air conditioner compressor units may encroach not more than four and one-half (4 ½) feet beyond building lines into the required rear and side yards. In addition, where two homes are built on adjacent lots only one of the homes may install its air conditioner compressor unit in the adjacent side yard. The other adjacent home must install its air conditioner compressor unit in the opposite side yard or the rear yard.”

This was considered by the Commission and included with their recommendation. No public comments were made during the public hearing.

On Monday, October 22, 2018, after conducting a Public Hearing, the Planning and Zoning Commission voted unanimously to recommend approval of the request, subject to the approval of the Fire Marshal.

On Tuesday, October 23, 2018 Development Services staff conferred with City of Brenham Fire Marshal Sauble who was not opposed to the original amendment or the revised amendment as recommended by the Planning and Zoning Commission.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Staff Report; and (2) Ordinance No. O-17-005
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: None - discussion only
APPROVALS: James Fisher



**Amendment to the
Planned Development District Ordinance for
Vintage Farms Subdivision
(Ordinance No. O-17-005)**

OWNER(S)/APPLICANT: CTX Land Investments, LLC, Stylecraft Builders

ADDRESS/LOCATION: Located along State Highway 36 N in Brenham, Washington County, Texas (Exhibit "A")

LEGAL DESCRIPTION: Approximately 86.664 acres of land located along State Highway 36 N, more specifically described as the Vintage Farms Subdivision in Brenham, Washington County, Texas

LOT AREA: Approximately 86.664 acres

ZONING DISTRICT/ USE: Planned Development (PD) District (Ordinance No. O-17-005) / Residential and Vacant (Exhibit "B")

COMP PLAN FUTURE LAND USE: Commercial/Retail/Single-Family

REQUEST: A request for an amendment to the official zoning map to amend the Planned Development District Ordinance No. O-17-005 for the Vintage Farms Subdivision, located west of State Highway 290 South, being described as Lots 1-22, Block 1, Lots 1-69, Block 2, Lots 1-11, Block 3 and Reserve A-F in the Vintage Farms Subdivision – Phase 1 in Brenham, Washington County, Texas to remove from Section 5.b.iv the restriction that air conditioning condenser units shall not be located within the side and rear building setback.

BACKGROUND:

The Brenham City Council on April 20, 2017 passed and approved Ordinance No. O-17-005, rezoning the subject property from R-1 to Planned Development (PD) District. The existing PD differs from straight zoning in that a mixture of land uses are approved by-right, including single-family and multiple-family residential, commercial and greenspace. In addition to a mixture of land uses, unique standards were established including, unique setbacks and lot standards for single-family lots, a minimum of 12,000 square feet of all-weather recreation trails, and dedication of right-of-way for a minor arterial. .

Since the rezoning of the subject 86.6 acre tract of land, the property has been legally platted and construction of public infrastructure has occurred. Additionally, the Development Services Department has received, reviewed, and issued numerous building permits for Phase I of the Vintage Farms Subdivision.

PROPOSED AMENDMENT:

On behalf of Stylecraft Builders, Doug French is requesting a PD amendment to remove a section of the PD which states that air conditioning condenser units shall not encroach into the side and rear building setbacks by more than 2 feet on single-family residential properties. Attached Exhibit "C" includes a letter from Mr. French explaining the reasons for the request, including the original PD with a strikethrough over the language about AC condenser unit.

PUBLIC COMMENTS:

Property owners within 200 feet of the project site were mailed notifications of this proposal on October 11, 2018, Exhibit "D". The Notice of Public Hearing was published in the paper on October 11, 2018. Any public comments will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

STAFF ANALYSIS AND RECOMMENDATION:

Staff is unable to determine the reasoning or justification for why the language pertaining to air conditioner condenser units was placed in the existing PD for Vintage Farms. Upon receipt of the proposed PD amendment research was conducted to determine what, if any, requirements are currently in place with regard to condensers in the setback elsewhere in Brenham. The City of Brenham adopted the 2012 version of the International Residential Code (IRC) which is silent on the location of AC condensers. However, typical HVAC specifications include a recommendation to place units 12 to 18-inches from the dwelling unit, with 2 feet of clearance around the remaining three sides. Staff randomly selected and reviewed three previously issued building permit applications and found that AC condenser units were either encroaching into the building setback or the locations of the units were not called out on the submitted building plans.

It was also determined that none of the other adopted PD's address AC condenser unit locations. However, speculation can be made that the location of the units was restricted based on the reduction to the minimum setback standards that was applied with the adoption of the PD. Brenham's zoning ordinance requires that single-family detached dwelling units built in the R1 and R2 residential districts adhere to a minimum 10' side building setback. The existing PD for Vintage Farms allowed a reduction of the side building setback to 7.5 feet (a 25% reduction). Due to the reduced setback requirement, it is possible the location of the AC condensers was a compromise to account for the reduced setback.

Appendix A – Zoning, of the Brenham Code of Ordinance defines setback as a "side yard" with the definition being: *a yard extending along the side lot line from the front yard to the rear yard, being the minimum horizontal distance between any building or projections thereof except steps and side lot lines.* A similar definition applies for "rear yard" which refers to the rear setback requirements. Staff finds that historical interpretations of these definitions has not included AC condenser units as a projection that cannot be located in the side yard.

Staff was unable to determine a compelling reason for why regulation of AC condenser units into the building setback will be a public benefit. However, setback standards are established to reduce the risk of conflagration between structures, to ensure that first responders can access all sides of structures, and to preserve light and open space throughout the city. Based on the aforementioned reasons and findings staff does not have a formal recommendation, instead the Planning and Zoning Commission has the discretion to recommend amending the PD to the City Council if they so choose.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Cover letter and proposed PD amendments from applicant
- D. Site photos

EXHIBIT "A"
AERIAL MAP

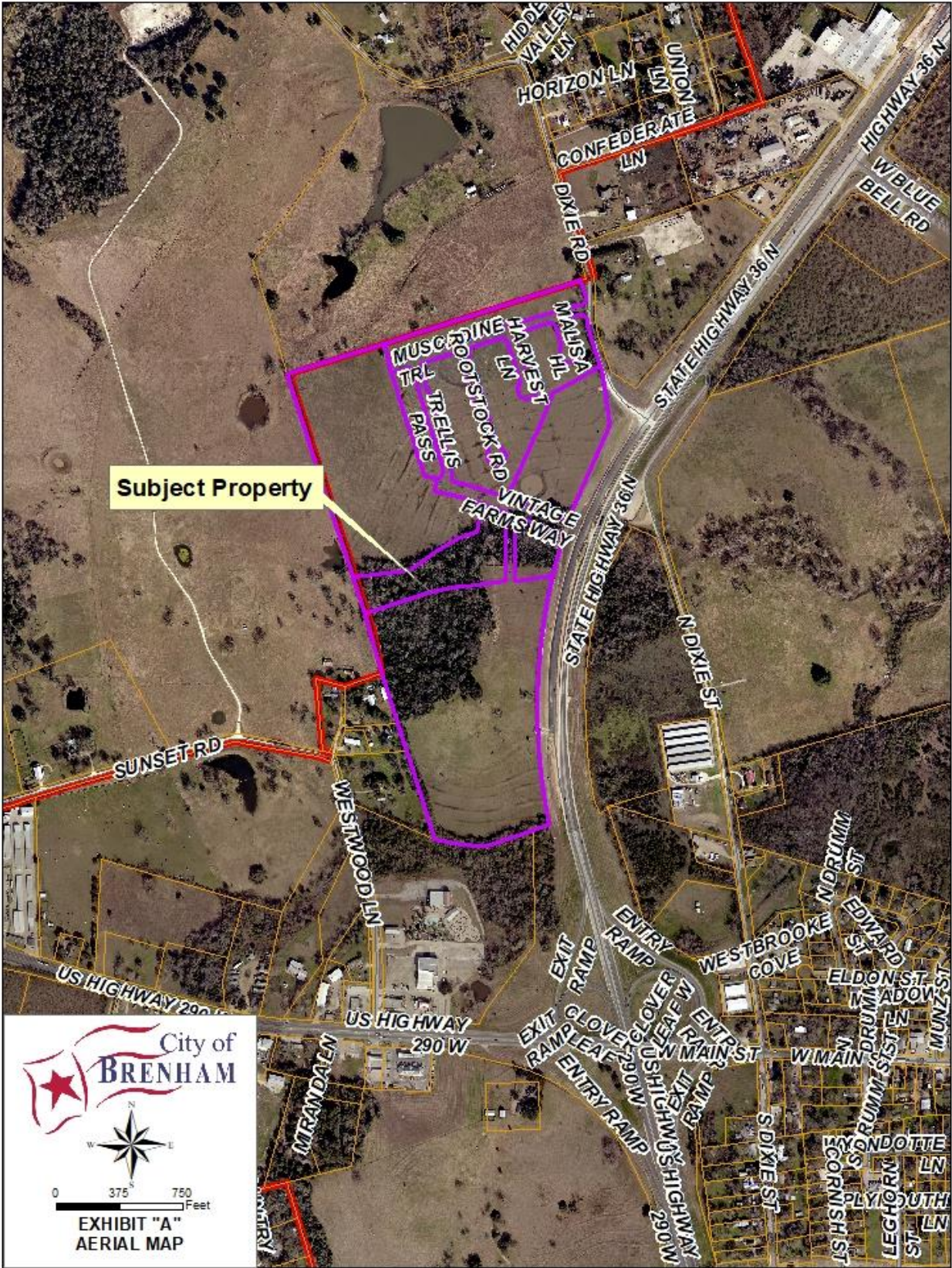


EXHIBIT "B"
ZONING MAP

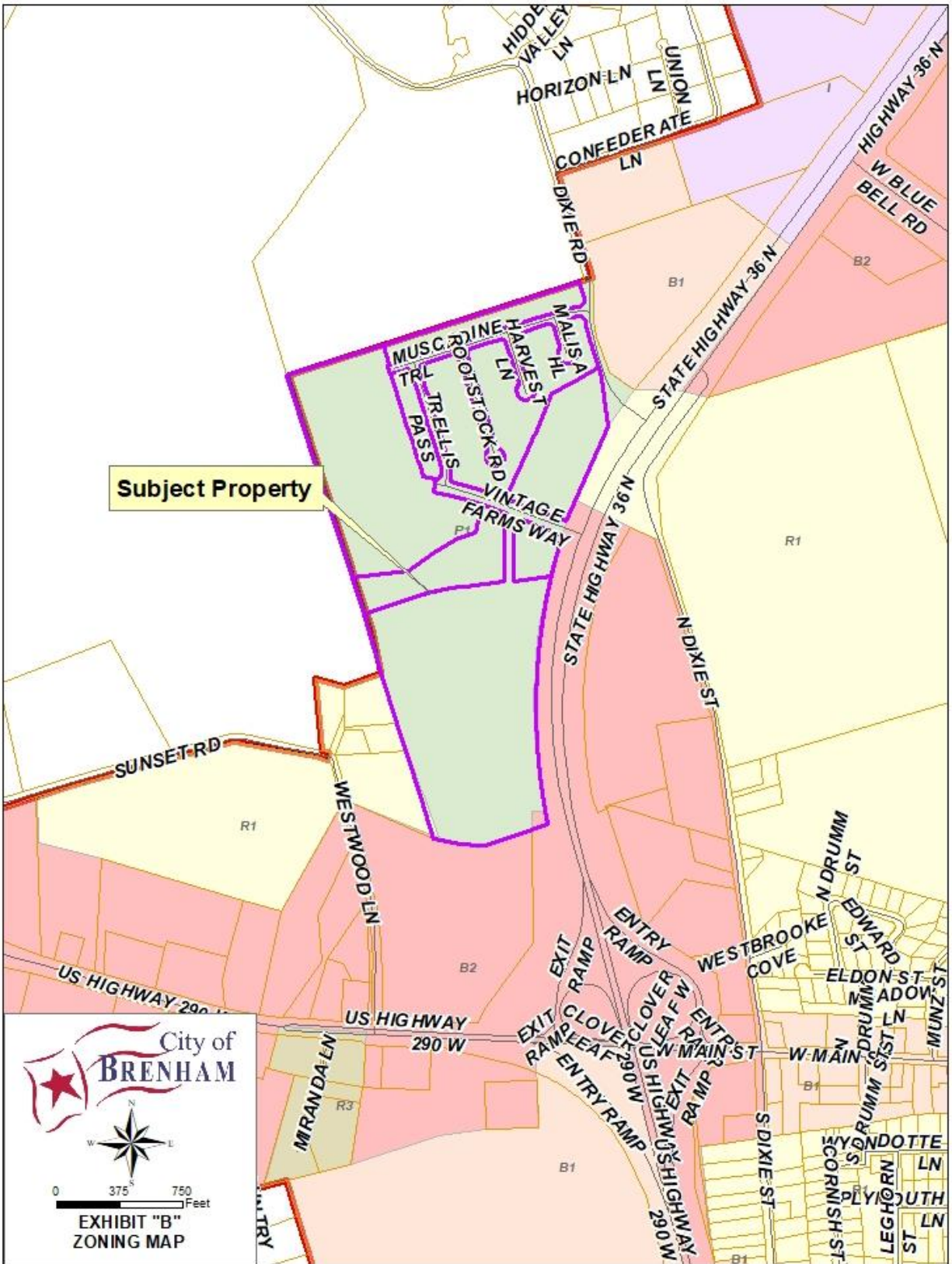


EXHIBIT "C"

Cover letter and proposed PD amendments from applicant

CTX Land Investments, LLC
4090 State Highway 6, South
College Station, TX, 77845
(979) 690-1222

September 25th, 2018

To: City of Brenham

ATTN: Members of the Planning and Zoning Commission
200 West Vulcan Street
Brenham, TX, 77833

RE: Planned Development Amendment

Dear Brenham Planning and Zoning Commission,

CTX Land Investments, LLC respectfully requests a Planned Development Amendment for our tract known legally as A0031 A0031 – Coe, Phillip, TRACT 53, Acres 86.664 (Vintage Farms). The tract is currently zoned planned development (Ordinance 0-17-005). We are requesting a revision to this Planned Development.

More specifically, we are requesting that paragraph 5 item b iv be changed from:

Encroachment by building eaves and air conditioning compressor units: building eaves and air conditioning compressor units may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.

To:

Encroachment by building eaves: building eaves may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.

As is, this restriction would not allow us to place the AC condenser units in the side or in some cases rear yards. Leaving us to place the condenser units in the front of the property. We do not feel that this was the spirit of this restriction, and that overall this will not be good for the residents of Vintage Farms or the community of Brenham as a whole.

I personally apologize for my oversight when this was originally approved. If I had caught it back then it would saved us from having to address it at this time. I apologize for wasting everyone's time. I understand that this is a matter that the City of Brenham takes very seriously and so do we.

If the Planning and Zoning Commission is not comfortable with this change I would ask that a compromise be considered. Any feedback that could be provided to help us understand what is trying to be accomplished with this restriction would help us formulate a plan.

We appreciate the commission's time in considering this request. We would be happy to provide any additional information that would be beneficial to making a decision.

Respectfully,

CTX Land Investments, LLC

A handwritten signature in blue ink, appearing to read 'D. French', with a stylized flourish at the end.

Douglas French

Manager

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO CHANGE PROPERTY CURRENTLY ZONED R-1 RESIDENTIAL DISTRICT TO A PLANNED DEVELOPMENT DISTRICT COMPRISED OF AN R-1 RESIDENTIAL AREA (APPROXIMATELY 71.33 ACRES), AN R-2 MIXED RESIDENTIAL AREA (APPROXIMATELY 8.36 ACRES), AND A B-1 LOCAL BUSINESS/RESIDENTIAL MIXED USE AREA (APPROXIMATELY 6.98 ACRES), BEING A TOTAL OF APPROXIMATELY 86.67 ACRES OF LAND.

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

WHEREAS, Appendix A – “Zoning” provides for the designation of Planned Development Districts in accordance with the regulations set forth therein; and

WHEREAS, the City Council of the City of Brenham desires to designate a Planned Development District as set forth herein below;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

I.

1. That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to change property currently zoned as an R-1 Residential District to establish a Planned Development (PD) District comprised of an R-1 Residential area of approximately 71.33 acres, an R-2 Mixed Residential area of approximately 8.36 acres, and a B-1 Local Business/Residential Mixed Use area of approximately 6.98 acres, said Planned Development District described generally as the property west of and adjacent to State Highway 36, and south of and adjacent to Dixie Road, being all or portions of Tract 53 out of the Phillip Coe Survey in Brenham, Texas, and being more particularly described in the master development plan attached hereto as Exhibit “A” and incorporated herein for all purposes (the “Planned Development District”).

II.

2. Unless otherwise provided for herein, the property located within the R-1 Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-1 Residential Districts.
3. Unless otherwise provided for herein, the property located within the R-2 Mixed Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-2 Mixed Residential Districts.
4. Unless otherwise provided for herein, the property located within the B-1 Local Business/Residential Mixed Use area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to B-1 Local Business/Residential Mixed Use Districts.
5. R-1 Residential Area Regulations.
 - a. Size of lots.
 - i. Minimum lot width: 55 feet. Radial lots shall have a minimum width of 60 feet from the distance of 30 feet behind the front yard/building line. No lot shall be created that has a front yard with less than 30 feet of frontage on a public street.
 - ii. Minimum lot depth: 120 feet, and depth shall be measured as the average of the two side property lines. Radial lots shall have a minimum lot depth of 105 feet, and depth shall be measured as the average of the two side property lines.
 - iii. Minimum lot area: 6,600 square feet.
 - b. Size of yards.
 - i. Minimum front yard setback: 20 feet.
 - ii. Minimum side yard setback: 7.5 feet. The minimum side yard of a corner lot adjacent to a street shall not be less than 15 feet, except where a side yard is adjacent to a designated arterial street such side yard shall not be less than 25 feet.
 - iii. Minimum rear yard setback: 20 feet.
 - iv. Encroachment by building eaves and air-conditioning compressor units: building eaves and air-conditioning compressor units may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.
 - c. Minimum floor area per dwelling:
 - i. 30% of homes shall be required to have a minimum of 2,000 square feet of heated and air-conditioned living quarters/floor area.
 - ii. 90% of homes shall be required to have a minimum of 1,400 square feet of heated and air-conditioned living quarters/floor area.
 - iii. 95% of homes shall be required to have a minimum of 1,300 square feet of heated and air-conditioned living quarters/floor area.
 - iv. 100% of homes shall be required to have a minimum of 1,200 square feet of heated and air-conditioned living quarters/floor area.

6. Facade requirements.

- a. "Masonry" defined: Building materials including brick, brick veneer, concrete, stone, rock, split face block or other materials of equal characteristics laid up unit by unit and set in mortar. For the purposes of this Ordinance, the following materials and applications shall not be considered to be masonry construction:
 - i. Fiber reinforced cementitious boards or panels (such as "Hardi plank" or "Hardi board") designed to be attached directly to studs or sheathing by nails, screws or other types of mechanical connectors;
 - ii. Concrete masonry units (CMU); and
 - iii. Exterior insulating finish system (EIFS) or similar applications.
- b. Minimum masonry construction requirements for all single family residences constructed on property located south of minor arterial are as follows:
 - i. Front façade - masonry 100% up to the soffit.
 - ii. Side façades - masonry on one story homes: 100%
 - iii. Side façades - masonry on two story homes: 50%
- c. Minimum masonry construction requirements for all single family residences constructed on property located north of minor arterial are as follows:
 - i. Front façade: masonry 100% up to the soffit.
- d. Masonry construction requirements for all commercial property located within the B-1 Local Business/Residential Mixed Use area shall comply with the ordinances and regulations in effect at the time application is made for a building permit.
- e. All garage doors shall have a wood or wood like exterior or finish.
- f. Minimum masonry construction requirements do not apply to areas that are considered to be masonry exclusions. "Masonry exclusions" means windows, doors, eaves, soffits, trim work, gables, walls above roof lines, and entryways/porches.

7. Landscape requirements.

- a. Single family residential lots shall have at least two (2) 2" or larger caliper (measured at 6 inches above the ground or tree base) trees planted in the front yard of the residence prior to certificate of occupancy being issued.

8. Lighting. All parking in multifamily and non-residential areas shall have lighting fixtures, equipment and improvements positioned such that the light-emitting source is shielded and the light does not adversely impact adjacent or nearby residential areas. Light originating from multifamily and non-residential areas is not permitted to shine on any real property beyond the boundaries of the multifamily and non-residential areas from which the light originates.

9. All privacy fencing must be installed at a height of not less than six (6) feet and not more than eight (8) feet, except that within the front yard as defined in the City's Zoning Ordinance, no fence shall be higher than three and one-half (3½) feet above the established street grades within twenty (20) feet of any street intersection, measured at the property line. All fencing that is visible to the public must be stabilized with a metal fence post support beam concreted into the ground to a minimum depth of at least one third the height of the fence with a minimum of two (2) 2" dimensional horizontal rails for cedar or treated picket wood fence paneling.

10. All fencing that is adjacent to public right-of-way as shown in "Exhibit A" shall have masonry columns spaced and erected at the property corners.
11. The developer shall dedicate the ultimate ROW for the minor arterial thoroughfare in accordance with the Major Thoroughfare Plan and design the minor arterial thoroughfare in accordance with the City's design standards. However, the developer shall be required to construct the concrete pavement section that is proportional to the development, i.e. residential street. The construction of the pavement section must be constructed in a way to easily widen the pavement section with minimal impact to the traffic and be approved by the City Engineer.
12. All public improvements shall be subject to the approval of the City Engineer in compliance with the City of Brenham design standards.
13. The following will not be permitted within the R-2 Mixed Residential area or B-1 Local Business/Residential Mixed Use area within the Planned Development District:
 - a. Single Family Detached Units;
 - b. Cluster housing in accordance with cluster housing development provisions of the Subdivision Ordinance of the City of Brenham;
 - c. Group residential uses as provided by state law, such as "family homes," "community homes" or "group homes;"
 - d. Garage apartments;
 - e. Multifamily dwellings, including dormitories for students and fraternity or sorority houses;
 - f. Two-family dwellings or duplexes;
 - g. Mobile homes or manufactured homes;
 - h. Zero lot line housing development, in accordance with zero lot line development provisions of the Subdivision Ordinance of the City of Brenham; or
 - i. Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business.
14. A minimum of 12,000 square feet of all-weather trail(s) (for recreational purposes such as walking, jogging, biking, etc.) shall be constructed within the R-1 Residential area of the Planned Development District.
15. The R-1 Residential area shall have green space and perimeter landscaping as dedicated common areas owned and maintained by the homeowners association and designated as reserves on the subdivision plat.
16. A homeowners association shall be established and its governing documents recorded in the Official Public Records of Washington County prior to issuance of first building permit. Prior to recording with Washington County, the homeowners association governing documents must be submitted to the City for review and approval, and said governing documents shall ensure adequate maintenance of the common areas as shown on the master development plan in Exhibit "A."

17. The street layout shall conform to the master development plan shown in Exhibit "A."
18. This Ordinance shall in no manner amend, change, supplement, or revise any provision 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 _____, 2018.

PASSED and APPROVED on its second reading this the ____ day of _____, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST

Jeana Bellinger, TRMC, CMC
City Secretary

EXHIBIT "D"
SITE PHOTOS



ORDINANCE NO. O-17-005

AN ORDINANCE AMENDING APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO CHANGE PROPERTY CURRENTLY ZONED R-1 RESIDENTIAL DISTRICT TO A PLANNED DEVELOPMENT DISTRICT COMPRISED OF AN R-1 RESIDENTIAL AREA (APPROXIMATELY 71.33 ACRES), AN R-2 MIXED RESIDENTIAL AREA (APPROXIMATELY 8.36 ACRES), AND A B-1 LOCAL BUSINESS/RESIDENTIAL MIXED USE AREA (APPROXIMATELY 6.98 ACRES), BEING A TOTAL OF APPROXIMATELY 86.67 ACRES OF LAND.

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

WHEREAS, Appendix A – “Zoning” provides for the designation of Planned Development Districts in accordance with the regulations set forth therein; and

WHEREAS, the City Council of the City of Brenham desires to designate a Planned Development District as set forth herein below;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:

I.

1. That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to change property currently zoned as an R-1 Residential District to establish a Planned Development (PD) District comprised of an R-1 Residential area of approximately 71.33 acres, an R-2 Mixed Residential area of approximately 8.36 acres, and a B-1 Local Business/Residential Mixed Use area of approximately 6.98 acres, said Planned Development District described generally as the property west of and adjacent to State Highway 36, and south of and adjacent to Dixie Road, being all or portions of Tract 53 out of the Phillip Coe Survey in Brenham, Texas, and being more particularly described in the master development plan attached hereto as Exhibit “A” and incorporated herein for all purposes (the “Planned Development District”).

II.

2. Unless otherwise provided for herein, the property located within the R-1 Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-1 Residential Districts.
3. Unless otherwise provided for herein, the property located within the R-2 Mixed Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-2 Mixed Residential Districts.
4. Unless otherwise provided for herein, the property located within the B-1 Local Business/Residential Mixed Use area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City's Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to B-1 Local Business/Residential Mixed Use Districts.
5. R-1 Residential Area Regulations.
 - a. Size of lots.
 - i. Minimum lot width: 55 feet. Radial lots shall have a minimum width of 60 feet from the distance of 30 feet behind the front yard/building line. No lot shall be created that has a front yard with less than 30 feet of frontage on a public street.
 - ii. Minimum lot depth: 120 feet, and depth shall be measured as the average of the two side property lines. Radial lots shall have a minimum lot depth of 105 feet, and depth shall be measured as the average of the two side property lines.
 - iii. Minimum lot area: 6,600 square feet.
 - b. Size of yards.
 - i. Minimum front yard setback: 20 feet.
 - ii. Minimum side yard setback: 7.5 feet. The minimum side yard of a corner lot adjacent to a street shall not be less than 15 feet, except where a side yard is adjacent to a designated arterial street such side yard shall not be less than 25 feet.
 - iii. Minimum rear yard setback: 20 feet.
 - iv. Encroachment by building eaves and air conditioning compressor units: building eaves and air conditioning compressor units may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.
 - c. Minimum floor area per dwelling:
 - i. 30% of homes shall be required to have a minimum of 2,000 square feet of heated and air-conditioned living quarters/floor area.
 - ii. 90% of homes shall be required to have a minimum of 1,400 square feet of heated and air-conditioned living quarters/floor area.
 - iii. 95% of homes shall be required to have a minimum of 1,300 square feet of heated and air-conditioned living quarters/floor area.
 - iv. 100% of homes shall be required to have a minimum of 1,200 square feet of heated and air-conditioned living quarters/floor area.

6. Facade requirements.
 - a. "Masonry" defined: Building materials including brick, brick veneer, concrete, stone, rock, split face block or other materials of equal characteristics laid up unit by unit and set in mortar. For the purposes of this Ordinance, the following materials and applications shall not be considered to be masonry construction:
 - i. Fiber reinforced cementitious boards or panels (such as "Hardi plank" or "Hardi board") designed to be attached directly to studs or sheathing by nails, screws or other types of mechanical connectors;
 - ii. Concrete masonry units (CMU); and
 - iii. Exterior insulating finish system (EIFS) or similar applications.
 - b. Minimum masonry construction requirements for all single family residences constructed on property located south of minor arterial are as follows:
 - i. Front façade - masonry 100% up to the soffit.
 - ii. Side façades - masonry on one story homes: 100%
 - iii. Side façades - masonry on two story homes: 50%
 - c. Minimum masonry construction requirements for all single family residences constructed on property located north of minor arterial are as follows:
 - i. Front façade: masonry 100% up to the soffit.
 - d. Masonry construction requirements for all commercial property located within the B-1 Local Business/Residential Mixed Use area shall comply with the ordinances and regulations in effect at the time application is made for a building permit.
 - e. All garage doors shall have a wood or wood like exterior or finish.
 - f. Minimum masonry construction requirements do not apply to areas that are considered to be masonry exclusions. "Masonry exclusions" means windows, doors, eaves, soffits, trim work, gables, walls above roof lines, and entryways/porches.
7. Landscape requirements.
 - a. Single family residential lots shall have at least one (1) 2" or larger caliper (measured at 6 inches above the ground or tree base) trees planted in the front yard of the residence and prior to certificate of occupancy being issued.
 - b. Prior to the first Certificate of Occupancy being issued for each phase of the development an equal number of trees will be planted in the community based on the number of lots in each phase reflected on the plat.
8. Lighting. All parking in multifamily and non-residential areas shall have lighting fixtures, equipment and improvements positioned such that the light-emitting source is shielded and the light does not adversely impact adjacent or nearby residential areas. Light originating from multifamily and non-residential areas is not permitted to shine on any real property beyond the boundaries of the multifamily and non-residential areas from which the light originates.

9. All privacy fencing must be installed at a height of not less than six (6) feet and not more than eight (8) feet, except that within the front yard as defined in the City's Zoning Ordinance, no fence shall be higher than three and one-half (3½) feet above the established street grades within twenty (20) feet of any street intersection, measured at the property line. All fencing that is visible to the public must be stabilized with a metal fence post support beam concreted into the ground to a minimum depth of at least one third the height of the fence with a minimum of two (2) 2" dimensional horizontal rails for cedar or treated picket wood fence paneling.
10. All fencing that is adjacent to public right-of-way as shown in "Exhibit A" shall have masonry columns spaced and erected at the property corners.
11. The developer shall dedicate the ultimate ROW for the minor arterial thoroughfare in accordance with the Major Thoroughfare Plan and design the minor arterial thoroughfare in accordance with the City's design standards. However, the developer shall be required to construct the concrete pavement section that is proportional to the development, i.e. residential street. The construction of the pavement section must be constructed in a way to easily widen the pavement section with minimal impact to the traffic and be approved by the City Engineer.
12. All public improvements shall be subject to the approval of the City Engineer in compliance with the City of Brenham design standards.
13. The following will not be permitted within the R-2 Mixed Residential area or B-1 Local Business/Residential Mixed Use area within the Planned Development District:
 - a. Single Family Detached Units;
 - b. Cluster housing in accordance with cluster housing development provisions of the Subdivision Ordinance of the City of Brenham;
 - c. Group residential uses as provided by state law, such as "family homes," "community homes" or "group homes;"
 - d. Garage apartments;
 - e. Multifamily dwellings, including dormitories for students and fraternity or sorority houses;
 - f. Two-family dwellings or duplexes;
 - g. Mobile homes or manufactured homes;
 - h. Zero lot line housing development, in accordance with zero lot line development provisions of the Subdivision Ordinance of the City of Brenham; or
 - i. Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business.
14. A minimum of 12,000 square feet of all-weather trail(s) (for recreational purposes such as walking, jogging, biking, etc.) shall be constructed within the R-1 Residential area of the Planned Development District.

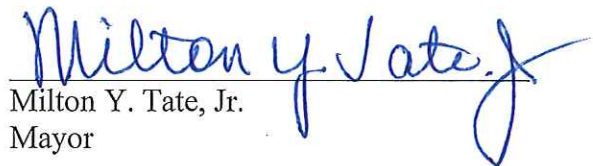
15. The R-1 Residential area shall have green space and perimeter landscaping as dedicated common areas owned and maintained by the homeowners association and designated as reserves on the subdivision plat.
16. A homeowners association shall be established and its governing documents recorded in the Official Public Records of Washington County prior to issuance of first building permit. Prior to recording with Washington County, the homeowners association governing documents must be submitted to the City for review and approval, and said governing documents shall ensure adequate maintenance of the common areas as shown on the master development plan in Exhibit "A."
17. The street layout shall conform to the master development plan shown in Exhibit "A."
18. This Ordinance shall in no manner amend, change, supplement, or revise any provision 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 6th day of April, 2017.

PASSED and APPROVED on its second reading this the 20th day of April, 2017.

ATTEST




Milton Y. Tate, Jr.
Mayor


Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit A





AGENDA ITEM 9

DATE OF MEETING: November 1, 2018		DATE SUBMITTED: October 24, 2018	
DEPT. OF ORIGIN: Development Services		SUBMITTED BY: Stephanie Doland	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING	
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION	
	☐ WORK SESSION		
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to Amend Planned Development (PD) District Ordinance No. O-17-005 for the Vintage Farms Subdivision in Brenham, Washington County, Texas (Case No. P-18-024)			
SUMMARY STATEMENT: This is a request by CTX Land Investments, LLC, d/b/a Stylecraft Builders, to amend Planned Development District Ordinance No. O-17-005 for the Vintage Farms Subdivision.			
On behalf of Stylecraft Builders, Doug French is requesting a PD amendment to remove the following section of the PD: <i>Section 5.b.iv. “Encroachment by building eaves and air conditioning compressor units: building eaves and air conditioning compressor units may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.”</i> During the regularly scheduled Planning and Zoning Commission meeting on October 22, 2018, Mr. French amended his request to add additional language which if approved would read as follows: <i>Section 5.b.v. “Encroachment by air conditioner compressor units: Air conditioner compressor units may encroach not more than four and one-half (4 ½) feet beyond building lines into the required rear and side yards. In addition, where two homes are built on adjacent lots only one of the homes may install its air conditioner compressor unit in the adjacent side yard. The other adjacent home must install its air conditioner compressor unit in the opposite side yard or the rear yard.”</i> This was considered by the Commission and included with their recommendation. No public comments were made during the public hearing. On Monday, October 22, 2018, after conducting a Public Hearing, the Planning and Zoning Commission voted unanimously to recommend approval of the request, subject to the approval of the Fire Marshal. On Tuesday, October 23, 2018 Development Services staff conferred with City of Brenham Fire Marshal Sauble who was not opposed to the original amendment or the revised amendment as recommended by the Planning and Zoning Commission.			

STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:
ALTERNATIVES (In Suggested Order of Staff Preference):
ATTACHMENTS: (1) Ordinance
FUNDING SOURCE (Where Applicable):
RECOMMENDED ACTION: Approve an Ordinance on its first reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to amend Planned Development (PD) District Ordinance No. O-17-005 for the Vintage Farms Subdivision in Brenham, Washington County, Texas (Case No. P-18-024)
APPROVALS: James Fisher

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES BY AMENDING ORDINANCE NO. O-17-005 WHICH ESTABLISHED A PLANNED DEVELOPMENT (PD) DISTRICT COMPRISED OF AN R-1 RESIDENTIAL AREA (APPROXIMATELY 71.33 ACRES), AN R-2 MIXED RESIDENTIAL AREA (APPROXIMATELY 8.36 ACRES), AND A B-1 LOCAL BUSINESS/RESIDENTIAL MIXED USE AREA (APPROXIMATELY 6.98 ACRES), BEING A TOTAL OF APPROXIMATELY 86.67 ACRES OF LAND LOCATED NORTH OF THE INTERSECTION OF US HIGHWAY 290 AND STATE HIGHWAY 36 AND BEING DESCRIBED AS LOTS 1-22, BLOCK 1, LOTS 1-69, BLOCK 2, LOTS 1-11, BLOCK 3 AND RESERVE A-F IN THE VINTAGE FARMS SUBDIVISION – PHASE 1 IN BRENHAM, WASHINGTON COUNTY, TEXAS; ADOPTING A MASTER DEVELOPMENT PLAN AND REGULATIONS APPLICABLE TO THIS PLANNED DEVELOPMENT (PD) DISTRICT.

WHEREAS, the property owner has requested an amendment to Ordinance No. O-17-005 which established a Planned Development (PD) District on approximately 86.67 acres of land generally located north of the intersection of US Highway 290 and State Highway 36 and being described as Lots 1-22, Block 1, Lots 1-69, Block 2, Lots 1-11, Block 3 and Reserve A-F in the Vintage Farms Subdivision – Phase 1 in Brenham, Washington County, Texas (the “Property”); and

WHEREAS, the owner has presented an application to the City for a PD District to allow the construction of a mixed-use development; and

WHEREAS, at least fifteen (15) 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 amend the Planned Development District; and

WHEREAS, the Planning & Zoning Commission recommended on October 22, 2018 that City Council grant such proposed change to the regulations applicable to this Planned Development District; and

WHEREAS, the City Council has previously adopted Ordinance No. O-17-005 and the City Council desires to hereby amend Ordinance No. O-17-005 as set out herein below;

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 BY AMENDING ORDINANCE NO. O-17-005 TO READ AS FOLLOWS:

Section I.

1. Unless otherwise provided for herein, the property located within the R-1 Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City’s Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-1 Residential Districts.
2. Unless otherwise provided for herein, the property located within the R-2 Mixed Residential area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City’s Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to R-2 Mixed Residential Districts.
3. Unless otherwise provided for herein, the property located within the B-1 Local Business/Residential Mixed Use area of the Planned Development District as shown on the master development plan shall conform to the regulations of the City’s Zoning Ordinance, Subdivision Ordinance and other ordinances applicable to B-1 Local Business/Residential Mixed Use Districts.
4. R-1 Residential Area Regulations.
 - a. Size of lots.
 - i. Minimum lot width: 55 feet. Radial lots shall have a minimum width of 60 feet from the distance of 30 feet behind the front yard/building line. No lot shall be created that has a front yard with less than 30 feet of frontage on a public street.
 - ii. Minimum lot depth: 120 feet, and depth shall be measured as the average of the two side property lines. Radial lots shall have a minimum lot depth of 105 feet, and depth shall be measured as the average of the two side property lines.
 - iii. Minimum lot area: 6,600 square feet.
 - b. Size of yards.
 - i. Minimum front yard setback: 20 feet.
 - ii. Minimum side yard setback: 7.5 feet. The minimum side yard of a corner lot adjacent to a street shall not be less than 15 feet, except where a side yard is adjacent to a designated arterial street such side yard shall not be less than 25 feet.
 - iii. Minimum rear yard setback: 20 feet.
 - iv. Encroachment by building eaves: building eaves may encroach not more than two (2) feet beyond building lines into the required rear yard and side yards.
 - v. Encroachment by air conditioner compressor units: Air conditioner compressor units may encroach not more than four and one-half (4 ½) feet beyond building lines into the required rear and side yards. In addition, where two homes are built on adjacent lots only one of the homes may install its air conditioner compressor unit in the adjacent side yard. The other adjacent home must install its air conditioner compressor unit in the opposite side yard or the rear yard.

- c. Minimum floor area per dwelling:
 - i. 30% of homes shall be required to have a minimum of 2,000 square feet of heated and air-conditioned living quarters/floor area.
 - ii. 90% of homes shall be required to have a minimum of 1,400 square feet of heated and air-conditioned living quarters/floor area.
 - iii. 95% of homes shall be required to have a minimum of 1,300 square feet of heated and air-conditioned living quarters/floor area.
 - iv. 100% of homes shall be required to have a minimum of 1,200 square feet of heated and air-conditioned living quarters/floor area.
- 5. Facade requirements.
 - a. “Masonry” defined: Building materials including brick, brick veneer, concrete, stone, rock, split face block or other materials of equal characteristics laid up unit by unit and set in mortar. For the purposes of this Ordinance, the following materials and applications shall not be considered to be masonry construction:
 - i. Fiber reinforced cementitious boards or panels (such as “Hardi plank” or “Hardi board”) designed to be attached directly to studs or sheathing by nails, screws or other types of mechanical connectors;
 - ii. Concrete masonry units (CMU); and
 - iii. Exterior insulating finish system (EIFS) or similar applications.
 - b. Minimum masonry construction requirements for all single family residences constructed on property located south of minor arterial are as follows:
 - i. Front façade - masonry 100% up to the soffit.
 - ii. Side façades - masonry on one story homes: 100%
 - iii. Side façades - masonry on two story homes: 50%
 - c. Minimum masonry construction requirements for all single family residences constructed on property located north of minor arterial are as follows:
 - i. Front façade: masonry 100% up to the soffit.
 - d. Masonry construction requirements for all commercial property located within the B-1 Local Business/Residential Mixed Use area shall comply with the ordinances and regulations in effect at the time application is made for a building permit.
 - e. All garage doors shall have a wood or wood like exterior or finish.
 - f. Minimum masonry construction requirements do not apply to areas that are considered to be masonry exclusions. “Masonry exclusions” means windows, doors, eaves, soffits, trim work, gables, walls above roof lines, and entryways/porches.
- 6. Landscape requirements.
 - a. Single family residential lots shall have at least one (1) 2” or larger caliper (measured at 6 inches above the ground or tree base) trees planted in the front yard of the residence prior to certificate of occupancy being issued.
 - b. Prior to the first Certificate of Occupancy being issued for each phase of the development an equal number of trees will be planted in the community based on the number of lots in each phase reflected on the plat.

7. Lighting. All parking in multifamily and non-residential areas shall have lighting fixtures, equipment and improvements positioned such that the light-emitting source is shielded and the light does not adversely impact adjacent or nearby residential areas. Light originating from multifamily and non-residential areas is not permitted to shine on any real property beyond the boundaries of the multifamily and non-residential areas from which the light originates.
8. All privacy fencing must be installed at a height of not less than six (6) feet and not more than eight (8) feet, except that within the front yard as defined in the City's Zoning Ordinance, no fence shall be higher than three and one-half (3½) feet above the established street grades within twenty (20) feet of any street intersection, measured at the property line. All fencing that is visible to the public must be stabilized with a metal fence post support beam concreted into the ground to a minimum depth of at least one third the height of the fence with a minimum of two (2) 2" dimensional horizontal rails for cedar or treated picket wood fence paneling.
9. All fencing that is adjacent to public right-of-way as shown in "Exhibit A" shall have masonry columns spaced and erected at the property corners.
10. The developer shall dedicated the ultimate ROW for the minor arterial thoroughfare in accordance with the Major Thoroughfare Plan and design the minor arterial thoroughfare in accordance with the City's design standards. However, the developer shall be required to construct the concrete pavement section that is proportional to the development, i.e. residential street. The construction of the pavement section must be constructed in a way to easily widen the pavement section with minimal impact to the traffic and be approved by the City Engineer.
11. All public improvements shall be subject to the approval of the City Engineer in compliance with the City of Brenham design standards.
12. The following will not be permitted within the R-2 Mixed Residential area or B-1 Local Business/Residential Mixed Use area within the Planned Development District:
 - a. Single Family Detached Units;
 - b. Cluster housing in accordance with cluster housing development provisions of the Subdivision Ordinance of the City of Brenham;
 - c. Group residential uses as provided by state law, such as "family homes," "community homes" or "group homes;"
 - d. Garage apartments;
 - e. Multifamily dwellings, including dormitories for students and fraternity or sorority houses;
 - f. Two-family dwellings or duplexes;
 - g. Mobile homes or manufactured homes;

- h. Zero lot line housing development, in accordance with zero lot line development provisions of the Subdivision Ordinance of the City of Brenham; or
 - i. Accessory buildings and uses, customarily incidental to the above uses and located on the same lot therewith, but not involving the conduct of a retail business.
13. A minimum of 12,000 square feet of all-weather trail(s) (for recreational purposes such as walking, jogging, biking, etc.) shall be constructed within the R-1 Residential area of the Planned Development District.
14. The R-1 Residential area shall have green space and perimeter landscaping as dedicated common areas owned and maintained by the homeowners association and designated as reserves on the subdivision plat.
15. A homeowners association shall be established and its governing documents recorded in the Official Public Records of Washington County prior to issuance of first building permit. Prior to recording with Washington County, the homeowners association governing documents must be submitted to the City for review and approval, and said governing documents shall ensure adequate maintenance of the common areas as shown on the master development plan in Exhibit "A."
16. The street layout shall conform to the master development plan shown in Exhibit "A."
17. This Ordinance shall in no manner amend, change, supplement, or revise any provision 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 1st day of November, 2018.

PASSED and APPROVED on its first reading this the 29th day of November, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

EXHIBIT "A"





AGENDA ITEM 10

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 24, 2018															
DEPT. OF ORIGIN: Development Services	SUBMITTED BY: Stephanie Doland															
<table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;">MEETING TYPE:</td> <td style="width: 33%; vertical-align: top;">CLASSIFICATION:</td> <td style="width: 33%; vertical-align: top;">ORDINANCE:</td> </tr> <tr> <td>☒ REGULAR</td> <td>☐ PUBLIC HEARING</td> <td>☒ 1ST READING</td> </tr> <tr> <td>☐ SPECIAL</td> <td>☐ CONSENT</td> <td>☐ 2ND READING</td> </tr> <tr> <td>☐ EXECUTIVE SESSION</td> <td>☒ REGULAR</td> <td>☐ RESOLUTION</td> </tr> <tr> <td></td> <td>☐ WORK SESSION</td> <td></td> </tr> </table>		MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING	☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION		☐ WORK SESSION	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:														
☒ REGULAR	☐ PUBLIC HEARING	☒ 1 ST READING														
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING														
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION														
	☐ WORK SESSION															
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Building Setback Requirements, as Outlined in Section 23-22(1) of the City of Brenham Code of Ordinances, on a Tract of Land Being Described as Part of Lots 50-53, of the College Heights Addition, Located at 810 Brown Street in Brenham, Washington County, Texas																
SUMMARY STATEMENT: This is a request from the owner Jose Rodriguez Avalos and the applicant Dara Childs for a variance from the subdivision ordinance. The applicant would like to purchase the home and build a single-family dwelling. The request is to allow a 20' building setback line where a 25' building setback line from the side of a lot which abuts a collector or an arterial street is required. The Future Land Use Map adopted with the Envision 2020 Comprehensive Plan shows the subject property as Single-Family Residential. The Board of Adjustment considered a similar variance request on October 8, 2018 and upheld staff's recommendation when the unanimously voted to approve a reduction in the minimum rear building setback from 25-feet to 20-feet. On Monday, October 22, 2018, the Planning and Zoning Commission considered this request and recommended approval of the proposed variance.																
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): The subject property is unique in its configuration and strict adherence to setback standards significantly impede the development of this vacant tract of land. Staff has reviewed the variance request and recommends approval of the requested 5-foot reduction to the minimum 25-foot setback. A. PROS: B. CONS:																
ALTERNATIVES (In Suggested Order of Staff Preference):																

ATTACHMENTS: (1) Ordinance ; and (2) 810 Brown Street Subdivision Variance Staff Report
FUNDING SOURCE (Where Applicable): N/A
RECOMMENDED ACTION: Approve an Ordinance on its first reading authorizing a Variance to Building Setback Requirements, as Outlined in Section 23-22(1) of the City of Brenham Code of Ordinances, on a Tract of Land Being Described as Part of Lots 50-53, of the College Heights Addition, Located at 810 Brown Street in Brenham, Washington County, Texas
APPROVALS: James Fisher

ORDINANCE NO. O-18-_____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, GRANTING A VARIANCE TO SECTION 23-22(1) OF THE CITY OF BRENHAM CODE OF ORDINANCES, CHAPTER 23, SUBDIVISIONS, PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Brenham Code of Ordinances, Chapter 23, Subdivisions, provides for standards and regulations regarding subdivisions within the corporate boundaries of the City of Brenham; and

WHEREAS, Chapter 23, Section 23-22(1) states that building setback lines on collector and arterial streets shall not be less than twenty-five (25) feet, as follows:

All residential lots within the city and its extraterritorial jurisdiction shall conform to the general provisions provided below:

- (1) *Lots on arterial and collector streets.* The building setback line shall not be closer than twenty-five (25) feet from the side of a lot which abuts a collector or an arterial street; and

WHEREAS, in accordance with City of Brenham Code of Ordinances, Chapter 23, Subdivisions, Section 23-34, as the legislative body of the City of Brenham, the City Council of the City of Brenham, Texas has the authority to grant variances from the terms of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions; and

WHEREAS, the owner of the property described as part of Lots 50-53, College Heights Addition has requested a variance from City of Brenham Code of Ordinances, Chapter 23, Subdivisions, Section 23-22(1); and

WHEREAS, the requested variance was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on October 22, 2018; and

WHEREAS, Blue Bell Road (FM-577) is classified as a Minor Arterial according to the City Thoroughfare Plan; and

WHEREAS, the property is in compliance with the City of Brenham Comprehensive Plan; and

WHEREAS, the City Council finds that by granting the variance, the spirit of the City of Brenham Code of Ordinances, Chapter 23, Subdivisions is observed; and

WHEREAS, the City Council further finds that granting the variance is not contrary to the public interest; and

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

1. **Findings of Fact:** All of the above premises are hereby found to be true and correct findings of the City Council of the City of Brenham and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.
2. **Variance Granted:** The City Council, for the property described as Part of Lot 50-53, College Heights Addition, hereby grants the request for a variance from the provisions of the City of Brenham Code of Ordinances, Chapter 23, Section 23-22(1) to allow a twenty (20) feet building line setback where a building line setback shall not be closer than twenty-five (25) feet from the side of a lot which abuts a collector or an arterial street.
3. **Conflict with Prior Ordinances:** In the case of a conflict between this Ordinance and any provision or clause of previous Ordinances adopted by the City of Brenham, the provisions of this Ordinance shall prevail.
4. **Severability:** Should any part, sentence or phrase of this Ordinance be determined to be unlawful, void or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are severable.
5. **Effective Date:** This Ordinance shall become effective immediately upon and after its passage and publication as may be required by governing law.
6. **Proper Notice and Meeting:** It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED and APPROVED on its first reading this the ____ day of _____, 2018.

PASSED and APPROVED on its second reading this the ____ day of _____, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Variance Request: Section 23-22(1) of Article III of the Subdivision Ordinance – 810 Brown Street

OWNER/APPLICANT: Jose Rodriguez Avalos/Dara Childs

ADDRESS/LOCATION: 810 Brown Street (Exhibit “A”)

LEGAL DESCRIPTION: College Heights Addition, Part of Lots 50-53 in the City of Brenham, Washington County, Texas

LOT AREA: Approximately 0.165496 acres

**ZONING DISTRICT/
USE:** R-2 Mixed Residential District / Undeveloped
(Exhibit “B”)

**COMP PLAN
FUTURE LAND USE:** Single-Family Residential

REQUEST: A request for a variance to Section 23-22(1) of Article III of the Subdivision Ordinance to allow a 20-foot rear building setback line on a corner lot where a 25-foot building setback line from the side of a lot which abuts a collector or an arterial street is required. (Exhibit “C”)

SUMMARY:

Mr. Jose Rodriguez Avalos is the current property owner of 810 Brown Street, an undeveloped tract of land located at the southeastern corner of the intersection of FM-577 and Brown Street. The property is currently zoned R-2 Mixed Residential District. Properties to the south and west are zoned R-2 and properties located to the north and east are zoned B-1, Local Business/ Residential Mixed Use District. Mr. Dara Childs, the applicant, requested a special exception and multiple variances from the zoning ordinance to develop this uniquely shaped tract of land with a single-family detached-dwelling unit.

The property is currently described as part of Lots 50-53 of the College Heights Addition. The remaining portions of the property was acquired as right-of-way for FM-577. Following the right-of-way acquisition a substandard triangular shaped tract of land that is nearly 8,000 square feet in size remains. The remaining lot configuration has resulted in a vacant lot that is difficult to build on. Additionally, minimum setback requirements further limit the buildable area of the uniquely shaped lot.

Chapter 23, Article III – Design Standards, Section 23.22(1) states:

Lots on arterial and collector streets. The building setback line shall not be closer than twenty-five (25) feet from the side of a lot which abuts a collector or an arterial street.

FM-577 (Blue Bell Road) is considered an Minor Arterial street according to the City's adopted Thoroughfare Plan; therefore, the subject property is required to have a minimum 25-foot building setback along the longest side of the triangular shaped property (rear property line).

The applicant is specifically asking for a variance to reduce the requirement for 810 Brown Street, as described above, from 25-feet along an arterial street to 20-feet along an arterial street.

The Planning and Zoning Commission is charged with making recommendations to City Council on variances to the Subdivision Ordinance as described in the following section of the Subdivision Ordinance:

Sec. 23-34. Variances

Where in its judgment, the public convenience and welfare will be substantially served and the appropriate use of the neighboring property will not be substantially injured, the city council may upon recommendation by the planning commission, in specific cases, at a regular meeting of the city council and subject to appropriate conditions and safeguards, authorize, by ordinance, a variance to the subdivision regulations in order to permit reasonable development and improvement of property where the literal enforcement of these regulations would result in an unnecessary hardship. A variance may only be granted by ordinance upon finding that such variance is in accord with the comprehensive plan of the City of Brenham and that the probable effect of such variance will not create adverse impacts in the vicinity. No written public notice shall be required prior to the granting of the variances provided for in this section, except as required by the Texas Open Meetings Law.

RELATION TO BRENHAM'S COMPREHENSIVE PLAN:

The City of Brenham's Comprehensive Plan and Future Land Use map serves as a guideline for decision making. The Future Land Use map shows the subject property as an area where single-family residential uses are appropriate. The only criteria established in the Code of Ordinances for which the Commission is tasked with considering any variances to the subdivision regulations is that the request must be in accordance with the City's Comprehensive Plan. The proposed use of a single-family home appears to be in accordance with the City's adopted Comprehensive Plan.

STAFF ANALYSIS AND RECOMMENDATION:

A 25-foot rear building setback is typically required adjacent to FM-577, classified as a minor arterial on the Brenham thoroughfare plan. The roadway is currently developed as a two lane thoroughfare and median with 50-feet of pavement within an approximately 125-foot right-of-way. Arterial roadways are typically posted at higher speeds than local or collector streets and are designed to connect traffic longer distances from one freeway to another. While approximately 35 feet of undeveloped right-of-way exists between the rear property line and the edge of pavement (FM-577), eventual widening of the arterial roadway is likely.

Staff recognizes that the subject property is unique in that over time part of the original platted lots have been acquired for right-of-way. As a result, the remaining property is an irregular triangle-shape and strict adherence to setback standards and minimum lot standards significantly impede the development of this vacant tract of land.

Staff has reviewed the variance request and recommends approval of the requested 5-foot reduction to the minimum 25-foot setback. On October 8, 2018 the Board of Adjustment considered a similar setback variance and upheld staff's recommendation when they unanimously voted to approve a reduction in the minimum rear building setback from 25-feet to 20-feet.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Variance Application
- D. Site Photos

EXHIBIT "A"
AERIAL MAP



EXHIBIT "B"
ZONING MAP



EXHIBIT "C"
VARIANCE APPLICATION



For office use only

APPLICATION NO. _____

MEETING DATE: _____

DATE SUBMITTED: _____

FILING FEE: \$100.00

CITY OF BRENHAM
GENERAL APPLICATION



Type of Application

- | | |
|--|--|
| ☒ Variance from Appendix A: Zoning | ☐ Zone Change |
| ☐ Specific Use Permit | ☐ Plan Review |
| ☐ Preliminary Plat | ☐ Final Plat/Replat/Amending Plat |
| ☐ Variance from Chapter 21: Signs | ☐ Other: _____ |

Property Owners Information

Name Jose Avulos
Principal Officers (If Corporation) President _____
Secretary _____
Address 2919 Kathryn Circle
Telephone Number 979 451 0832 E-mail Address _____

Applicant Information

Name DARA Childs
Address 1330 S. Berlin 77833
Telephone Number 281 914 9416 E-mail Address dara.childs@yahoo.com

Agent or Engineer Information

Name DARA Childs
Address _____
Telephone Number _____ E-mail Address _____

Location of Property

Street Address: 810 Brown Street

Legal Description (attach metes and bounds description if not subdivided):

Subdivision: College Heights Block(s): _____ Lot(s): 51, 52, 53

Zoning Information

Existing Zoning: _____

Proposed Zoning: _____

Reasons for requesting zone change: * _____

Variance Information

Section of Code from which variance is described: * Section 1.05

Describe variance requested: * Variance to minimum lot depth and side and rear setback

Reasons for requesting variance: * Current lot size does not allow sufficient room for construction

20' rear setback requested. Current zoning is 25'

5' side setback requested. Current zoning is 10'

Many of existing original house are located within 5'

Describe in detail the proposed operation at this location: *

Single Family Residential Construction

Construction Value \$ 100K

Site plans are required for variance, special use, and plan review requests; please see Ordinance No. 0-05-007 for minimum site plan requirements.

I, Jose Rodriguez, being the owner (or authorized agent) of the above described property, do hereby certify the information set forth above is true and correct. I further request that the Planning & Zoning Commission/Board of Adjustments/Plan Review Committee review this matter and take appropriate action.

Jose Rodriguez
Owner

[Signature]
Agent

The Variance Request addresses minimum lot depth, side setback and rear setback.

- The subject property is a corner lot and I would like to request a 20-foot variance to the minimum 90-foot average lot depth with the average being calculated based on the depth of the property when measured 80 feet from the southern side property corner. Clearly the property is unique and the need for the variance not created by the applicant. Construction on the lot is problematic regardless of the ordinance but literal enforcement of the ordinance would undoubtedly create an unnecessary hardship.
 - The ordinance requires a 10' side setback. Our request is for a 5' side setback. Similar to the front building setback, many of the homes on the street are already well within and in some instances less than 5' from the side lot lines. Our request would be in keeping with the existing homes.
 - The ordinance requires a 25' rear building setback. Our request is for a 17' rear building setback. Again, the property is unique, the need not created by the applicant and literal enforcement will create an unnecessary hardship.
1. Given the attributes inherent in this parcel the requested modifications are necessary for the development of a small single family home which would be the appropriate development.
 2. The granting of the variance will not be detrimental or injurious to the neighborhood or other property owners.
 3. The literal enforcement of the ordinance would work an unnecessary hardship on the owner. The proposed development is small and modest and if this request is denied its likely that no development would be possible.
 4. These three lots were originally similar to all the other lots on the street. After the state enlarged the right away for Blue Bell Road the lots in question were significantly reduced in size largely by losing their original depth.
 5. The Blue Bell Road right of way is 130 feet in width. The road itself is only 50 feet. Clearly neither the applicant nor the original owners are responsible for the State's road development.
 6. Without the requested variance, the property would likely never be developed which contributes to urban blight.
 7. The granting of the variance would not be injurious to the public welfare. In fact the opposite is true. Development of empty lots in under developed old neighborhoods increases the value of the nearby existing homes and the neighborhood as a whole.

Similar houses were built and sold at 1303 & 1305 Simon, improving the neighborhood and increasing the local tax base.

Best Regards,

Dara Childs

Re: Rear Setback Variance - Message (HTML)

File Message LASERFICHE ADOBE PDF Tell me what you want to do...

Delete Reply Reply All Forward Quick Steps Move Mark Unread Categorize Follow Up Translate Zoom

dara child's <darachilds@yahoo.com> Stephanie Doland 12:50 PM

Re: Rear Setback Variance

You replied to this message on 10/9/2018 1:01 PM.

Bing Maps + Get more apps

Stephanie,

This is to confirm that we would like to amend our rear setback variance to allow a rear setback of 20' rather than 17' on the property located at 810 Brown Street.

[Best Regards,](#)

[Dara Childs](#)
[281-914-9416](#)

www.armriver.com
www.solution4living.com

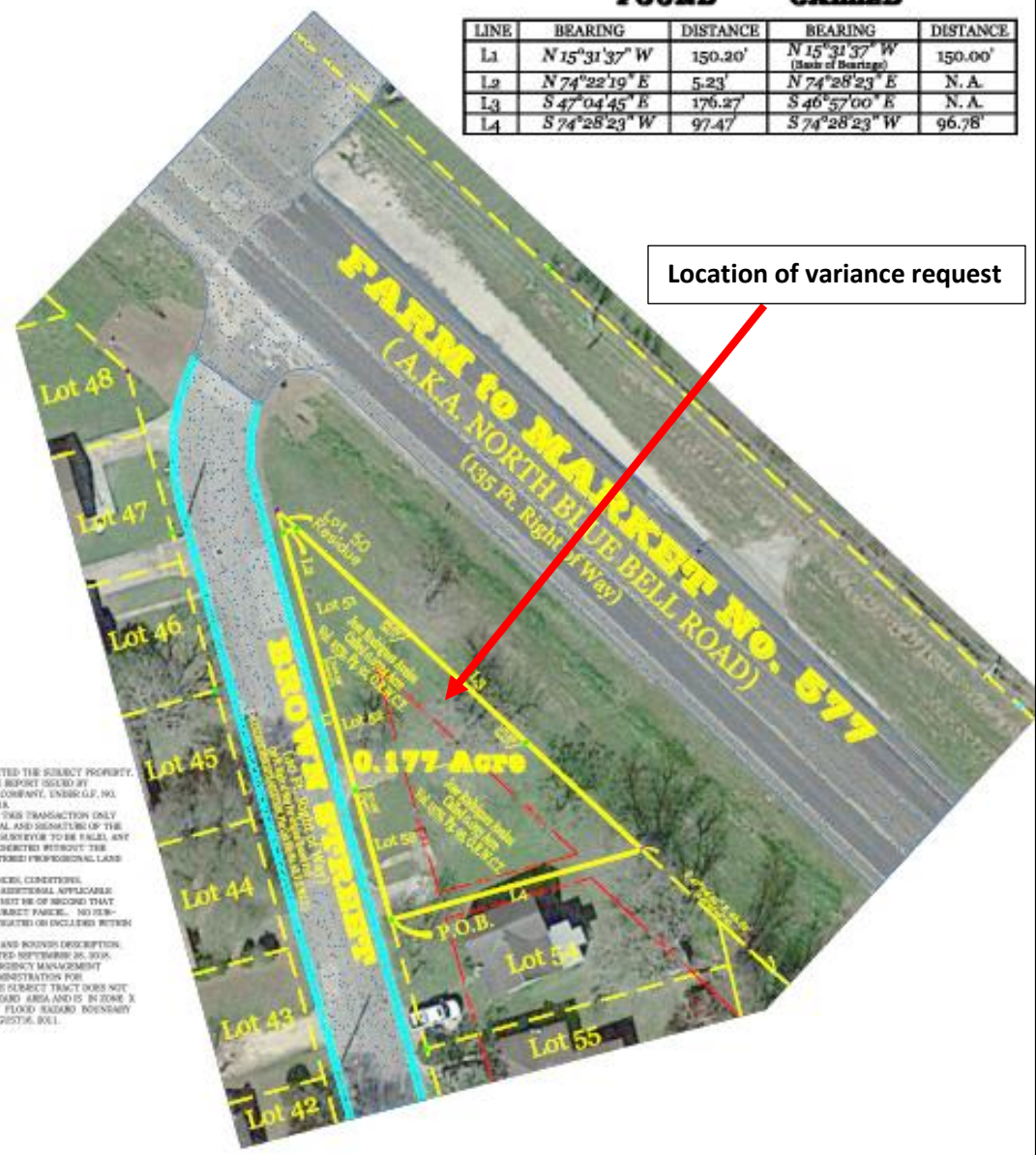


**BOUNDARY & IMPROVEMENT
SURVEY PLAT
OF
0.177 Acre
Aggregate of the Residue of
LOTS 51 - 53
COLLEGE HEIGHTS ADDITION
PLAT CACKET FILE No. 62, P.R.W.C.T.
CITY OF BRENHAM
A. HARRINGTON LEAGUE, A-55
WASHINGTON COUNTY, TEXAS**

LEGEND	
	1/2" IRON ROD SET
	1/2" IRON ROD FOUND
	TEXT CONCRETE ROW MONUMENT FOUND
	CONCRETE
	ASPHALT
	DEED CALL

COURSE & DISTANCE TABLE
FOUND CALLED

LINE	BEARING	DISTANCE	BEARING	DISTANCE
L1	N 15° 31' 37" W	150.20'	N 15° 31' 37" W (Base of Barriage)	150.00'
L2	N 74° 22' 19" E	5.23'	N 74° 28' 23" E	N. A.
L3	S 47° 04' 45" E	176.27'	S 46° 57' 00" E	N. A.
L4	S 74° 28' 23" W	97.47'	S 74° 28' 23" W	96.78'



- NOTES:**
1. THE SURVEYOR HAS NOT ABSTRACTED THE SUBJECT PROPERTY.
 2. THIS SURVEY IS BASED ON A TITLE REPORT ISSUED BY WASHINGTON COUNTY ABSTRACT COMPANY, UNDER L.P. NO. 00001, DATED SEPTEMBER 25, 2014.
 3. THIS SURVEY IS EXCLUSIVELY FOR THIS TRANSACTION ONLY AND MUST BEAT THE ORIGINAL SEAL AND SIGNATURE OF THE REGISTERED PROFESSIONAL LAND SURVEYOR TO BE FILED. ANY OTHER USE OF THIS SURVEY IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE REGISTERED PROFESSIONAL LAND SURVEYOR.
 4. SUBJECT TO EASEMENTS, ENCUMBRANCES, CONDITIONS, RESTRICTIONS AND ANY, AND ALL ADDITIONAL APPLICABLE INSTRUMENTS THAT HAVE OR MAY NOT BE OF RECORD THAT AFFECT OR COULD AFFECT THE SUBJECT PARCEL. NO SURFACE FEATURES WERE INVESTIGATED OR INCLUDED WITHIN THE SCOPE OF THIS SURVEY.
 5. FOR REFERENCE REFER TO METES AND BOUNDS DESCRIPTION, PREPARED BY A-SURVEY, INC., DATED SEPTEMBER 25, 2014.
 6. ACCORDING TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL DISASTER ASSISTANCE ADMINISTRATION FOR WASHINGTON COUNTY, TEXAS, THIS SUBJECT TRACT DOES NOT LIE WITHIN A SPECIAL FLOOD HAZARD AREA AND IS IN ZONE X AS GRAPHICALLY DETERMINED BY FLOOD HAZARD BOUNDARY MAP NO. 484750095C, DATED 08/25/2016, BCL.

EXHIBIT "D"
Site Photos



Subject property looking south



Subject property looking south





AGENDA ITEM 11

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 29, 2018	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☒ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-18-018 Adopting a Fee Schedule Related to Permits, Inspections and Other Requirements of Chapter 18, Oil and Gas Production, of the Code of Ordinances of the City of Brenham		
SUMMARY STATEMENT: As discussed with the City Council at the October 18 th council meeting, this Resolution is to adopt the fee schedule associated with the new oil and gas production ordinance (Chapter 18 in the Code of Ordinances). The new Ordinance being approved on 2 nd reading, is included in the Consent item in this agenda packet.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Resolution No. R-18-018		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Resolution No. R-18-018 adopting a Fee Schedule related to permits, inspections and other requirements of Chapter 18, Oil and Gas Production, of the Code of Ordinances of the City of Brenham		
APPROVALS: James Fisher		

RESOLUTION NO. R-18-018

A RESOLUTION OF THE CITY OF BRENHAM, TEXAS ADOPTING A FEE SCHEDULE APPLICABLE TO OIL AND GAS OPERATIONS REGULATED BY THE CITY OF BRENHAM, TEXAS

WHEREAS, the City Council has updated and revised Chapter 18 – Oil and Gas Production, Code of Ordinances, City of Brenham, Texas, regulating oil and gas operations, including but not limited to requiring applications, permits and inspections; and

WHEREAS, the City Council is authorized by Chapter 18 – Oil and Gas Production, Section 18-21, Fee Schedule, Code of Ordinances, City of Brenham, Texas to adopt by resolution a schedule of fees applicable to applications, permits and inspections related to oil and gas operations; and

WHEREAS, the City Council desires to adopt a fee schedule applicable to oil and gas operations regulated by the City of Brenham, Texas; and

WHEREAS, the City Council desires to adopt the Oil and Gas Production Fee Schedule attached hereto as Exhibit “A” and incorporated herein for all pertinent purposes;

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

Section 1: That the recitals set forth herein above are incorporated herein for all pertinent purposes as if fully set forth in the body of this Resolution.

Section 2: That the City Council of the City of Brenham hereby adopts the Oil and Gas Production Fee Schedule applicable to oil and gas operations regulated by the City of Brenham, Texas attached hereto as “Exhibit A” and incorporated herein for all pertinent purposes.

Section 3: That this Resolution shall be in full force and effect immediately upon its passage and approval.

PASSED and APPROVED on this 1st day of November, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

“EXHIBIT A”
CHAPTER 18. OIL AND GAS PRODUCTION
FEE SCHEDULE

Surface Permit <i>Permit required to signify City regulation of the above ground activity related to an approved permit from the Railroad Commission of Texas to drill an oil or gas well.</i>	\$ 2,000.00
Extended Permit <i>If drilling is not commenced within one hundred eighty (180) calendar days from the date of the issuance of a surface permit, an Extended Permit may be obtained for an additional one hundred eighty (180) calendar days.</i>	\$ 250.00
Annual Inspection <i>An annual site inspection is to insure that the operator is conducting operations in compliance with the surface permit and the City’s regulations. The annual inspection fee shall be paid no later than May 30th of each year.</i>	\$ 100.00
Follow-Up Inspections <i>Incidents requiring notification to the Railroad Commission of Texas shall require a follow up inspection by the City and the fee shall be paid within thirty (30) calendar days of being notified of the need for a follow up inspection.</i>	\$ 100.00
Amended Permit <i>If an operator requests to amend a surface permit, to relocate a drill site or operation site that was shown on the original application the operator must submit an amended permit.</i>	\$ 500.00
Transfer Permit <i>Upon written request, a surface permit can be transferred by the operator, with the consent of the City.</i>	\$ 700.00
Appeal <i>Operator may, within thirty (30) calendar days of the date of the decision of the City in writing to suspend or revoke a surface permit, file an appeal through the city manager to the city council.</i>	\$ 2,300.00
“Taking” Application <i>Any aggrieved person who believes that an action taken pursuant to Chapter 18, City of Brenham Code of Ordinances, by the city council or any officer, employee or agent of the city would legally constitute a taking of property without just compensation under the state or United States Constitution, must file an application with the city council to request a takings determination.</i>	\$ 3,320.00



AGENDA ITEM 12

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 23, 2018	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Proposed Changes to the City Council Meeting Dates for November and December 2018, and January 2019		
SUMMARY STATEMENT: As discussed at the October 18, 2018 special meeting, the City Council meeting calendar for the holiday season will be as follows: ➤ November 1, 2018: First regular meeting of November, 2018 ➤ November 29, 2018: Second regular meeting of November, 2018 ➤ December 13, 2018: The <u>only</u> meeting in December, 2018 ➤ January 10, 2019: First regular meeting of January, 2019 ➤ January 17, 2019: Second regular meeting of January, 2019 The meeting start time of 1:00 p.m. will not be changed.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS:		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve the changes to the City Council meeting dates for November and December 2018, and January 2019 as presented		
APPROVALS: James Fisher		



AGENDA ITEM 13

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 23, 2018
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-18-019 Adopting a Social Media Policy for the City of Brenham	
SUMMARY STATEMENT: During the October 18, 2018 council workshop, the Council, the City Attorney and staff discussed the need for the adoption of a social media policy. Staff believes that this Social Media Policy protects both the City's reputation and the community by ensuring that social media communication on behalf of the City reflects positively on both the employee and the City.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: (1) Resolution No. R-18-019	
FUNDING SOURCE (Where Applicable): N/A	
RECOMMENDED ACTION: Approve Resolution No. R-18-019 Adopting a Social Media Policy for the City of Brenham	
APPROVALS: James Fisher	

RESOLUTION NO. R-18-019

A RESOLUTION APPROVING THE ADOPTION OF A SOCIAL MEDIA POLICY MANUAL FOR THE CITY OF BRENHAM, TEXAS

WHEREAS, the Brenham City Council wishes to establish certain policies to ensure that any communication on behalf of the City reflects positively on the City and its employees; and

WHEREAS, a Social Media Policy will addresses the responsibility of all employees and volunteers with regard to their personal use of social media; and

WHEREAS, a Social Media Policy will outline the protocol and procedure for employee and volunteer use of social media to disseminate public information and/or promote special events, programs, and services on behalf of the City of Brenham; and

WHEREAS, it is in the best interest of the City of Brenham to adopt a Social Media Policy; and

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

Section 1: That the recitals set forth above are incorporated herein for all purposes as if fully set forth in the body of this Resolution.

Section 2: That the City Council of the City of Brenham hereby adopts a Social Media Policy for the City of Brenham attached hereto as “Exhibit A” and incorporated herein for all purposes.

Section 3: That any and all previously adopted Social Media Policies are hereby repealed.

Section 4: That this Resolution shall be in full force and effect beginning on December 1, 2018 after its passage and approval according to law.

PASSED and APPROVED this the 1st day of November, 2018.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

“Exhibit A”
CITY OF BRENHAM
SOCIAL MEDIA POLICY

1. PURPOSE

The City of Brenham (“City”) has a vested interest in protecting its reputation and the community by ensuring that an employee’s communication on behalf of the City not only reflects positively on the employee, but also on the City.

This policy addresses the responsibility of all employees and volunteers with regard to their personal use of social media. This policy also outlines the protocol and procedure for employee and volunteer use of social media to disseminate public information and/or promote special events, programs, and services on behalf of the City of Brenham.

2. DEFINITION

For purposes of this policy, “social media” shall mean the use of technology in combination with electronic social networks or social media sites of any type. “Social media sites” are third party websites, software applications and similar computer programs which allow for the creation of and access to content and dialogue around a specific issue or area of interest and may include, but not be limited to, Facebook, Twitter, Instagram, Snapchat, LinkedIn, MySpace, YouTube, blogs, Wikis, chat rooms, on-line forums and any other form of social media.

“City social media sites” are those websites, pages, sections, or posting locations in social media that are established or maintained by an employee of the City who is authorized to do so as part of the employee’s job and that are used to conduct City business; disseminate public information and/or promote special events, programs, and services on behalf of the City; and/or communicate with or gather feedback from City residents and other interested persons.

“City social media sites” also include official City of Brenham websites and all forms of on-line community sites that are established and maintained by the City of Brenham. Social media activity includes but is not limited to texting, blogging, posting, and other actions involving technology and social media sites.

“City social media content” means information, images, or photographs posted or provided to a City social media site by a City employee or authorized representative when such activity is a part of the employee’s or authorized representative’s job duties.

For the purposes of this Social Media Policy only, the term “employee” shall mean a full-time, part-time, or temporary/seasonal employee, contract employee/entity, or volunteer for the City.

3. COVERAGE

This policy applies to all City departments and employees.

4. EMPLOYEE PERSONAL USE OF SOCIAL MEDIA

The lines between public and private, personal and professional can become blurred in social networks. With that in mind, below are the City's expectations regarding social media use by City employees while off duty.

- 4.1 When using social media for personal purposes, employees shall not post or discuss confidential information about the City's employees, citizens, vendors, issues, business, or legal matters without express consent to do so from the City Manager, department director and/or the Communications & Public Relations Manager. Additionally, in certain situations, disclosure or posting of confidential information may also violate state law and/or subject the employee to civil liability and/or criminal penalties.
- 4.2 Personal use of social media while off duty must not interfere with or conflict with the employee's duties or job performance, reflect negatively on the City or violate any City policy.
- 4.3 Employees are expected to act responsibly while off duty and to exercise good judgment when using social media. Employees shall comply with the following when engaging in personal use of social media:
 - Respect all employees and the City. Do not post any information and/or pictures on the Internet that may defame, embarrass, insult, demean or damage the reputation of the City or any of its employees. Recognize that postings, even if done off premises and while off duty could have an adverse effect on the City.
 - Do not post any information and/or pictures that may constitute a violation of any City policy.
 - Do not post pictures or other content containing images of City uniforms or insignia, City logos, City equipment or City work sites unless the employee obtains prior written permission from the Department Director.
 - Do not use City names or identifiers for your personal social media accounts or email accounts. The City may require removal of any material that violates this policy, is disruptive to the workplace or impairs the mission of the City.

5. USE OF SOCIAL MEDIA ON DUTY

The City of Brenham permits the use of social media while on duty for the purpose of promoting and conducting City business. All posts, generation of content and use of social media on behalf of the City require department director approval. However, the City prohibits all personal use of social media while on duty regardless of whether the personal use is on a personal device or City-owned equipment, public Wi-Fi or City-owned private network unless such use is expressly permitted by the Department Director.

- 5.1 All communication representing the City through social media sites shall be professional in nature. Incomplete, inaccurate, inappropriate, threatening, demeaning, harassing or poorly worded postings may be harmful to the City's reputation or violate City policy. Such wording will be removed, or be directed to be removed, by the City Manager, City Secretary, Director of Human Resources, or the Communications & Public Relations Manager.
- 5.2 All employees bear full responsibility for the material they post on social media sites. Inappropriate usage of social media can be grounds for disciplinary action, up to and including termination.
- 5.3 Any employee who is tasked with generating content for a social media site must submit all content to their Department Director for prior approval before that content is made public.
- 5.4 Employees shall comply with copyright laws, and must accurately cite/reference the employee's sources. Plagiarism is prohibited.
- 5.5 All information published on social media sites must comply with City of Brenham's privacy and/or data policies. This requirement includes comments, pictures, video, audio, or any other multimedia content posted on social media sites.
- 5.7 Media inquiries generated on social media sites should be referred to the City Secretary, the Communications & Marketing Specialist or the City Manager.

6. CITY SOCIAL MEDIA SITES

- 6.1 City social media sites established by or on behalf of the City of Brenham are the property of the City of Brenham. All social media sites and email accounts shall be established by the Communications & Public Relations Manager or other person or entity designated by the City Manager, with input and assistance from the Information Technology Department.
- 6.2 The Communications & Public Relations Manager, in partnership with the Information Technology Department, shall be responsible for the technical oversight of the City of Brenham's social media sites to include:
 - a. Establishing City social media sites and related email accounts; and
 - b. Maintaining a list of City social media site domains, account logins and passwords, and changing passwords. Notification to the Communications & Public Relations Manager and the Information Technology Department is required if an employee is no longer designated to generate, publish and/or update content on a City social media site(s).
- 6.3 City social media sites must meet one or both of the following purposes:
 - a. Provide the public and residents of Brenham information about City events, activities and issues.
 - b. Promote the positive aspects of the City of Brenham to those in and outside the community.

- 6.4 The City's official website, www.cityofbrenham.org, will remain the primary location for internet content regarding City business, services and events. Whenever possible, links within City social media sites should direct users back to the City's website for more information, forms, documents or on-line services necessary to conduct business with the City of Brenham.
- 6.5 A request for the establishment of a City social media site must be submitted to the Communications & Public Relations Manager, and must also obtain approval by the City Manager, prior to the establishment of the City social media site. Requests must include:
- a. Purpose for the site and intended content to be posted/shared including the primary audience to be served;
 - b. Explanation of how often the site's content will be reviewed and updated to ensure material accuracy, timeliness and appropriateness; and
 - c. Identification of employee(s) responsible for managing/overseeing the site and corresponding with the public (employee's name and position must be included) as well as describing what provisions will be made for performance of these duties if the responsible employee(s) leaves the position or is absent from work.

7. CONTENT MANAGEMENT FOR CITY SOCIAL MEDIA SITES

- 7.1 Only designated department employees approved by the Department Director are authorized to publish content on City social media sites. City departments are required to maintain a list of all such authorized employees.
- 7.2 Department directors are responsible for monitoring City social media site activity and ensuring content is consistent with the goals and objectives of the City.
- 7.3 Departments are responsible for responding to public commentary, inquiries or complaints - pertaining to the City or partnering entities – which pertains to the message and intention of the original post. Additional responses may be made at the Department's discretion. Responses must be approved by the Department Director or his/her designee. Any inquiries or complaints regarding entities not affiliated with the City of Brenham shall be directed to the Communications & Public Relations Manager.
- 7.4 Communications utilizing City social media sites are public records. Posts and publication of content by City employees and any feedback and/or content posted by others are public records of the City of Brenham and will be subject to the Texas Public Information Act (Chapter 552 of the Texas Government Code).
- 7.5 Content posted by "friends," "followers," "fans" or others who are not employees of the City will not constitute a representation, agreement or endorsement on the part of the City of Brenham. The City of Brenham reserves the right to hide and/or delete any comment, content or posting that is deemed: inappropriate; an advertisement or commercial in nature; to imply, promote, or encourage illegal activity; contrary to the safety of City employees or the public; to oppose or support political candidates or propositions; violates the legal ownership of another party (such as copyrighted material); obscene; sexual; pornographic; malicious; offensive; threatening; profane; insulting; grossly inaccurate or unrelated to the purposes, content or scope of the City social media site.

Content that promotes, fosters or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, disability, national origin or sexual orientation will not be permitted, and the City reserves the right to hide and/or delete such content.

In the event that an individual repeatedly posts comments or other content in violation of this Section 7.5, the City of Brenham reserves the right to block the user from posting comments or other content to City social media sites/pages. The same will apply to commercial posting conducted by a spam account. Users may be permanently blocked after the third time a comment or other content is deemed in violation of this Section 7.5.

7.6 Any comments posted by external parties on City of Brenham social media sites are not official public testimony concerning any proposal, project or program. An opinion expressed on a City of Brenham social media site is posted for discussion only and is not a substitute for a formal statement in a public hearing process.

7.7 If a question arises regarding the use or posting of confidential information (e.g. litigation, investigations, etc.) on a City social media site, the matter shall be referred to the City Attorney for review. The information in question shall not be posted, or if already posted, shall be removed until an opinion is rendered by the City Attorney. The City Manager or designee reserves the right to restrict or remove City information from an official City social media site if the City Manager determines the information to be proprietary, copyrighted, protected by the attorney-client privilege, subject to state or federal confidentiality or privacy laws, or in violation of Section 7.5 herein above.

8. DISCLAIMER

8.1 Each City of Brenham Social Media Site/Page must include a Disclaimer that contains the following information:

“The City of Brenham does not warrant or make representations or endorsements as to the quality, content, suitability, accuracy, or completeness of the information, text, graphics, links, and other items contained on a City social media site’s server or any other server. Such materials have been compiled from a variety of sources, and are subject to change without notice from the City. The City’s primary and predominant internet presence shall remain the City’s official website at www.cityofbrenham.org and no other website or social media site can characterize itself as such. The City reserves the right to completely delete or hide, when appropriate and as soon as feasible, any posting or content unrelated to the purpose and topical scope of the City social media site/page.

Comments posted on this site by “friends,” “fans,” or “followers” or others will be monitored and any postings or comments that are deemed: inappropriate; an advertisement or commercial in nature; to imply, promote, or encourage illegal activity; contrary to the safety of City employees or the public; to oppose or support political candidates or propositions; violates the legal ownership of another party (such as copyrighted material); obscene; sexual; pornographic; malicious; offensive; threatening; profane; insulting; grossly inaccurate; proprietary; copyrighted; protected by the attorney-client privilege; or subject to state or federal confidentiality or privacy laws may be deleted without notice.

Except to the extent required by law, communications made through e-mail and comments posted shall in no way be deemed to constitute legal notice to the City of Brenham or any of its agencies, officers, employees, agents, or representatives with respect to any existing or potential claim or cause of action against the agencies, officers, employees, agents or representatives where notice to the City is required by any federal, state or local laws, rules or its regulations.

Further, comments on a social media site should not be utilized as a method of contacting the City in case of an emergency. Requests for City services or aid should be directed to (979) 337-7200. In cases of an emergency, please call 9-1-1.

9. ENFORCEMENT

Violations of this policy may result in immediate revocation of any or all electronic communications access and user privileges and may be grounds for disciplinary action up to and including termination. Certain violations could result in civil or criminal liabilities for the user. Individual supervisors do not have the authority to make exceptions to this policy.

No employee or volunteer should have any expectation of privacy or confidentiality when using any City resource, including the city's public and private networks. The City reserves the right to access, intercept, monitor and review all information accessed, posted, sent, stored, printed, or received through its communications systems or equipment at any time.

10. CONTENT RESTRICTIONS

In keeping with the goals and objectives of the City of Brenham to provide educational and governmental information, certain types of content are not allowed. These include, but are not limited to the following:

1. Political Use of Any City Website or City Social Media Site: City Websites/City social media sites may not be utilized for the promotion or "use" of any elected official, candidate, or measure. Specific advertising messages on behalf of or opposing any political candidate or measure on any ballot shall not be permitted.
2. Position Advocacy: Any direct advocacy messages, including specific promotional messages on behalf of or opposing any ballot initiative, measure proposals, or items under consideration of the City Council, its commissions, or advisory bodies shall not be permitted.
3. Commercialism: There shall be no commercial advertising or other information which promotes the sale of any product or service offered, except for promotional announcements of City sponsored or sanctioned events, or approved sponsorship acknowledgments.
4. Lotteries: Advertising of other information concerning any lottery, gift enterprise, or similar promotion is prohibited.
5. Promotion of Religion: Programming which directly promotes religious beliefs or religious philosophies shall not be presented on any City website/City social media site.

6. Promotions: Promotional announcement for City sponsored or sanctioned events will be permitted on the City of Brenham's websites/social media sites. However, promotional announcements for events, charities, or outside organizations in which the City has no official interest or sponsorship shall not be permitted.
7. Defamatory Material: Subject matter which is defamatory in nature (i.e. slander) shall not be presented on the City's websites.
8. Indecent or Obscene Content: There shall be no presentation of programming content which, in the opinion of the City Manager or his/her designee, is indecent, obscene, illegal or in violation of Section 7.5 herein above.
9. Copyright Restrictions: Programs containing copyrighted materials will not be posted on any City website/City social media site without proper copyright authorization. Outside agencies submitting content for posting are responsible for obtaining all necessary copyright clearance and shall hold the City, its officers and agents, harmless in any case of copyright infringement.
10. Liability: The City of Brenham will not be responsible for the accuracy of any information posted on any City website/City social media site that was provided by outside sources.

11. USE BY BOARDS OR COMMISSIONS

Due to open meetings requirements, individual members of a board or commission of the City must refrain from participating in postings or discussion threads on City Social Media Sites created and maintained by the department or group of which they advise.

With permission of the City Manager, a department may set up an online message board or similar Internet application that complies with Texas Government Code Section 551.006. If such an online message board or similar Internet application is created and after training of that board and commission on use of the site, members of that board or commission may post on that site in compliance with Texas Government Code Section 551.006.

12. REPORTING VIOLATIONS

The City urges employees to report any violations of this policy, or possible perceived violations of this policy, to their supervisor, department director, Communications & Public Relations Manager or the Human Resources Department.



AGENDA ITEM 14

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 23, 2018	
DEPT. OF ORIGIN: Human Resources	SUBMITTED BY: Susan Nienstedt	
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION	ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the 2019 Holiday Schedule		
SUMMARY STATEMENT: The Holiday Schedule for 2019 is presented for approval by the City Council. The schedule provides for 12 observed holidays, and 1 floating (birthday holiday) for a total of 13 paid holidays. We are recommending the addition of Washington County Fair day, to accommodate our employees and their children's involvement in our local County Fair.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Proposed 2019 Holiday Schedule		
FUNDING SOURCE (Where Applicable): Funding for holiday pay is provided in FY19 budget.		
RECOMMENDED ACTION: Approve the 2019 Holiday Schedule as presented		
APPROVALS: James Fisher		



2019 HOLIDAY CALENDAR

JANUARY						
S	M	T	W	Th	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		

January 1
New Year's Day

January 21
Martin Luther King Day

JULY						
S	M	T	W	Th	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	Th	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		

April 19
Good Friday
or
April 21 Easter Sunday
(24 hour departments)

AUGUST						
S	M	T	W	Th	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

MARCH						
S	M	T	W	Th	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						

May 27
Memorial Day

July 4
Independence Day

SEPTEMBER						
S	M	T	W	Th	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					

APRIL						
S	M	T	W	Th	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 2
Labor Day

September
(date to be determined)
Washington County Fair Day

OCTOBER						
S	M	T	W	Th	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		

MAY						
S	M	T	W	Th	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 11
Veterans Day

November 28 & 29
Thanksgiving

NOVEMBER						
S	M	T	W	Th	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

JUNE						
S	M	T	W	Th	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 24 & 25
Christmas

***Birthday Holiday**
Floating

DECEMBER						
S	M	T	W	Th	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				

****Designated as September 11th**
Holiday for Firefighters



AGENDA ITEM 15

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 23, 2018
DEPT. OF ORIGIN: Human Resources	SUBMITTED BY: Susan Nienstedt
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☒ 1 ST READING ☐ 2 ND READING ☐ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for an Increase in Retirement Annuities in the Texas Municipal Retirement System Effective January 1, 2019	
SUMMARY STATEMENT: For many years, City Council has approved, on an annual basis, an ordinance providing for an increase in retirement annuities of 70% of the CPI as provided through the Texas Municipal Retirement System. In order to make any changes in the City's plan provisions, an Ordinance must be approved by Council. The applicable TMRS ordinance for 2019 is presented for discussion and approval. The change in the City's contribution rate is shown on the TMRS Plan Change Study. The funding rate for the City of Brenham will increase from 9.72% to 10.01% We included this funding rate in the FY18-19 budget.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: Current City of Brenham retirees will receive an annuity increase effective January 1, 2019 and future retirees will have an enhanced retirement annuity. B. CONS: Enhancement results in an increased unfunded actuarial liability.	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: (1) TMRS Ordinance; (2) Letter from Eric Davis; (3) TMRS Plan Change Study	
FUNDING SOURCE (Where Applicable): Funds are available in the FY18-19 Budget	
RECOMMENDED ACTION: Approve an Ordinance on its first reading providing for an increase in Retirement Annuities in the Texas Municipal Retirement System effective January 1, 2019	
APPROVALS: James Fisher	



TMRS-CPI

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 2019.

Passed and approved this the ____ day of _____, 20__.

ATTEST:

APPROVED:

City Secretary or Clerk

Mayor



October 3, 2018

Via E-Mail

Ms. Susan Nienstedt
Assistant HR Manager
City of Brenham
P.O. Box 1059
Brenham, TX 77834-1059

Dear Susan:

We are pleased to enclose a model ordinance for your city to adopt:

***70% CPI Increases to Annuitants
Ad Hoc (one time only basis)***

This provision allows for annuity increases for your city's retirees and is based on a percentage of the Consumer Price Index (inflation index).

With the adoption of this additional benefit your city's contribution for 2019 will be **10.01%**.

We will appreciate receiving a copy of this ordinance as soon as possible after its adoption.

Please feel free to contact me at 1-800-924-8677 if you need additional information or assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric W. Davis", is written over a circular flourish.

Eric W. Davis
Executive Director

Plan Change Study

00176 Brenham

Proposed Plans

<u>Plan Provisions</u>	<u>Current</u>	<u>1</u>
Deposit Rate	5.00%	5.00%
Matching Ratio	2 to 1	2 to 1
Updated Service Credit	100% (Repeating)	100% (Repeating)
Transfer USC **	Yes	Yes
Annuity Increase	0%	70% ✓
20 Year/Any Age Ret.	Yes	Yes
Vesting	5 years	5 years
<u>Contribution Rates</u>	<u>2019</u>	<u>2019</u>
Normal Cost Rate	5.20%	5.20%
Prior Service Rate	<u>4.52%</u>	<u>4.81%</u>
Retirement Rate	9.72%	10.01%
Supplemental Death Rate	0.00% (None)	0.00% (None)
Total Rate	9.72%	10.01% ✓
Unfunded Actuarial Liability	\$5,182,230	\$5,498,782
Amortization Period	25 years	25 years
Funded Ratio	88.9%	88.3%
Phase-In Total Rate	N/A	N/A
Stat Max	11.50%	11.50%
Study Exceeds Stat Max	No	No

**This is the addition to the Initial Prior Service Rate for USC for transfers. There were 7 eligible transfer employees on the valuation date.



AGENDA ITEM 16

DATE OF MEETING: November 1, 2018	DATE SUBMITTED: October 23, 2018
DEPT. OF ORIGIN: Community Programs	SUBMITTED BY: Crystal Locke
MEETING TYPE: ☒ REGULAR ☐ SPECIAL ☐ EXECUTIVE SESSION	CLASSIFICATION: ☐ PUBLIC HEARING ☐ CONSENT ☒ REGULAR ☐ WORK SESSION
ORDINANCE: ☐ 1 ST READING ☐ 2 ND READING ☒ RESOLUTION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-18-020 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2018 Christmas Stroll and Lighted Parade to be Held on Saturday, December 1, 2018	
SUMMARY: The City of Brenham hosts an annual Christmas Parade. This year's Lighted Parade is Saturday, December 1, 2018. We are requesting the temporary closure of Main Street and Alamo Street between Market Street and Austin Street from 2:00 pm until 8:00 pm. Closures more than four hours need approval, per our agreement with TxDOT.	
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS: None	
ALTERNATIVES (In Suggested Order of Staff Preference):	
ATTACHMENTS: (1) Resolution No. R-18-020; (2) Application for Event Permit (With Street Closures); and (3) Agreement with TxDOT	
FUNDING SOURCE (Where Applicable):	
RECOMMENDED ACTION: Approve Resolution No. R-18-020 authorizing the execution of an agreement with TxDOT for the temporary closure of state right of way in connection with the 2018 Christmas Stroll and Lighted Parade to be held on Saturday, December 1, 2018	
APPROVALS: James Fisher	

RESOLUTION NO. R-18-020

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 2018 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 2018 Christmas Stroll and Lighted Parade. This resolution is effective upon its adoption.

Adopted this the 1st day of November 2018.

Milton Y. Tate, Jr.,
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

APPLICATION FOR EVENT PERMIT

1. Name of sponsoring organization: City of Brenham
2. Name of individual making application on behalf of sponsoring organizations: Crystal Locke, Community Services Specialist
3. Purpose of the event: Annual Christmas Stroll & Lighted Parade
4. Proposed date(s) of event: November 30 and December 1, 2018
5. Event start date and time: Nov. 30 from 5:30pm-8:30pm; Dec. 1 from 10am-8pm
6. Event set-up times: From Nov. 30 @noon; Dec. 1 @8am to Nov. 30 @5pm; Dec. 1 @10am
7. Breakdown/cleanup: From Nov. 30 @8pm; Dec. 1@8pm to Nov. 30 @10pm; Dec. 1 @10pm
8. Describe types of activities planned (entertainment, food booths, theme of items for sale, etc.):
Friday - Farmers and Artisans Market, Lighting of the Courthouse Square and
Caroling, Entertainment, Carriage Rides, Invader Rides, Children's activities
Saturday - Breakfast with Santa, Entertainment, Carriage Rides, Lighted Parade,
Sit with Santa
9. Estimated attendance (event organizers and spectators): 4,500+
10. Special Requests and/or additional information related to this event: _____
Street closures for Friday, November 30
Baylor Street from Alamo to Main from noon to 9pm
Douglas Street from Alamo to Main from 3pm-9pm
Park Street from Alamo to Main from 3pm-9pm

(+) Saturday, Dec. 1
baylor + park streets - 4pm-9pm.

Filing Fee \$10.00

11. Street Closure Times: Beginning at Saturday, December 1 at 2pm
(Date and time)

Ending at: December 1 at 9pm 8pm
(Date and time)

12. Street Closings:** (Parade Route)

Main	from	Market	to	Alamo
Alamo	from	Market	to	Alamo
St. Charles	from	Main	to	Alamo
S. Baylor	from	Main	to	Alamo
N. Park	from	Main	to	Alamo
Douglas	from	Main	to	Alamo
Market	from	Commerce	to	Vulcan

**Please provide a map of closures

APPLICANT

C. Locke
Signature

Crystal Locke
Printed Name

Date: 10-10-18

Contact Phone Number: 979-337-7254

CITY OF BRENHAM

By: _____
City Secretary

Date: _____



2018 Parade Route

1 inch = 130 feet



STATE OF TEXAS §

COUNTY OF WASHINGTON §

**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, 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 2018 Lighted Christmas Parade, from 2:00pm to 8:00pm on Saturday, December 1 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 1 day of November 2018, 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:

Agreement No. _____

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

Our annual Lighted Christmas Parade is hosted by the City of Brenham and happens the first Saturday of December – December 1, 2018. Main Street and Alamo Street will feature a lighted parade beginning at 6pm. Parade entries will include vehicles, semi-trucks, tractors, animals such as horses and dogs, and floats.

Exhibit B

RESOLUTION NO. R-18-020

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 2018 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 2018 Christmas Stroll and Lighted Parade. This resolution is effective upon its adoption.

Adopted this the 1st day of November 2018.

Milton Y. Tate, Jr.,
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit C

This request is for closure of Alamo Street (Business 290) and Main Street from Market Street to Austin Street in Brenham, Texas (Washington County) as follows on Saturday, December 1, 2018.

2:00 pm to 4:00 pm – close Main Street and Alamo Street 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.

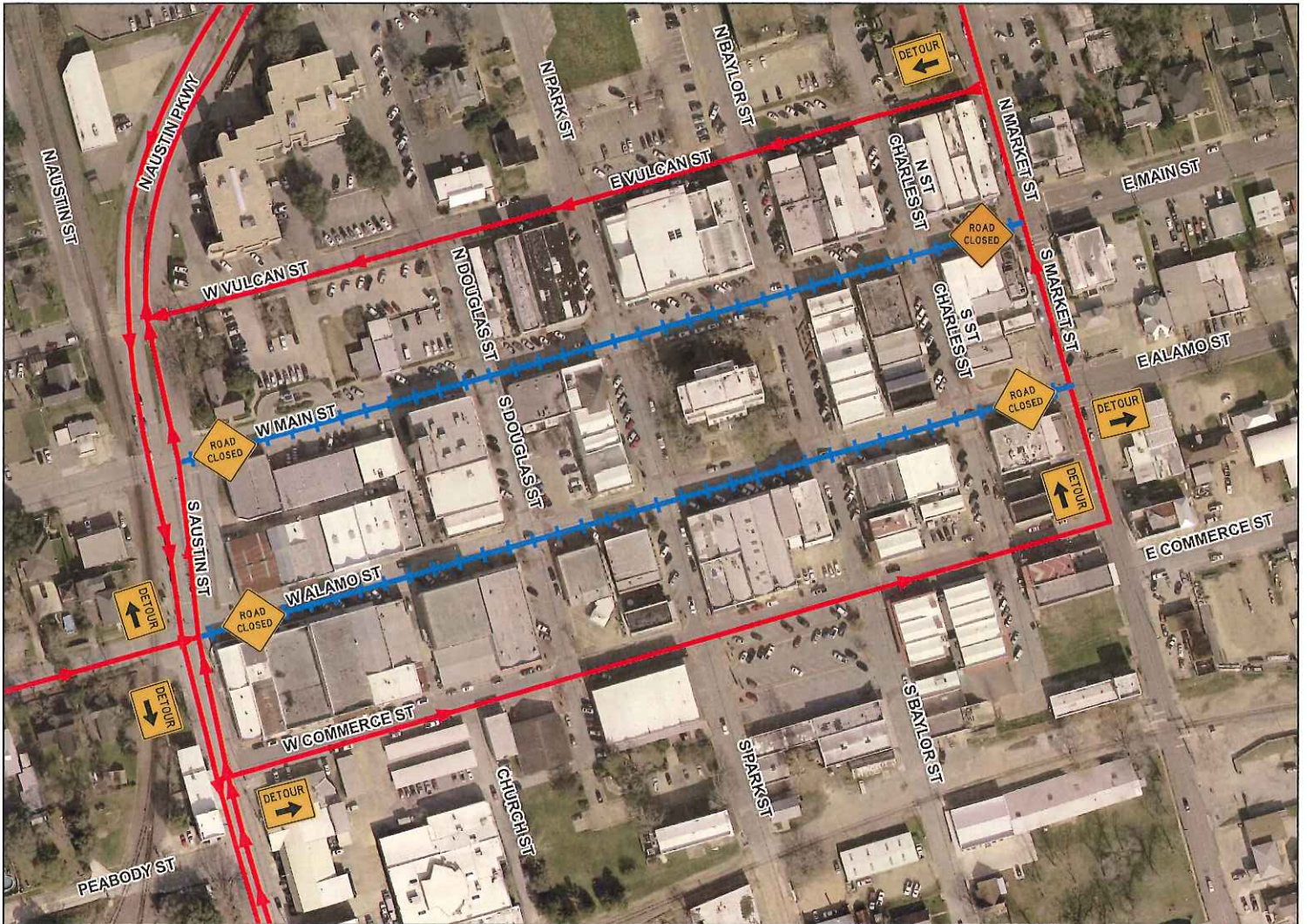
4:00 pm to 8:00 pm – full parade street closures including the parade route and parade staging and unloading areas. Attached is a map showing the location of street closures and detour routes for thru traffic - Christmas Parade Detour Map – 4:00 pm-8:00 pm.

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 2018 Lighted Christmas Parade. Estimated attendance for the Lighted Parade is approximately 4,500.

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



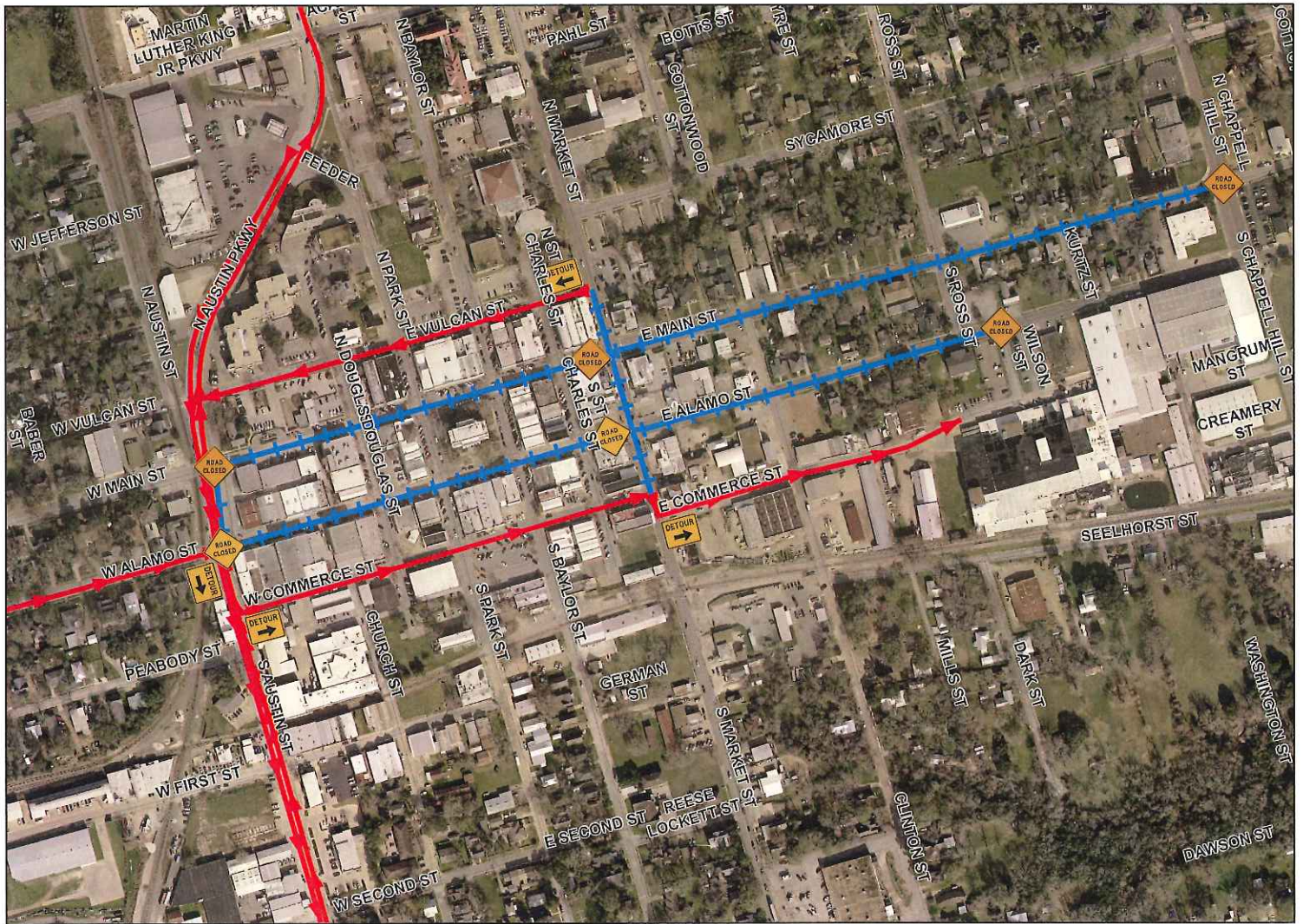
1 inch = 171 feet



Christmas Parade Detour Map - 2:00 pm-4:00 pm



Document Path: U:\MapPublic\GIS PROJECTS\COMMUNITY SERVICES\Christmas Stroll\Christmas Stroll Detour Map 1.mxd



1 inch = 364 feet



Christmas Parade Detour Map - 4:00 pm-8:00 pm



Document Path: U:\MapPublic\GIS PROJECTS\COMMUNITY SERVICES\Christmas Stroll\Christmas Stroll Detour Map 2.mxd



AGENDA ITEM 17

DATE OF MEETING: November 1, 2018		DATE SUBMITTED: October 25, 2018	
DEPT. OF ORIGIN: Animal Services		SUBMITTED BY: Allison Harper	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
☒ REGULAR	☐ PUBLIC HEARING	☐ 1 ST READING	
☐ SPECIAL	☐ CONSENT	☐ 2 ND READING	
☐ EXECUTIVE SESSION	☒ REGULAR	☐ RESOLUTION	
	☐ WORK SESSION		
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Shelter Agreement Between the City of Brenham's Pet Adoption and Care Center and Hill's Pet Nutrition Through the Hill's Food, Shelter & Love Program for Pet Food and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: Hill's Pet Nutrition Sales, Inc. operates the Food, Shelter and Love Program whereby Hill's Science Diet pet food is made available at a discounted cost to animal shelters such as ours. In return the shelter agrees to feed the provided food exclusively and to display and communicate information about the Food, Shelter and Love Program. The Hill's Program has been in operation since 2002, providing food to more than 1,000 shelters nationwide. By obtaining food through the Program, we will be able to provide consistent, quality nutrition to animals in our care at reduced cost compared to obtaining food at retail. The shelter primarily uses four types of food: puppy, adult dog, kitten and adult cat. Although exact costs depend on the number and type of animals cared for in a given year, program versus recent retail costs can be seen in the table attached. Careful consideration has been given by staff to determine that the Program can be implemented within normal shelter operations and to the benefit of the animals at the shelter and the people who adopt them.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS: Reduction of food cost. B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference): None.			
ATTACHMENTS: (1) Cost Comparison Table; and (2) Shelter Agreement			
FUNDING SOURCE (Where Applicable): Animal Services Budget			

RECOMMENDED ACTION: Approve a Shelter Agreement between the City of Brenham's Pet Adoption and Care Center and Hill's Pet Nutrition Through the Hill's Food, Shelter & Love Program for Pet Food and Authorize the Mayor to Execute Any Necessary Documentation

APPROVALS: James Fisher

Cost Comparison: Iam's Pet Food Retail; Science Diet Pet Food Retail; Science Diet Pet Food Program

	Iam's Retail	Science Diet Retail	Science Diet Program
Type of Food			
Puppy	\$1.20/lb	\$0.88/lb	\$0.23/lb
Adult Dog	\$1.00/lb	\$0.83/lb	\$0.22/lb
Kitten	\$1.86/lb	\$1.44/lb	\$0.63/lb
Adult Cat	\$1.44/lb	\$1.41/lb	\$0.62/lb

Package sizes are not all equivalent. Calculating from sizes readily available.

SHELTER AGREEMENT

THIS AGREEMENT is made and entered into the ____ day of _____ (month), ____ (year) (the "Effective Date"), by and between **HILL'S PET NUTRITION SALES, INC.**, a Delaware corporation with its principal place of business located at 400 SW 8th Avenue, Topeka, Kansas 66603 ("Hill's"), and **BRENNHAM PET ADOPTION AND CARE CENTER**, with its principal place of business located at PO BOX 1059, BRENNHAM, TX 77834-1059 ("Shelter").

WHEREAS, Hill's and the Shelter desire to enter into an arrangement whereby Hill's provides and/or makes available Hill's® Science Diet® pet food, under specified terms, for the express and limited purpose of feeding cats and dogs being cared for by Shelter ("In-Shelter Food"), in exchange for the Shelter:

- (i) exclusively feeding In-Shelter Food to cats and dogs being cared for by the Shelter ("Pets"); and
- (ii) actively displaying and communicating Hill's Food, Shelter & Love® partnership, as specified herein, in the course of Shelter's public communications and Pet adoption activities.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, and provisions contained herein, the parties agree as follows:

1. Hill's Obligations. Hill's covenants and agrees that it will:

- (a) Provide and/or make available In-Shelter Food to the Shelter under terms as specified in Section 4 and **Appendices A and B**, subject to the following:
 - (i) The type and quantity of In-Shelter Food provided and/or made available by Hill's to Shelter shall be agreed to in writing. Hill's reserves the right to substitute or designate the type of In-Shelter Food.
 - (ii) Hill's shall provide and/or make available In-Shelter Food at the list price minus any discount as specified in **Appendix B**. All pricing is subject to change with 30 days written notice.
 - (iii) The parties acknowledge that unforeseen business conditions may require the Shelter to request an increase in the food allotment. Any such increases shall be considered on a case-by-case basis, and if mutually agreed to, shall be memorialized in writing.
 - (iv) Hill's may take any legally permissible action that, in Hill's discretion, is necessary to prevent or stop the unauthorized resale or distribution of the In-Shelter Food and Adopter Kits.
- (b) Give Shelter access to Hill's Shelter Web Portal (the "Portal"), which enables Shelter to retrieve a library of relevant information, such as articles, links to important organizations and other shelter resources. Additionally, it allows the Shelter to manage and monitor all food and promotional material orders, track Shelter monthly progress as well as conveniently submit adopter names and information and renew Shelter contracts; and
- (c) For the duration of the Agreement, grant Shelter a non-exclusive, limited, non-transferrable, revocable, non-royalty bearing license to use Hill's trademarks, logos, and other intellectual

property as may be required by Shelter to fulfill its promotional activities pursuant to Section 2, below.

2. Shelter's Obligations. Shelter hereby covenants and agrees that it will:

- (a) Maintain its credentials and standards of care for Pets at all times during this Agreement, including without limitation to the following:
 - (i) Maintaining in good standing its status as a 501(c)(3) not-for-profit organization or as a governmental entity, and notify Hill's immediately of any actual or threatened revocation of that status;
 - (ii) Housing all Pets in a safe, caring, clean and socially-enriched environment;
 - (iii) Refraining from subjecting or exposing Pets to abusive or inhumane treatment;
 - (iv) Educating Pet adopters about caring for Pets; and
 - (v) Employing, or affiliating with, one or more veterinarians who can and do provide on-going healthcare for Pets.
- (b) Purchase In-Shelter Food for the purpose of exclusively feeding In-Shelter Food to cats and dogs being cared for by the Shelter (as set forth in Section 4 and Appendix A of this Agreement), unless there is a medical or other condition that would prohibit the use of the In-Shelter Food for a particular pet;
- (c) Make good faith efforts to ensure that Shelter's employees and volunteers involved with the Pet adoption process are trained to educate Pet adopters about Hill's' brands and products (including through the use of adopter script in **Appendix D**, and other instruction materials provided by Hill's from time to time);
- (d) Actively and exclusively display and communicate Hill's Food, Shelter & Love® partnership, including without limitation the following:
 - (i) Prominently displaying Hill's products and/or point-of-purchase materials;
 - (ii) At time of adoption, promote the Shelter's exclusive feeding of In-Shelter Food to Pets, providing adopters with an adopter kit ("Adopter Kit") as specified in **Appendix C**, and any other communication assets as may be designated by Hill's from time to time. Shelter shall order and maintain, at no cost to Shelter, a sufficient inventory of Adopter Kits needed to fulfill its obligations hereunder. For the avoidance of doubt, Adopter Kits are to be used by Shelter for adoptions only, and any other use (including without limitation, resale or unauthorized diversion) is strictly prohibited and will constitute a material breach of this Agreement;
 - (iii) Providing other communication assets to the public, as specified in **Appendix D** or, as may be designated by Hill's in writing from time to time; and
 - (iv) On any website operated by or on behalf of Shelter, maintaining a landing page containing a display of the Science Diet logo with an active link to Hillspet.com; and

- (v) Not promoting, displaying, distributing, endorsing, or feeding any competitive brands and/or products of pet food; with the exception that Shelter may redistribute other brands of donated pet food products so long as such redistribution does not constitute direct or implied endorsement of such donated product.
- (e) Provide Hill's with the following Pet and Pet adopter information in electronic format or such other format acceptable to Hill's, provided that at all times Shelter complies with (i) applicable law including any applicable privacy and disclosure laws in collecting and then sharing the information with Hill's; and (ii) the Data Submission and Privacy Policy contained in **Appendix E**:
 - (i) Pet adopter name, address and a minimum of 75% of adopters' e-mail addresses (provided they have consented to participate in the Hill's New Pet Parent program);
 - (ii) the adopted Pet's name, breed, and date of birth; and
 - (iii) the adoption date, adoption location, brand of adopter bag provided (Science Diet or Ideal Balance),
 In addition, Shelter will provide Hill's with monthly Pet adoption numbers and updated shelter contact information as specified in **Appendix E**.
- (f) Provide Hill's with a right of first refusal for all pet food company sponsorship opportunities;
- (g) Provide Hill's with a delivery address of either a physical shelter with a business sign and posted operating hours, a veterinary clinic, or a pet-related business; and
- (h) Order and replenish In-Shelter Feeding and Adopter Kit materials through the Hill's Shelter portal.

3. Term and Termination.

- (a) This Agreement shall become effective upon the Effective Date, and shall remain in effect for one (1) year ("Initial Term"). At the end of the Initial Term, the Agreement shall automatically renew for two (2) successive terms of one (1) year each (each, a "Renewal Term") unless either party notifies the other at least thirty (30) calendar days prior to the end of the Initial Term or any Renewal Term of its wish not to renew for a subsequent Term.
- (b) This Agreement may be terminated at any time:
 - (i) by either party, for any reason or no reason whatsoever, upon the delivery of thirty (30) calendar days' written notice to the other party;
 - (ii) by either party, immediately upon written notice to the other party, if a party ceases doing business, becomes insolvent, makes a general assignment for the benefit of creditors, has a receiver appointed for its assets, or an order has been made for its "winding-up"; and
 - (iii) by Hill's, immediately upon written notice to Shelter, if (A) Shelter loses and/or fails to maintain its status as a 501(c)(3) not-for-profit organization or governmental entity; (B) Shelter breaches its material obligations (including, but not limited to, nonpayment or any obligations under Section 2); or (C) Shelter's account remains inactive for a minimum of three (3) months.
- (c) Upon the expiration or termination of this Agreement, Hill's shall cease providing the In-Shelter Food, and the Shelter shall within thirty (30) days thereof pay any outstanding amounts owed

to Hill's. Additionally, the Shelter shall return to Hill's or, at Hill's discretion, make available for pick up by Hill's or its designated agents, any Hill's promotional materials which Hill's had provided to the Shelter (including without limitation, any coupons, pet food trial bags, point-of-purchase materials and display racks).

4. Sales and Payment Terms.

- (a) Hill's will invoice Shelter for In-Shelter Food at list prices reflecting the discounted amount. Upon receipt of invoice, Shelter shall remit payments to Hill's.
- (b) All list prices and/or discount amounts listed in **Appendix B** are subject to change upon thirty (30) days written notice.
- (c) Nothing in this Agreement shall prohibit Shelter from purchasing Hill's products through Hill's normal sales channels. Shelter agrees such products are not purchased for resale and that such products will not be re-sold unless Shelter is approved by Hill's as an authorized Hill's retailer.

5. Confidentiality. The Shelter agrees that, to the extent permitted by law, it shall maintain in confidence and shall not disclose to any third party the terms of this Agreement without the prior written consent of Hill's.

6. Hill's Policies. Shelter represents and warrants that it is in compliance with Hill's Supplier/Business Partner Code of Conduct as of the Effective Date and will remain in compliance throughout the term of this Agreement, as it may be amended from time to time. Hill's Supplier Code of Conduct can be found at <http://www.colgate-palmolive.com> under website tabs "Contact Us" and "Supplier Information". Additionally, attached and incorporated by reference to this Agreement as **Appendix F** is a copy of Hill's FCPA and Anti-Bribery Policy. Supplier represents and warrants that it has reviewed the contents of Hill's FCPA and Anti-Bribery Policy and agrees that it shall abide by the terms of such Policy.

7. Audit. Upon reasonable notice and within the Shelter's normal business hours, Hill's shall have the right to audit and inspect the Shelter's facilities, books, documents, papers and records directly relating to Shelter's performance obligations under Sections 2 and 4, above.

8. Indemnification. Each party (as indemnitor) agrees to indemnify and hold the other party (as indemnitee) harmless against and from any and all losses, claims, damages or liabilities, joint or several, to which the indemnitee may become subject as the result of acts or omissions, by the indemnitor in connection with the performance of the indemnitor's duties under this Agreement or as the result of its material breach of any representation, warranty, covenant or agreement pertinent to this Agreement. This indemnity provision shall survive the termination of this Agreement.

9. Assignment. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto, provided, however, neither party to this Agreement shall assign its interest or obligations herein, including, but not limited to, the assignment of any monies due and payable, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

10. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas without regard to its principles governing conflicts of law.

11. Waiver. No failure by either party hereto at any time to require performance by the other party of any of the conditions, terms, or provisions of this Agreement shall in any way affect such party's right thereafter to enforce the same or any other condition, term or provision of this Agreement; nor shall any waiver by either party of any breach of this Agreement, or of any term, condition, or provision hereof, be taken as or held to be a waiver of any subsequent breach, or of the right to terminate this Agreement for any subsequent breach of the same or any other condition, term, or provision of this Agreement.
12. Entire Agreement. This Agreement embodies the entire agreement of the parties in relation to the subject matter hereof and supersedes all previous agreements, arrangements and understandings, verbal or otherwise, in relation thereto. There are no representations, either oral or written, upon which either party relies as an inducement to enter into this Agreement other than those set forth herein. Except as expressly provided herein, no change in, addition to, or deletion from any portion of this Agreement shall be valid or binding upon the parties unless it is declared expressly to be a modification of this Agreement and is approved as such in writing by each party.
13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the duly-authorized representatives of the parties hereto have executed this Agreement the day and year first above written.

BRENNHAM PET ADOPTION AND CARE CENTER

By: _____

Print Name: _____

Title: _____

HILL'S PET NUTRITION SALES, INC.

By: _____

Print Name: _____

Title: _____

List of Appendices

- A – Hill's Terms and Conditions of Sale
- B – Applicable Discount for In-Shelter Food
- C – Adopter Kit Materials
- D – Materials Pursuant to Sections 2(c) and 2(d)
- E – Data Submission and Privacy Policy
- F – Hill's FCPA and Anti-Bribery Policy

APPENDIX A

Hill's Terms and Conditions of Sale

Orders. All orders for HILL'S® SCIENCE DIET® products accepted by HILL'S shall be subject to HILL'S terms and conditions as set forth in this Agreement. It is expressly understood and agreed by the Shelter that HILL'S shall have the right at its sole option to amend these terms and conditions from time to time, including without limitation, payment terms, shipping terms, pricing and discounts. HILL'S shall not be obligated to accept any order. In the event of partial shipment of an order, the order shall be accepted only to the extent of such shipment.

Shipping Terms. The shipping terms for all SCIENCE DIET products ordered under this Agreement will be prepaid FOB origin of shipment which, for purposes of this Agreement, means that HILL'S shall prepay freight costs but that title and risk of loss shall pass from HILL'S to Shelter at the point the SCIENCE DIET products are loaded onto the common carrier at HILL'S plant or warehouse facility. Unless otherwise specified in this Agreement, shipping terms used in this Agreement shall have the meanings adopted by the International Chamber of Commerce in "INCOTERMS - 2010".

Payment.

- (a) Unless Shelter shall have secured prior written approval from HILL'S in Topeka, Kansas, of other terms of payment, payment shall be made by Shelter in U.S. dollars.
- (b) Terms of payment shall be determined at the sole discretion of HILL'S and will be communicated to the Shelter in writing. Shelter shall be eligible for payment terms of Net 30 Days from date of invoice, provided HILL'S receives and approves the following Shelter documents: (i) annual audited financial statements (within 90 days of fiscal year end); and (ii) quarterly internal financial statements (true and accurate profit and loss statement, balance sheet and cash flow statement) if available. Shelter must provide true and accurate annual financial information in order to remain on 30-day terms.
- (c) Shelter's account with HILL'S must remain current at all times. Failure by Shelter to make payments when due may result in HILL'S denial of further shipments until Shelter's account is brought current.
- (d) A monthly charge of 1.5% or the highest allowable interest will be applied to any past due balance. A charge of \$15.00 will be added to any dishonored check/instrument, in addition to any other charge permitted under the laws of the State of Kansas. Past due accounts are subject to HILL'S credit limits/restrictions. In the event litigation or collection action is commenced by HILL'S to enforce payment of any overdue balance on Shelter's account, Shelter shall be responsible for payment of all HILL'S legal fees, court costs, and other expenses incurred by HILL'S or their authorized agent in relation thereto.

Damaged/Outdated Product. Shelter shall not, under any circumstances and regardless of whether or not Shelter is entitled to remedy from Hill's in accordance with Hill's limited warranty as set forth below, sell or transfer any damaged or out-of-date product without prior inspection and written consent of HILL'S. Product shall be considered to be damaged in any of the following circumstances: (i) for spoilage by fire, water or other such occurrence; (ii) if Shelter claims it is damaged and HILL'S approves such claim, or (iii) if it is considered by HILL'S to be in a condition which is inappropriate for sale. SCIENCE DIET products shall be considered out of date after the "Best Before" date stated on the packaging. In the event product becomes damaged or out-of-date, HILL'S reserves the right at its sole option to require Shelter either to dispose of such product in accordance with HILL'S instructions and to provide HILL'S with proof of such disposition or to return such product to a place to be designated by HILL'S at HILL'S expense.

Limited Warranty of HILL'S

- (a) HILL'S warrants that all SCIENCE DIET products packaged in cans will remain merchantable for twenty-four (24) months from the date of manufacture as provided on such packaging. HILL'S warrants

that all dry SCIENCE DIET products will remain merchantable for eighteen (18) months from the date of manufacture as provided on such packaging. The foregoing limited warranties do not extend to products which are not stored: (i) between 50-120 degrees Fahrenheit at all times after shipment by HILL'S; (ii) in a commercially reasonable manner; (iii) in an appropriate insect and rodent controlled environment, or (iv) in damage-free packaging, except to extent the packaging was damaged before shipment by HILL'S, or in the event packaging is otherwise damaged by fire, flood, storm, earthquake or other such occurrence following shipment of the product by Hill's to Shelter.

(b) HILL'S liability for any loss or damage arising out of or in connection with the sale or use of SCIENCE DIET products shall be limited to replacement of any defective products and in no event shall HILL'S be liable for consequential, special, indirect or other damages resulting from commercial loss.

(c) Claims for loss or damage arising out of or connected with the sale or use of SCIENCE DIET products must be submitted in accordance with HILL'S published bulletins regarding such claims. These bulletins, as amended from time to time, will be furnished to Shelter by HILL'S.

LIMITATION OF LIABILITY THE FOREGOING LIMITED WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE FOREGOING LIMITED WARRANTIES ARE LIMITED TO DEFECTS SOLELY ATTRIBUTABLE TO HILL'S. AND IN NO EVENT WILL HILL'S BE LIABLE FOR CONSEQUENTIAL, SPECIAL OR INDIRECT DAMAGES IN ANY ACTION, EVEN IF HILL'S HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

APPENDIX B
Applicable Discount for In-Shelter Food

SKUs	SKU Description	Lbs	% Discount off then-current List Price
2092	Science Diet Kitten Healthy Growth	35	<u>74.00 %</u>
6801	Science Diet Feline Adult Optimal Care Pro Pack	20	<u>74.00 %</u>
2091	Science Diet Puppy Healthy Growth	40	<u>56.00 %</u>
6735	Science Diet Canine Adult Advanced Fitness Pro Pack	40	<u>56.00 %</u>

APPENDIX C
Adopter Kit Materials

Adopter kit will consist of:

- 1 Hill's® Science Diet® or Hill's® Ideal Balance™ transition bag
 - o Feline: 1.00 Lbs. Bag
 - o Canine: 2.00 Lbs. Bag
- 1 Hill's Pet Nutrition adopter coupon on the bag
- New Pet Parent website content
 - o A digital Best Friend Guide available
 - o Additional Hill's Pet Nutrition digital coupons

The following transition bags will be available:

Feline:

- Science Diet® Kitten Healthy Development
- Science Diet® Feline Adult Optimal Care®
- Ideal Balance™ Kitten
- Ideal Balance™ Feline Adult

Canine:

- Science Diet® Puppy Small Bites
- Science Diet® Puppy Large Breed
- Science Diet® Canine Adult Advanced Fitness
- Ideal Balance™ Puppy
- Ideal Balance™ Canine Adult

APPENDIX D
Materials Pursuant to Sections 2(c) and 2(d)

HILL'S RESERVES THE RIGHT TO AMEND OR SUBSTITUTE THESE MATERIALS DURING THE TERM OF THE AGREEMENT.

A. ADOPTION SCRIPT

During the adoption process, shelter staff will communicate and provide the following Hill's Food, Shelter & Love® program components to the new pet parent:

- 1 – Pets in the shelter are fed Hill's® Science Diet® brand pet foods
- 2 – Benefits of choosing Science Diet or Ideal Balance for their newly adopted pet
- 3 – Science Diet or Ideal Balance trial bag
- 4 – Hill's Pet Parent portal and its benefits

Here is a tentative adoption script:

- *"At 'shelter name', we're proud to be part of the Hill's Food, Shelter & Love® program and we feed our pets Hill's® Science Diet® brand pet foods*
 - *We offer all our new pet parents the opportunity to participate in the Hill's New Pet Parent program. As part of the Hill's New Pet Parent program, you will receive an email with a link to Hill's New Pet Parent website, and more information about the Hill's food, the Adoption Kit and other tips for new pet parents. If at any time you wish to no longer receive emails about the Hill's New Pet Parent program, you may opt-out at the link at the bottom of the emails, or otherwise contact Hill's at Hills_Corporate_Consumer_Affairs@hillspet.com or call 1-800-445-5777.*
- *We suggest that you continue feeding "Pet's name" Hill's Science Diet:*
 - *Continuity and consistency of food helps avoid the stress of switching*
 - *While feeding Science Diet, you are offering "Pet's name" a pet food that is or has:*
 - *Vets' #1 Choice to feed their own pets*
 - *Proven benefits that promote vitality and well-being*
 - *Extensive portfolio of nutrition for every lifestage that also includes solutions to address a variety of health needs*
 - *Precisely prepared with natural ingredients, plus vitamins, minerals and amino acids*
 - *High quality protein 1st ingredient (dry foods)*
 - *No chicken by-product meal*
 - *Made in Hill's own USA facilities (dry foods)*
 - *100% satisfaction guaranteed or your money back*
- *If you would prefer to feed Hill's Ideal Balance to "Pet's name," here are a few of the benefits:*
 - *Natural ingredients perfectly balanced with added vitamins, minerals and amino acids*
 - *No corn, no wheat, no soy or artificial colors, flavors or preservatives*
 - *100% satisfaction guaranteed or your money back*
 - *Made in the USA (dry foods)*
 - *Here is a transition bag for "Pet's Name." It contains:*
 - *approximately 1 week of food*

- *as well as a \$5 coupon for your first purchase of any Hill's® pet food product.*
- *We also suggest that you visit Hill's New Pet Parent website for additional offers.*
- *When you choose Hill's® Science Diet® or Hill's® Ideal Balance™, you help our shelter and the Hill's Food, Shelter & Love® program!*
- *Would you like to be signed up for the Hill's New Pet Parent program?*

B. MONTHLY COMMUNICATIONS

Objective

- Shelter's social media communication will focus on the pets & Shelter as the story heroes.
- Hill's will be introduced in a supporting role, via Hill's Food, Shelter & Love program.

Form, Content & Tone

- Shelter communications shall be sent via social media platforms (i.e., not via emails); and shall comply with all applicable laws and website terms of use or service in posting social media communications.
- Shelter communication is based on a true & authentic Shelter story.
- Shelter produces the communication based upon its own brand equity, brand persona & tone.
- Shelter's communication will be posted on any of the following social platforms, in order of preference: Facebook, Twitter, Instagram.
- The communication will reference one of the following brands, based upon content:
 - Hill's Pet Nutrition
 - Hill's Science Diet
 - Hill's Ideal Balance
 - Hill's Prescription Diet
 - Hill's Food, Shelter & Love
- Shelter will tag #HillsFoodShelterLove at the end of the communication.

Process

- Step 1: Shelter will post 1 communication per month on its social digital assets.
- Step 2: Hill's will identify the best monthly communications across Hill's Food, Shelter & Love program participants. Hill's will select one testimonial weekly and share on Hill's social assets.

Suggested ideas for monthly communication content

- Pet ready for home, shelter adoption events
- Pet feeding time, treat moment
- Pet training, pet exercise, pet play time
- Pet recovery
- Community support, etc...

Monthly communication example



Another Walk' n Trail for Max to support Pet Friends League homeless pets....And he feels like he has deserved a delicious Hill's Science Diet treat... You're right Max!
#Walk'nTrail
#HillsShelterPets

C. EXAMPLE OF EMAIL TO NEW ADOPTERS

- The latest version of the “Thank you for adopting!” email is available on the shelter portal.



 Teamed up with



Congratulations on your new best friend!

Now that your new best friend is home, you may be wondering what your next steps are to welcome them to your family. Never fear. We've got exclusive savings and all the tools, tips and info you need to get started on the right paw.

[Get Started Now](#)



Exclusive Savings

Why not continue the good start they got at the shelter you adopted them from? As a new pet parent of a cat from a Hill's Food, Shelter & Love® shelter, you're entitled to exclusive savings on all Science Diet® and Ideal Balance™ cat foods.

[Start Saving Now](#)

Your New Best Friend Guide

This handy guide has all the tips, tools and information you need to help your new best friend be a happy, healthy part of your family for a long, long time.

[Get the Guide](#)



New Pet Parent Toolbox



Your New Cat and Your Other Pets Can Be Friends

Help your current pets roll out the welcome mat to your new cat.

[Read More](#)



Your Cat's First Month at Home

Change can be a challenge for cats. Learn what to expect in the first month and how to foster a successful home for yourself and your cat.

[Read More](#)



Welcoming Home Your New Cat

Nine ways you can be the BEST new pet parent on the block.

[Read More](#)

[ABOUT HILL'S](#)
[HILL'S PRODUCTS](#)
[WHERE TO BUY](#)
[FIND A VET](#)

APPENDIX E
Data Submission Requirements and Privacy Policy

A. Data Submission Frequency from Shelter to Hill's

- Shelter will submit files of pet and pet adopter information on a weekly basis
- Shelter will complete the Shelter Profile section (located on the Hill's Food, Shelter & Love® portal) on a monthly basis, to provide updated pet adoption numbers and accurate shelter contact information

B. Privacy Policies Related to Data Submitted by Shelters to Hill's

- Shelter will maintain a privacy policy that permits the disclosure of adopter information to non-affiliated third party business partners, such as Hill's, including for marketing purposes.
- Shelter will only provide Hill's with adopter information for those adopters that have opted in to receive communications from Hill's Pet Nutrition. If the adopter refuses the Adopter Kit or otherwise requests not to be included in the Hill's New Pet Parent program, no personal information will be submitted to Hill's where the adopter opted out, nor any communications will be sent to him/her in any circumstance.
- Hill's will use the adopter information provided by Shelter to contact the adopter with a "Thank you for adopting!" email and regular Hill's Pet Nutrition newsletters, promotions and special offers. Each such communication will include the ability for the adopter to opt-out from receiving future communications from Hill's.

C. Hill's Privacy Policy

- Hill's values pet owners and their pet's privacy. We do not rent, sell or give away pet owner e-mail addresses and only contact pet owners when we are given permission to do so
- The latest version of the Hill's Privacy Notice can be found at www.hillspet.com/legal-statement-and-privacy-policy.html. Hill's Privacy Policy can also be found as a link in the footer of each email sent by Hill's Pet Nutrition to adopters.

APPENDIX F
Hill's FCPA & Anti-Bribery Policy

Hill's is committed to ethical business practices and to acting with integrity in all aspects of its business. Hill's reputation for integrity is a vital business asset that depends upon the commitment of all Hill's directors, officers and employees everywhere to act in accordance with Hill's parent company's (Hill's) Code of Conduct and all applicable laws and regulations. Hill's reputation depends not only on its own conduct, but also on the conduct of those with whom it does business. It is Hill's goal to ensure that all of its vendors, including without limitation suppliers, distributors, contractors, consultants, counterparties and agents (referred to hereafter as "Vendors") reflect the same high ethical standards as Hill's and demonstrate a commitment to compliance with all laws governing their activities, including laws prohibiting bribery or corruption. It is therefore required that Hill's Vendors share this commitment to FCPA and anti-bribery compliance as set forth below:

(a) Our Vendors are aware that anti-bribery and anti-corruption laws around the world generally prohibit bribery of governmental officials and among private commercial parties, including the giving or receiving of bribes in connection with conducting business. More specifically, these laws prohibit people and organizations, or those acting on their behalf, from:

- (i) paying or offering to pay money or anything of value, directly or indirectly, to (A) a government official to influence that official to secure an improper advantage or obtain or retain business, or (B) any private person or organization to induce any person to improperly perform a function or activity in connection with a business or organization, a person's employment, or a public function; and
- (ii) requesting, agreeing to receive, or accepting a financial or other advantage in exchange for improper performance of a function or activity in connection with a business or organization, a person's employment, or a public function.

(b) Our Vendors have not undertaken and will not undertake any action that would cause them or Hill's to be in violation of any anti-bribery laws, nor have they been accused of conduct that would violate any anti-bribery laws.

(c) Our Vendors understand that it is their responsibility to ensure that their employees and representatives understand and comply with this FCPA and Anti-Bribery Policy.

(d) Our Vendors understand that failure to adhere to this FCPA and Anti-Bribery Policy may cause Hill's to terminate the business relationship.