



**NOTICE OF A REGULAR MEETING  
THE BRENHAM CITY COUNCIL  
THURSDAY, AUGUST 15, 2019 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 – Mayor Milton Tate**
- 3. Special Recognition**
  - **State Accreditation for Nancy Carol Roberts Memorial Library**
- 4. Citizens Comments**

**CONSENT AGENDA**

**5. 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.

- 5-a. Minutes from the June 20, 2019 Special City Council Meeting, June 20, 2019 Regular City Council Meeting, July 11, 2019 Special Joint City Council Meeting, July 11, 2019 Special City Council Meeting and July 11, 2019 Regular City Council Meeting**  
**Pages 1-26**
- 5-b. Ordinance No. O-19-024 on Its Second Reading for the Creation of Reinvestment Zone Number 47 Requested by Del Sol Foods, Inc. for the Commercial Tax Phase-In Incentive on That Certain 29.137 Acres of Land, Generally Located at 3015 – 3151 South Blue Bell Road, Being More Fully Described in Exhibit “A” of the Ordinance Creating Reinvestment Zone 47, and Designating This Property as Qualifying for Tax Phase-In**  
**Pages 27-37**

- 5-c. Ordinance No. O-19-025 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas by Amending Part II, Division 1, Section 12 – Landscaping and Buffering to Revise the Minimum Landscape Requirements for Parking Areas, and Section 16 – Off-Street Parking Requirements to Revise the Minimum Parking Space Stall Dimensions and Establish a Minimum Parking Space Size for Spaces Designated as Compact Parking (Case Number P-19-023) **Pages 38-43**
- 5-d. Ordinance No. O-19-026 Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Local Business/Residential Mixed Use District (B-1) to Commercial, Research and Technology District (B-2) on the Following Tracts of Land (Case Number P-19-026): **Pages 44-47**
- a) 1.416 Acres Addressed as 1701 State Highway 105, and Further Described as Part of Lots 23-27 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;
  - b) 0.262 Acres Addressed as 1711 State Highway 105 (f/k/a 1703 State Highway 105), and Further Described as Part of Lots 28 and 29 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;
  - c) 3.160 Acres Addressed as 1801 and 1803 State Highway 105, and Further Described as Tract 86 of the Arrabella Harrington Survey in Brenham, Washington County, Texas; and
  - d) A Portion of the Called 0.9765 Acre Tract, out of the A. Harrington Survey, A-55, the James Walker Survey, A-106, and the Post Oak Grove Addition in Brenham, Washington County, Texas (WCAD R#19194)
- 5-e. Ordinance No. O-19-027 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Local Business/Residential Mixed Use District (B-1) to Commercial, Research and Technology District (B-2) on a 1.056 Acre Tract of Land Addressed as 1708 State Highway 105, and Further Described as Lot 1 of the Southeast Portion of Post Oak Grove Addition in Brenham, Washington County, Texas (Case Number P-19-024) **Pages 48-50**
- 5-f. Ordinance No. O-19-028 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from Mixed Residential District (R-2) to Commercial, Research and Technology District (B-2) on Approximately 2.29 Acres of Land Addressed as 901, 905, 909, 911 and 913 W. Fifth Street and 1104 and 1106 High Street, and Further Described as Lots 1, 2A and 4 in Block 21 of the Key’s First Addition, in Brenham, Washington County, Texas (Case Number P-19-025) **Pages 51-53**

- 5-g. Ordinance No. O-19-029 on Its Second Reading Amending the Official Zoning Map of the City of Brenham Granting a Specific Use Permit to Texas Plumbing Supply to Allow for Open (Outdoor) Display or Storage of Retail Merchandise as an Accessory Use to Uses Permitted in the Local Business/Residential Mixed Use (B-1) Zoning District on Approximately 2.190 Acres of Land Located at 1608 and 1702 S. Market Street, and Further Described as Part of Lots 1 and 2, and Lots 3-7 in Block L of the Stone Subdivision, in Brenham, Washington County, Texas (Case Number P-19-027) **Pages 54-57**
- 5-h. Approve a Noise Variance from Ethan Lawhon for a Prayer Vigil Honoring Fallen El Paso, Texas and Dayton, Ohio Lives Lost to be Held on August 15, 2019 from 7:00 p.m. – 8:00 p.m. at the Courthouse Gazebo and Authorize the Mayor to Execute Any Necessary Documentation **Page 58**
- 5-i. Approve a Noise Variance from St. Mary's Immaculate Conception Catholic Church for a Fundraiser to be Held on September 1, 2019 from 8:00 a.m. – 5:00 p.m. at 701 Church Street and Authorize the Mayor to Execute Any Necessary Documentation **Page 59**
- 5-j. Approve Brenham Community Development Corporation's Conveyance of Approximately 1.1717 Acres of Land to Del Sol Food Company, Inc. **Pages 60-61**

#### **WORK SESSION**

6. Discussion and Update on Possible Annexation of Various Tracts of Land into the City Limits of the City of Brenham **Pages 62-70**
7. Discussion and Presentation Related to the Possible Amendment of Chapter 6, Buildings and Structures, Code of Ordinances, City of Brenham, Texas to Adopt the 2015 Version of the International Building Codes with Local Amendments **Pages 71-73**
8. Discussion and Presentation Related to the Possible Amendment of Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas **Pages 74-102**

#### **REGULAR SESSION**

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas **Pages 103-129**
10. Discuss and Possibly Act Upon Resolution No. R-19-021 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Del Sol Food Company, Inc. in Reinvestment Zone Number 47 **Pages 130-148**
11. Discuss and Possibly Act Upon the Approval of the FY2019-20 Proposed Budget for the Washington County Appraisal District **Pages 149-152**

12. **Discuss and Possibly Act Upon the Approval of a Request from the Washington County Appraisal District to Retain the Accumulated Funds of \$39,275 from FY2017-18 Budget Savings, the City of Brenham's Portion Being \$4,281.66** **Pages 153-155**
13. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Taxation, Code of Ordinances, City of Brenham, Texas to Provide for the Creation of a Municipal Sales and Use Tax for the City of Brenham** **Pages 156-165**
14. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham Water Rates** **Pages 166-192**
15. **Discuss and Possibly Act Upon the Purchase of Equipment for the Electric Department from Techline, Inc. Through the Lower Colorado River Authority (LCRA) Material Program and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 193-196**
16. **Discuss and Possibly Act Upon Bid No. E2017-01 Related to the Higgins Branch Creek Channel Restoration and Authorize the Mayor to Execute Any Necessary Documentation** **Pages 197-122**
17. **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 August 15, 2019 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 August 12, 2019 at **12:45 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 \_\_\_\_\_, 2019 at \_\_\_\_\_ AM PM.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

## **Brenham City Council Minutes**

A special meeting of the Brenham City Council and the City of Brenham Planning and Zoning Commission and City of Brenham Board of Adjustment was held on June 20, 2019 beginning at 11:30 a.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

### City of Brenham City Council Members present:

Mayor Milton Y. Tate, Jr.  
Mayor Pro Tem Andrew Ebel  
Councilmember Susan Cantey  
Councilmember Adonna Saunders  
Councilmember Albert Wright  
Councilmember Clint Kolby

### Members absent:

Councilmember Keith Herring

### City of Brenham Planning & Zoning Commission Members present:

Dr. Deanna Alfred – Vice Chairman  
Calvin Kossie  
Nancy Low  
Lynnette Sheffield  
Marcus Wamble

### Members absent:

M. Keith Behrens – Chairman  
Leroy Jefferson

### City of Brenham Board of Adjustment Members present:

Arlen Thielemann – Chairman  
MaLisa Hampton  
Thomas Painter  
Mary Lou Winkelmann  
Walt Edmunds  
Jarvis Van Dyke

Members absent:

Jon Hodde – Vice Chairman  
Johanna Fatheree

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary – Director of Administrative Services Jeana Bellinger, Assistant City Manager – Chief Financial Officer Carolyn Miller, Director of Tourism and Marketing Jennifer Eckermann, Melinda Gordon, Fire Chief Ricky Boeker, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Director Stephanie Doland, Kim Hodde, Caylee Rocka, Meredith Dang and Gary Mitchell

Citizens present:

None

Media Present:

Josh Blaschke, KWHI; and Nakita Delfin, KWHI

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

**WORK SESSION**

3. **Discussion and Presentation Regarding the City of Brenham's Comprehensive Plan, Including But Not Limited to the City's Existing Comprehensive Plan, the Development and Preparation of an Updated/New Comprehensive Plan and the Process Related Thereto, and Associated Matters.**

Assistant Director of Development Services Stephanie Doland presented this item and explained that this joint meeting is another step in the process of updating the City's Comprehensive Plan. Doland introduced Gary Mitchell and Meredith Dang with Kendig Keast Collaborative (KKC) and explained that their job would be to lead a discussion to highlight the plan and what has been done to date.

Mitchell and Dang provided information and updates on the projects completed as part of developing and finalizing the Plan:

- Background surveys with City Departments (October/November, 2018)
- Informal listening session with four 10-15 person groups from the community (December, 2018 - February, 2019)

- Joint workshops with City Council, Board of Adjustment and Planning and Zoning Commission (December, 2018 and February, 2019)
- Town Hall/Open House/Public Input meetings (January – April, 2019)
- Four (4) meetings with the Comprehensive Plan Advisory Committee

Dang then provided the following:

- Presentation of Plan Highlights
  - Discussed highlights of the Future City portion of the Plan
  - Obtained feedback for preparing the Draft Plan
- Near-Term Implementation Priorities
  - Completed an informal voting exercise to identify initiatives that may receive priority attention after Plan adoption
- Recap and Next Activities
  - Open House dates
  - Target date of August 29, 2019 for Planning and Zoning Public Hearing

Dang then asked the Council and Board Members to complete an informational voting exercise to determine what items may have priority attention after the Plan is finalized. The voting indicated the following items:

1. Development Regulations
2. Industrial Park Land
3. Code Compliance
4. Adequate funding Public Safety
5. Future water supply

The Council and Board Members then had brief discussions on how the Plan will be used in the future. Dang advised that the City Council would be responsible for carrying out the Plan in the future, the P&Z Commission would use the Plan as a guide, and City staff would use it to help direct their day-to-day activities.

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC, CMC  
City Secretary

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on June 20, 2019 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 Adonna Saunders  
Councilmember Albert Wright  
Councilmember Clint Kolby

### **Members absent:**

Councilmember Keith Herring

### **Others present:**

City Manager James Fisher, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary I Kacey Weiss, Deputy City Secretary II Karen Stack, Assistant City Manager – Chief Financial Officer Carolyn Miller, Comptroller Stacy Hardy, Director of Tourism and Marketing Jennifer Eckermann, Melinda Gordon, Fire Chief Ricky Boeker, Public Works Director Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, Development Services Director Stephanie Doland, Kim Hodde, Tony Tavary, Dustin Wendler, Thomas Holliday, Rolando Arroyo, Jack Evans, Kevin Schmidt, Captain Lloyd Powell, Kevin Boggus, Caylee Rocka and Emily Dedmon

### **Citizens present:**

Dee Dee Michel, Alexander Michel, Savannah Gutierrez, Bob Schmidt, Brad Trochta and Tom Holiday

### **Media Present:**

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

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Pro Tem Ebel**

3. **Service Recognitions**
  - **Tony Tavary, Information Technology** **5 Years**
  - **Dustin Wendler, Streets** **10 Years**
  - **Jennifer Eckermann, Tourism & Marketing** **20 Years**

4. **Citizens Comments**

There were no citizen comments.

## **CONSENT AGENDA**

5. **Statutory Consent Agenda**

5-a. **Minutes from the May 16, 2019 Regular City Council Meeting**

5-b. **Ordinance No. O-19-018 on Its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Amend Part II, Division II, Section 3.02, Permitted Uses: (Nonresidential Uses) to Allow Signs for Public Facilities Which are Placed by a Government Entity or Public Institution of Higher Education as a Permitted Use in the Local Business/Residential Mixed Use (B-1) District in Brenham, Washington County, Texas (Case No. P-19-020)**

5-c. **Ordinance No. O-19-019 on Its Second Reading Establishing an Ad Valorem Tax Freeze for Residential Homestead Property Owners of the City of Brenham Who Are Disabled or 65 Years of Age or Older**

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve the Statutory Consent Agenda Items 5-a. through 5-c. 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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

## **WORK SESSION**

### **6. Discussion and Presentation Related to the Possible Amendment of Chapter 27, Vehicles for Hire, of the Code of Ordinances of the City of Brenham**

Deputy City Secretary II Karen Stack presented this item. Stack explained that the City's Ordinance related to Vehicles for Hire was last updated in 2010. Stack noted that in April, staff came to Council to discuss possible updates to the Ordinance. Stack advised that staff was directed to come back to Council with further information regarding maximum fares.

Stack stated that Bryan/College Station was identified as the best market for comparison to Brenham. Stack noted that a survey of rates in the Bryan/College Station area showed that the maximum fares currently in Chapter 27 are consistent with prevailing market rates.

Stack explained that it should be noted that the owner of Bluebonnet Cabs, who assisted Council in developing the maximum fares in 2010, went out of business a year later. Stack noted that in a letter to the City Secretary's Office, she stated that she had enough demand for services to support her business, but she could not make a profit due to the maximum fares. Stack stated that the owner asked the city to consider deregulation of rates.

Stack advised that due to the many factors that are involved with determining an appropriate fare, and the failure of Bluebonnet Cabs, the recommendation of staff is to remove the maximum fares from the Ordinance. Stack stated that language that requires an individual seeking a taxi permit to provide the city with a proposed fare schedule would prevent price gouging while allowing businesses to remain profitable as the market fluctuates.

Mayor Pro Tem Ebel stated that he would like to see the maximum fares removed from the ordinance.

## **REGULAR SESSION**

### **7. Discuss and Possibly Act Upon Ordinance No. O-19-020 on Its Second Reading Amending Chapter 21, Signs, of the Code of Ordinances of the City of Brenham (Case No. P-19-019)**

Development Services Director Stephanie Doland presented this item. Doland explained that following substantial public consideration and review, on June 6, 2019 Council considered the first reading of an ordinance to significantly amend Chapter 21 – Signs of the Brenham Code of Ordinances. Doland stated that following deliberation to consider recommendations on the proposed ordinance by the Main Street Board and Planning and Zoning Commission, staff was directed to make the following amendments prior to Council consideration of the second and final reading of the proposed sign ordinance:



1. Downtown properties with multiple entrances on multiple parallel streets be offered one sidewalk sign per corresponding entrance (Sec.21-12(3)(c)(iii)); and
2. Increase sign area of electronic signs along 290 and 36 from 50 square feet to 64 square feet (Sec. 21-9(3)); and
3. Increase height of residential entry monument signs from 5 feet to 8 feet (Sec. 21-12(1)(a)(i)); and
4. Add language permitting the use of seasonal decorations for state and federally recognized holidays (Sec. 21-7 (9)).

Doland advised that staff has made the necessary aforementioned amendments and staff recommends the following additional amendment to the non-residential sign regulations section:

1. Wall signs on building elevations that face properties zoned for and/or developed with a residential use shall be prohibited. (Sec. 21-12(2)(a)).

A motion was made by Councilmember Cantey and seconded by Mayor Pro Tem Ebel to approve Ordinance No. O-19-020 on its second reading, including the recommended changes, amending Chapter 21, Signs, of the Code of Ordinances of the City of Brenham.

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

|                                    |               |
|------------------------------------|---------------|
| Mayor Milton Y. Tate, Jr.          | Yes           |
| Mayor Pro Tem Andrew Ebel          | Yes           |
| Councilmember Susan Cantey         | Yes           |
| Councilmember Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**8. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Abandonment of a Portion of the Limit Street Right-of-Way**

Development Services Director Stephanie Doland presented this item. Doland explained that Brenham Wholesale Grocery has requested that a portion of Limit Street be abandoned. Doland stated that the 0.137-acre tract is bounded on the north, east and west by property owned by Brenham Wholesale Grocery and bounded on the south by Harrell Street. Doland advised that the 0.013-acre tract of land is bounded on the west by the Dewitt Kossie tract, bounded on the north and east by Limit Street ROW, and bounded on the south by Harrell Street. Doland noted that if abandoned, the 0.137 acre tract would be deeded to Brenham Wholesale Grocery and the 0.013 acre tract would be deeded to Dewitt Kossie. Doland explained that there are existing utilities (water line, sanitary sewer line, overhead electric) in the Limit Street right-of-way and the City of Brenham will retain an easement for maintenance of said utilities.

A motion was made by Councilmember Cantey and seconded by Councilmember Kolby to approve an Ordinance on its first reading for the abandonment of a portion of the Limit Street Right-of-Way.

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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**9. Discuss and Possibly Act Upon Resolution No. R-19-017 Adopting a New Fee Schedule for the City of Brenham Development Services Department**

Development Services Director Stephanie Doland presented this item. Doland explained that the Development Services fee resolution includes planning and permitting fees for building, electrical, mechanical, plumbing, health, and fire applications. Doland stated that on July 17, 2014, the City adopted a resolution amending the Development Services fee schedule and no changes to building permit and planning fees have been made since that time.

Doland advised that recently the 86<sup>th</sup> State Legislative session established HB 852 preventing municipalities from charging residential permit fees based on value or construction cost, effective immediately. Doland noted that the City currently values new residential construction based on square footage.

Doland explained that staff has done extensive research comparing the fees of cities of similar size and population. Doland stated that staff also evaluated the time that is incorporated by multiple employees into to processing, reviewing, and inspecting each project application submitted for review and inspection. Doland advised that in comparison the City's fees are extremely low and are significantly subsidizing the cost of development review. Doland noted that staff proposes to increase various fees to break even on state required notifications while still incentivizing the review and inspection portion of development applications.

A motion was made by Councilmember Cantey and seconded by Councilmember Saunders to approve Resolution No. R-19-017 adopting a new Fee Schedule for the City of Brenham Development Services Department.

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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**10. Discuss and Possibly Act Upon an Amendment to Attachment B (Fee Schedule) to the Standard Professional Services Agreement between Bureau Veritas North America, Inc. and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

Development Services Director Stephanie Doland presented this item. Doland explained that on August 7, 2014, Council approved a Professional Services Agreement between Bureau Veritas North America, Inc. and the City of Brenham for Plan Review, Inspection, and Permitting Services for the Development Services Department. Doland noted that the agreement was on a request only basis allowing the City to only utilize services as needed.

Doland stated that on May 21, 2019 HB 842, Prohibition on Certain Value-Based Building Permit and Inspection Fees, was signed by the Governor of Texas and was effective immediately. Doland advised that as a result, Bureau Veritas has provided the city with a revised fee schedule to allow the contract for services to be in accordance with the recently changed legislation.

A motion was made by Councilmember Kolby and seconded by Councilmember Wright to approve the Amendment to Attachment B (Fee Schedule) to the Standard Professional Services Agreement between Bureau Veritas North America, Inc. and the City of Brenham 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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**11. Discuss and Possibly Act Upon Change Order No. 2 to the Contract with Barclays Premier Utility Services, LLC for the FY19 Water Main Replacement Program and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager of Public Utilities Lowell Ogle presented this item. Ogle explained that Barclay's Premier Utility Services, LLC was awarded Bid No. 64C-50C FY19 for Water Main Replacements. Ogle stated that the City has an agreement with Washington County for the County to fund the extension of a 12-inch water main to the new Road and Bridge building. Ogle advised that based on the experience with Barclays and the fact that they are in Brenham working on other City projects, staff requested a proposal from them to add this work into one of their existing contracts. Ogle noted that approving this change order would allow the project to begin much sooner than if staff goes through a separate bid process.

A motion was made by Councilmember Wright and seconded by Councilmember Cantey to approve Change Order No. 2 to the contract with Barclays Premier Utility Services, LLC in the amount of \$334,740.00 for the FY19 Water Main Replacement Program 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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**12. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Taxation, of the Code of Ordinances of the City of Brenham to Adopt an Exemption from the Assessed Taxable Value of Residential Homestead for Property Owners of the City of Brenham Who Are Disabled**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that in January 2006, City Council approved a \$24,000 homestead exemption for persons 65 years of age or older, but this exemption was not granted to disabled persons. Miller stated that the other taxing entities in Washington County have adopted an exemption for disabled persons, and a comparison of the City of Brenham to other taxing entities was shown in the following table.

| ENTITY               | HOMESTEAD |                          |                        | TAX FREEZE |          |
|----------------------|-----------|--------------------------|------------------------|------------|----------|
|                      | HOMESTEAD | HOMESTEAD FOR 65 & OLDER | HOMESTEAD FOR DISABLED | 65 & OLDER | DISABLED |
| BISD                 | \$ 25,000 | \$ 15,000                | \$ 10,000              | YES        | YES      |
| BLINN                | \$ -      | \$ 12,000                | \$ 12,000              | YES        | YES      |
| CITY OF BRENHAM      | \$ -      | \$ 24,000                | \$ -                   | YES        | YES      |
| COUNTY-ROAD & BRIDGE | \$ 3,000  | \$ 9,000                 | \$ 9,000               | YES        | YES      |
| COUNTY-GENERAL       | \$ -      | \$ 12,000                | \$ 12,000              | YES        | YES      |

Miller advised that for the 2018 tax year, the number of disabled persons in Washington County was 67, so Brenham would be at this amount or less. Miller noted that although an exact amount of lost tax levy from disabled persons could not be calculated, the impact overall would be minimal.

A motion was made by Councilmember Cantey and seconded by Councilmember Saunders to approve an Ordinance on its first reading amending Chapter 24, Taxation, of the Code of Ordinances of the City of Brenham to adopt an exemption from the assessed taxable value of residential homestead for property owners of the City of Brenham who are disabled.

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 Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**13. Discuss and Possibly Act Upon a Contract for Leased Office Automation Equipment and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager – Chief Financial Officer Carolyn Miller presented this item. Miller explained that in May 2016, City Council authorized a three year contract with Ricoh to lease a copier machine for Administration, with a \$1 buyout option. Miller stated that after reviewing the condition and operation of this machine, staff determined it needs to be replaced. Miller advised that staff requested proposals from four vendors for the annual lease and maintenance of a similar machine.

Miller advised that staff's recommendation is to continue a three year lease arrangement with Ricoh for the Administration copier machine at an estimated annual cost of \$10,604. Miller noted that staff did receive a slightly lower quote from Xerox (\$9,430), but Ricoh has been a great vendor and is very responsive to requests for emergency service.

A motion was made by Councilmember Wright and seconded by Councilmember Canteley to approve a three (3) year lease contract with Ricoh USA, Inc. for office automation equipment 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 Canteley       | Yes           |
| Councilmember Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

**14. Discuss and Possibly Act Upon Bid No. 19-002 Related to Annual Concrete Work for the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation**

Public Works Director Dane Rau presented this item. Rau explained that on May 29, 2019, the Purchasing Department opened bids regarding annual concrete work, which is requested by the City throughout the year. Rau stated that there were seven bids mailed out with only two of those bids being received. Rau advised that based on the bids, staff recommended awarding the annual concrete work to Legacy Concrete Works. Rau noted that by awarding this bid, it would allow all city departments to coordinate work through Legacy and obtain quick professional service.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Wright to award Bid No. 19-002 related to annual concrete work for the City of Brenham to Legacy Concrete Works, LLC 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 Canteley       | Yes           |
| Councilmember Adonna Saunders      | Yes           |
| <b>Councilmember Keith Herring</b> | <b>Absent</b> |
| Councilmember Albert Wright        | Yes           |
| Councilmember Clint Kolby          | Yes           |

## **15. Administrative/Elected Officials Report**

City Manager James Fisher reported on the following:

- Open House to discuss the Comprehensive Plan is today at the Barnhill Center from 5:00 p.m. – 7:00 p.m.
- Hotel Occupancy Tax (HOT) Board training is July 9<sup>th</sup> at Blinn College at 4:30 p.m.
- HOT Board funding meeting is July 17<sup>th</sup> at the fire department at 9:00 a.m.
- Parks and Recreation Advisory Board meeting is June 26<sup>th</sup> at the Blue Bell Aquatic Center at 12:00 p.m.
- Baker Katz should be breaking ground in mid-July and hoping to have a ground breaking ceremony in early August
- A meeting with representatives from the Brenham Heritage Museum is next week and hope to finalize a lease agreement

Council adjourned into Executive Session at 1:47 p.m.

## **EXECUTIVE SESSION**

- 16. Section 551.071 – Texas Government Code – Consultation with Attorney – Consultation with the City Attorney for the Purpose of Seeking Legal Counsel Regarding Brenham Municipal Court Matters and Associated Issues, Including But Not Limited to the Presiding Municipal Court Judge**

Executive Session adjourned at 2:31 p.m.

## **RE-OPEN REGULAR AGENDA**

- 17. Discuss and Possibly Act Upon the Evaluation, Duties, Suspension or Removal of the Presiding Municipal Court Judge**

No action was taken on this item.

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC, CMC  
City Secretary

## **Brenham City Council Minutes**

A special joint meeting of the Brenham City Council and Washington County Commissioners was held on Thursday, July 11, 2019, beginning at 8:30 a.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 Adonna Saunders  
Councilmember Keith Herring  
Councilmember Albert Wright  
Councilmember Clint Kolby

### Members absent:

None.

### Washington County Commissioners Court Members present:

Judge John Durrenburger  
Commissioner Joy Fuchs  
Commissioner Kirk Hanath  
Commissioner Don Koester  
Commissioner Candice Bullock

### Others present:

City Manager James Fisher, City Secretary – Director of Administrative Services Jeana Bellinger, Director of Tourism and Marketing Jennifer Eckermann, Fire Chief Ricky Boeker, Police Chief Allwin Barrow, Dane Rau, Assistant City Manager of Public Utilities Lowell Ogle, and Budget Manager Debbie Gaffey.

### Citizens present:

Scott Eckert, Kristin Sexton, Willy Dilworth and Yanira Torres-Garcia.

### Media Present:

Arthur Hahn, Brenham Banner Press; Mark Whitehead, KWHI

## **1. Call Meeting to Order**



## **2. Invocation and Pledges to the US and Texas Flags – Councilmember Wright**

### **REGULAR AGENDA**

## **3. Discussion and Presentation on a Request from Del Sol Food Company, Inc. for the Cretarion of a Reinvestment Zone and Possible Tax Phase-In Incentive**

Economic Development Director Susan Cates presented this item. Cates explained that Del Sol Foods (Briannas Salad Dressing) is planning to purchase the ADS building which is adjacent to Del Sol's existing property in Brenham Business Center. The ADS property will be renovated for use as the international distribution center for Briannas Dressings.

Cates stated that with Del Sol relocating distribution to the adjacent property, it would allow expansion of production to take place at the current plant, adding approximately 10 employees. This expansion reflects the commitment of Del Sol Foods and their parent company, Sabormex to continued growth in Washington County where Briannas has thrived since 1982.

Cates explained that Del Sol's estimated capital investment to property would be \$2,855,000 with an increased property value of \$1,379,917. Cate also stated that Del Sol's estimated new salary infused into the community due to the increase in employees would be an estimated \$721,332. Cates further explained that if the tax phase-in agreement was approved by both the City and County, Del Sol's total tax abatement would be an estimated \$53,693.80 over the life of the agreement.

Cates then asked that both governing bodies consider amending Table 1 in the current Tax Phase-In Incentive Schedule to allow each entity to choose which years they would like their zero percent (0%) abatement. Cates explained that due to construction start date and possible delays in construction, an entity may want to adjust when their zero abatement period is. Cates advised that letting an entity decide could be very helpful to them. Both governing entities agreed to allow this recommended change to the Incentive Schedule.

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC, CMC  
City Secretary

## **Brenham City Council Minutes**

A special budget workshop meeting of the Brenham City Council was held on July 11, 2019 beginning at 9:30 a.m. in the Brenham City Hall, Conference Room 2-A, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

Mayor Milton Y. Tate, Jr.  
Mayor Pro Tem Andrew Ebel  
Councilmember Susan Cantey  
Councilmember Adonna Saunders  
Councilmember Keith Herring  
Councilmember Albert Wright  
Councilmember Clint Kolby

### Members absent:

None

### Others present:

City Manager James Fisher, ACM - Public Utilities Lowell Ogle, City Secretary Jeana Bellinger, Controller Stacy Hardy, Fire Chief Ricky Boeker, Police Chief Allwin Barrow, Director of Public Utilities Dane Rau, Director of Development Services Stephanie Doland, Director of Tourism and Marketing Jennifer Eckermann, Director of Human Resources Susan Nienstedt, IT Manager Kevin Schmidt, Budget Manager Debbie Gaffey and Kaci Konieczny.

### Citizens present:

None.

### Media Present:

None.

- 1. Call Meeting to Order**
- 2. FY 2019-20 Proposed Budget Discussions**

Budget Manager Debbie Gaffey welcomed the Council and presented the following FY19-20 Proprietary Fund budget information:

- Electric Fund
  - Distribution Revenues
  - Power Revenues
  - Rates
  - Local Sales Tax
  - Personnel
  - Open Debt Projects
  - Other Capital Items
  - Other Items
  - Vehicle/Equipment
  - Utility Billing/Customer Service – Dept. 132
  - Public Utilities – Dept. 160
  - Electric – Dept. 161
  - Electric Fund Transfers
- Gas Fund
  - Distribution Revenues
  - Commodity Revenues
  - Local Sales Tax
  - Personnel
  - Capital Projects
  - Other Items
  - Gas – Dept. 162
  - Other Items
- Water Fund
  - Revenues
  - Rates
  - FEMA Projects
  - Personnel
  - Debt Projects
  - New Debt in FY20
  - Vehicle and Equipment
  - Water Treatment – Dept. 163
  - Water Construction – Dept. 164
- Wastewater Fund
  - Revenues
  - Rates
  - FEMA Projects
  - Baker Katz Development
  - Personnel
  - Vehicles and Equipment
  - Wastewater Construction – Dept. 165
  - Wastewater Treatment – Dept. 166

- Sanitation Fund
  - Four (4) Business Lines
    - Transfer Station
    - Collection Station
    - Recycling Center
    - Residential Collection
  - Revenues
  - Residential Collection
  - Recycling
  - Personnel
  - Debt
  - Vehicles and Equipment
  - Transfer Station – Dept. 042
  - Collection Station – Dept. 043
  - Recycling – Dept. 140
  - Residential Collection – Dept. 142
- Drainage Fund
- Central Fleet Fund
- Workers Comp Fund
- Vehicle and Equipment Replacement (VERF) Fund

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC, CMC  
City Secretary

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on July 11, 2019 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 Adonna Saunders  
Councilmember Keith Herring  
Councilmember Albert Wright  
Councilmember Clint Kolby

### Members absent:

None

### Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary – Director of Administrative Services Jeana Bellinger, Deputy City Secretary Karen Stack, Assistant City Manager of Public Utilities Lowell Ogle, Comptroller Stacy Hardy, Human Resources Director Susan Nienstedt, Debbie Gaffey, Caz Muske, Melinda Gordon, Fire Chief Ricky Boeker, Police Chief Allwin Barrow, Captain Dant Lange, Public Works Director Dane Rau, Development Services Director Stephanie Doland, Kim Hodde, Director of Tourism & Marketing Jennifer Eckermann, David Doelitsch, Allen Jacobs, Sarah Hill, Kevin Boggus, and MacKenzie Maurer-McMillan

### Citizens present:

Perry Thomas, Charlie Pyle, Adam Griffin, and Ken Lester

### 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 Cantey**

3. **Service Recognitions**  
➤ **Allen Jacobs, Development Services 25 years**

4. **Citizens Comments**

There were no citizen comments.

**CONSENT AGENDA**

5. **Statutory Consent Agenda**

5-a. **Minutes from the May 23, 2019 Special City Council Meeting**

5-b. **Ordinance No. O-19-021 on Its Second Reading for the Abandonment of a Portion of the Limit Street Right-of-Way**

5-c. **Ordinance No. O-19-022 on Its Second Reading Amending Chapter 24, Taxation, of the Code of Ordinances of the City of Brenham to Adopt an Exemption from the Assessed Taxable Value of Residential Homestead for Property Owners of the City of Brenham Who Are Disabled**

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve the Statutory Consent Agenda Items 5-a. through 5-c. 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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

## **PUBLIC HEARING**

- 6. Public Hearing to Consider an Amendment to the Official Zoning Map of the City of Brenham, to Change the Zoning District from Manufactured Home Residential District (R-3) to Industrial District (I) on 2.151 acres of land generally located southeast of the intersection of Old Chappell Hill Road and FM 577, said 2.151 acres being further described as 1.27 acres of land in the A. Harrington Survey, A-55 and the James Walker Survey, A-106; 0.136 acres of land in the A. Harrington Survey, A-55; 0.608 acres of land described as Lots 8 – 13, Block 1, Beacon Hill Addition; and 0.137 acres of land in the James Walker Survey, A-106 and the A. Harrington Survey, A-55, being a portion of Limit Street, in Brenham, Washington County, Texas (Case No. P-19-021)**

Mayor Tate opened the Public Hearing.

Development Services Director Stephanie Doland presented this item. Doland stated that Brenham Wholesale Grocery is the property owner of a primarily vacant 2.151-acre tract of land located southeast of the intersection of Old Chappell Hill Road and FM 577. Doland said the applicant is requesting the property be rezoned from Manufactured Home Residential District (R-3) to Industrial District (I) to develop the site with a convenience store. Doland further stated that the proposed rezoning request is in accordance with land use policies adopted in Envision 2020, the City of Brenham Comprehensive Plan which suggests that industrial and commercial/retail uses generating an increased amount of traffic are appropriate adjacent to major arterials.

Doland reported that two public comments were received prior to the Planning and Zoning Commission meeting: one in opposition and one in support of the proposed rezoning. Doland further reported that during the Public Hearing there were no citizen comments concerning the proposed rezoning, and that after conducting a Public Hearing, the Planning and Zoning Commission voted unanimously to recommended approval of the rezoning request.

Mayor Tate closed the Public Hearing.

## REGULAR SESSION

7. **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 to Change the Zoning District from Manufactured Home Residential District (R-3) to Industrial District (I) on 2.151 acres of land generally located southeast of the intersection of Old Chappell Hill Road and FM 577, said 2.151 acres being further described as 1.27 acres of land in the A. Harrington Survey, A-55 and the James Walker Survey, A-106; 0.136 acres of land in the A. Harrington Survey, A-55; 0.608 acres of land described as Lots 8 – 13, Block 1, Beacon Hill Addition; and 0.137 acres of land in the James Walker Survey, A-106 and the A. Harrington Survey, A-55, being a portion of Limit Street, in Brenham, Washington County, Texas (Case No. P-19-021)**

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Kolby to approve an Ordinance on its first reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Change the Zoning District from Manufactured Home Residential District (R-3) to Industrial District (I) on a 2.151-acre tract of land located southeast of the intersection of Old Chappell Hill Road and FM 577 in Brenham, Washington County, Texas. (Case No. P-19-021).

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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

8. **Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Lee Engineering for Services Related to the South Chappell Hill Street at U.S. Highway 290 Feeder Road Project and Authorize the Mayor to Execute Any Necessary Documentation**

Assistant City Manager of Public Utilities Lowell Ogle presented this item. Ogle presented a proposal from Lee Engineering for engineering services related to improvements at the intersection of S. Chappell Hill at the US 290 East and Westbound feeder roads. Ogle stated the services for the improvements will include the preparation of design plans, specifications, and cost estimate data. Ogle said that further services to be provided include, but are not limited to, project management, surveying, roadway and traffic signal design plans, preparation of contact documents, design package submittals and to assist the city with various aspects of the



bidding process. Ogle advised that the proposed improvements include a traffic signal that controls traffic at the intersection of both the East and Westbound feeder roads and the widening of the existing pavement under the US 290 bridge to accommodate left-turn bays.

A motion was made by Councilmember Kolby and seconded by Councilmember Saunders to approve a Professional Services Agreement between the City of Brenham and Lee Engineering, in the amount not to exceed \$82,000, for Services Related to the South Chappell Hill Street at U.S. Highway 290 Feeder Road Project and authorize the Mayor to execute any necessary documentation, subject to final approval of the contract by the city attorney.

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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

**9. Discuss and Possibly Act Upon the Renewal of City of Brenham Group Health Plan with TML Health Benefits Pool and Establishment of Funding Rates for the Plan Year beginning October 1, 2019 through September 30, 2020 and Authorize the Mayor to Execute Any Necessary Documentation**

Human Resources Director Susan Nienstedt presented this item. Nienstedt reported that this item is being presented to City Council for consideration after being reviewed in detail with the Audit Committee on June 27, 2019. Nienstedt stated that the Audit Committee's recommendation is to approve the renewal of the Texas Municipal League Health Benefits Pool Proposal for group medical benefits for the plan year beginning October 1, 2019.

Nienstedt advised that the recommended renewal would continue to provide the same network of providers to employees and their dependents, as well as continue with the same monthly employee premiums for the elected level of coverage. Nienstedt noted that a Health Reimbursement Arrangement (HRA) is included to assist employees in meeting the deductible for the plan year.

A motion was made by Councilmember Wright and seconded by Councilmember Herring to approve renewal of City of Brenham Group Health Plan with TML Health Benefits Pool and establish funding rates for the plan year beginning October 1, 2019 through September 30, 2020 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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

**10. Administrative/Elected Officials Report**

None

Council adjourned into Executive Session at 1:33 p.m.

**EXECUTIVE SESSION**

- 11. Section 551.071 – Texas Government Code – Consultation with Attorney – Consultation with the City Attorney for the Purpose of Seeking Legal Counsel Regarding Brenham Municipal Court Matters and Associated Issues, Including But Not Limited to the Presiding Municipal Court Judge**
- 12. Section 551.071 – Texas Government Code – Consultation with Attorney – Consultation with the City Attorney for the Purpose of Seeking Legal Counsel Regarding *Robert Sontag v. Justin Schroeder and the City of Brenham*; Cause No. 37091; In the 335<sup>th</sup> Judicial District Court; Washington County, Texas**
- 13. Section 551.071 and Section 551.072, Texas Government Code – Consultation with Attorney and Deliberation Regarding Real Property – Discussion and Deliberation, and Consultation with City Attorney, Regarding the Lease Between City of Brenham and Washington County Concerning the Real Property Located at 301 N. Baylor Street, and Associated Issues**
- 14. Section 551.076 - Texas Government Code – Deliberation Regarding Security Devices – Discussion Regarding the Brenham Police Department’s Deployment of a Security Device**

Executive Session adjourned at 2:16 p.m.

## RE-OPEN REGULAR AGENDA

**15. Discuss and Possibly Act Upon a Lease Agreement Between the City of Brenham and Washington County for the Communications Facility, Being the Real Property Located at 301 N. Baylor Street, and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Herring and seconded by Councilmember Wright to renew a lease agreement between the City of Brenham and Washington County for the Communications Facility, being the real property located at 301 N. Baylor Street, for a two-year period at one thousand dollars (\$1000.00) per month, 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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

**16. Discuss and Possibly Act Upon the Purchase of Security Devices for the City of Brenham Police Department Using Seized Narcotic Funds and Authorize the Mayor to Execute Any Necessary Documentation**

A motion was made by Councilmember Cantey and seconded by Councilmember Saunders to approve the purchase of security devices for the City of Brenham Police Department using seized narcotic funds, 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 Adonna Saunders | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Albert Wright   | Yes |
| Councilmember Clint Kolby     | Yes |

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC, CMC  
City Secretary

DRAFT

## **ORDINANCE NO. O-19-024**

**AN ORDINANCE DESIGNATING ALL OF THAT CERTAIN 29.137 ACRES OF LAND, BEING DESCRIBED MORE PARTICULARLY AS FOUR (4) CERTAIN TRACTS OF LAND AS FOLLOWS: 1) TRACT ONE BEING A TRACT OF LAND CONTAINING 10.560 ACRES, MORE OR LESS, DESCRIBED AS LOT TWO, REPLAT OF A PORTION OF RESERVE “B”, BRENHAM BUSINESS CENTER, PHASE I, AS SHOWN ON THE PLAT RECORDED IN PLAT SLIDE 518-A OF THE PLAT RECORDS OF WASHINGTON COUNTY (P.R.W.C.); 2) TRACT TWO BEING A TRACT OF LAND CONTAINING 9.3353 ACRES, MORE OR LESS, DESCRIBED AS LOT 3, RESERVE B, BRENHAM BUSINESS CENTER, PHASE I, AS SHOWN ON THE PLAT RECORDED IN PLAT SLIDE 592-A OF THE PLAT RECORDS OF WASHINGTON COUNTY (P.R.W.C.); 3) TRACT THREE BEING A TRACT OF LAND CONTAINING 8.07 ACRES, MORE OR LESS, SITUATED IN THE ISAAC LEE SURVEY, ABSTRACT NO. 77, IN WASHINGTON COUNTY, TEXAS, BEING A PORTION OF THE 32.16 ACRE TRACT OF LAND DESCRIBED IN SPECIAL WARRANTY DEED DATED DECEMBER 20, 2017 FROM JOHN BECKENDORF, ET AL. TO DEL SOL FOOD COMPANY INCORPORATED AS RECORDED IN VOLUME 1613, PAGE 828, OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS; AND 4) TRACT FOUR BEING A TRACT OF LAND CONTAINING APPROXIMATELY 1.1717 ACRES, MORE OR LESS, DESCRIBED AS PORTION OF RESERVE “B”, BRENHAM BUSINESS CENTER, PHASE I, AS SHOWN ON THE PLAT RECORDED IN PLAT SLIDE 592-A (P.R.W.C.), SAID TRACT FOUR BEING BOUNDED ON THE NORTH BY BLUE BELL ROAD, BOUNDED ON THE EAST BY TRACT ONE DESCRIBED HEREIN, BOUNDED ON THE SOUTH BY A CALLED 22.237 ACRE TRACT OF LAND IN A DEED TO CURTIS IGNASIAK, TRUSTEE, RECORDED IN VOLUME 1637, PAGE 710, OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, AND BOUNDED ON THE WEST BY TRACT TWO DESCRIBED HEREIN, SAID PROPERTY BEING LOCATED AT 3015 – 3151 SOUTH BLUE BELL ROAD, BRENHAM, TEXAS, AND SAID PROPERTY BOUNDARIES BEING MORE FULLY DESCRIBED IN EXHIBIT “A” ATTACHED HERETO AND INCORPORATED HEREIN FOR ALL PURPOSES, AS REINVESTMENT ZONE NUMBER FORTY-SEVEN FOR COMMERCIAL TAX PHASE-IN, CITY OF BRENHAM, TEXAS AS PROVIDED IN CHAPTER 312, TEXAS TAX CODE; ESTABLISHING THE NUMBER OF YEARS FOR THE ZONE,**

**AUTHORIZING AN AGREEMENT FOR EXEMPTION FROM TAXATION THE INCREASE IN VALUE OF CERTAIN PROPERTY IN ORDER TO ENCOURAGE DEVELOPMENT AND REDEVELOPMENT AND OTHER MATTERS RELATING THERETO; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City Council of the City of Brenham, Texas, ("City") desires to encourage supervised improvements by property owners and lessees through tax phase-in procedures within its jurisdiction by the creation of a reinvestment zone as authorized by Chapter 312, Texas Tax Code (the "Act"); and

**WHEREAS**, on the 1st day of August, 2019, the City Council held a public hearing to receive comments concerning the designation of proposed Reinvestment Zone Number Forty-Seven. The notice of such hearing was published on July 24, 2019, such date being not later than the seventh day before the date of the public hearing; and

**WHEREAS**, the City called a public hearing and published notice of such public hearing as required by Section 312.201 of the Act; and has delivered written notice to the presiding officer of the governing body of each taxing unit within the jurisdiction of the proposed Reinvestment Zone Number Forty-Seven for Commercial Tax Phase-In; and

**WHEREAS**, at said public hearing the City presented evidence that such proposed designation would be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property, that the proposed improvements are feasible and practical, that said improvements would be a benefit to the land included in the zone and that would contribute to the economic development of the City; and

**WHEREAS**, the designation of the proposed reinvestment zone is consistent with the City's policies adopted by Council Resolution No. R-17-024 on the 7<sup>th</sup> day of December, 2017, and will benefit the land included within the Reinvestment Zone after the expiration of the Agreement; and

**WHEREAS**, the City at such public hearing invited any interested person or his attorney to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory which is referred to as City of Brenham Reinvestment Zone Number Forty-Seven for Commercial Tax Phase-In, should be included in such proposed reinvestment zone, and obtain tax phase-in; and

**WHEREAS**, at such hearing recommendations were given as to the number of years the reinvestment zone would be designated, the number of years in which an agreement would be available, as well as the percentage of potential tax exemption under the aforesaid tax phase-in guidelines and criteria to be applied to taxable real property which is developed;

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

**Section 1.** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are incorporated herein for all purposes.

**Section 2.** That the City, after conducting such hearing and having further studied recommendations, as well as the evidence presented at the public hearing, has made the following findings based on the evidence and testimony presented to it:

- a) That the public hearing on the adoption of the reinvestment zone under the provisions of the Act has been properly called, held and conducted and that notice of such hearing has been published as required by law and has been sent to the respective taxing units within the proposed reinvestment zone; and
- b) That the City has jurisdiction to hold and conduct said public hearing on the creation of the proposed reinvestment zone pursuant to the Act; and
- c) That creation of the proposed reinvestment zone with boundaries described herein will result in improvements made after the passage of this Ordinance and the execution of tax phase-in agreements, that are feasible and practical and will benefit the City, its residents and property owners in the reinvestment zone; and
- d) That the proposed designation will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investments to the zone that would be a benefit to the property and contribute to economic development of the City.

**Section 3.** That the City hereby creates Reinvestment Zone Number Forty-Seven, designated as all of that certain 29.137 acres of land, being described more particularly as four (4) certain tracts of land as follows: 1) TRACT ONE being a tract of land containing 10.560 acres, more or less, described as Lot Two, Replat of a Portion of Reserve "B", Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 518-A of the Plat Records of Washington County (P.R.W.C.); 2) TRACT TWO being a tract of land containing 9.3353 acres, more or less, described as Lot 3, Reserve B, Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 592-A of the Plat Records of Washington County (P.R.W.C.); 3) TRACT THREE being a tract of land containing 8.07 acres, more or less, situated in the Isaac Lee Survey, Abstract No. 77, in Washington County, Texas, being a portion of the 32.16 acre tract of land described in Special Warranty Deed dated December 20, 2017 from John Beckendorf, et al. to Del Sol Food Company Incorporated as recorded in Volume 1613, Page 828, Official Records of Washington County,

Texas; and 4) TRACT FOUR being a tract of land containing approximately 1.1717 acres, more or less, described as Portion of Reserve “B”, Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 592-A (P.R.W.C.), said TRACT FOUR being bounded on the north by Blue Bell Road, bounded on the east by TRACT ONE described herein above, bounded on the south by a called 22.237 acre tract of land in a Deed to Curtis Ignasiak, Trustee, recorded in Volume 1637, Page 710, Official Records of Washington County, Texas, and bounded on the west by TRACT TWO described herein above, said property being located at 3015 – 3151 South Blue Bell Road, Brenham, Texas, and said property boundaries being more fully described in Exhibit “A” attached hereto and incorporated herein for all purposes, and such reinvestment zone shall hereafter be identified as Reinvestment Zone Number Forty-Seven for Commercial Tax Phase-In, City of Brenham, Texas.

- Section 4.** That the designation of Reinvestment Zone Number Forty-Seven for Commercial Tax Phase-In, shall expire ten (10) years from the date of this Ordinance, unless renewed as provided by the Act, or at an earlier time designated by subsequent ordinance.
- Section 5.** That written agreements as provided in the Act with owners of eligible property located within the reinvestment zone shall be for a period of up to ten (10) years, and that the eligible property that is subject to the above mentioned exemption from taxation shall be the improvements to the property in conformity with the City's criteria and guidelines, and written agreements shall provide for an exemption from taxation of the total increase in value of the eligible property over its value in the year the agreement is executed. The written agreement will require that all taxes be current at the time of execution of agreement and be kept current to all taxing entities during the term of said agreement.
- Section 6.** That said designation of Reinvestment Zone Number Forty-Seven for Commercial Tax Phase-In and the written agreement thereof are in accordance with the City of Brenham’s “Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises” and will be a benefit to the land which will be included within the Reinvestment Zone and to the City of Brenham after the expiration of the agreement.
- Section 7.** That if any provision of this Ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part of it.
- Section 8.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.



**PASSED AND APPROVED**, on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED AND APPROVED**, on its second reading this the 15<sup>th</sup> day of August, 2019.

---

Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC, CMC  
City Secretary

[illegible]

REPLAT OF A PORTION OF RESERVE "B", BRENHAM BUSINESS CENTER. PHASE I. TO ESTABLISH LOT TWO CONTAINING 10.560 ACRES.

ISAAC LEE SURVEY, A-77  
CITY OF BRENNAM, WASHINGTON COUNTY, TEXAS

**SUPPLY MAP**

SHOWING A SURVEY OF 10,560 ACRES OF LAND, LYING AND BEING SITUATED IN THE CITY OF BIRMINGHAM, WASHINGTON COUNTY, TEXAS, PART OF THE SAID LEE SURVEY, 1882, AS THE SAME APPEARS ON RECORD IN PLAT BOOK NO. 12, PAGE 15, FILED IN THE PUBLIC OFFICE OF WASHINGTON COUNTY, TEXAS, AND AS THE SAME APPEARS ON RECORD IN PLAT BOOK NO. 12, PAGE 15, FILED IN THE PUBLIC OFFICE OF WASHINGTON COUNTY, TEXAS, AND AS THE SAME APPEARS ON RECORD IN PLAT BOOK NO. 442-18, IN THE PLAT RECORDS OF WASHINGTON COUNTY, TEXAS, OR BEING PART IN THE SAME LAND, DESCRIBED AS COMMUNITY DEVELOPMENT CORPORATION, DATED FEBRUARY 12, 1988, AS RECORDED IN VOLUME 483, PAGE 27, AND THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, AND AS THE SAME APPEARS ON RECORD IN PLAT BOOK NO. 442-18, IN THE PLAT RECORDS OF WASHINGTON COUNTY, TEXAS, OR BEING PART IN THE SAME LAND, DESCRIBED AS COMMUNITY DEVELOPMENT CORPORATION, DATED MARCH 31, 1989, AS RECORDED IN VOLUME 483, PAGE 75, IN THE OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS.

## NOTES

1. THE REASONING BEHIND VIDEOCA ARE RELATIVE TO  
THE SUBJECT PROPERTY AS OBTAINED BY GPS OBSERVATIONS.  
THE SUBJECT PROPERTY IS LOCATED AT 300M 24.18" N - LONGITUDE  
8621 33.33" W.
2. SUBJECT TO EASEMENTS, COVENANTS, CONDITIONS, RESTRICTIONS  
AND BUILDING ORDINANCES, THE SUBJECT PROPERTY IS A 100% INTEREST  
IN THE SOUTHWEST CORNER OF THE PLAT OF THE  
SHERMAN BUSINESS CENTER, PASE 1, RECORDED IN PLAT CABINET  
117, SLIDE NO. 40-4-1, IN THE PUBLIC RECORDS OF THE  
COUNTY CLERK'S OFFICE, DALLAS, TEXAS.
3. NO PART OF THE SUBJECT PROPERTY LIES WITHIN THE SPECIAL  
MAP OF HAZARDOUS MATERIALS OF THE COUNTY OF DALLAS, TEXAS  
DEVELOPED BY THE DALLAS DEPARTMENT OF HOUSING AND URBAN  
DEVELOPMENT, FEDERAL INSURANCE ADMINISTRATION, F.I.A.,  
COMMUNITY PANEL NO. 481188 003S A, EFFECTIVE DATE  
MAY 24, 1973, WASHINGTON COUNTY, TEXAS.
4. A CURRENT TITLE REPORT OR COMMITMENT WAS NOT AVAILABLE OF  
THE SUBJECT PROPERTY. THE SURVEYOR DID NOT ABSTRACT  
THE SURVEY OF THE SUBJECT PROPERTY.
5. THE SURVEY OF THE SUBJECT PROPERTY WAS CONDUCTED ON THE ORIGINAL SEAL

## OWNER ACKNOWLEDGEMENT

BERKENHAM COMMUNITY DEVELOPMENT CORPORATION, THE OWNER OF THE LAND DESCRIBED HEREIN, BY AND THROUGH SHIRLEY HERRING, CHAIRMAN, WHOSE NAME IS SUBSCRIBED HERETO, DOES HEREBY OFFER, ADOPT AND ACKNOWLEDGE THE SURRENDER AND SUBDIVISION OF SAID PROPERTY IN ACCORDANCE WITH THE PLAN SHOWN HEREIN.

BY: Shirley Herring  
SHIRLEY HERRING, CHAIRMAN

ATTEST:

PLANNING AND ZONING COMM. APPROVAL

APPROVED THIS 7<sup>th</sup> DAY OF March 2005 BY THE

Chairman  
Secretary

## COUNTY CLERK FILING ACKNOWLEDGMENT STATEMENT

THE STATE OF TEXAS  
COUNTY OF WASHINGTON  
BETHE ROTHMEIER, CLERK OF THE COUNTY COURT OF WASHINGTON  
COUNTY, TEXAS, DO hereby certify that within instrument with its  
ASSURANCE OF THE COUNTY COURT OF WASHINGTON WAS FILED FOR  
REGISTRATION IN MY OFFICE ON March 23, 2005 AT  
1:30 O'CLOCK, P. M. AND DULY RECORDED ON March 23,  
2005, AT 2:10 O'CLOCK, P. M. IN CABINET SHEET 5184  
AS SECOND AS  
FILED SAID COUNTY.

IN WITNESS MY HAND AND SEAL OF OFFICE, AT BRENHAM, WASHINGTON COUNTY,  
this 14th day of \_\_\_\_\_, 19\_\_.

Freida Culman  
CLERK, COUNTY COURT  
WASHINGTON COUNTY, TEXAS

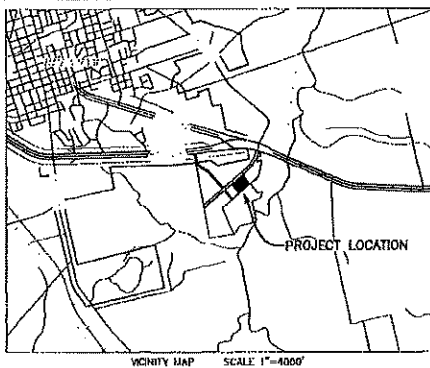
**CERTIFICATION**

THE STATE OF TEXAS  
COUNTY OF WASHINGTON  
J. J. HODGE, REGISTERED PROFESSIONAL LAND SURVEYOR, NO. 5197 OF THE STATE OF TEXAS, DO HEREBY CERTIFY THAT THIS MAP SHOWING A SURVEY OF 10.450 ACRES OF LAND IS TRUE AND CORRECT IN ACCORDANCE WITH AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY PERSONAL DIRECTION AND SUPERVISION.

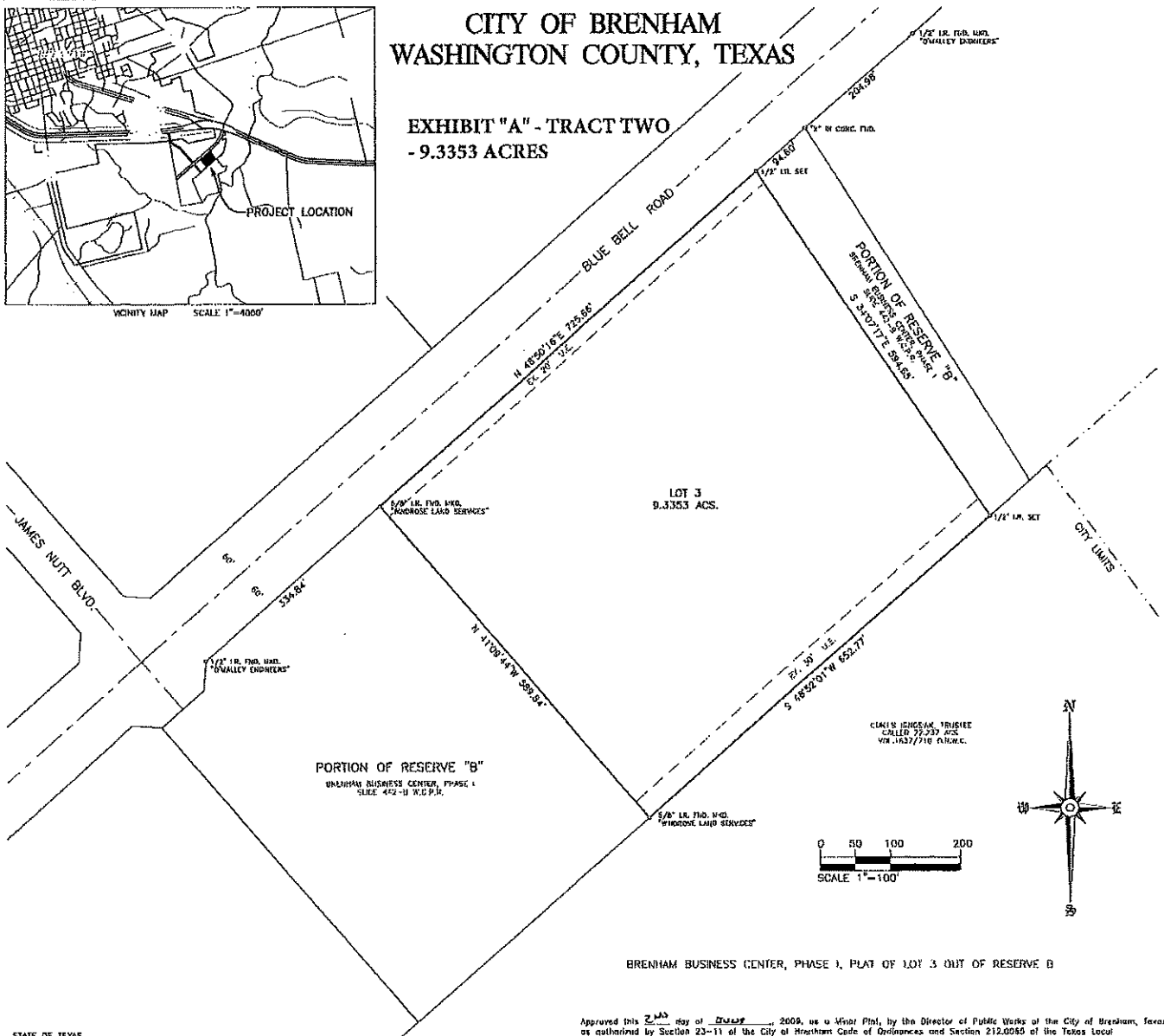
*Dr. E. Hodde*  
JON E. HODDE  
REGISTERED PROFESSIONAL  
LAND SURVEYOR NO. 5197  
HODDE & HODDE LAND SURVEYING, INC.  
615 EAST HODSON STREET  
BRENNHAM, TEXAS 77833  
(378)-315-4881

# CITY OF BRENHAM WASHINGTON COUNTY, TEXAS

## EXHIBIT "A" - TRACT TWO - 9.3353 ACRES



INSET MAP SCALE 1"=4000'



STATE OF TEXAS  
COUNTY OF WASHINGTON

The Brenham Community Development Corporation, owners of the property subdivided in the foregoing plat of Lot 3, Reserve B of Brenham Business Center, Phase I to the City of Brenham, Texas, do hereby make subdivision of said property according to the lines, streets, lots, alleys, building lines, and easements shown shown and designate said subdivision as Lot 3, Reserve B of Brenham Business Center, Phase I to the City of Brenham, Texas, located in Brenham, Washington County, Texas, and so do hereby dedicate to public use, as such the streets, alleys, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades on approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administrators to warrant and forever defend the title to the land so dedicated.

There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to all easements shown hereon, five foot (5') aerial easement being adjacent to electric, telephone, and reserve boundary lines.

We hereby covenant and agree that the area within the boundaries of this subdivision is for business purposes unless otherwise noted.

Witness my hand at Brenham, Washington County, Texas on this 3rd day of June, 2009.

Alwood Kenner  
Alwood Kenner, Chairman of the  
Brenham Community Development Corporation

James Bellamy  
Attest: Secretary of the  
Brenham Community Development Corporation

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, Robert C. Schmidt, R.P.L.S., do hereby certify, that this survey was performed on the ground under my supervision and completed May 29, 2009. It is my professional opinion that this map represents the facts as found.

Given under my hand and seal of office this 3rd day of June, 2009.

Robert C. Schmidt  
Notary Public in and for the State of Texas

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, Robert C. Schmidt, R.P.L.S., do hereby certify, that this survey was performed on the ground under my supervision and completed May 29, 2009. It is my professional opinion that this map represents the facts as found.

Robert C. Schmidt  
Robert C. Schmidt, R.P.L.S.  
Texas Registered Professional Land  
Surveyor No. 4709



Approved this 3rd day of June, 2009, as a Valid Plat, by the Director of Public Works of the City of Brenham, Texas, as authorized by Section 23-11 of the City of Brenham Code of Ordinances and Section 212.0555 of the Texas Local Government Code.

David Baker  
Director of Public Works

I, Beth Rothermel, County Clerk in and for Washington County, hereby certify that the foregoing instrument was filed in my office this 3rd day of June, 2009, at 2:00 o'clock P.M., in the Plat Records in Book No. 284, Page 1. Witnessed my hand and seal of the County Clerk of the said County, at office in Brenham, Texas.

By: Amisha Wood Beth Rothermel  
Deputy County Clerk Washington County, Texas

### General Notes:

1. Hearings are based on hearings of record as recorded in Plat Book 403-A, of the Washington County Plat Records.
2. The surveyor has not obstructed the property. This survey was performed without the benefit of a current abstract of property or title report and would be subject to any conditions, restrictions or exceptions that a current title opinion might disclose.
3. This survey is valid only if it bears the original seal and signature of the surveyor.
4. This property does not lie in a flood hazard area according to the Flood Hazard Boundary Maps of Washington County, Texas Community Panel No. 48108 0608 A, and 0709 A, effective 5-24-1977.
5. All 1/2" iron rods set are marked with plastic caps stamped "O'MALLEY ENGINEERS".

**BRENHAM BUSINESS CENTER, PHASE I**  
**PLAT OF LOT 3 OUT OF RESERVE B,**  
**9.3353 ACRES**  
**OUT OF THE ISAAC LEE SURVEY, A-77**  
**CITY OF BRENHAM,**  
**WASHINGTON COUNTY, TEXAS**

**O'MALLEY ENGINEERS**  
203 E. JACKSON ST. BRENHAM, TEXAS  
(979) 836-7937 FAX (979) 836-7936  
JOB NO. 608.13 LF DWG. NO. BRYAN-RES-B.DWG

EXHIBIT "A" - TRACT THREE - 8.07 ACRES

Del Sol  
8.07 Acres

Isaac Lee Survey  
Abstract No. 77

STATE OF TEXAS §

COUNTY OF WASHINGTON §

A METES & BOUNDS description of a certain 8.07 acre tract situated in the Isaac Lee Survey, Abstract No. 77 in Washington County, Texas, being a portion of a 32.16 acre tract as surveyed by William Krueger, R.P.L.S. No. 2835 on October 24, 2013; said 8.07 acre tract being more particularly described as follows with all bearings being based on a northeasterly line of said 32.16 acre tract having a record bearing of North 49°18'35" East;

BEGINNING at a called found 1/2-inch Iron rod marking the west corner of the herein described subject tract being common with the west corner of said 32.16 acre tract and being in the southeast line of Lot Two of the Brenham Business Center, Phase 1 recorded in Plat Cabinet File No. 518 A of the Plat Records of Washington County;

THENCE along the common lines of the herein described subject tract and said Lot Two the following two (2) courses and distances:

1. North 49°18'35" East, 499.96 feet to a called set 5/8-inch Iron rod for angle;
2. North 13°49'19" East, 383.41 feet to a called found 1/2-inch Iron rod marking the northwest corner of the herein described subject tract being common with a westerly corner of aforementioned 32.16 acre tract and the southwest corner of a called 5.200 acre tract conveyed by Warranty Deed to John F. Beckendorf recorded in Volume 1131, Page 705 of the Official Records of Washington County;

THENCE along the common lines of the herein described subject tract and said 5.200 acre tract the following two (2) courses and distances:

1. North 89°31'08" East, 413.43 feet to a called found 1/2-inch Iron rod (with cap stamped "1070") for angle;
2. South 44°46'53" East, 19.93 feet to a called found 1/2-inch Iron rod (with cap stamped "1070") marking the most easterly northeast corner of the herein described subject tract being common with a westerly interior corner of aforementioned 32.16 acre tract and a southeasterly corner of said 5.200 acre tract;

THENCE over and across said 32.16 acre tract the following three (3) courses and distances:

1. South 45°16'31" West, 197.68 feet to a point-for-corner;
2. South 24°50'11" West, 100.62 feet to a point-for-corner;
3. South 08°27'54" West, 508.76 feet to a called found 3/8-inch Iron rod marking the southeast corner of the herein described subject tract being common with a southwesterly interior corner of said 32.16 acre tract and the north corner of a called 3.000 acre tract conveyed by Warranty Deed to George Klatt recorded in Volume 317, Page 148 of the Deed Records of Washington County;

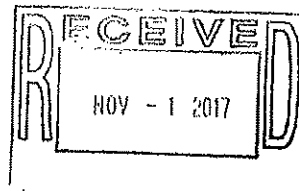


EXHIBIT "A" - TRACT THREE - 8.07 ACRES

Del Sol  
8.07 Acres

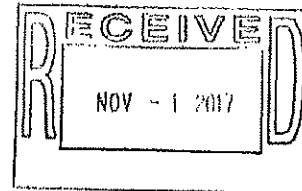
Isaac Lee Survey  
Abstract No. 77

THENCE South 76°12'30" West, along the common line of the herein described subject tract and said 3.000 acre tract, 531.20 feet to a called set 5/8-inch iron rod marking the south corner of the herein described subject tract being common with a southwesterly corner of aforementioned 32.16 acre tract and the west corner of said 3.000 acre tract and being in the northeast line of a called 22.237 acre tract conveyed by Executor's Deed to the Justin Margist Trust recorded in Volume 1037, Page 710 of the Official Records of Washington County;

THENCE North 35°51'00" West, along the common line of the herein described subject tract and said 22.237 acre tract, 212.96 feet to the POINT OF BEGINNING, CONTAINING 8.07 acres of land in Washington County, Texas.

The metes and bounds description of the herein described subject tract was prepared under 22 TAC §663.21, and does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the zoning district for which it was prepared.

*ChE* 10/25/17



# EXHIBIT "A" - TRACT THREE - 8.07 ACRES

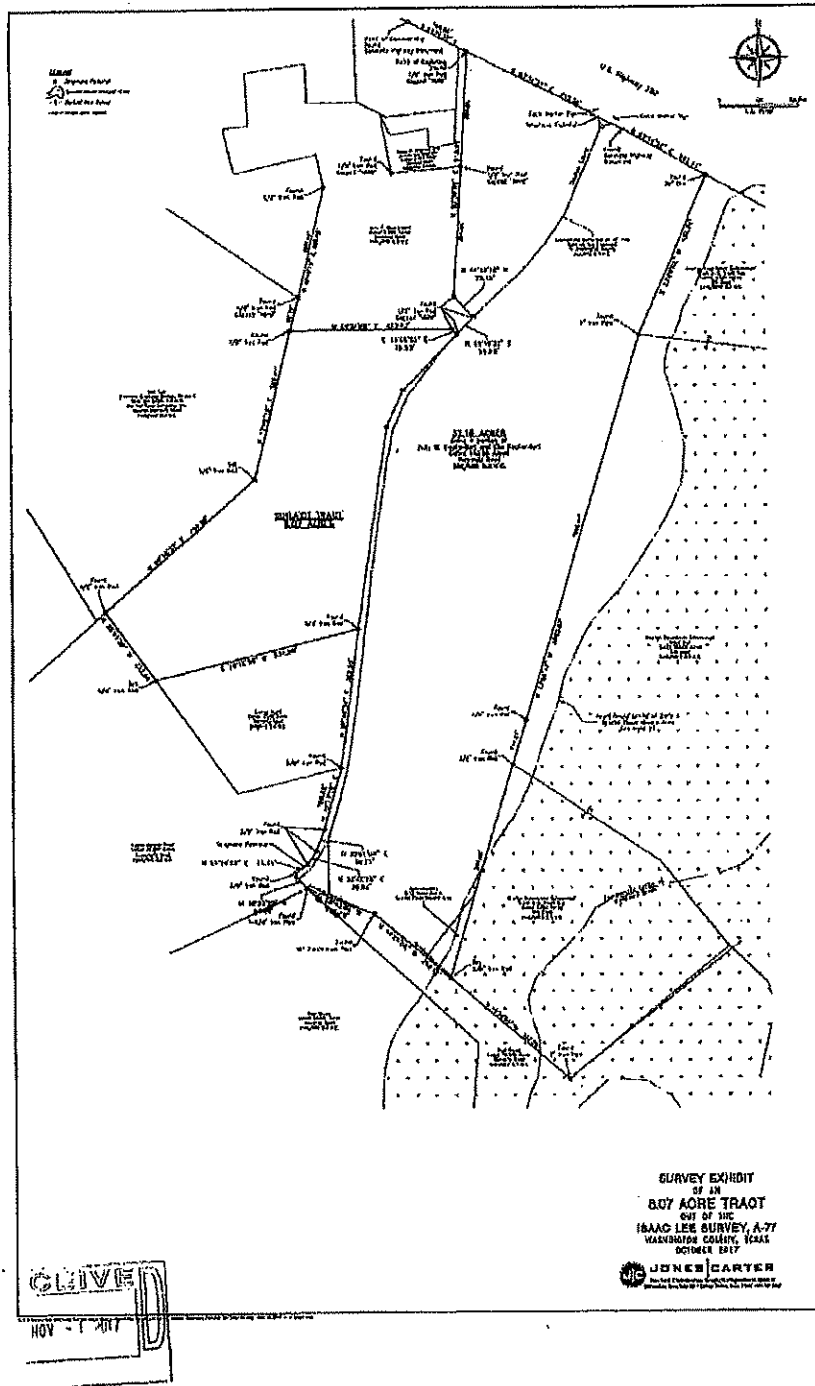
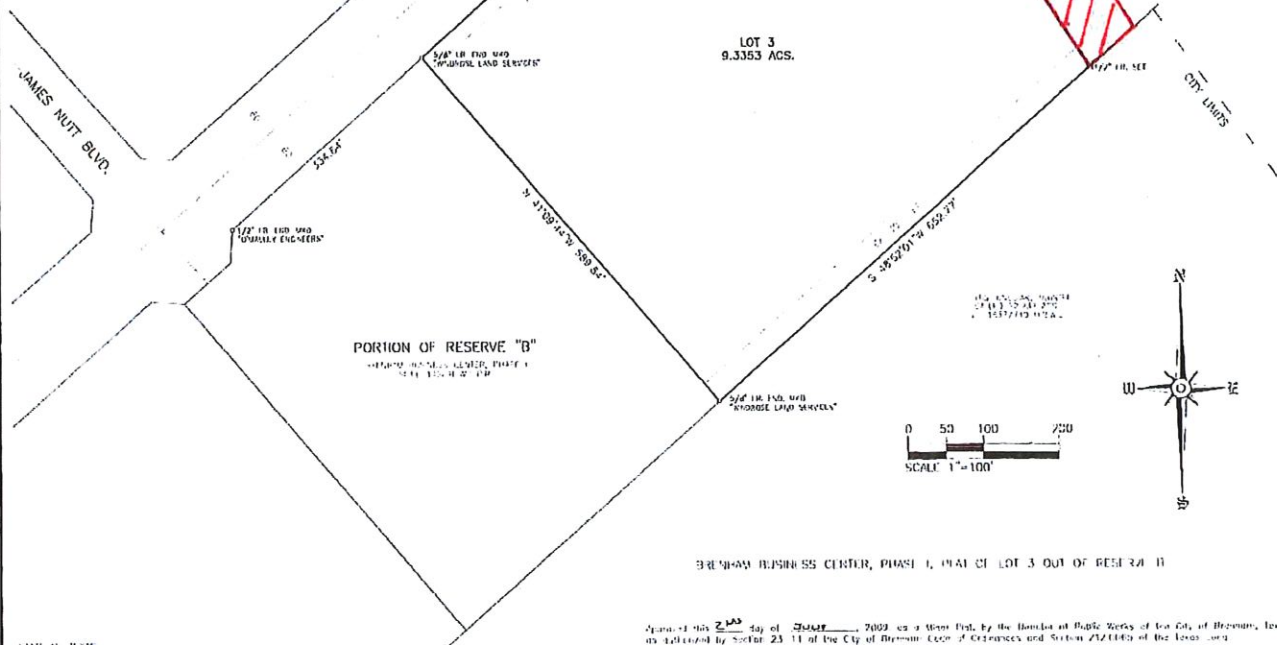




EXHIBIT "A" - TRACT FOUR  
APPROX. 1.1717 ACRES



STATE OF TEXAS  
REGISTERED  
★  
ROBERT C. SCHINDT  
4705  
PROFESSIONAL  
LAND SURVEYOR

**OE O'MALLEY ENGINEERS**  
203 S. JACKSON ST. BRENNHAM, TEXAS  
(979) 836-7937 FAX (979) 836-7036

## **ORDINANCE NO. O-19-025**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A – “ZONING” OF THE CODE OF ORDINANCES BY PROVIDING FOR THE AMENDMENT OF PART II, DIVISION I, SECTION 12 – LANDSCAPING AND BUFFERING, TO ESTABLISH STANDARDS RELATED TO THE LANDSCAPING OF NON-RESIDENTIAL AND MULTIPLE-FAMILY DEVELOPMENT; PROVIDING FOR THE AMENDMENT OF PART II, DIVISION 1, SECTION 16 – OFF-STREET PARKING REQUIREMENTS, TO AMEND MINIMUM PARKING SPACE SIZE STANDARDS AND ESTABLISH A STANDARD PARKING SPACE SIZE FOR SPACES DESIGNATED AS COMPACT PARKING.**

**WHEREAS**, the City of Brenham has requested that Appendix A – “Zoning” of the Code of Ordinances be amended; and

**WHEREAS**, the Planning & Zoning Commission and the City Council of the City of Brenham, Texas, have published notice and conducted public hearings regarding the request to amend Appendix A – “Zoning” of the Code of Ordinances; and

**WHEREAS**, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

**WHEREAS**, these amendments were recommended for approval by the City of Brenham Planning & Zoning Commission in its final report during its regular meeting July 22, 2019; and

**WHEREAS**, the City Council deems it appropriate to approve the requested amendments to Appendix A – “Zoning” of the Code of Ordinances; Now Therefore,

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

### **SECTION 1.**

That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas Part II, Division 1, Section 12, Landscaping and Buffering, Sec. 12.05, is hereby amended to read as follows:



(Sec. 12.05) Minimum Landscaping Requirements for Nonresidential and Multiple-Family Uses.

- (1) For all nonresidential and multiple-family parcels an area equal to fifteen percent (15%) of the developed area (building site) shall be required to be landscaped area in accordance with the City of Brenham Zoning Ordinance. Said landscaping shall be integrated into the design of the parking area such that it will not create a traffic or safety hazard by obscuring driver or pedestrian vision at the intersections of walkways, driveways, collector lanes and streets or any combination thereof.
- (2) Any development existing, occupied, and in use at the time of passage of the ordinance from which this Section 12.05 is derived may continue to be so until such time the site undergoes a change of use, change of ownership, change of tenant, voluntary site improvement, structural alteration, relocation, or enlargement. At that time, an area equal to eight percent (8%) of the developed area (building site) shall be required to be landscaped in accordance with the City of Brenham Zoning Ordinance.
- (3) In order to maximize the preservation of existing trees, surveyed trees in good health that have a caliper of at least four (4) inches measured six inches (6") from the ground may provide credit towards the landscaping requirement. Each existing tree preserved between four (4") and twelve (12") inches in diameter measured six inches (6") from the ground may receive landscape credits for two (2) trees. Each existing tree preserved greater than twelve (12") inches in diameter measured six inches (6") from the ground may receive a landscape credit for three (3) trees.
- (4) All required landscaping shall be irrigated by either an underground sprinkler system, drip or micro irrigation system or hose attachment within one hundred feet (100') of all landscaping.
- (5) A combination of trees, shrubs, and groundcover and a mix of species shall be provided to meet the minimum landscape requirement, no more than 50 percent (50%) of plantings may be from the same species.
- (6) A landscape plan in accordance with Section 12 and applicable provisions of the City of Brenham Zoning Ordinance shall be submitted and approved prior to issuance of a building permit for such development. Landscape plans shall include location, size, and species of all trees and vegetation to be planted or preserved, layout and description of irrigation or water systems, and any other landscape features. All required landscaping and irrigation approved on the landscape plan shall be installed prior to issuance of a Certificate of Occupancy.

(Sec. 12.06) Parking Lot Minimum Landscaping Requirements.

- (1) One (1) tree shall be located in a landscape island at the terminus of all parking rows and shall be planted in a minimum permeable area of one hundred (100) square feet per tree. The remainder of all parking lot islands shall be fully landscaped with shrubs, grass, live groundcovers, and/or non-vegetative groundcover.

- (2) A minimum of one (1) tree is required within 110' of every parking space (one tree per every twelve (12) parking spaces).
- (3) Each parking stall in excess of the minimum required parking shall be calculated as one and one-half stalls for purposes of calculating the minimum required number of trees.
- (4) Tree wells/diamond planters shall be permitted at the head of parking stalls and encroach into the parking space. Minimum tree well dimensions shall be three feet (3') by three feet (3').
- (5) Required trees shall generally be spread throughout the parking lot but may be clustered for the purposes of existing tree preservation or to accommodate topographic constraints.
- (6) Required trees shall be seven feet (7') tall and two inches (2") in diameter when measured six inches (6") from the ground. Fifty percent (50%) of required trees shall be canopy (shade) trees, remaining trees may be non-canopy (ornamental) trees.
- (7) Dumpster enclosures with a minimum capacity of two (2) cubic yards, shall provide a concrete pad at least six inches (6") thick and solid fence screening on three (3) sides. Dumpsters visible from the right-of-way or adjacent residential property, shall be required to provide a solid screening fence on four (4) sides.
- (8) A decorative wall or landscaped earth berm at least two feet (2') in height, or dense hedge having year-round foliage at least three feet (3') in height at maturity, is required as a visual buffer along street frontages in the following circumstances:
  - a. Where outdoor parking areas are located within fifty feet (50') of any street right-of-way, except for driveway openings providing access from the street to the parking area;
  - b. Where fuel pumps are located in any parking area, driveway, or maneuvering area between the principal building and any street; or
  - c. Where a vehicle drive-up window faces a street.
- (9) Required landscaping shall be located so as to be visible from public streets.

(Sec. 12.07) Installation and maintenance. The owner, tenant and agent, if any, shall be jointly and severally responsible for installing and maintaining all landscaping in a healthy, neat and orderly condition. Landscaping shall be sufficiently fertilized and watered as necessary to maintain the plant material in a healthy condition. Landscape areas shall be maintained so as to present a healthy, neat, and orderly appearance at all times and shall be kept free of refuse and debris. Dead trees or plants shall be replaced no later than the earlier of: 1) within one hundred and twenty (120) days of notification by the zoning administrator; or 2) by the beginning of the next planting season.

## **SECTION 2.**

That Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas Part II, Division 1, Section 16, Off-Street Parking Requirements, Sec. 16.02, is hereby amended to read as follows:

(Sec. 16.02) Minimum dimensions for off-street parking. All parking spaces and aisles shall meet the minimum standards provided in Table 4a, Table 4b and subsections (1) through (4) below.

**TABLE 4-a  
PARKING SPACE AND AISLE DIMENSIONS (One-Way)**

| A   | B | C    | D    | E    | F    | G   | H    | I    | J    |
|-----|---|------|------|------|------|-----|------|------|------|
| 0°  | — | 22   | 8    | —    | —    | 10* | —    | —    | 26   |
| 45° | 9 | 14.1 | 21.1 | 30   | 17.6 | 10* | 48.7 | 45.2 | 52.2 |
| 60° | 9 | 11.5 | 22.3 | 25.7 | 19.8 | 14* | 56.1 | 53.6 | 58.6 |
| 90° | 9 | 10   | 19   | 20   | —    | 24  | —    | —    | 62   |

|                     |                          |
|---------------------|--------------------------|
| A=PARKING ANGLE     | F=STALL DEPTH INTERLOCK  |
| B=STALL WIDTH       | G=AISLE WIDTH            |
| C=CURB LENGTH       | H=WALL TO INTERLOCK      |
| D=STALL DEPTH       | I=INTERLOCK TO INTERLOCK |
| E=STALL LINE LENGTH | J=WALL TO WALL           |

\*Aisle width dimension is for aisle of less than 150 feet in length. Longer aisle will require aisle width to increase to 17 feet to allow cars to pass.

**TABLE 4-b PARKING SPACE AND AISLE DIMENSIONS (Two-Way)**

| A   | B | C    | D    | E    | F    | K  | L    | M    | N    |
|-----|---|------|------|------|------|----|------|------|------|
| 0°  | — | 22   | 8    | —    | —    | 20 | —    | —    | 36   |
| 45° | 9 | 14.1 | 21.1 | 30   | 17.6 | 20 | 58.7 | 55.2 | 62.2 |
| 60° | 9 | 11.5 | 22.3 | 25.7 | 19.8 | 20 | 62.1 | 59.6 | 64.6 |
| 90° | 9 | 10   | 19   | 20   | —    | 24 | —    | —    | 62   |

|                     |                          |
|---------------------|--------------------------|
| A=PARKING ANGLE     | F=STALL DEPTH INTERLOCK  |
| B=STALL WIDTH       | K=AISLE WIDTH            |
| C=CURB LENGTH       | L=WALL TO INTERLOCK      |
| D=STALL DEPTH       | M=INTERLOCK TO INTERLOCK |
| E=STALL LINE LENGTH | N=WALL TO WALL           |

- (1) When off-street parking facilities are located adjacent to a public alley, the width of said alley may be assumed to be a portion of the maneuvering space requirement ("G" and "K" In Table 4a and 4b respectively).
- (2) Where off-street parking facilities are provided in excess of the minimum amounts herein specified, or when off-street parking facilities are provided but not required by this ordinance, said off-street parking facilities shall comply with the minimum requirements for parking and maneuvering space herein specified.
- (3) Circulation within a parking area with more than one aisle shall be such that a vehicle need not enter the street in order to reach another aisle within the same parking area. Dead-end aisles are not permitted for parking spaces with angles greater than zero (0) degrees and less than ninety (90) degrees unless adequate turnarounds as approved by the city engineer are provided.
- (4) All parking spaces shall be clearly marked on the pavement with yellow or white traffic paint or raised pavement markers approved by the city engineer.
- (5) If a development requires ten (10) or more parking spaces, up to ten percent (10%) of the required spaces may be designated as compact car parking. Compact spaces shall be denoted as either "Compact Cars Only" or "Compact Parking" and shall be a minimum of eight (8) feet by sixteen (16) feet.

**SECTION 3.**

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

**PASSED and APPROVED** on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED and APPROVED** on its second reading this the 15<sup>th</sup> day of August, 2019.

---

Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC, CMC  
City Secretary

## **ORDINANCE NO. O-19-026**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FROM A LOCAL BUSINESS RESIDENTIAL MIXED USE DISTRICT (B-1) TO A COMMERCIAL, RESEARCH AND TECHNOLOGY DISTRICT (B-2) ON CERTAIN PROPERTIES GENERALLY LOCATED ALONG STATE HIGHWAY 105, EAST OF THE INTERSECTION OF STATE HIGHWAY 105 AND N. BLUE BELL ROAD, BEING MORE PARTICULARLY DESCRIBED AND IDENTIFIED IN THIS ORDINANCE.**

**WHEREAS**, during evaluation of a proposed rezoning request for 1708 State Highway 105 (Circle K), the City of Brenham found that the certain properties in the vicinity are also zoned Local Business Residential Mixed Use (B-1) District and may be developed with legally non-conforming uses. These particular properties are described as follows:

- a) 1.416 acres addressed as 1701 State Highway 105, and further described as Part of Lots 23-27 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;
- b) 0.262 acres addressed as 1711 State Highway 105 (f/k/a 1703 State Highway 105), and further described as Part of Lots 28 and 29 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;
- c) 3.160 acres addressed as 1801 and 1803 State Highway 105, and further described as Tract 86 of the Arrabella Harrington Survey in Brenham, Washington County, Texas; and
- d) A portion of the called 0.9765 acre tract, out of the A. Harrington Survey, A-55, the James Walker Survey, A-106, and the Post Oak Grove Addition in Brenham, Washington County, Texas. (WCAD R#19194); and

**WHEREAS**, it was further determined that that rezoning the Circle K property alone would be considered "spot zoning" because adjacent properties on all sides of the Circle K property are currently zoned Local Business Residential Mixed Use District (B-1). Property located further north, along State Highway 105 ("SH-105") were annexed into the City of Brenham city limits in 2006 and at that time were zoned Commercial, Research and Technology (B-2) District; and

**WHEREAS**, due to the aforementioned circumstances, City staff finds that it is appropriate to rezone the above described property located north of the intersection of FM-577 and SH-105 to a Commercial, Research and Technology (B-2) District; and

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

**WHEREAS**, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning changes by adopting ordinances amending Appendix A for each individual permanent zoning change; and

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

**WHEREAS**, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission in its final report during its regular meeting on July 22, 2019; and

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

**WHEREAS**, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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

*SECTION 1.* That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by changing the zoning district classification from a Local Business Residential Mixed Used (B-1) District to a Commercial, Research and Technology (B-2) District on the following tracts of land, said areas of land being more particularly depicted in Exhibit “A” attached hereto and incorporated herein for all purposes.

- a) 1.416 acres addressed as 1701 State Highway 105, and further described as Part of Lots 23-27 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;
- b) 0.262 acres addressed as 1711 State Highway 105 (f/k/a 1703 State Highway 105), and further described as Part of Lots 28 and 29 in Block 1 of the Post Oak Grove Addition in Brenham, Washington County, Texas;

- c) 3.160 acres addressed as 1801 and 1803 State Highway 105, and further described as Tract 86 of the Arrabella Harrington Survey in Brenham, Washington County, Texas; and
- d) A portion of the called 0.9765 acre tract, out of the A. Harrington Survey, A-55, the James Walker Survey, A-106, and the Post Oak Grove Addition in Brenham, Washington County, Texas. (WCAD R#19194)

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

**PASSED and APPROVED** on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED and APPROVED** on its second reading this the 15<sup>th</sup> day of August, 2019.

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Milton Y. Tate, Jr.  
Mayor

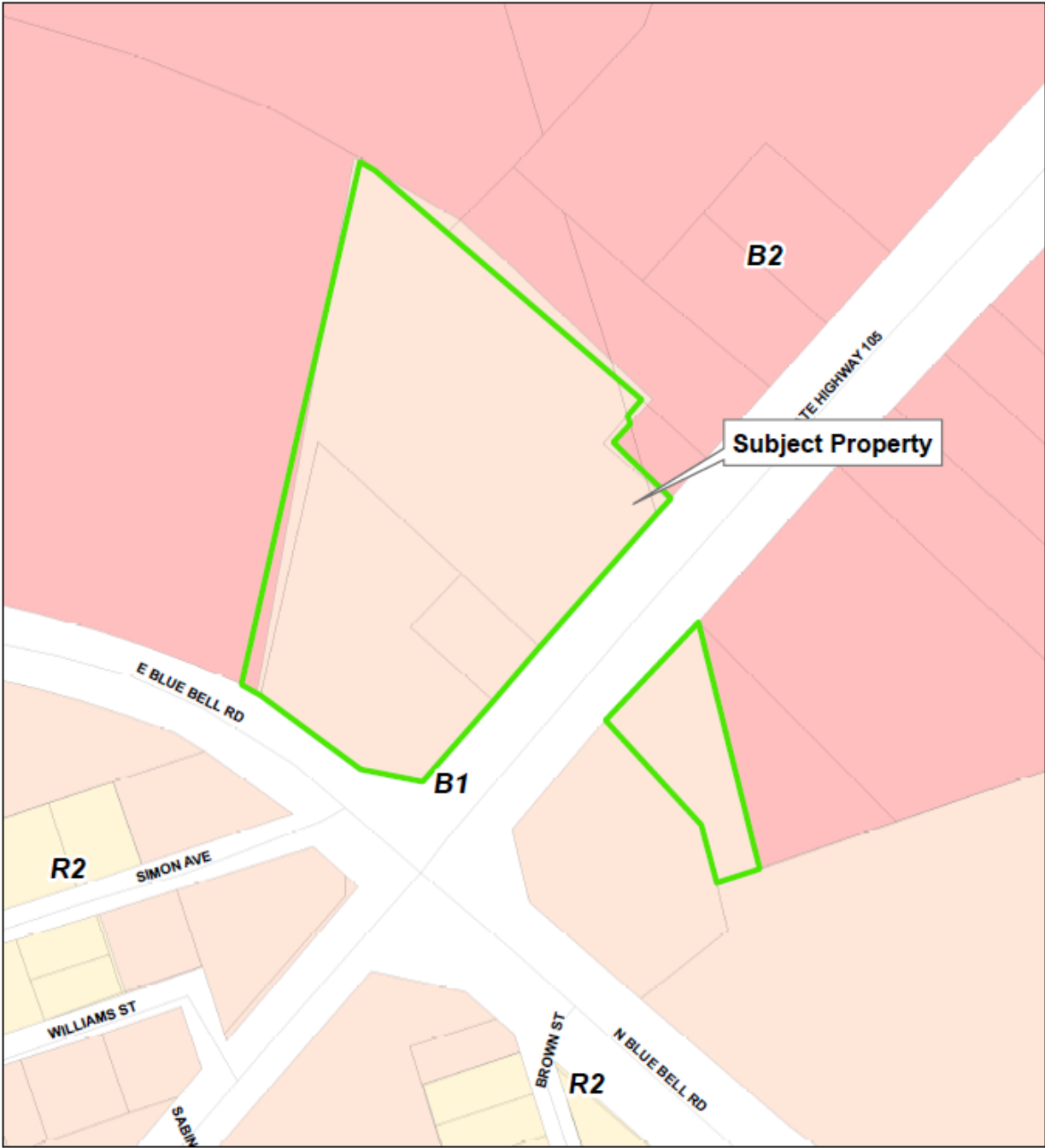
**ATTEST:**

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Jeana Bellinger, TRMC, CMC  
City Secretary



Exhibit “A”



**State Highway 105  
City-Initiated Rezoning**

1 inch = 153 feet



- |                                       |                                                      |
|---------------------------------------|------------------------------------------------------|
| B1 Local Business Mixed               | P1 Planned Development                               |
| B2 Commercial Research and Technology | R1 Residential Single Family                         |
| B3 Historical and Central Business    | R2 Mixed Residential                                 |
| B4 Neighborhood Business District     | R3 Manufactured Home Residential                     |
| I Industrial                          | DBROD Downtown Business/Residential Overlay District |



## **ORDINANCE NO. O-19-027**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FROM A LOCAL BUSINESS RESIDENTIAL MIXED USE (B-1) DISTRICT TO A COMMERCIAL, RESEARCH AND TECHNOLOGY (B-2) DISTRICT ON A 1.056-ACRE TRACT OF LAND, GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF STATE HIGHWAY 105 AND N. BLUE BELL ROAD, ADDRESSED AS 1708 STATE HIGHWAY 105, AND BEING FURTHER DESCRIBED AS LOT 1 OF THE SOUTHEAST PORTION OF POST OAK GROVE ADDITION, IN BRENHAM, WASHINGTON COUNTY, TEXAS.**

**WHEREAS**, the owner(s) of a 1.056-acre tract of land generally located at the southeast corner of the intersection of State Highway 105 and N. Blue Bell Road, addressed as 1708 State Highway 105 and being further described as Lot 1 of the Southeast Portion of Post Oak Grove Addition, in Brenham, Washington County, Texas, (the "Property"), have requested that the Property be rezoned; and

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

**WHEREAS**, Appendix A – "Zoning" of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning changes by adopting ordinances amending Appendix A for each individual permanent zoning change; and

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

**WHEREAS**, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission in its final report during its regular meeting on July 22, 2019; and

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

**WHEREAS**, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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

*SECTION 1.* That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by changing the zoning district classification from a Local Business Residential Mixed Use (B-1) District to a Commercial, Research and Technology (B-2) District on a 1.056-acre tract of land generally located at the southeast corner of the intersection of State Highway 105 and N. Blue Bell Road, addressed as 1708 State Highway 105 and being further described as Lot 1 of the Southeast Portion of Post Oak Grove Addition, in Brenham, Washington County, Texas, said area of land being more particularly depicted in Exhibit "A" attached hereto and incorporated herein for all purposes.

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

**PASSED and APPROVED** on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED and APPROVED** on its second reading this the 15<sup>th</sup> day of August, 2019.

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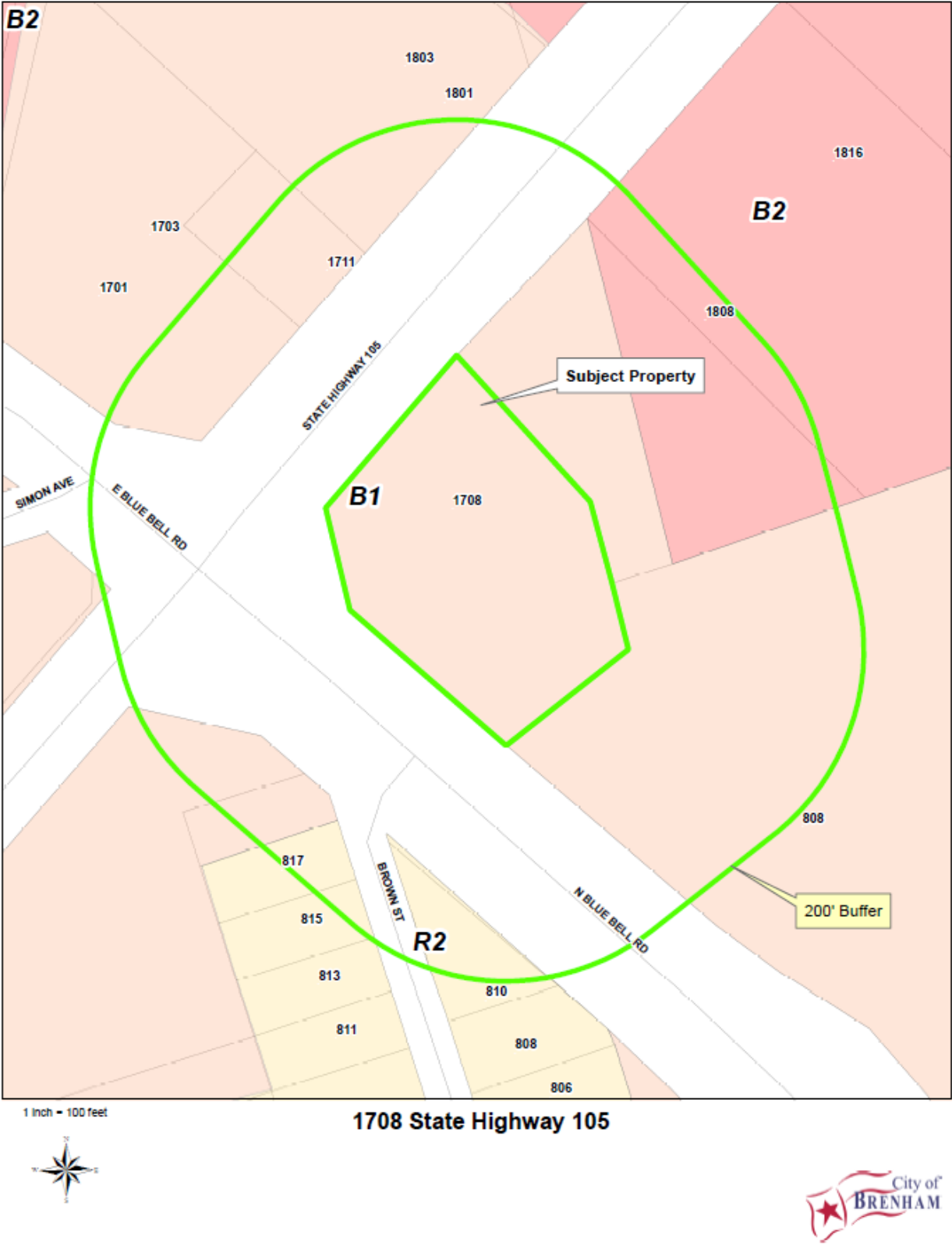
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC, CMC  
City Secretary

Exhibit “A”



## **ORDINANCE NO. O-19-028**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES, AND THE OFFICIAL ZONING MAP OF THE CITY OF BRENHAM, BY CHANGING THE ZONING DISTRICT CLASSIFICATION FROM MIXED RESIDENTIAL DISTRICT (R-2) TO A COMMERCIAL, RESEARCH AND TECHNOLOGY DISTRICT (B-2) ON APPROXIMATELY 2.29 ACRES OF LAND ADDRESSED AS 901, 905, 909, 911 AND 913 W. FIFTH STREET AND 1104 AND 1106 HIGH STREET, AND FURTHER DESCRIBED AS LOTS 1, 2A AND 4 IN BLOCK 21 OF THE KEY'S FIRST ADDITION, IN BRENHAM, WASHINGTON COUNTY, TEXAS.**

**WHEREAS**, the owner(s) of the 2.29 acres of land generally located near the intersection of W. Fifth Street and High Street, addressed as 901, 905, 909, 911 and 913 W. Fifth Street and 1104 and 1106 High Street, and being further described as Lots 1, 2A and 4 in Block 21 of the Key's First Addition, in Brenham, Washington County, Texas, (the "Property"), have requested that the Property be rezoned; and

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

**WHEREAS**, Appendix A – "Zoning" of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning changes by adopting ordinances amending Appendix A for each individual permanent zoning change; and

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

**WHEREAS**, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission in its final report during its regular meeting on July 22, 2019; and

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

**WHEREAS**, the City Council deems it appropriate to grant such proposed change in the zoning district classification of the Property.

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

*SECTION 1.* That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham are hereby amended by changing the zoning district classification from a Mixed Residential District (R-2) to a Commercial, Research and Technology District (B-2) on approximately 2.29 acres of land addressed as 901, 905, 909, 911 913 W. Fifth Street and 1104 and 1106 High Street, and further described as Lots 1, 2A and 4 in Block 21 of the Key's First Addition, in Brenham, Washington County, Texas, said area of land being depicted in Exhibit "A" attached hereto and incorporated herein for all purposes.

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

**PASSED and APPROVED** on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED and APPROVED** on its second reading this the 15<sup>th</sup> day of August, 2019.

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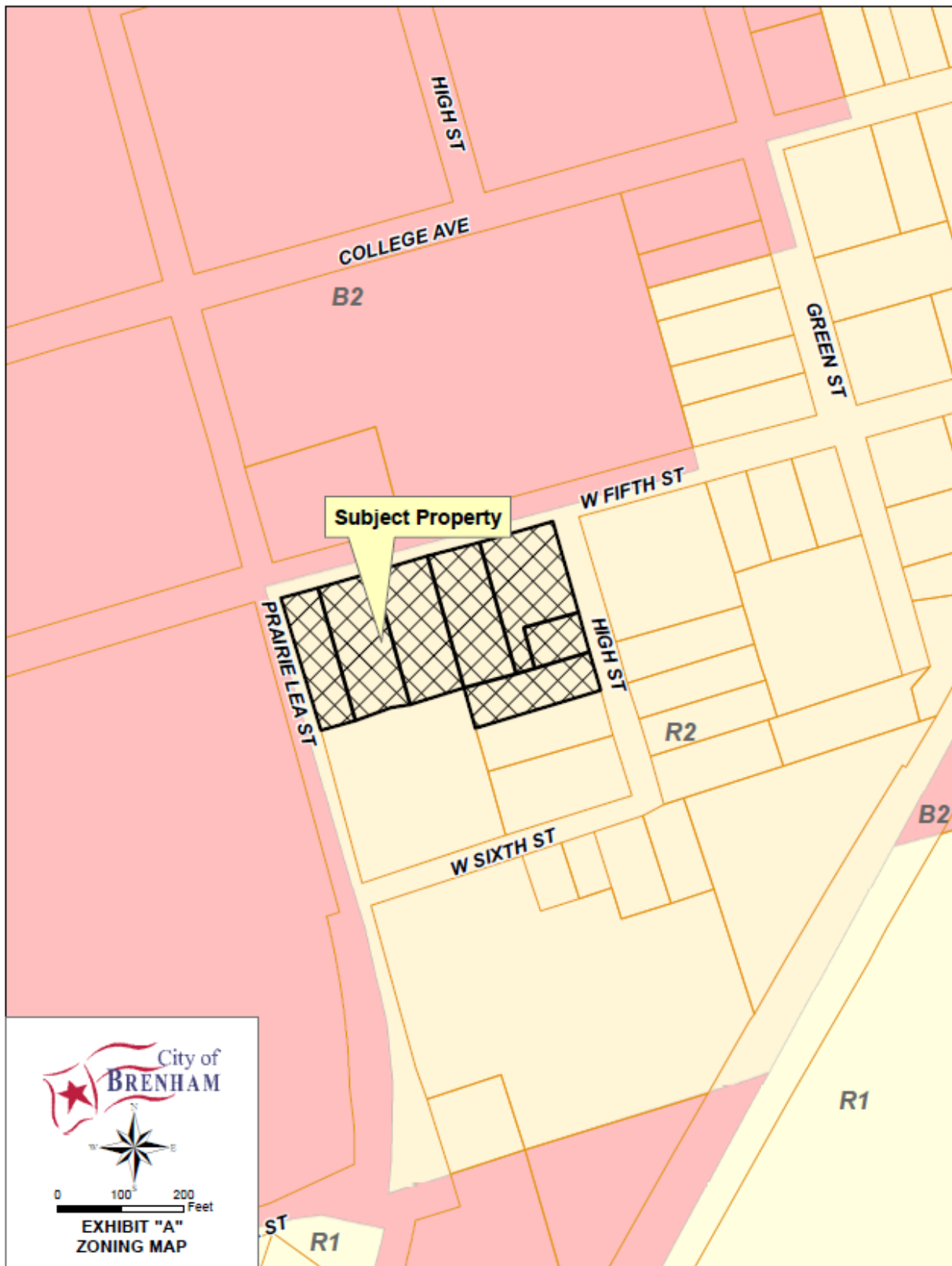
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC, CMC  
City Secretary

Exhibit "A"



## **ORDINANCE NO. O-19-029**

**AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT TO TEXAS PLUMBING SUPPLY, TO ALLOW OPEN (OUTDOOR) DISPLAY OR STORAGE OF RETAIL MERCHANDISE AS AN ACCESSORY USE TO USES PERMITTED IN THE B-1, LOCAL BUSINESS/RESIDENTIAL MIXED USE ZONING DISTRICT ON APPROXIMATELY 2.190 ACRES OF LAND DESCRIBED AS PART OF LOTS 1 & 2, AND LOTS 3-7 IN BLOCK L OF THE STONE SUBDIVISION, IN BRENHAM, WASHINGTON COUNTY, TEXAS.**

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

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

**WHEREAS**, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on July 22, 2019 with a condition that all outdoor storage be completely screened from view by adjacent right-of-way and residential property; and

**WHEREAS**, this amendment will include a condition to require screening of all open (outdoor) display or storage of retail merchandise on the subject 2.190 acre tract from view by all adjacent property and rights-of-way. The open storage area shall be screened from view by screening fence, vegetation, or combination thereof; and

**WHEREAS**, the City Council desires to approve this Ordinance granting the specific use permit, with conditions, as described 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:**



*SECTION 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 grant a Specific Use Permit for Open (Outdoor) Display or Storage of Retail Merchandise as an Accessory Use to Uses Permitted in the B-1, Local Business/Residential Mixed Use Zoning District on Approximately 2.190 Acres of Land Located at 1608 & 1702 S. Market Street, and further described as Part of Lots 1 & 2, and Lots 3-7 in Block L of the Stone Subdivision, in Brenham, Washington County, Texas (the "Property"), said 2.190 acres of land being more particularly described on Exhibit "A" attached hereto and incorporated herein for all purposes.

*SECTION 2.* The development of the Property shall be in accordance with the special conditions, restriction and regulation that all open (outdoor) display or storage of retail merchandise on the subject 2.190 acre tract shall be screened from view by all adjacent property and rights-of-way by means of screening fence, vegetation, or combination thereof, the location of said screening more particularly depicted on Exhibit "B" attached hereto and incorporated herein for all purposes.

*SECTION 3.* Upon holding a properly notified public hearing, the City Council may amend, change, or rescind the Specific Use Permit granted by this Ordinance if:

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

*SECTION 4.* This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas.

**PASSED and APPROVED** on its first reading this the 1<sup>st</sup> day of August, 2019.

**PASSED and APPROVED** on its second reading this the 15<sup>th</sup> day of August, 2019.

**ATTEST:**

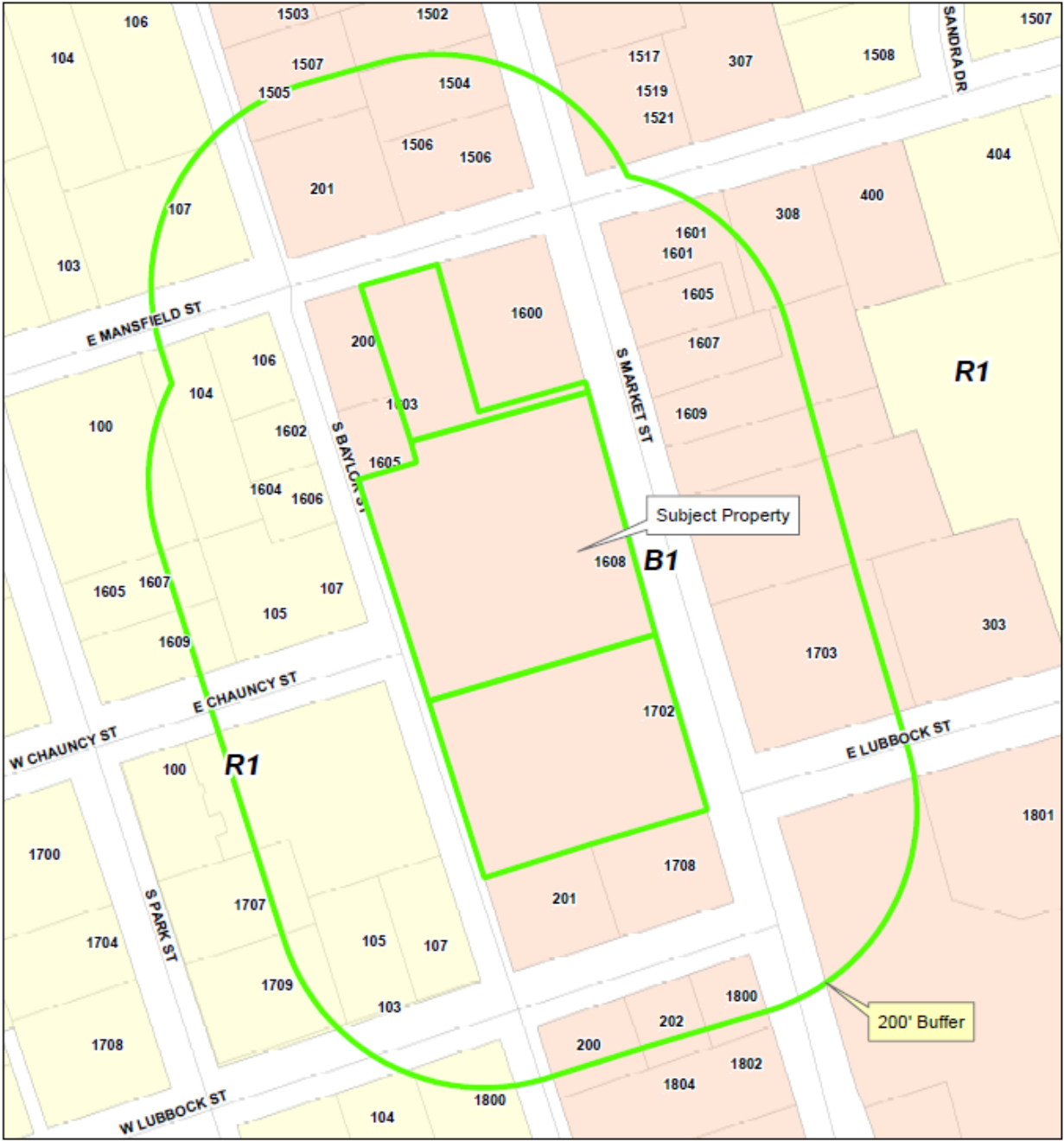
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Milton Y. Tate, Jr.  
Mayor

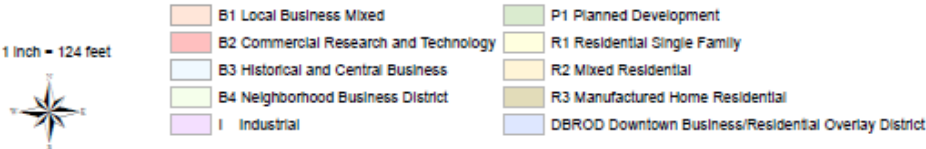
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Jeana Bellinger, TRMC, CMC  
City Secretary

Exhibit “A”



**Texas Plumbing Supply  
Specific Use Permit Request**



++++ = fence netting or barrier will be installed for privacy and prevent seeing into yard area from outside fence.

Boettcher Building Center of Brenham LP



NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: Honoring Fallen Victims of El Paso, TX Dayton OHIO Shootings
2. Name and address of individual making application on behalf of sponsoring organization: Ethan Lawhon - Community Citizen  
403 Glenn Drive Apt. A Brenham, TX 77833
3. Purpose of the Event: Honoring Fallen El Paso & Dayton OHIO Lost Lives
4. Location of Event: Brenham Court House Yard / Gazebo
5. Date of the event: Thursday August 15th
6. Time of Event: 7:00 p.m. - 8:00 p.m.
7. Event Set-up: From: 6:00 p.m. To: 7:00 p.m.  
Event Clean-up: From: 8:00 To: 8:45 p.m.
8. You are required to describe the following:
  - a) Types of Activities Planned and any additional information specific to this event: KWHI, KTEX 106.1 and I are partnering with Brenham Court House to do a Vigil to Honor The Families That Lost Their Lives Recently in the Mass Shootings, El Paso, Dayton, OHIO
  - b) Bands/Musical Instruments: Own Music Provided Equipment
  - c) Sound amplification equipment: own provided
  - d) Cleanup provisions: \_\_\_\_\_

Ethan Lawhon  
Name of Applicant (Printed or Typed)

Date: 8/6/2019

\_\_\_\_\_  
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):  
\_\_\_\_\_  
\_\_\_\_\_

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: St. Mary Immaculate Conception Catholic Church
2. Name and address of individual making application on behalf of sponsoring organization: Sister Arcelia Martinez
3. Purpose of the Event: To raise money for our church (St. Mary's Church)
4. Location of Event: 701 Church St., Brenham, TX 77833
5. Date of the event: Sunday September 1, 2019
6. Time of Event: 8:00 am Sunday, September 1, 2019
7. Event Set-up: From: 7:00 am To: 8:30 am  
Event Clean-up: From: 5:00 pm To: 6:00 pm
8. You are required to describe the following:
  - a) Types of Activities Planned and any additional information specific to this event: Food sale (mexican food) Tables games, train tour
  - b) Bands/Musical Instruments: One DJ. (mexican music) no music instruments.
  - c) Sound amplification equipment: 5 speakers, 1 microphone
  - d) Cleanup provisions: n/a.

Arcelia Martinez Gudino  
Name of Applicant (Printed or Typed)

Date: August 7, 2019

Arcelia Martinez Gudino  
Applicant or Authorized Person's Signature

Phone: At 361-775-5482.

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 08/07/19  
cash \$10.00 kw





To: Mayor & Council

From: James Fisher, City Manager

Subject: BCDC's Conveyance of Land to Del Sol Foods

Date: August 9, 2019

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Del Sol Food Company, Inc. acquired the former Advanced Data Storage building located at 3151 South Blue Bell Road in July 2019. Del Sol intends to utilize this 57,000 sf building to expand their existing business which will involve a \$7.7M capital investment by the owners of Del Sol into the Brenham community and will result in an estimated 10 additional jobs over their current employment base of 62.

The BCDC currently owns an approximate 1.1717-acre tract of land located between the existing Del Sol property and the ADS property (see attached map). Last week, the BCDC agreed unanimously to convey this property to Del Sol to assist them in their future business expansion plans.





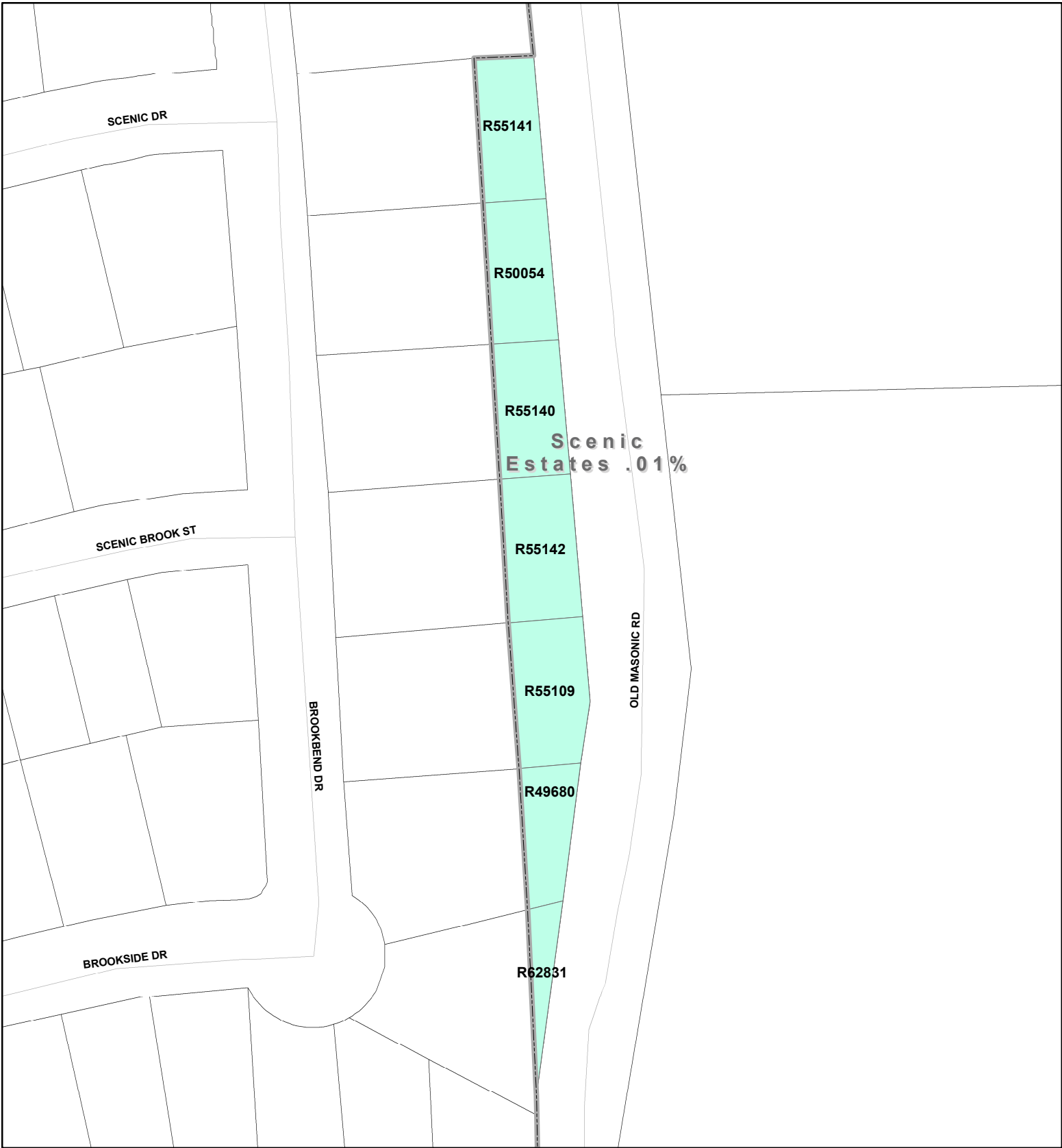
## AGENDA ITEM 6

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                               |                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>DATE SUBMITTED:</b> August 9, 2019                                                                                                                                                         |                                                                                                                                                                  |
| <b>DEPT. OF ORIGIN:</b> Administration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>SUBMITTED BY:</b> James Fisher                                                                                                                                                             |                                                                                                                                                                  |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input type="checkbox"/> REGULAR<br><input checked="" type="checkbox"/> WORK SESSION | <b>ORDINANCE:</b><br><input type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Update on Possible Annexation of Various Tracts of Land Into the City Limits of the City of Brenham, Texas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>SUMMARY STATEMENT:</b> At the May 7, 2019 meeting, the City Council adopted Resolution No. R-19-013 authorizing the City Manager to review and identify various tracts for possible annexation in 2019. During the meeting, Council advised staff to review tracts up to the allowable maximum of thirty percent (30%) of the total area of the city limits.<br><br>After review of various tracts and the “gateways” to the City, the City Manager and staff have finalized the tracts for annexation. The approximate total land area for this annexation is 27.35%; properties that have requested annexation are not included in this area percentage. Several of these tracts are currently appraised with an agricultural exemption so the City is required to offer these property owners Development Agreements that guarantees the continuation of ETJ status for an extended period not to exceed 45 years. The City will offer these Agreements with a time period of 10 years.<br><br>Also, under the provisions of the Resolution, the City does not have to annex all of this land at one time, the City can sections and/or tracts to be annexed at different times. Staff is still discussing a timeline for all of these annexations and will advise the Council of our recommended schedule once it is finalized. |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b><br><b>B. CONS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>ATTACHMENTS:</b> (1) Maps of tracts being recommended for annexation in 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                               |                                                                                                                                                                  |



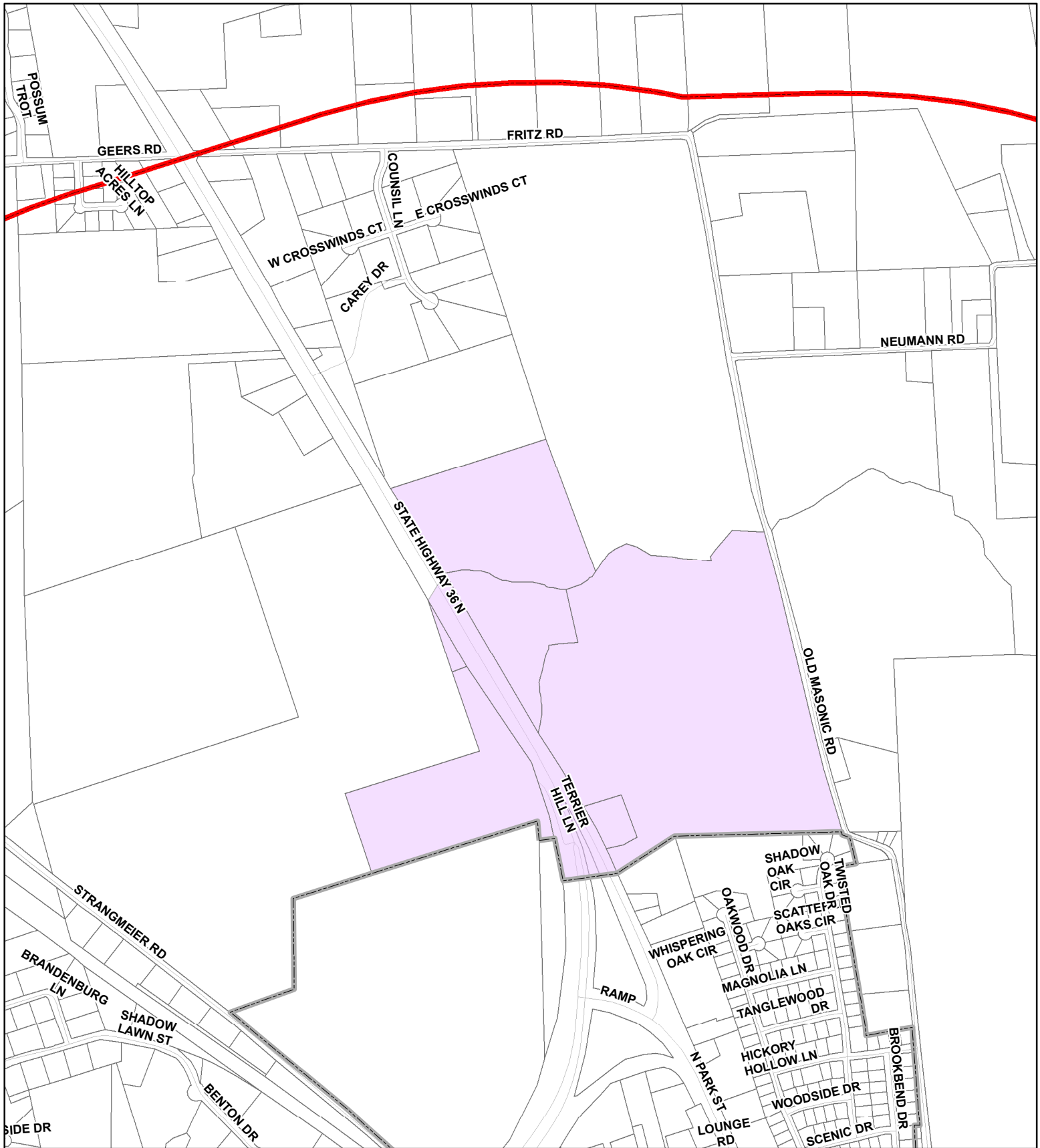
|                                                        |
|--------------------------------------------------------|
| <b>RECOMMENDED ACTION:</b> No action – discussion only |
| <b>APPROVALS:</b> James Fisher                         |





**Scenic Estates**





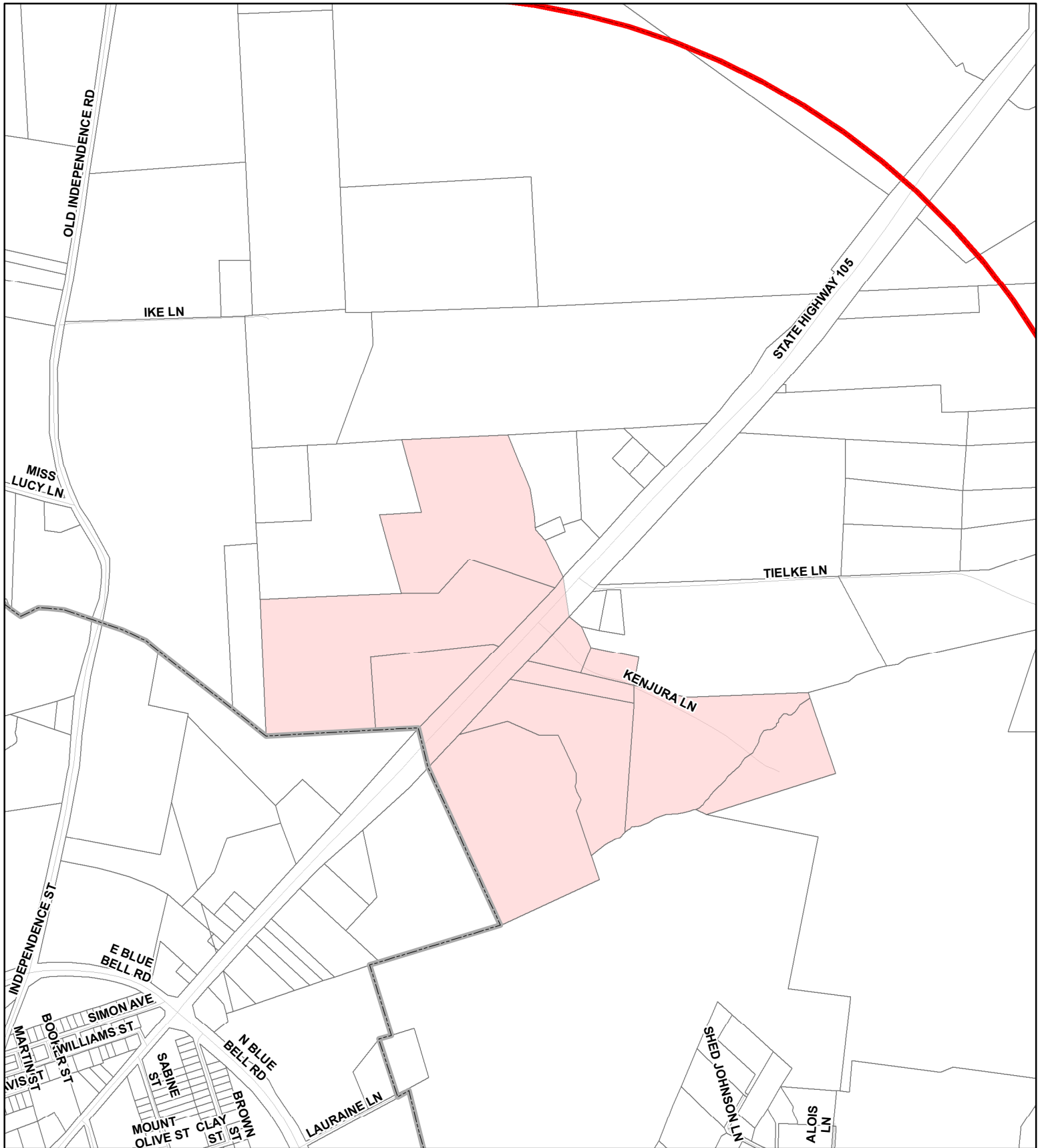
## N Annexation 1.80%

1 inch = 916 feet



- N Annexation
- ETJ
- City Limits





## NE Annexation 1.71%

1 inch = 925 feet

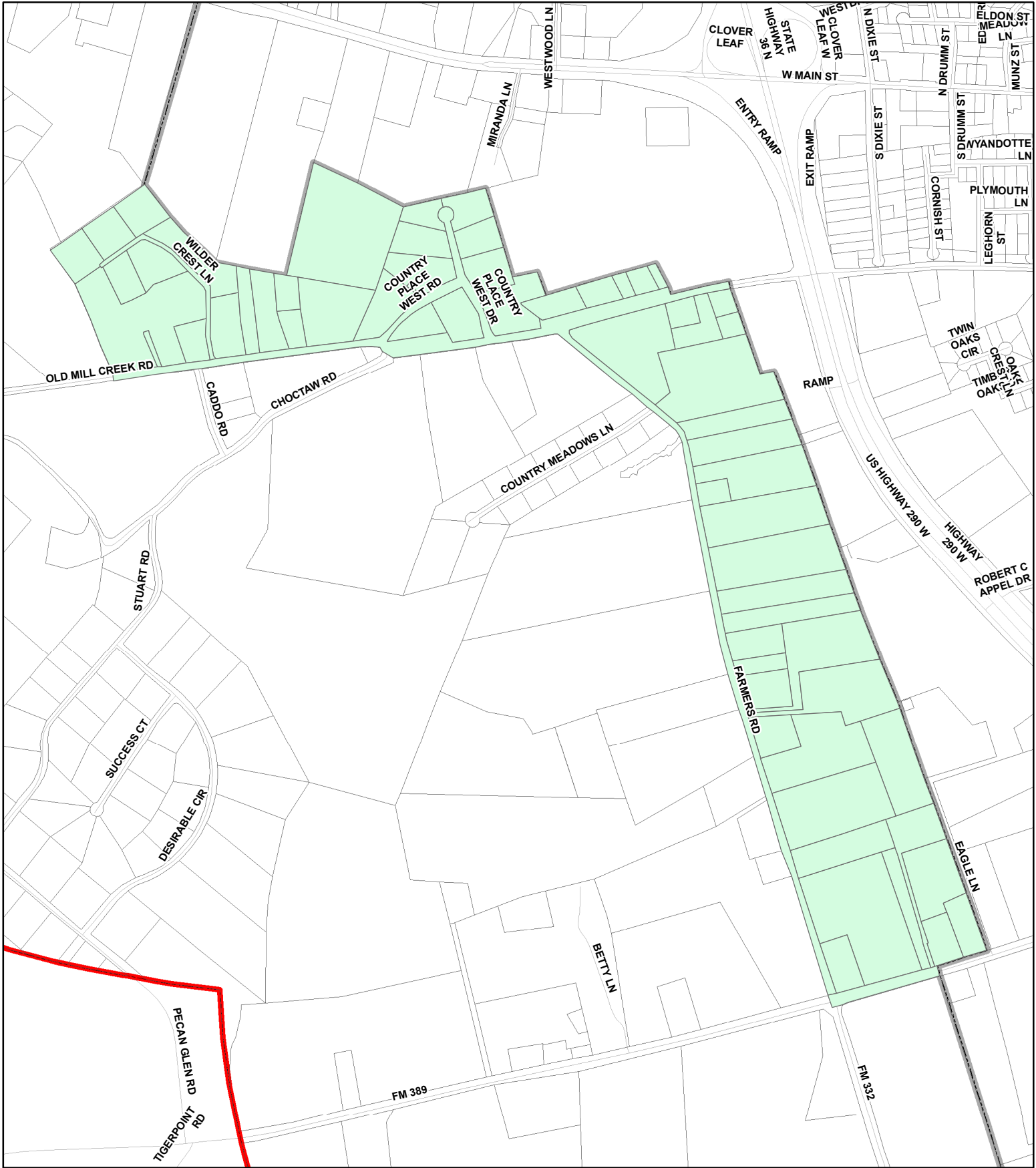


- NE Annexation
- ETJ
- City Limits









**SW Annexation 2.53%**

1 inch = 944 feet



-  SW Annexation
-  ETJ
-  City Limits







## AGENDA ITEM 7

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                                           |                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>DATE SUBMITTED:</b> August 9, 2019                                                                                                                                                                                                     |                                                                                                                                                                                                 |
| <b>DEPT. OF ORIGIN:</b> Development Services                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>SUBMITTED BY:</b> Stephanie Doland                                                                                                                                                                                                     |                                                                                                                                                                                                 |
| <b>MEETING TYPE:</b><br><br><input checked="" type="checkbox"/> <b>REGULAR</b><br><br><input type="checkbox"/> <b>SPECIAL</b><br><br><input type="checkbox"/> <b>EXECUTIVE SESSION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <b>CLASSIFICATION:</b><br><br><input type="checkbox"/> <b>PUBLIC HEARING</b><br><br><input type="checkbox"/> <b>CONSENT</b><br><br><input type="checkbox"/> <b>REGULAR</b><br><br><input checked="" type="checkbox"/> <b>WORK SESSION</b> | <b>ORDINANCE:</b><br><br><input type="checkbox"/> <b>1<sup>ST</sup> READING</b><br><br><input type="checkbox"/> <b>2<sup>ND</sup> READING</b><br><br><input type="checkbox"/> <b>RESOLUTION</b> |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Presentation Related to the Possible Amendment of Chapter 6, Buildings and Structures, Code of Ordinances, City of Brenham, Texas to Adopt the 2015 Version of the International Building Codes with Local Amendments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                           |                                                                                                                                                                                                 |
| <b>SUMMARY STATEMENT:</b> City Staff recommends updating the adopted building codes from the 2012 International Building Code suite to the 2015 International Building Code suite. The suite of the International Codes include the following: <ul style="list-style-type: none"> <li>2015 International Building Code (IBC)</li> <li>2015 International Residential Code (IRC)</li> <li>2015 International Fire Code (IFC)</li> <li>2015 International Plumbing Code (IPC)</li> <li>2015 International Mechanical Code (IMC)</li> <li>2015 International Fuel Gas Code (IFGC)</li> <li>2015 International Energy Conservation Code (IECC)</li> <li>2015 International Existing Building Code (IEBC)</li> <li>2015 International Property Maintenance Code (IPMC)</li> <li>2015 International Swimming Pool and Spa Code (ISPSC)</li> </ul> <p>The purpose of maintaining the current International Building Codes is to safeguard health, safety, property and public welfare. The adoption of the newer codes also maintains a more favorable ISO rating for the City of Brenham. The ISO rating is the Insurance Services Office, which sets the property insurance ratings for municipalities that insurance companies comply with.</p> <p>The developer of the International Codes, the International Code Council (ICC), publishes new versions of the codes every three (3) years. The City of Brenham, similar to other municipalities, historically has adopted the International Codes from the previous cycle of the newest released codes; this being the 2015 version of the International Codes.</p> |                                                                                                                                                                                                                                           |                                                                                                                                                                                                 |

In addition to the 2015 International Codes, the City of Brenham also adopts local amendments to these codes. The local amendments accommodate the City of Brenham code of ordinances, and also allow the City of Brenham to enforce code requirements that are beneficial to our municipality. In addition, these local amendments are necessary as they reflect local construction practices and laws.

Attached, please find a brief summary highlighting the significant code changes between the 2015 version and the 2012 version of the International Codes. Staff will outline the significant changes and proposed local amendments with plans to later bring an ordinance forward for Council consideration.

**STAFF ANALYSIS (For Ordinances or Regular Agenda Items):**

**A. PROS:**

**B. CONS:**

**ALTERNATIVES (In Suggested Order of Staff Preference):** N/A

**ATTACHMENTS:** (1) Summary of Significant Code Changes

**FUNDING SOURCE (Where Applicable):** N/A

**RECOMMENDED ACTION:** No action – discussion only

**APPROVALS:** James Fisher



# Significant Changes for Contractors

## Adoption of 2015 International Building Codes



Development Services Department Contact: David Doelitsch ddoelitsch@cityofbrenham.org or 979-337-7216

### 2015 INTERNATIONAL BUILDING CODE (IBC)

#### Chapter 34: Existing Structures

The requirements for existing structures have been deleted from the 2015 IBC. All existing construction requirements are now in the 2015 International Existing Building Code (IEBC).

#### IBC 705.2 Projections (Building Eaves)

Section was modified to require an increase in the separation required between the edge of building projections and the fire separation distance (property line), and when projection is within five foot (5') of property line.

#### IBC 907.2.11.4 Smoke Alarms in Group R-1

Smoke alarms near bedrooms are to be a minimum of three feet (3') from the bathroom when the bathroom contains a bathtub or shower. Also, twenty feet (20') from cooking devices.

#### Chapter 10: Means of Egress

Sections have been relocated and revised in an effort to simplify.

#### IBC 1015.8 Window Openings

Window openings more than 72" above grade that are less than 36" above the floor must be protected with guards.

#### IBC 1107.6.2.1 Live/Work Units

The nonresidential portion of a live/work unit is required to be accessible.

#### IBC 1203.2 Attic Ventilation

New provision has been added for enclosed and unvented attics (IBC 1203.3).

### 2015 INTERNATIONAL RESIDENTIAL CODE (IRC)

#### IRC 302.1(1) Exterior Walls

Projections from buildings are not allowed when there is less than a two foot (2') fire separation distance

#### IRC 302.2 Townhouse Common Walls

Common walls separating townhouses must be rated for a minimum of two (2) hours when an automatic fire sprinkler system is not installed in the townhouse dwelling units.

#### IRC 314.3 Location of Smoke Alarms

Smoke alarms shall not be located less than three feet (3') horizontally from the door or opening of a bathroom that contains a bathtub or shower.

#### IRC 315 Carbon Monoxide Alarms

Carbon monoxide alarms shall be provided in dwelling units where the dwelling unit has an attached garage with an opening that communicates with the dwelling unit.

#### Tables R802.4 & 802.5 Ceiling Joist and Rafter Tables

The allowable spans have changed.

#### IRC N1101.14 Permanent Energy Certificate

A permanent energy certificate is to be placed in an approved location inside the building.

#### IRC E3902.8-10 Ground Fault Circuit Interrupter Protection

Laundry areas require ground-fault circuit interrupter (GFCI) protection. Receptacles within 6 feet (6') of bathtubs and showers, and receptacles for dishwashers also require GFCI protection.

### 2015 INTERNATIONAL EXISTING BUILDING CODE (IEBC)

#### 2012 IBC Chapter 34: Existing Structures

The requirements for existing structures have been deleted from the 2012 IBC. All existing construction requirements are now in the 2015 International Existing Building Code (IEBC).

#### Scope/Applicability

The 2015 IEBC applies to repair, alteration, addition, relocation, and the change of occupancy of existing buildings.

### 2015 INTERNATIONAL ENERGY CONSERVATION CODE (IECC)

The 2015 IECC shall continue application as subsequently required by the State of Texas.

### 2015 INTERNATIONAL FIRE CODE (IFC)

There are no significant changes to the IFC that will increase the cost implication of meeting its requirements.

### 2015 INTERNATIONAL FUEL GAS CODE (IFGC)

#### IFGC 307.6 Condensate Pumps

Condensate pumps located in uninhabitable spaces, such as attics or crawl spaces, shall be connected to the appliance or equipment served such that when the pump fails, the appliance or equipment will be prevented from operating.

#### IFGC 310.1.1.3 Bonding Jumper Length

The length of the bonding jumper between the connection to a gas piping system and the connection to a grounding electrode system shall not exceed 75 feet and connectors shall meet the 2014 NEC requirements.

#### IFGC 502.7.1 Door Swing

Appliance and equipment vent terminals shall be located such that doors cannot swing within 12 inches horizontally of the vent terminal.

#### IFGC 623.2 Prohibited Location of Cooking Appliances

Cooking appliances designed, tested, listed and labeled for use in a commercial occupancy shall not be installed within dwelling units or within any area where domestic cooking occurs.

### 2015 INTERNATIONAL PLUMBING CODE (IPC)

#### IPC 403.3 Required Public Toilet Facilities – Exception

Structures and spaces intended for quick transactions, including takeout, pickup and drop-off, having a public access area less than or equal to 300 square feet do not require public toilet facilities

#### IPC 403.4.1 Directional Signage for Public Toilet Facilities

Directional signage indicated the route to the required public toilet facilities shall be posted in a lobby, corridor, aisle or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space.

#### IPC 501.3 Water Heater Drain Valves

Drain valves for emptying shall be installed at the bottom of each tank-type water heater and hot water storage tank. The drain valve inlet shall be not less than ¾ inch nominal iron pipe size and the outlet shall be provided with male garden hose threads.

#### IPC 504.7.2 Water Heater Pan Drain Termination

Where a pan drain was not previously installed, a pan drain shall not be required for a replacement water heater installation.

#### IPC 607.3 Thermal Expansion Control

Where a storage water heater is supplied with cold water that passes through a check valve, pressure reducing valve, or backflow preventer, a thermal expansion tank shall be connected to the water heater cold water supply pipe at a point that is downstream of all check valves, pressure reducing valves, or backflow preventers.

### 2015 INTERNATIONAL MECHANICAL CODE (IMC)

#### IMC 307.2.5 Drain Line Maintenance

Condensate drain lines shall be configured to permit the clearing of blockages and performance of maintenance without requiring the drain line to be cut.

#### IMC 502.20 Manicure and Pedicure Stations

Manicure and pedicure stations shall be provided with an exhaust system in accordance with Table 403.3.1.1, Note h.

#### IMC 508.1.2 Air Balance

Design plans for a facility with a commercial kitchen ventilation system shall include a schedule or diagram indicating the design outdoor air balance.

#### IMC 601.5 Return Air Openings

Return air openings for heating, ventilation and air-conditioning systems shall comply with ALL 7 provided stipulations.

#### IMC 1102.3 Access Port Protection

Refrigerant access ports shall be protected in accordance with Section 1101.10 whenever refrigerant is added to or recovered from refrigeration or air-conditioning systems.



## AGENDA ITEM 8

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                               |                                                                                                                                                                  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>DATE SUBMITTED:</b> August 15, 2019                                                                                                                                                        |                                                                                                                                                                  |
| <b>DEPT. OF ORIGIN:</b> Administration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>SUBMITTED BY:</b> Karen Stack                                                                                                                                                              |                                                                                                                                                                  |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input type="checkbox"/> REGULAR<br><input checked="" type="checkbox"/> WORK SESSION | <b>ORDINANCE:</b><br><input type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Presentation Related to the Possible Amendment of Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>SUMMARY STATEMENT:</b> The City's Ordinance related to Vehicles for Hire was last updated in 2010. It contains some provisions which are outdated, and others that staff feel could benefit from clarification. In April and June, work sessions were held to discuss changes related to taximeter technology and fare regulations. This third work session focuses on two more changes.<br><br>First, staff who were present when the ordinance was last amended in 2010 report that it was the intention of City Council that limousines, shuttles, and other flat-rate transportation services were not to be regulated. Staff recommends edits to clarify that charter (flat-rate) service is not covered by Chapter 27 and that limousines, shuttles, and other vehicles not charging by distance traveled do not require a permit to operate in the City of Brenham.<br><br>The attached redline also has some changes to the background check provisions for permit applications. PD is recommending that felony convictions for violent offenses or for felony DWI be permanently disqualifying. |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b><br><b>B. CONS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>ATTACHMENTS:</b> (1) PowerPoint presentation; and (2) Redline copy of Chapter 27 showing suggested changes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>RECOMMENDED ACTION:</b> No action – discussion only                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |                                                                                                                                                                  |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                               |                                                                                                                                                                  |



# CHAPTER 27 VEHICLES FOR HIRE

Presentation to City Council  
August 15, 2019

## CHAPTER 27- PROPOSED CHANGES

- Allow virtual meters in addition to traditional ones (April work session)
- Clarify and update vehicle inspection provisions (April work session)
- Eliminate maximum fares (June work session)
- Update background check requirements
- Clarify that limousines and other flat-rate transportation are not covered in this Chapter

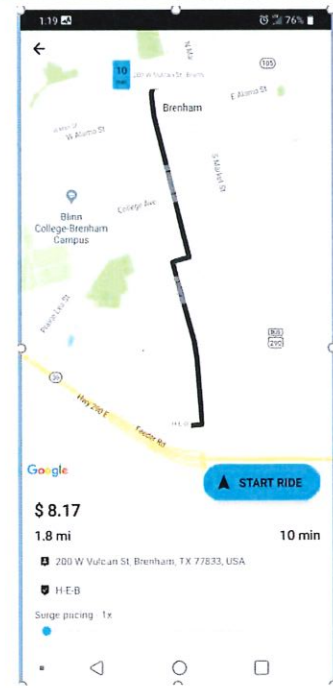
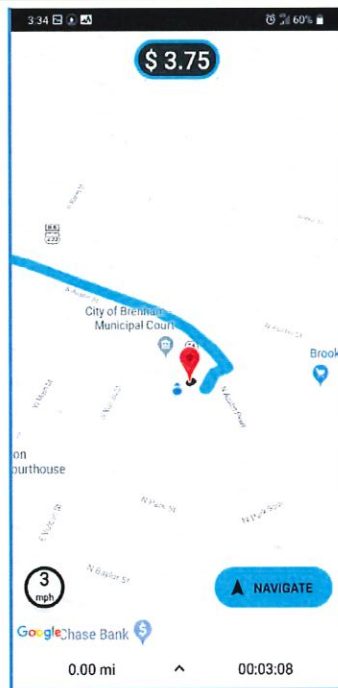
## Traditional Taximeter

- Hardwired to vehicle
- Calculates distance by mechanically or electronically counting tire revolutions
- Must be installed and sealed by experienced technician



## Virtual Taximeter

- Downloaded onto phone or tablet, not fixed to vehicle
- Uses GPS to calculate distance
- Calculates and displays fare so that it is visible to passenger
- Pro: Estimates fare before trip and shows recommended route
- Con: Cannot be sealed to prevent tampering



## Staff Recommendations Regarding Vehicle Equipment and Inspections

- Remove requirement of current decal/seal on meter
- Clarify that police officer inspecting vehicle is doing a limited safety inspection, not a full mechanical inspection
- Update language regarding inspection sticker

## Maximum Fares

REMOVED ENTIRELY FROM PROPOSED AMENDMENT



- Drop fee \$3.75
- Three dollars (\$3.00) for the first one-quarter mile
- Sixty cents (\$0.60) for each one-fourth (1/4) mile thereafter
- Thirty dollars (\$30.00) per hour metered time
- One dollar (\$1.00) for each additional passenger going to same location.



## Further Staff Recommendations: Limousine Service

- This change proposed by staff in response to confusion as to permitting requirement for limousines
- New definition: *Charter service* shall mean:
  - any type of service in which a vehicle not equipped with a meter is furnished, along with a driver, for a specific trip or excursion, and which is contracted for orally or in writing by an individual or group so as to obtain exclusive use of the vehicle for an interval of time.
- Proposed Chapter 27 amendment explicitly excludes charter service from ordinance
- New definition encompasses limousine and shuttle type service, regardless of vehicle type

## Further Staff Recommendations Con't: Background Checks

- Current ordinance allows permitting within 5 years of release from prison after conviction of any felony, 2 years after misdemeanors
- Proposed Chapter 27 provides that convictions for violent offenses such as homicide, assault, aggravated robbery permanently disqualify an individual from receiving a permit to operate a taxi service or drive a taxi cab
- Proposed amendment also adds permanent disqualification from permit for felony DWI (felony charge applies only when individual has had 3 or more DWI charges)
- PD also recommends adding treating conviction of DUI (charge applied to drivers under the age of 21 who have consumed any alcohol) the same as DWI

Questions....



## Chapter 27 - VEHICLES FOR HIRE

### ARTICLE 1. - GENERAL PROVISIONS

#### Sec. 27-1. - Definitions.

*Annual permit* shall mean permission granted by the city to a person to operate a taxicab service inside the city for a period of one (1) year, renewable under the provisions of this chapter.

*Appeal hearing officer* shall mean the city manager and/or his designee authorized to enforce and/or administer this chapter.

*Charter service* shall mean any type of service in which a vehicle not equipped with a taximeter is furnished, along with a driver, for a specific trip or excursion, and which is contracted for orally or in writing by a person so as to obtain exclusive use of the vehicle for an interval of time.

*City chauffeur's license* shall mean a license issued to an individual by the director authorizing that individual to drive or operate a taxicab in the city.

*Conviction* shall mean a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned.

*Curb* shall mean the raised edge of the street, driveway or other public or private way upon which a taxicab is operating, provided that if no raised edge curbing exists, then it means the edge of the area that is paved for vehicular operation.

*Department* shall mean the department designated by the city manager to enforce and administer this chapter.

*Director* shall mean the director of the department designated by the city manager to enforce and administer this chapter; which includes representatives, agents, or employees designated by the director.

*Dispatching facility* means a fixed facility:

- (1) At which requests for taxicab service are received;
- (2) From which drivers are notified, by radio or any other electronic communication system, of requests for taxicab service; and
- (3) To which drivers communicate, by radio or any other electronic communication system, their availability to provide the requested taxicab service.

*Driver* shall mean an individual who drives or operates a taxicab.

**Deleted:** ARTICLE I. - TAXICABS, LIMOUSINES, BUSES, AND SHUTTLES ¶

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**Deleted:** *Bus* shall mean a motor vehicle that shall not have a taximeter, that: ¶

(1) Has a manufacturer's rated seating capacity of more than fifteen (15) passengers (including the driver); and ¶

(2) Is used for the transportation of persons from a location in the city to another location either inside or outside the city. ¶

¶  
*Bus service* shall mean the business of offering or providing transportation of persons for hire by bus, whether the fare is paid by individuals boarding the bus or by contract with or for a specified group of persons, when: ¶

(1) A driver or referral to a driver is furnished as part of the service; ¶

(2) The service is offered either as a charter bus service or a special bus service; ¶

(3) Offered only upon a prearranged basis, the prearrangement being made at least one (1) hour in advance of the time the transportation is to begin; and ¶

(4) Operated from locations within the city to locations either inside or outside the city. ¶

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**Deleted:** *Drop fee* shall mean the minimum charge for hiring a taxicab, to which the rate per mile or other authorized charge is then added. ¶

*Holder* shall mean a person who is granted an annual permit providing operating authority under this chapter.

*Legal resident* shall mean a citizen of the United States or a person residing in the United States in accordance with federal immigration laws.

*Operate* shall mean to drive or to be in control of a taxicab.

*Operating authority* shall mean written permission granted on an annual basis by the director under this chapter to operate a taxicab service.

*Operator* shall mean: (1) the driver of a taxicab; (2) the owner of a taxicab; or (3) the holder of a taxicab operating authority.

*Owner with regard to a motor vehicle* shall mean the person to whom state license plates for a vehicle were issued.

*Person* shall mean an individual; corporation; government or governmental subdivision; agency, trust, partnership, or two (2) or more persons having a joint or common economic interest; or any other legal entity.

*Taxicab* shall mean a chauffeured motor vehicle that is equipped with a taximeter, that is used for the transportation of passengers for hire over the public streets of the city that typically operates on irregular routes, irregular schedules, and on a call-and-demand basis, and irrespective of whether or not the operations extend beyond the city limits, at rates for distance traveled, or for waiting time, or for both, and such vehicle is routed under the direction of the passenger hiring the same.

*Taxicab service* shall mean a passenger transportation service operated for hire that uses any one (1) or more taxicabs in the operation of the service and includes (but is not limited to) a facility from which the service is operated; taxicabs used in the operation; and a person who owns, controls, or operates the service.

*Taximeter* shall mean a device that computes a fare based upon the distance traveled, the time the taxicab is engaged, and any other basis for charges that are specified in the operating authority pertaining to the holder.

#### Sec. 27-2. - Statement of policy.

It is the policy of the city to provide for and to promote adequate and efficient taxicab services in the city. To this end, this chapter provides for the regulation of taxicab services, to be carried out in a manner that protects the public health and safety, promotes the public convenience and necessity, and respects the concept of free enterprise.

#### Sec. 27-3. - General authority and duty of director.

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*Limousine* shall mean a motor vehicle that shall not have a taximeter, that is a luxury sedan with a manufacturer's rated seating capacity of not more than fifteen (15) passengers that is used for the transportation of persons from a location in the city to another location either inside or outside the city. ¶

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*Shuttle* shall mean a van-type motor vehicle that shall not have a taximeter, that has a manufacturer's rated seating capacity of not less than seven (7) passengers and not more than fifteen (15) passengers and is used for the transportation of persons from a location in the city to another location either inside or outside the city. ¶

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**Deleted:** that has a rated passenger capacity of eight (8) or less,

**Deleted:** or at rates per hour, per day, per week, or per month

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**Deleted:** of the following vehicle types:

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The city manager and his delegates shall enforce the provisions of this chapter. The director shall implement and enforce this chapter as he determines necessary to discharge his duty under, or to affect the policy of this chapter.

#### Sec. 27-4. - Exclusions.

This chapter does not apply to:

- (1) ~~The transportation of a person by a taxicab licensed by another governmental entity from a point outside the city to a destination inside the city, if the taxicab leaves the city without receiving a passenger inside the city;~~
- (2) ~~A taxicab service operated under state or federal authority unless the service is subject to the city's regulatory authority;~~
- (3) A motor vehicle used to transport persons for hire that is regulated by another city ordinance;
- (4) ~~A vehicle operated by a funeral home in the performance of funeral services;~~
- (5) A vehicle provided by an employer or employee association for use in transporting employees between employees' homes and the employer's place of business or between workstations, with the employees reimbursing the employer or employee association in an amount calculated only to offset the reasonable expenses of operating the vehicle;
- (6) A vehicle owned and operated by the federal or state government, by a political subdivision of the state, or by a person under contract with the city for operation of the vehicle;
- (7) A vehicle used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged;
- (8) A vehicle transporting children to or from school if only a fee calculated to reasonably cover expenses is charged;
- (9) A vehicle owned by a nonprofit organization and carrying only passengers associated with that organization, if no compensation is received from any other person for carrying the passengers;
- (10) ~~A vehicle being operated under a transportation network company permit issued by the State of Texas pursuant to Chapter 2402 of the Occupations Code; or~~
- (11) ~~A charter service, regardless of vehicle type.~~

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#### Secs. 27-5—27-9. - Reserved.

### ARTICLE 2. - OPERATING AUTHORITY

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#### Sec. 27-10. - Operating authority required.

- (a) A person may not: (1) operate a taxicab service inside the city without operating authority granted under this chapter; or (2) transport a passenger for hire inside the city by taxicab without operating authority granted under this chapter.
- (b) A person shall not engage or hire a taxicab that he knows does not have operating authority from the city.

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**Sec. 27-11. - Transferability of operating authority.**

An annual permit of operating authority may not be transferred to another person.

**Sec. 27-12. - Annual permit of operating authority required; service requirements.**

The director must approve the application before an annual permit can be granted. The granting of an annual permit is in the discretion of the director, but will not be granted unless the applicant qualifies for operating authority under section 27-13 of this chapter and is otherwise fit, willing, and able to operate the taxicab service in accordance with the requirements of this chapter, rules and regulations of the director, provisions of the annual permit, and other applicable law.

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**Sec. 27-13. - Qualifications for operating authority.**

(a) To qualify for operating authority, an applicant must:

- (1) Be at least twenty-one (21) years of age;
- (2) Be currently authorized to work full-time in the United States;
- (3) Be able to communicate in the English language; and
- (4) Not have ever been convicted or placed on probation or deferred adjudication for a crime:

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a. Involving:

1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
5. Robbery as described in Chapter 29 of the Texas Penal Code;
6. Burglary as described in Chapter 30 of the Texas Penal Code;
7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony;

8. Criminal attempt to commit any of the offenses listed in section 27-13(a)(4)a.1. thru section 27-13(a)(4)a.7.

(5) Not have been convicted or placed on probation or deferred adjudication for a crime:

a. Involving:

1. Fraud as described in Chapter 32 of the Texas Penal Code;
2. Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
3. Public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
4. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
5. A violation of Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
6. A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or

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7. Criminal attempt to commit any of the offenses listed in section 27-13(a)(~~5~~)a.1. thru section 27-13(a)(~~5~~)a.6.

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b. For which:

1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any twenty-four-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or
6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any twenty-four-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses.

(b) An applicant who has been sentenced for an offense listed in section 27-13(a)(~~5~~)a.1. through (a)(~~5~~)a.7. for which the required time period listed above has elapsed, may qualify for operating authority only if the director determines that the applicant is presently fit to provide a public transportation service and only if the offense or offenses the applicant was sentenced for was not a felony offense listed in section 27-13(a)(4)a.1. through (a)(4)a.8. In determining present fitness under this section, the director shall consider the following:

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- (1) The extent and nature of the applicant's past criminal activity;
- (2) The age of the applicant at the time of the commission of the crime;
- (3) The amount of time that has elapsed since the applicant's last criminal activity;
- (4) The conduct and work activity of the applicant prior to and following the criminal activity;
- (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.



- (7) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness.

**Sec. 27-14. - Application for annual permit of operating authority.**

(a) To obtain an annual permit, a person shall make application to the city secretary in the manner prescribed by this section. The applicant must be the person who will own, control, or operate the proposed taxicab service. An applicant shall file with the city secretary a written, verified application statement, to be accompanied by a nonrefundable application fee of one hundred fifty dollars (\$150.00) plus one hundred twenty dollars (\$120.00) for each taxicab to be permitted, containing the following:

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- (1) The form of business of the applicant and, if the business is a corporation, association, or other legal entity, a copy of the documents establishing the business and the name, address, and legal residence of each person with a direct interest in the business;
- (2) The name, address, and verified signature of the applicant;
- (3) An actual or pro forma statement and balance sheet showing the liabilities, and equity of the business;
- (4) A description of any past business experience of the applicant, particularly in providing passenger transportation services, and an identification and description of any revocation or suspension of a permit held by the applicant or business before the date of filing the application;
- (5) The number of vehicles and a description of the vehicles the applicant proposes to use in the operation of the taxicab service, and a description of the operations of the proposed taxicab service and the location of the fixed facilities to be used in the operation;
- (6) If applicable, a description of the proposed insignia and color scheme for the applicant's taxicabs and a description of the distinctive item(s) of apparel to be worn by the applicant's taxicab drivers;
- (7) Documentary evidence from an insurance company, authorized to do business in the State of Texas, indicating a willingness to provide commercial liability insurance as required by this chapter;
- (8) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed taxicab service;
- (9) Proof of business telephone number and business address, from which the proposed taxicab service will be operated; if such place of business is located within the city limits, the city's zoning requirements shall apply;

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(10) The proposed fare to be charged and the method for calculating the fare;

(11) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and

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(b) A holder shall notify the city secretary in writing of any change of address or change in ownership or management of a taxicab service not less than ten (10) days prior to the change.

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(c) The established place of business required by subsection (a)(9) of this section must be kept open from 9:00 a.m. to 5:00 p.m. weekdays, other than recognized holidays, and must be staffed and equipped to receive telephone calls during all business hours.

#### Sec. 27-15. - Grant of annual permit of operating authority.

Upon approval of an application for an annual permit of operating authority by the director, the department shall promptly issue the permit and incorporate in the permit the duration of the permit and such other terms or conditions as the director determines are necessary.

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#### Sec. 27-16. - Limitations of operating authority.

- (a) Operating authority when issued must state on its face the type of service for which it is issued. It may also contain other conditions and limitations determined necessary by the director, including, but not limited to:
- (1) Number of vehicles authorized;
  - (2) Description of vehicles to be operated;
  - (3) The number of passengers that may be transported in each vehicle;
  - (4) Customers to be served;
  - (5) Place and times of loading or unloading passengers;
  - (6) Schedules and route to be followed, if applicable;
  - (7) Maximum rates to be charged, including any hourly minimums and other charges;
  - (8) Operating procedures; and
  - (9) Special conditions or limitations.
- (b) A holder commits an offense if he fails to comply with the conditions or limitations placed on the operating authority under which he is operating a vehicle for hire service.

#### Sec. 27-17. - Renewal or amendment of annual permit of operating authority.

- (a) A holder of an annual permit of operating authority shall submit a completed renewal of permit form, provided by the city secretary, and submit an annual permit application fee of one hundred fifty dollars (\$150.00) plus one hundred twenty dollars (\$120.00) per taxicab.
- (b) A holder desiring a change in the terms or conditions of the permit must file with the city secretary, not fewer than sixty (60) days before the permit expires, a written request stating reasons for the requested changes.
- (c) The director may make minor changes in a permit.
- (d) If the director determines that a denial of a permit renewal or material change in the terms or conditions of the permit is required, then he may deny renewal of the permit or make changes in the terms or conditions of the permit.
- (e) If the permit expires at no fault of the holder before a ruling on the approval or denial of the renewal, the holder may continue to operate the taxicab service pending a final decision. The holder shall cease operation of the taxicab service immediately upon denial of the request for renewal by the director.
- (f) A holder may file an appeal of the director's decision not to renew a permit in accordance with section 27-40 of this chapter.

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#### Sec. 27-18. - Suspension and revocation of operating authority.

- (a) *Suspension and revocation of permit.* The following regulations apply to the suspension or revocation of an annual permit:

(1) The director may suspend or revoke an annual permit if the director determines that the holder:

- a. Failed to comply with a correction order issued to the holder by the director, within the time specified in the order;
- b. Intentionally or knowingly impeded the department or other law enforcement agency in the performance of its duty or execution of its authority;
- c. Failed to comply with this chapter;
- d. Does not qualify for operating authority under section 27-13 of this chapter;
- e. Has been convicted of a violation of any city, state, or federal law, which violation reflects unfavorably on the fitness of the holder to perform a public transportation service;
- f. Is under indictment for or has been convicted of any felony offense while holding taxicab operating authority;
- g. Substantially breached the terms of the annual permit;
- h. Failed to pay city ad valorem taxes on any property of the holder used directly or indirectly in connection with the taxicab service; or
- i. Failed to pay a permit fee at the time it was due.

(2) A suspension of a permit does not affect the expiration date of the permit.

(3) After revocation of a permit, a holder is not eligible for a permit for a period of two (2) years.

(b) *Reinstatement.* After suspension of a permit, a holder may file an appeal in accordance with section 27-40 of this chapter. The director shall inspect the operation of the suspended holder to determine if the holder has corrected the deficiency causing the suspension. After inspection, the director shall submit his recommendation together with supporting facts to the city manager or his designee. The city manager shall determine if reinstatement is warranted. The decision of the city manager is final.

#### **Sec. 27-19. - Special provisions of operating authority.**

This chapter governs the operation of taxicab service. This chapter, however, is not a limitation on the power of the director to incorporate in a grant of operating authority special provisions relating to the operation of the taxicab service under the grant. To the extent that a special provision conflicts with this chapter, the special provision controls.

**Secs. 27-20—27-29. - Reserved.**

### **ARTICLE 3. - CITY CHAUFFEUR'S LICENSE**

#### **Sec. 27-30. - City chauffeur's license required.**

- (a) A person may not drive or operate a taxicab inside the city pursuant to this chapter without a valid city chauffeur's license issued to the person under this article.
- (b) A taxicab service holder or owner shall not employ or contract with a driver or otherwise allow a person to drive for hire a taxicab owned, controlled, or operated by the holder or owner unless the person has a valid city chauffeur's license issued under this article.
- (c) To obtain an annual chauffeur's license, a person shall make application to the city secretary in the manner prescribed by this section. The applicant shall file with the city

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**Sec. 27-19. - Permit fees. ¶**

A holder of an annual permit of operating authority shall pay the city a permit fee of one hundred twenty dollars (\$120.00) a year for each taxicab, limousine, bus, or shuttle authorized by the permit. ¶

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secretary a written, verified application statement, to be accompanied by a fee of ten dollars (\$10.00).

**Sec. 27-31. - Qualification for city chauffeur's license.**

- (a) To qualify for a city chauffeur's license, an applicant shall:
- (1) Be at least twenty-one (21) years of age;
  - (2) Be currently authorized to work full-time in the United States;
  - (3) Hold a valid driver's license issued by the state;
  - (4) Be able to communicate in the English language;
  - (5) Not be afflicted with a physical or mental disease or disability that is likely to prevent the applicant from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety;
  - (6) Not have been convicted of more than four (4) moving traffic violations arising out of separate transactions, or been involved in more than two (2) automobile accidents in which it could be reasonably determined that the applicant was at fault, within any twelve-month period during the preceding thirty-six (36) months;
  - (7) Not have ever been convicted or placed on probation or deferred adjudication for a crime:

a. Involving:

1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
5. Robbery as described in Chapter 29 of the Texas Penal Code;
6. Burglary as described in Chapter 30 of the Texas Penal Code;
7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony; or

8. Criminal attempt to commit any of the offenses listed in section 27-31 (a)(7) of this Chapter.

(8) Not have been convicted or placed on probation or deferred adjudication for a crime:

a. Involving:

- 1 Fraud as described in Chapter 32 of the Texas Penal Code;
- 2 Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
- 3 Public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
- 4 The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
- 5 A violation of the Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
- 6 A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or
- 7 Criminal attempt to commit any of the offenses listed in section 27-31(a)(8) of this Chapter;

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b. For which:

1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any twenty-four-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or
6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any twenty-four-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses;

(9) Not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated or driving under the influence:

- a. Within the preceding twelve (12) months; or
- b. More than one (1) time within the preceding ten (10) years; or
- c. More than three (3) times.

(10) Not be addicted to the use of alcohol or narcotics;

(11) Be subject to no outstanding warrants of arrest;

(12) If applicable, have a valid contract with or be currently employed by a holder.

(b) An applicant who has been sentenced for an offense listed in section 27-31, for which the required time period provided by this chapter has elapsed, may qualify for a taxicab driver's license only if the director determines that the applicant is presently fit to engage in the occupation of a taxicab driver. In determining present fitness under this section, the director shall consider the following:

- (1) The extent and nature of the applicant's past criminal activity;
- (2) The age of the applicant at the time of the commission of the crime;
- (3) The amount of time that has elapsed since the applicant's last criminal activity;
- (4) The conduct and work activity of the applicant prior to and following the criminal activity;
- (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and

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- (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
- (c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under subsection (b) of this section.

**Sec. 27-32. - Investigation of application.**

- (a) For the purpose of determining qualification under section 27-31 the director shall require an applicant for a city chauffeur's license to submit to a physical examination, at the applicant's expense, conducted by a licensed physician and to furnish to the director a statement from the physician which certifies that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under section 27-31.
- (b) The police department shall investigate each applicant and furnish the director a report concerning applicant's qualification under section 27-31.
- (c) The director may conduct such other investigations, as he considers necessary to determine whether an applicant for a city chauffeur's license is qualified pursuant to the requirements provided for herein.

**Sec. 27-33. - Issuance and denial.**

- (a) If the director determines that an applicant is qualified, the director shall issue a license to the applicant.
- (b) The director shall delay until final adjudication the approval of the application of any applicant who is under indictment for or has charges pending for:
  - (1) Any offense listed in section 27-31 or criminal attempt to commit any of those; or
  - (2) Any offense involving driving while intoxicated.
- (c) The director may deny the application for a city chauffeur's license if the applicant:
  - (1) Is not qualified under section 27-31;
  - (2) Refuses to submit to or does not pass a medical or written examination authorized under section 27-31; or
  - (3) Makes a false statement of a material fact in his application for a city chauffeur's license.
- (d) If the director determines that an application should be denied, the director shall notify the applicant in writing that his application is denied and include in the notice the reason for denial and a statement informing the applicant of his right of appeal in accordance with section 27-40 of this chapter.

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**Sec. 27-34. - Expiration of city chauffeur's license; voidance upon suspension or revocation of state driver's license.**

- (a) A city chauffeur's license expires one (1) year from the date of issuance.

- (b) If a licensee's state driver's license is suspended or revoked by the state, his city chauffeur's license automatically becomes void. A licensee shall notify the city secretary and the holder for whom he drives within three (3) days of a suspension or revocation of his driver's license by the state and shall immediately surrender his city chauffeur's license to the city secretary.

**Sec. 27-35. - Identification card requirements for vehicle for hire drivers.**

- (a) After the director has verified an applicant's fingerprints and authorized the issuance of a city chauffeur's license, the city secretary shall issue two (2) identification cards to the applicant.
- (b) One (1) card shall contain the facial view photograph of the applicant. The card shall be displayed in a place conspicuous to passengers inside the taxicab at all times and shall include the following statement:  
TO THE PASSENGER OF THIS VEHICLE FOR HIRE:  
If the description of the driver of this vehicle does not conform to the photograph hereon, please leave the cab and notify the Brenham Police Department immediately, giving the number of this vehicle and the name of the vehicle for hire company.
- (c) The other card shall be displayed conspicuously by the driver on his/her upper body clothing when operating a vehicle for hire.

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**Sec. 27-36. - Duplicate license.**

If a city chauffeur's license is lost or destroyed, the city secretary shall issue the licensee a duplicate license upon payment to the city of ten dollars (\$10.00).

**Sec. 27-37. - Display of license.**

A taxicab driver shall allow the director, his delegated representative, passenger, or a peace officer to examine the driver's city chauffeur's license upon request.

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**Sec. 27-38. - Suspension by director.**

- (a) If the director determines that a licensee has failed to comply with this chapter or a regulation established under this chapter, he may suspend the taxicab driver's license for a period of time not to exceed three (3) days by serving the licensee with a written notice of the suspension. The written notice must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the licensee of his right of appeal.
- (b) A suspension under this section may be appealed to the director if the licensee requests an appeal at the time notice of suspension is served. When an appeal is requested, the suspension may not take effect until a hearing is provided.
- (c) The director may order an expedited hearing under this section, to be held as soon as possible after the licensee requests an appeal. The director may affirm, reverse, or modify the suspension order. The decision of the director is final.

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**Sec. 27-39. - Suspension and revocation of chauffeur's license.**

- (a) If the director determines that a licensee has failed to comply with this chapter or a regulation established under this chapter, the director may suspend the driver's city chauffeur's license for a definite period of time not to exceed sixty (60) days.
- (b) If at any time the director determines that a licensee is not qualified under this chapter or is under indictment or has charges pending for any offense involving driving while intoxicated or any offense involving a crime described in section 27-31(a)(8) or criminal attempt to commit any of those offenses, the director shall suspend the city chauffeur's license until such time as the director determines that the licensee is qualified or that the charges against the licensee have been finally adjudicated.
- (c) A licensee whose city chauffeur's license is suspended shall not drive a taxicab inside the city during the period of said suspension.
- (d) The director shall notify the licensee and the holder in writing of a suspension under this section and include in the notice the reason for the suspension; the date the director orders the suspension to begin, the duration of suspension and a statement informing the licensee of a right of appeal. The period of suspension begins on the date specified by the director.
- (e) The director may revoke a city chauffeur's license if the director determines that the licensee:
  - (1) Operated a taxicab inside the city during a period in which the city chauffeur's license was suspended;
  - (2) Made a false statement of a material fact in an application for a city chauffeur's license;
  - (3) Engaged in conduct that constitutes a ground for suspension and received either a suspension in excess of three (3) days or a conviction for violation of this chapter, two (2) times within the twelve-month period preceding the occurrence of the conduct or three (3) times within the twenty-four-month period preceding the occurrence of the conduct;
  - (4) Engaged in conduct that could reasonably be determined to be detrimental to the public safety;
  - (5) Used, possessed, or was under the influence of any form of alcoholic beverage or narcotic, or drug while on duty as a driver of a vehicle for hire, whether or not such drug or narcotic is defined as a dangerous drug or as a controlled substance under state or federal law; or
  - (6) Was convicted of any felony offense while holding a city chauffeur's license.
- (f) A person whose city chauffeur's license is revoked shall not:
  - (1) Apply for another city chauffeur's license before the expiration of twelve (12) months from the date the director revokes the license or, in the case of an appeal, the date the appeal hearing officer affirms the revocation; or
  - (2) Drive a taxicab inside the city.
- (g) The director shall notify the licensee in writing of a revocation and include in the notice the reason for the revocation, the date the director orders the revocation, and a statement informing the licensee of his right of appeal.
- (h) After receipt of notice of suspension, revocation, or denial of license renewal, the licensee shall, on the date specified in the notice, surrender his city chauffeur's license to the city secretary and discontinue driving a taxicab inside the city.

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(i) Notwithstanding subsections (c) and (h), if the licensee appeals the suspension or revocation under this section, the licensee may continue to drive a taxicab ~~pending the appeal unless:~~

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- (1) The city chauffeur's license of the licensee is suspended pursuant to subsection (b) or revoked pursuant to subsection (e)(6) of this section; or
- (2) The director determines that continued operation by the licensee would impose an immediate threat to public safety.

#### **Sec. 27-40. - Appeal.**

(a) A person may appeal the following decisions of the director if he requests an appeal in writing and delivers it to the city ~~secretary's office~~ not more than ten (10) business days after receiving notice of the director's action:

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- (1) A denial of an application for a permit;
  - (2) A suspension or revocation of a permit;
  - (3) A denial of renewal of annual permit;
  - (4) Denial of a city chauffeur's license application;
  - (5) Suspension of a city chauffeur's license; or
  - (6) Revocation of a city chauffeur's license.
- (b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of the evidence presented at the hearing.
- (c) The hearing officer may affirm, modify, or reverse all or part of the action of the director being appealed. The decision of the hearing officer is final.

#### **Sec. 27-41. - Falsifying of a license.**

A person commits an offense if he:

- (1) Forges, alters, or counterfeits a city chauffeur's license, badge, sticker, or emblem required by law; or
- (2) Possesses a forged, altered, or counterfeited city chauffeur's license, badge, sticker, or emblem required by law.

#### **Sec. 27-42. - Current mailing address of licensee.**

An individual issued a city chauffeur's license shall maintain a current mailing address on file with the city secretary. The licensee shall notify the city secretary of any change in mailing address within five (5) business days of the change.

#### **Sec. 27-43. - License renewal.**

A person desiring to renew their city's chauffeur's license shall pay a renewal fee of ten dollars (\$10.00) to the city.

#### **Secs. 27-44—27-49. - Reserved.**

**ARTICLE 4. - MISCELLANEOUS HOLDER AND DRIVER REGULATIONS**

**Sec. 27-50. - Holder's and driver's duty to comply.**

- (a) *Holder.* In the operation of a taxicab service, a holder shall comply with the terms and conditions of the holder's operating authority and, except to the extent expressly provided otherwise by the operating authority, shall comply with this chapter, regulations established under this chapter, and other law applicable to the operation of a taxicab service.
- (b) *Driver.* A driver shall comply with this chapter, regulations established under this chapter, other law applicable to the operation of a motor vehicle in this state, and orders issued by the holder employing or contracting with the driver in connection with the holder's discharging of its duty under its operating authority and this chapter.

**Sec. 27-51. - Holder's duty to enforce compliance by drivers.**

- (a) A holder shall establish a policy and take action to discourage, prevent, or correct violations of this chapter by drivers who are employed by or contracting with the holder.
- (b) A holder shall not permit a driver who is employed by or contracting with the holder to drive a taxicab if the holder knows or has reasonable cause to suspect that the driver has failed to comply with this chapter, the rules and regulations established by the director or other applicable law.

**Sec. 27-52. - Insurance—Taxicabs.**

Every holder of a license to operate a taxicab service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of commercial automobile liability and property damage insurance, with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than the minimum coverage required by state law.

The applicant, prior to the issuance or renewal of the permit, shall furnish satisfactory proof of such coverage. Said policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If such notice of cancellation is given by the insurance company, the licensee shall obtain new insurance before meeting the requirements of this section prior to the expiration of the thirty-day period; if the licensee fails to do so his permit shall be immediately revoked.

**Sec. 27-53. - Holder's records and reports.**

- (a) Each holder shall maintain at a single location business records of its taxicab service. The director may specify methods used in maintaining the records, and the director may require maintenance of certain records which he determines are necessary for monitoring the activities, operations, service, and safety record of a holder. A holder shall make its records available for inspection by the director at reasonable times upon request.
- (b) Each holder shall submit to the city secretary such quarterly reports concerning its taxicab service as prescribed on a form provided by the city secretary.

**Secs. 27-54—27-59. - Reserved.**

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¶ Every holder of a license to operate a limousine service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of commercial automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limits. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the city secretary a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the thirty-day period; if the holder fails to do so his permit shall be immediately revoked. ¶

**Sec. 27-54. - Insurance—Buses and shuttles. ¶**

¶ Every holder of a license to operate a bus or shuttle vehicle service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of commercial automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limits. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the thirty-day period; if the holder fails to do so his permit shall be immediately revoked. ¶

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## **ARTICLE 5. - SERVICE REGULATIONS**

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### **Sec. 27-60. - City-wide taxicab service required.**

Except as otherwise provided by the holder's operating authority, a holder shall:

- (1) Provide taxicab service to the general public to and from any point inside the city that is accessible by public street except that this provision does not require a holder to subject a taxicab to mob violence or destruction;
- (2) During posted hours of operation, answer each call received for service inside the city as soon as practicable, and if the service cannot be rendered within a reasonable time, the holder shall inform the caller of the reason for the delay and the approximate time required to answer the call; and
- (3) If the holder is closed for business, the holder must inform callers through a recorded message of the hours of operation of the holder.

### **Sec. 27-61. - Representation of availability of taxicab.**

A driver may not represent that his taxicab is engaged when it is in fact vacant.

### **Sec. 27-62. - Refusal to convey passengers by taxicabs.**

- (a) While operating a taxicab a driver shall not refuse to convey a person who requests service unless:
  - (1) The person is disorderly;
  - (2) The driver is engaged in answering a previous request for service;
  - (3) The driver has reason to believe that the person is engaged in unlawful conduct; or
  - (4) The driver is in fear of his personal safety.

### **Sec. 27-63. - Passenger limitations of taxicabs.**

- (a) While operating a taxicab a driver on duty may carry only a person who is a paying passenger, unless the passenger is an employee of the taxicab service that employs or contracts with the driver, a governmental inspector acting in an official capacity, or unless it is authorized by the holder's operating authority.
- (b) A driver may not carry at the same time more persons than the designed seating capacity of the taxicab.

### **Sec. 27-64. - Carry passengers by direct route.**

A driver shall carry a passenger to his destination by the most direct and expeditious route available unless otherwise directed by the passenger.

### **Sec. 27-65. - Solicitation of passengers by taxicabs.**

A driver may not solicit passengers.

**Sec. 27-66. - Conduct of drivers.**

A driver shall:

- (1) Act in a reasonable, prudent, and courteous manner;
- (2) Maintain a sanitary and well-groomed appearance;
- (3) Not possess, consume, or be under the influence of an alcoholic beverage, narcotic drug, or other substance that could adversely affect the driver's ability to drive a motor vehicle;
- (4) Not smoke tobacco products while transporting passengers;
- (5) Not interfere with the director in the performance of the director's duties;
- (6) Pull his vehicle to the curb when loading or unloading passengers;
- (7) Not refuse to discharge a passenger at any place designated by the passenger upon the streets of the city, except when the place so designated is a point not easily accessible because of a no parking zone, or conditions rendering the designated place or access to the designated place unreasonably hazardous; and
- (8) Comply with lawful orders of the director issued in the performance of his duties.

**Sec. 27-67. - Limitations on hours of work.**

- (a) No driver permitted under this chapter shall drive more than twelve (12) hours in any one (1) consecutive twenty-four-hour period.
- (b) No holder or owner shall allow any driver permitted under this chapter to drive for more than twelve (12) hours in any consecutive twenty-four-hour period.

**Sec. 27-68. - Return of passenger's property.**

- (a) Upon finding property left by a passenger in a taxicab, the driver shall immediately return the property to the owner. However, if the driver is unable to locate the owner or if the driver does not know the identity or whereabouts of the owner, the driver shall make a report of the property left in the taxicab to the holder, and within a reasonable time, not to exceed four (4) hours from discovery of the property, deliver the property to the holder's dispatching facility.
- (b) Upon return of property to the owner or delivery of property to the holder, the driver shall prepare a written report stating the description of the property, the identity of the owner if known, date the property was left in the taxicab, the circumstances relating to the loss, and the taxicab number. The holder shall keep the report on file for at least one (1) year and shall hold the property for not less than three (3) months.

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**Sec. 27-69. - Service regulations for business establishments requesting taxicabs for customers.**

An employee of a business establishment, other than a taxicab service, who acts as an agent in obtaining taxicab service for prospective taxicab passengers shall not solicit nor accept payment from a driver in return for giving preferential treatment in directing passengers to a driver's taxicab.

**Secs. 27-70—27-79. - Reserved.**

## **ARTICLE 6. - FARES**

### **Sec. 27-80. - Rates of fare—Taxicabs.**

A holder of a taxicab permit may charge only rates of fare which have been approved by the director at the time the permit was issued. A holder of a taxicab permit may propose a change in its rates of fare by filing the proposal with the city secretary for consideration by the director. The director may approve, disapprove, or modify the proposed change.

### **Sec. 27-81. - Display of rate card by taxicabs.**

- (a) A holder shall provide the driver for each taxicab operating under its authority, printed cards or stickers containing the approved rates of fare of the holder. There shall be posted in two (2) conspicuous places on the inside of each licensed taxicab, a legible card of a size to be determined by the director, showing the rates allowed to be charged.
- (b) While operating a taxicab for hire, a driver shall, in a manner approved by the director, prominently display two (2) rate cards or stickers inside the taxicab and two (2) rate cards or stickers outside the taxicab so that passengers can easily read them.

### **Sec. 27-82. - Computation of fares for taxicabs.**

A holder shall equip each taxicab with a taximeter, and a driver shall charge only a fee as computed by the taximeter. However, a holder may authorize a driver to make a flat rate charge for a trip to a destination which is not covered in the holder's approved rates of fare, if the taximeter is kept in operation while the taxicab has a passenger within the scope of the area designated in the approved rates of fare.

### **Sec. 27-83. - Design and testing of taximeters; fees.**

- (a) A taximeter must accurately register in legible figures on the basis of both mileage and time under the rates and charges established herein. Figures denoting the fare must be illuminated when the meter is activated.
- (b) A taximeter must be mounted in a conspicuous location in the taxicab in a manner approved by the director so that the face of the taximeter and the fare numerals may be easily seen and read by a passenger sitting in any part of the taxicab.
- (c) The design of a taximeter is subject to approval by the director to assure that it complies with this section. No taximeter shall be used on any taxicab the type and design of which has not been approved by the director. Before installing a taximeter, taxicab owners shall submit the type and design of taximeter to the director. If the taximeter is capable of properly and accurately computing and registering on its face the charge for the distance traveled by and the waiting time of the taxicab, the director shall approve the taximeter. Virtual taximeters are acceptable, but are subject to all requirements of this chapter.
- (d) A holder shall cause each taximeter in taxicabs operating under its authority to be maintained in good operating condition. The director may establish a schedule of regular testing days and times for purposes of this section.
- (e) A person commits an offense if he operates a taxicab that is:

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**Sec. 27-81. - Maximum taxicab fares.¶**

¶

It shall be unlawful for any taxicab company or driver to charge more than the following fares, as applicable: ¶

(1) Drop fee of three dollars (\$3.00). ¶

(2) Fifty cents (\$.50) for each one-quarter (¼) of a mile thereafter. ¶

(3) Thirty dollars (\$30.00) per hour metered time. ¶

(4) There shall be a one dollar (\$1.00) charge for each additional passenger going to the same location. ¶

(5) No charge will be made for hand luggage, packages or groceries. ¶

(6) In the event two (2) or more taxicab passengers are going to the same destination, the driver shall collect only one (1) fare as recorded on the taximeter. If the passengers are going to different destinations, the driver shall clear his taximeter at the first destination and charge the first passenger the amount recorded on the taximeter, and then proceed to the next destination as though it were a completely new trip. Other destinations shall be treated likewise. ¶

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(c) - If the taximeter employs a flag, the flag must project at least four (4) inches above the dashboard when in the non-earning position. ¶

(d) - The taximeter or its drive system must be sealed at all points at which components, if manipulated, could affect the function or accuracy of the taximeter. ¶

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- (1) Not equipped with a taximeter; or
- (2) Equipped with a taximeter that has been tampered with or altered, or that incorrectly registers or computes taxicab fares because of alterations to the taxicab.

(f) The following persons shall be responsible and subject to the penalty for a violation of subsection (e):

- (1) The driver of the taxicab.
- (2) The owner of the taxicab.
- (3) The holder under whose authority the taxicab is being operated.

(g) Proof of taxicab ownership for purposes of this section may be made by a copy of the registration of the vehicle with the state showing the name of the person to whom the state license plates for the vehicle were issued. The person in whose name the vehicle is registered shall be deemed to be the prima facie owner of the vehicle. If the vehicle is not currently registered, the person in whose name the vehicle was last registered shall be deemed to be the prima facie owner of the vehicle.

#### **Sec. 27-84. - Taxicab fare collection procedures.**

- (a) Before changing the taximeter to indicate that the taxicab is vacant, a driver shall call the attention of the passenger to the amount of fare registered on the taximeter.
- (b) Upon request by a person paying a fare, a driver shall give the person a legible receipt showing:
  - (1) The name of the holder under whose authority the taxicab is operated;
  - (2) The taxicab number;
  - (3) An itemized list of charges;
  - (4) The total amount of fare paid;
  - (5) The date of payment; and
  - (6) The driver's signature.
- (c) A holder shall provide each driver operating a taxicab under its authority with printed receipt forms adequate for providing the information required in subsection (b).

#### **Secs. 27-85—27-89. - Reserved.**

### **ARTICLE 7. - VEHICLES AND EQUIPMENT**

#### **Sec. 27-90. - False representation as taxicab.**

- (a) A person may not represent that a vehicle is a taxicab if the vehicle is not in fact a taxicab authorized by operating authority granted under this chapter.
- (b) A person may not drive a vehicle that is not a taxicab in the city if the vehicle is marked, painted, or equipped in a way that is likely to result in mistaking the vehicle for a taxicab.

#### **Sec. 27-91. - Vehicle requirements and inspections.**

- (a) The director may by regulation establish requirements for size, condition, and accessories of taxicabs used by a taxicab owner or driver.
- (b) The director shall inspect each taxicab for compliance with this chapter and regulations before it is placed in service, at regular inspections, and at such times as determined by the director. The director shall complete a city inspection form and shall maintain such form as

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 b. Has been tampered with or altered; or ¶  
 c. Incorrectly registers or computes taxicab fares because of alterations to the taxicab odometer, including, but not limited to, changes in the gears, tires, or wheels of the taxicab. ¶

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**Sec. 27-86. - Rates of fare—Limousine, bus and shuttle vehicles. ¶**

- (a) A driver or holder may only charge a fare for operating a limousine, bus or shuttle in an amount based on rates that are mutually agreed to by the passenger(s) and the driver or holder prior to the provision of the limousine, bus or shuttle service to the passenger(s). ¶
- (b) A holder desiring to change the authorized rates of fare must submit a written request to the director. ¶
- (c) The rates listed in the holder's operating authority must be strictly adhered to, and no change in rates may be implemented without written approval of the director. ¶
- (d) The director may require a holder to display rates on or within a limousine, bus, or shuttle vehicle in a manner prescribed by the director. ¶
- (e) At the request of a passenger, the driver or holder shall give the person paying a fare a ticket or receipt that indicates the name, address, and phone number of the vehicle for hire company and the amount of the fare. ¶
- (f) The use of any type of meter or measuring device to calculate rates of fare for limousine, bus, or shuttle vehicle service is prohibited. ¶

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a public record. If any inspection reveals that the vehicle is unsafe or does not comply with the provisions of this chapter or state law the vehicle owner shall remove the vehicle from service.

- (c) A holder, owner, or driver shall make a taxicab available for inspection when ordered by the director. It shall be unlawful for any person to refuse to allow the director to inspect any vehicle used as a taxicab operating in the city pursuant to this chapter.
- (d) If, upon inspection, the director determines that a taxicab is not in compliance with this chapter or regulations, the director shall order the taxicab to be brought into compliance within a reasonable period of time and require it to be re-inspected. The owner shall pay a ten dollar (\$10.00) fee for each re-inspection of a taxicab that is required before it is brought into compliance.
- (e) If a holder, owner, or driver fails to make a taxicab available for inspection or if the director determines that a taxicab is not in compliance with this chapter or regulations, the director may order the taxicab removed from service until it is made available for inspection and brought into compliance.
- (f) If the director determines that inspection of the mechanical condition or safety equipment of a taxicab by an expert mechanic or technician is necessary, the holder, owner, or driver shall pay the cost of the inspection.
- (g) Before any taxicab will be approved for service, the holder or owner shall provide the director with a copy of the registration for the vehicle with the state, or a bill of sale if the vehicle is new and has not yet been registered, showing the name of the individual or holder owning the vehicle. The owner shown on the registration or bill of sale provided to the director shall notify the director of any change in ownership of the taxicab within ten (10) business days.
- (h) Taxicab inspections conducted by the director shall be limited to those items observable by a layperson by external visual inspection. Items to be inspected shall include, but not be limited to, the following: vehicle identification number; taxicab number; head lamps; tail lamps; license plate lights; dome light; horn; windshield wipers; heating, ventilating, and air conditioning systems; presence of fire extinguisher; spare tire; the condition of the tires, passenger compartment, rearview mirrors; all windows; overall cleanliness; safety; condition of paint; color scheme; taximeter readings; rate card; required signage; fumes; permanent state license plates and current registration sticker; mileage; accuracy of taximeter, and condition of the body of the vehicle.
- (i) Each inspection may include a ride-along inspection ride of up to one (1) hour's duration as deemed necessary by the director.

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#### Sec. 27-92. - Required equipment for taxicabs.

- (a) Unless otherwise specified in the operating authority under which a taxicab is operated or by regulation of the director, and in addition to other equipment required by this chapter, a holder, owner, or driver shall provide and maintain in good operating condition the following equipment for each taxicab:
  - (1) Seat belts for each passenger, the number of which is determined by the designed seating capacity of the taxicab;
  - (2) Heater and air conditioner;

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- (3) Chemical-type fire extinguisher, of at least one (1) quart capacity, readily accessible for immediate use;
- ~~(4) Map of the city;~~
- ~~(5) Permit card, complying with section 27-95, of this chapter;~~
- ~~(6) Rates of fare cards or stickers; and~~
- ~~(7) Taximeter.~~

#### Sec. 27-93. - Taxicab color scheme and distinctive markings.

A holder shall develop the design of a color scheme and distinctive markings for taxicabs operating under its authority, and shall submit the design to the director for approval to insure that the design is readily distinguishable from the design used by other holders.

#### Sec. 27-94. - Required taxicab identification.

A holder shall cause each taxicab operating under its authority to be provided with the following uniform vehicle identification:

- (1) Every taxicab shall have on the door of the cab the name of the owner or the assumed name under which the owner operates, together with the company's telephone number and the cab number.
- (2) The number of the cab and the owner or the assumed name under which the owner operates, shall be stenciled or painted upon the rear of any such vehicle. Such lettering, stencil and/or paint must be kept legible at all times.

#### Sec. 27-95. - Taxicab permit cards.

- (a) The holder, owner, or driver of a taxicab shall obtain a permit card from the city secretary's office, indicating the taxicab's authority to operate, which shall show there on the date of expiration of the permit to operate a taxicab applicable to such vehicle. The permit card must be attached to the front windshield of the taxicab in a manner approved by the director.
- (b) A person commits an offense if he:
  - (1) Operates a taxicab with an expired permit card or with no permit card affixed to it;
  - (2) Attaches a permit card to a vehicle not authorized to operate as a taxicab;
  - (3) Forges, alters, or counterfeits a taxicab permit card required by this section;
  - (4) Possesses a forged, altered, or counterfeited taxicab permit card required by this section; or
  - (5) Displays more than one (1) taxicab permit cards issued by the city on a vehicle at the same time.
- (c) A taxicab permit card assigned to one (1) person is not transferable to another without consent of the director.

#### Sec. 27-96. - Removal of equipment from taxicabs.

- (a) Whenever a vehicle is removed from service or is no longer authorized to operate as a taxicab, the holder, owner, or driver shall remove from the vehicle all taxicab signs,

**Deleted:** (4) Equipment to indicate when a taxicab is operating for hire and when it is not for hire; ¶  
 (5) Electrically controlled top light; to be affixed on the outside top and front portion of each taxicab that may be easily seen by people on the streets or sidewalks in the vicinity of a taxicab, indicating occupancy of the cab; ¶

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(8) Taxicab display receptacle;

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#### Sec. 27-95. - Taxicab display receptacle. ¶

¶  
 (a) Every taxicab must have a display receptacle approved by the director securely affixed to a conspicuous place on the dashboard. The display receptacle shall be constructed of a rigid material, and designed to accommodate the following information: ¶

(1) At least a two-inch by two-inch colored passport-quality photograph of the driver, with the driver's name as it appears on the driver's Texas driver's license and the taxicab driver's license number placed under the photograph in block letters. ¶

(2) The company name in block letters. ¶

(3) Taxi rates in block numbers. ¶

(b) A holder, owner, or driver of a taxicab commits an offense if he operates or allows operation of a taxicab that is equipped with: ¶

(1) No required display receptacle; ¶

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markings, and equipment that would distinguish the vehicle as a taxicab, including, but not limited to, radios, top lights, meters, and decals.

- (b) A holder, owner, or driver of a taxicab shall not sell or transfer to a driver any radio, top light, meter, or other equipment that would distinguish a vehicle as a taxicab.

Secs. 27-97--27-99. - Reserved.

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### **ARTICLE 8. - ENFORCEMENT**

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#### **Sec. 27-100. - Authority to inspect.**

The director and his delegates may inspect a taxicab service operating under this chapter to determine whether the service complies with this chapter, regulations established under this chapter, or other applicable law.

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#### **Sec. 27-101. - Removal of evidence of authorization.**

Whenever a holder's operating authority or a taxicab driver's license is suspended, revoked, or denied or whenever a vehicle fails to pass inspection as a taxicab, the director may remove or require the surrender of all evidence of authorization as a holder, taxicab driver, or taxicab, including, but not limited to, removal or surrender of operating authority, licenses, permit cards, and signs, if applicable.

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#### **Sec. 27-102. - Enforcement by police department.**

Officers of the police department shall assist in the enforcement of this chapter. A police officer upon observing a violation of this chapter or the regulations established by the director shall take necessary enforcement action to insure the effective regulation of taxicab service.

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#### **Sec. 27-103. - Correction order.**

- (a) If the director determines that a holder violates this chapter, terms of its operating authority, a regulation established by the director, or other law, the director may notify the holder in writing of the violation and by written order direct the holder to correct the violation within a reasonable period of time. In setting the time for correction the director shall consider the degree of danger to the public health or safety and the nature of the violation. If the violation involves equipment that is unsafe or functioning improperly, the director shall order the holder to immediately cease use of the equipment.
- (b) If the director determines that a violation constitutes an imminent and serious threat to the public health or safety, the director shall order the holder to correct the violation immediately, and, if the holder fails to comply, the director shall promptly take or cause to be taken such action as he considers necessary to enforce the order immediately.
- (c) The director shall include in a notice issued under this section an identification of the violation, the date of issuance of the notice and the time period within which the violation must be corrected, a warning that failure to comply with the order may result in suspension or revocation of operating authority or imposition of a fine or both, and a statement indicating that the order may be appealed to the city manager.

**Sec. 27-104. - Service of notice.**

- (a) A holder shall designate and maintain a representative to receive service of notice required under this chapter to be given a holder and to serve notice required under this chapter to be given a driver employed by a holder.
- (b) Notice required under this chapter to be given:
  - (1) A holder, or the holder's designated representative, must be personally served by the director; or
  - (2) A driver licensed by the city under division 3, must be personally served or sent by certified United States mail, five-day return receipt requested, to the address, last known to the director, of the person to be notified, or to the designated representative for drivers.
- (c) Notice required under this chapter to be given a person other than a driver licensed under division 3 or a holder may be served in the manner prescribed by subsection (b)(2).
- (d) Service executed in accordance with this section constitutes notice to the person to whom the notice is addressed. The date of service for notice that is mailed is the date received.
- (e) This section does not apply to notice served under section 27-39.

**Sec. 27-105. - Appeal.**

- (a) A holder may appeal a correction order issued under section 27-103 or any other action of the director if an appeal is requested in writing not more than ten (10) days after notice of the order or action is received.
- (b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of evidence presented at the hearing.
- (c) The hearing officer may affirm, modify, or reverse all or a part of the order of the director. The decision of the hearing officer is final.



## AGENDA ITEM 9

|                                                                                                                                                                                    |                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                            | <b>DATE SUBMITTED:</b> August 15, 2019                                                                                                                                                        |
| <b>DEPT. OF ORIGIN:</b> Administration                                                                                                                                             | <b>SUBMITTED BY:</b> Karen Stack                                                                                                                                                              |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                              | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> WORK SESSION |
| <b>ORDINANCE:</b><br><input checked="" type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION        |                                                                                                                                                                                               |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas |                                                                                                                                                                                               |
| <b>SUMMARY STATEMENT:</b> Staff recommends approval of the Chapter 27, Vehicles for Hire, amendments as discussed in work session.                                                 |                                                                                                                                                                                               |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b><br><b>B. CONS:</b>                                                                              |                                                                                                                                                                                               |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                      |                                                                                                                                                                                               |
| <b>ATTACHMENTS:</b> (1) Ordinance for first reading                                                                                                                                |                                                                                                                                                                                               |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                          |                                                                                                                                                                                               |
| <b>RECOMMENDED ACTION:</b> Approve an Ordinance on its first reading amending Chapter 27, Vehicles for Hire, Code of Ordinances, City of Brenham, Texas                            |                                                                                                                                                                                               |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                     |                                                                                                                                                                                               |

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 27, VEHICLES FOR HIRE, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING OF PROPER NOTICE AND MEETINGS**

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

**WHEREAS**, in order to enhance, promote and protect the health, safety and general welfare of the citizens of Brenham, Texas the City Council must from time to time amend and/or adopt new regulations; and

**WHEREAS**, the latest update to Chapter 27, Vehicles for Hire, was done in May, 2010; and

**WHEREAS**, many sections in Chapter 27 are no longer administratively accurate and/or are not in compliance with current State statutes; and

**WHEREAS**, the City Council finds the following regulations to be reasonable and beneficial to the general health, safety and welfare of the citizens of Brenham; and

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

**SECTION 1.**

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

**SECTION 2.**

Chapter 27, Vehicles for Hire, of the Code of Ordinances of the City of Brenham, Texas, is hereby repealed and rescinded in its entirety.

### SECTION 3.

Chapter 27, Vehicles for Hire, of the Code of Ordinances of the City of Brenham, Texas, shall read as follows:

## **Chapter 27 - VEHICLES FOR HIRE**

### **ARTICLE 1. - GENERAL PROVISIONS**

#### **Sec. 27-1. - Definitions.**

*Annual permit* shall mean permission granted by the city to a person to operate a taxicab service inside the city for a period of one (1) year, renewable under the provisions of this chapter.

*Appeal hearing officer* shall mean the city manager and/or his designee authorized to enforce and/or administer this chapter.

*Charter service* shall mean any type of service in which a vehicle not equipped with a taximeter is furnished, along with a driver, for a specific trip or excursion, and which is contracted for orally or in writing by a person so as to obtain exclusive use of the vehicle for an interval of time.

*City chauffeur's license* shall mean a license issued to an individual by the director authorizing that individual to drive or operate a taxicab in the city.

*Conviction* shall mean a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned.

*Curb* shall mean the raised edge of the street, driveway or other public or private way upon which a taxicab is operating, provided that if no raised edge curbing exists, then it means the edge of the area that is paved for vehicular operation.

*Department* shall mean the department designated by the city manager to enforce and administer this chapter.

*Director* shall mean the director of the department designated by the city manager to enforce and administer this chapter; which includes representatives, agents, or employees designated by the director.

*Dispatching facility* means a fixed facility:

- (1) At which requests for taxicab service are received;
- (2) From which drivers are notified, by radio or any other electronic communication system, of requests for taxicab service; and
- (3) To which drivers communicate, by radio or any other electronic communication system, their availability to provide the requested taxicab service.



*Driver* shall mean an individual who drives or operates a taxicab.

*Holder* shall mean a person who is granted an annual permit providing operating authority under this chapter.

*Legal resident* shall mean a citizen of the United States or a person residing in the United States in accordance with federal immigration laws.

*Operate* shall mean to drive or to be in control of a taxicab.

*Operating authority* shall mean written permission granted on an annual basis by the director under this chapter to operate a taxicab service.

*Operator* shall mean: (1) the driver of a taxicab; (2) the owner of a taxicab; or (3) the holder of a taxicab operating authority.

*Owner with regard to a motor vehicle* shall mean the person to whom state license plates for a vehicle were issued.

*Person* shall mean an individual; corporation; government or governmental subdivision; agency, trust, partnership, or two (2) or more persons having a joint or common economic interest; or any other legal entity.

*Taxicab* shall mean a chauffeured motor vehicle that is equipped with a taximeter, that is used for the transportation of passengers for hire over the public streets of the city that typically operates on irregular routes, irregular schedules, and on a call-and-demand basis, and irrespective of whether or not the operations extend beyond the city limits, at rates for distance traveled, or for waiting time, or for both, and such vehicle is routed under the direction of the passenger hiring the same.

*Taxicab service* shall mean a passenger transportation service operated for hire that uses any one (1) or more taxicabs in the operation of the service and includes (but is not limited to) a facility from which the service is operated; taxicabs used in the operation; and a person who owns, controls, or operates the service.

*Taximeter* shall mean a device that computes a fare based upon the distance traveled, the time the taxicab is engaged, and any other basis for charges that are specified in the operating authority pertaining to the holder.

## **Sec. 27-2. - Statement of policy.**

It is the policy of the city to provide for and to promote adequate and efficient taxicab services in the city. To this end, this chapter provides for the regulation of taxicab services, to be carried out in a manner that protects the public health and safety, promotes the public convenience and necessity, and respects the concept of free enterprise.

### **Sec. 27-3. - General authority and duty of director.**

The city manager and his delegates shall enforce the provisions of this chapter. The director shall implement and enforce this chapter as he determines necessary to discharge his duty under, or to affect the policy of this chapter.

### **Sec. 27-4. - Exclusions.**

This chapter does not apply to:

- (1) The transportation of a person by a taxicab licensed by another governmental entity from a point outside the city to a destination inside the city, if the taxicab leaves the city without receiving a passenger inside the city;
- (2) A taxicab service operated under state or federal authority unless the service is subject to the city's regulatory authority;
- (3) A motor vehicle used to transport persons for hire that is regulated by another city ordinance;
- (4) A vehicle operated by a funeral home in the performance of funeral services;
- (5) A vehicle provided by an employer or employee association for use in transporting employees between employees' homes and the employer's place of business or between workstations, with the employees reimbursing the employer or employee association in an amount calculated only to offset the reasonable expenses of operating the vehicle;
- (6) A vehicle owned and operated by the federal or state government, by a political subdivision of the state, or by a person under contract with the city for operation of the vehicle;
- (7) A vehicle used in a carpool to transport the person and others on a prearranged basis between their homes and places of employment or places of common destination, if only a fee calculated to reasonably cover expenses is charged;
- (8) A vehicle transporting children to or from school if only a fee calculated to reasonably cover expenses is charged;
- (9) A vehicle owned by a nonprofit organization and carrying only passengers associated with that organization, if no compensation is received from any other person for carrying the passengers;
- (10) A vehicle being operated under a transportation network company permit issued by the State of Texas pursuant to Chapter 2402 of the Occupations Code; or
- (11) A charter service, regardless of vehicle type.

### **Secs. 27-5—27-9. - Reserved.**

## **ARTICLE 2. - OPERATING AUTHORITY**

### **Sec. 27-10. - Operating authority required.**

- (a) A person may not: (1) operate a taxicab service inside the city without operating authority granted under this chapter; or (2) transport a passenger for hire inside the city by taxicab without operating authority granted under this chapter.
- (b) A person shall not engage or hire a taxicab that he knows does not have operating authority from the city.

### **Sec. 27-11. - Transferability of operating authority.**

An annual permit of operating authority may not be transferred to another person.

### **Sec. 27-12. - Annual permit of operating authority required; service requirements.**

The director must approve the application before an annual permit can be granted. The granting of an annual permit is in the discretion of the director, but will not be granted unless the applicant qualifies for operating authority under section 27-13 of this chapter and is otherwise fit, willing, and able to operate the taxicab service in accordance with the requirements of this chapter, rules and regulations of the director, provisions of the annual permit, and other applicable law.

### **Sec. 27-13. - Qualifications for operating authority.**

- (a) To qualify for operating authority, an applicant must:
  - (1) Be at least twenty-one (21) years of age;
  - (2) Be currently authorized to work full-time in the United States;
  - (3) Be able to communicate in the English language; and
  - (4) Not have ever been convicted or placed on probation or deferred adjudication for a crime:
    - a. Involving:
      - 1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
      - 2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
      - 3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
      - 4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
      - 5. Robbery as described in Chapter 29 of the Texas Penal Code;
      - 6. Burglary as described in Chapter 30 of the Texas Penal Code;
      - 7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony;
      - 8. Criminal attempt to commit any of the offenses listed in section 27-13(a)(4)a.1. through section 27-13(a)(4)a.7.

- (5) Not have been convicted or placed on probation or deferred adjudication for a crime:
- a. Involving:
    1. Fraud as described in Chapter 32 of the Texas Penal Code;
    2. Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
    3. Public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
    4. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
    5. A violation of Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
    6. A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or
    7. Criminal attempt to commit any of the offenses listed in section 27-13(a)(5)a.1. through section 27-13(a)(5)a.6.
  - b. For which:
    1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
    2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
    3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
    4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
    5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any twenty-four-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or
    6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any twenty-four-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses.

(b) An applicant who has been sentenced for an offense listed in section 27-13(a)(5)a.1. through (a)(5)a.7 for which the required time period listed above has elapsed, may qualify for operating authority only if the director determines that the applicant is presently fit to provide a public transportation service and only if the offense or offenses the applicant was sentenced for was not a felony offense listed in section 27-13(a)(4)a.1. through (a)(4)a.8. In determining present fitness under this section, the director shall consider the following:

- (1) The extent and nature of the applicant's past criminal activity;
- (2) The age of the applicant at the time of the commission of the crime;
- (3) The amount of time that has elapsed since the applicant's last criminal activity;
- (4) The conduct and work activity of the applicant prior to and following the criminal activity;
- (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
- (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
- (7) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness.

**Sec. 27-14. - Application for annual permit of operating authority.**

- (a) To obtain an annual permit, a person shall make application to the city secretary in the manner prescribed by this section. The applicant must be the person who will own, control, or operate the proposed taxicab service. An applicant shall file with the city secretary a written, verified application statement, to be accompanied by a nonrefundable application fee of one hundred fifty dollars (\$150.00) plus one hundred twenty dollars (\$120.00) for each taxicab to be permitted, containing the following:
  - (1) The form of business of the applicant and, if the business is a corporation, association, or other legal entity, a copy of the documents establishing the business and the name, address, and legal residence of each person with a direct interest in the business;
  - (2) The name, address, and verified signature of the applicant;
  - (3) An actual or pro forma statement and balance sheet showing the liabilities, and equity of the business;
  - (4) A description of any past business experience of the applicant, particularly in providing passenger transportation services, and an identification and description of any revocation or suspension of a permit held by the applicant or business before the date of filing the application;
  - (5) The number of vehicles and a description of the vehicles the applicant proposes to use in the operation of the taxicab service, and a description of the operations of the proposed taxicab service and the location of the fixed facilities to be used in the operation;
  - (6) If applicable, a description of the proposed insignia and color scheme for the applicant's taxicabs and a description of the distinctive item(s) of apparel to be worn by the applicant's taxicab drivers;
  - (7) Documentary evidence from an insurance company, authorized to do business in the State of Texas, indicating a willingness to provide commercial liability insurance as required by this chapter;

- (8) Documentary evidence of payment of ad valorem taxes on the property to be used in connection with the operation of the proposed taxicab service;
- (9) Proof of business telephone number and business address, from which the proposed taxicab service will be operated; if such place of business is located within the city limits, the city's zoning requirements shall apply;
- (10) The proposed fare to be charged and the method for calculating the fare;
- (11) Such additional information as the applicant desires to include to aid in the determination of whether the requested operating authority should be granted; and
- (b) A holder shall notify the city secretary in writing of any change of address or change in ownership or management of a taxicab service not less than ten (10) days prior to the change.
- (c) The established place of business required by subsection (a)(9) of this section must be kept open from 9:00 a.m. to 5:00 p.m. weekdays, other than recognized holidays, and must be staffed and equipped to receive telephone calls during all business hours.

**Sec. 27-15. - Grant of annual permit of operating authority.**

Upon approval of an application for an annual permit of operating authority by the director, the department shall promptly issue the permit and incorporate in the permit the duration of the permit and such other terms or conditions as the director determines are necessary.

**Sec. 27-16. - Limitations of operating authority.**

- (a) Operating authority when issued must state on its face the type of service for which it is issued. It may also contain other conditions and limitations determined necessary by the director, including, but not limited to:
  - (1) Number of vehicles authorized;
  - (2) Description of vehicles to be operated;
  - (3) The number of passengers that may be transported in each vehicle;
  - (4) Customers to be served;
  - (5) Place and times of loading or unloading passengers;
  - (6) Schedules and route to be followed, if applicable;
  - (7) Maximum rates to be charged, including any hourly minimums and other charges;
  - (8) Operating procedures; and
  - (9) Special conditions or limitations.
- (b) A holder commits an offense if he fails to comply with the conditions or limitations placed on the operating authority under which he is operating a vehicle for hire service.

**Sec. 27-17. - Renewal or amendment of annual permit of operating authority.**

- (a) A holder of an annual permit of operating authority shall submit a completed renewal of permit form, provided by the city secretary, and submit an annual permit application fee of one hundred fifty dollars (\$150.00) plus one hundred twenty dollars (\$120.00) per taxicab.
- (b) A holder desiring a change in the terms or conditions of the permit must file with the city secretary, not fewer than sixty (60) days before the permit expires, a written request stating reasons for the requested changes.

- (c) The director may make minor changes in a permit.
- (d) If the director determines that a denial of a permit renewal or material change in the terms or conditions of the permit is required, then he may deny renewal of the permit or make changes in the terms or conditions of the permit.
- (e) If the permit expires at no fault of the holder before a ruling on the approval or denial of the renewal, the holder may continue to operate the taxicab service pending a final decision. The holder shall cease operation of the taxicab service immediately upon denial of the request for renewal by the director.
- (f) A holder may file an appeal of the director's decision not to renew a permit in accordance with section 27-40 of this chapter.

**Sec. 27-18. - Suspension and revocation of operating authority.**

- (a) *Suspension and revocation of permit.* The following regulations apply to the suspension or revocation of an annual permit:
  - (1) The director may suspend or revoke an annual permit if the director determines that the holder:
    - a. Failed to comply with a correction order issued to the holder by the director, within the time specified in the order;
    - b. Intentionally or knowingly impeded the department or other law enforcement agency in the performance of its duty or execution of its authority;
    - c. Failed to comply with this chapter;
    - d. Does not qualify for operating authority under section 27-13 of this chapter;
    - e. Has been convicted of a violation of any city, state, or federal law, which violation reflects unfavorably on the fitness of the holder to perform a public transportation service;
    - f. Is under indictment for or has been convicted of any felony offense while holding taxicab operating authority;
    - g. Substantially breached the terms of the annual permit;
    - h. Failed to pay city ad valorem taxes on any property of the holder used directly or indirectly in connection with the taxicab service; or
    - i. Failed to pay a permit fee at the time it was due.
  - (2) A suspension of a permit does not affect the expiration date of the permit.
  - (3) After revocation of a permit, a holder is not eligible for a permit for a period of two (2) years.
- (b) *Reinstatement.* After suspension of a permit, a holder may file an appeal in accordance with section 27-40 of this chapter. The director shall inspect the operation of the suspended holder to determine if the holder has corrected the deficiency causing the suspension. After inspection, the director shall submit his recommendation together with supporting facts to the city manager or his designee. The city manager shall determine if reinstatement is warranted. The decision of the city manager is final.



**Sec. 27-19. - Special provisions of operating authority.**

This chapter governs the operation of taxicab service. This chapter, however, is not a limitation on the power of the director to incorporate in a grant of operating authority special provisions relating to the operation of the taxicab service under the grant. To the extent that a special provision conflicts with this chapter, the special provision controls.

**Secs. 27-20—27-29. - Reserved.**

**ARTICLE 3. - CITY CHAUFFEUR'S LICENSE**

**Sec. 27-30. - City chauffeur's license required.**

- (a) A person may not drive or operate a taxicab inside the city pursuant to this chapter without a valid city chauffeur's license issued to the person under this article.
- (b) A taxicab service holder or owner shall not employ or contract with a driver or otherwise allow a person to drive for hire a taxicab owned, controlled, or operated by the holder or owner unless the person has a valid city chauffeur's license issued under this article.
- (c) To obtain an annual chauffeur's license, a person shall make application to the city secretary in the manner prescribed by this section. The applicant shall file with the city secretary a written, verified application statement, to be accompanied by a fee of ten dollars (\$10.00).

**Sec. 27-31. - Qualification for city chauffeur's license.**

- (a) To qualify for a city chauffeur's license, an applicant shall:
  - (1) Be at least twenty-one (21) years of age;
  - (2) Be currently authorized to work full-time in the United States;
  - (3) Hold a valid driver's license issued by the state;
  - (4) Be able to communicate in the English language;
  - (5) Not be afflicted with a physical or mental disease or disability that is likely to prevent the applicant from exercising ordinary and reasonable control over a motor vehicle or that is likely to otherwise endanger the public health or safety;
  - (6) Not have been convicted of more than four (4) moving traffic violations arising out of separate transactions, or been involved in more than two (2) automobile accidents in which it could be reasonably determined that the applicant was at fault, within any twelve-month period during the preceding thirty-six (36) months;
  - (7) Not have ever been convicted or placed on probation or deferred adjudication for a crime:
    - a. Involving:
      - 1. Criminal homicide as described in Chapter 19 of the Texas Penal Code;
      - 2. Kidnapping as described in Chapter 20 of the Texas Penal Code;
      - 3. A sexual offense as described in Chapter 21 of the Texas Penal Code;
      - 4. An assaultive offense as described in Chapter 22 of the Texas Penal Code, other than a Class C misdemeanor;
      - 5. Robbery as described in Chapter 29 of the Texas Penal Code;

6. Burglary as described in Chapter 30 of the Texas Penal Code;
  7. Theft as described in Chapter 31 of the Texas Penal Code, but only if the violation is punishable as a felony; or
  8. Criminal attempt to commit any of the offenses listed in section 27-31 (a)(7) of this Chapter.
- (8) Not have been convicted or placed on probation or deferred adjudication for a crime:
- a. Involving:
    1. Fraud as described in Chapter 32 of the Texas Penal Code;
    2. Tampering with a governmental record as described in Chapter 37 of the Texas Penal Code;
    3. Public indecency (prostitution or obscenity) as described in Chapter 43 of the Texas Penal Code;
    4. The transfer, carrying, or possession of a weapon in violation of Chapter 46 of the Texas Penal Code, but only if the violation is punishable as a felony;
    5. A violation of the Chapter 483, Dangerous Drugs, of the Texas Health and Safety Code that is punishable as a felony;
    6. A violation of the Controlled Substances Act, Chapter 481 of the Texas Health and Safety Code that is punishable as a felony; or
    7. Criminal attempt to commit any of the offenses listed in section 27-31(a)(8) of this Chapter;
  - b. For which:
    1. If the applicant was convicted for a misdemeanor offense, less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date;
    2. If the applicant was placed on probation or deferred adjudication for a misdemeanor offense, less than two (2) years have elapsed since the date of successful completion of probation or deferred adjudication;
    3. If the applicant was convicted for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction or the date of release from parole, whichever is the later date;
    4. If the applicant was placed on probation or deferred adjudication for a felony offense, less than five (5) years have elapsed since the date of successful completion of probation or deferred adjudication;
    5. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if, within any twenty-four-month period, the applicant has two (2) or more convictions of any misdemeanor offense or combination of misdemeanor offenses; or
    6. Less than five (5) years have elapsed since the date of the successful completion of probation or deferred adjudication for the last offense, whichever is the later date, if, within any twenty-four-month period, the applicant has been placed on probation or deferred adjudication two (2) or more times for any misdemeanor offense or combination of misdemeanor offenses;

- (9) Not have been convicted of, or discharged by probation or deferred adjudication for, driving while intoxicated or driving under the influence:
  - a. Within the preceding twelve (12) months; or
  - b. More than one (1) time within the preceding ten (10) years; or
  - c. More than three (3) times.
- (10) Not be addicted to the use of alcohol or narcotics;
- (11) Be subject to no outstanding warrants of arrest;
- (12) If applicable, have a valid contract with or be currently employed by a holder.
- (b) An applicant who has been sentenced for an offense listed in section 27-31, for which the required time period provided by this chapter has elapsed, may qualify for a taxicab driver's license only if the director determines that the applicant is presently fit to engage in the occupation of a taxicab driver. In determining present fitness under this section, the director shall consider the following:
  - (1) The extent and nature of the applicant's past criminal activity;
  - (2) The age of the applicant at the time of the commission of the crime;
  - (3) The amount of time that has elapsed since the applicant's last criminal activity;
  - (4) The conduct and work activity of the applicant prior to and following the criminal activity;
  - (5) Evidence of the applicant's rehabilitation or rehabilitative effort while incarcerated or following release; and
  - (6) Other evidence of the applicant's present fitness, including letters of recommendation from prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the applicant; the sheriff and chief of police in the community where the applicant resides; and any other persons in contact with the applicant.
- (c) It is the responsibility of the applicant, to the extent possible, to secure and provide to the director the evidence required to determine present fitness under subsection (b) of this section.

**Sec. 27-32. - Investigation of application.**

- (a) For the purpose of determining qualification under section 27-31 the director shall require an applicant for a city chauffeur's license to submit to a physical examination, at the applicant's expense, conducted by a licensed physician and to furnish to the director a statement from the physician which certifies that the physician has examined the applicant and that in the physician's professional opinion the applicant is qualified under section 27-31.
- (b) The police department shall investigate each applicant and furnish the director a report concerning applicant's qualification under section 27-31.
- (c) The director may conduct such other investigations, as he considers necessary to determine whether an applicant for a city chauffeur's license is qualified pursuant to the requirements provided for herein.

**Sec. 27-33. - Issuance and denial.**

- (a) If the director determines that an applicant is qualified, the director shall issue a license to the applicant.
- (b) The director shall delay until final adjudication the approval of the application of any applicant who is under indictment for or has charges pending for:
  - (1) Any offense listed in section 27-31 or criminal attempt to commit any of those; or
  - (2) Any offense involving driving while intoxicated.
- (c) The director may deny the application for a city chauffeur's license if the applicant:
  - (1) Is not qualified under section 27-31;
  - (2) Refuses to submit to or does not pass a medical or written examination authorized under section 27-31; or
  - (3) Makes a false statement of a material fact in his application for a city chauffeur's license.
- (d) If the director determines that an application should be denied, the director shall notify the applicant in writing that his application is denied and include in the notice the reason for denial and a statement informing the applicant of his right of appeal in accordance with section 27-40 of this chapter.

**Sec. 27-34. - Expiration of city chauffeur's license; voidance upon suspension or revocation of state driver's license.**

- (a) A city chauffeur's license expires one (1) year from the date of issuance.
- (b) If a licensee's state driver's license is suspended or revoked by the state, his city chauffeur's license automatically becomes void. A licensee shall notify the city secretary and the holder for whom he drives within three (3) days of a suspension or revocation of his driver's license by the state and shall immediately surrender his city chauffeur's license to the city secretary.

**Sec. 27-35. - Identification card requirements for vehicle for hire drivers.**

- (a) After the director has verified an applicant's fingerprints and authorized the issuance of a city chauffeur's license, the city secretary shall issue two (2) identification cards to the applicant.
- (b) One (1) card shall contain the facial view photograph of the applicant. The card shall be displayed in a place conspicuous to passengers inside the taxicab at all times and shall include the following statement:

TO THE PASSENGER OF THIS VEHICLE FOR HIRE:  
If the description of the driver of this vehicle does not conform to the photograph hereon, please leave the cab and notify the Brenham Police Department immediately, giving the number of this vehicle and the name of the vehicle for hire company.
- (c) The other card shall be displayed conspicuously by the driver on his/her upper body clothing when operating a vehicle for hire.

**Sec. 27-36. - Duplicate license.**

If a city chauffeur's license is lost or destroyed, the city secretary shall issue the licensee a duplicate license upon payment to the city of ten dollars (\$10.00).

**Sec. 27-37. - Display of license.**

A taxicab driver shall allow the director, his delegated representative, passenger, or a peace officer to examine the driver's city chauffeur's license upon request.

**Sec. 27-38. - Suspension by director.**

- (a) If the director determines that a licensee has failed to comply with this chapter or a regulation established under this chapter, he may suspend the taxicab driver's license for a period of time not to exceed three (3) days by serving the licensee with a written notice of the suspension. The written notice must include the reason for suspension, the date the suspension begins, the duration of the suspension, and a statement informing the licensee of his right of appeal.
- (b) A suspension under this section may be appealed to the director if the licensee requests an appeal at the time notice of suspension is served. When an appeal is requested, the suspension may not take effect until a hearing is provided.
- (c) The director may order an expedited hearing under this section, to be held as soon as possible after the licensee requests an appeal. The director may affirm, reverse, or modify the suspension order. The decision of the director is final.

**Sec. 27-39. - Suspension and revocation of chauffeur's license.**

- (a) If the director determines that a licensee has failed to comply with this chapter or a regulation established under this chapter, the director may suspend the driver's city chauffeur's license for a definite period of time not to exceed sixty (60) days.
- (b) If at any time the director determines that a licensee is not qualified under this chapter or is under indictment or has charges pending for any offense involving driving while intoxicated or any offense involving a crime described in section 27-31(a)(8) or criminal attempt to commit any of those offenses, the director shall suspend the city chauffeur's license until such time as the director determines that the licensee is qualified or that the charges against the licensee have been finally adjudicated.
- (c) A licensee whose city chauffeur's license is suspended shall not drive a taxicab inside the city during the period of said suspension.
- (d) The director shall notify the licensee and the holder in writing of a suspension under this section and include in the notice the reason for the suspension; the date the director orders the suspension to begin, the duration of suspension and a statement informing the licensee of a right of appeal. The period of suspension begins on the date specified by the director.
- (e) The director may revoke a city chauffeur's license if the director determines that the licensee:
  - (1) Operated a taxicab inside the city during a period in which the city chauffeur's license was suspended;

- (2) Made a false statement of a material fact in an application for a city chauffeur's license;
- (3) Engaged in conduct that constitutes a ground for suspension and received either a suspension in excess of three (3) days or a conviction for violation of this chapter, two (2) times within the twelve-month period preceding the occurrence of the conduct or three (3) times within the twenty-four-month period preceding the occurrence of the conduct;
- (4) Engaged in conduct that could reasonably be determined to be detrimental to the public safety;
- (5) Used, possessed, or was under the influence of any form of alcoholic beverage or narcotic, or drug while on duty as a driver of a vehicle for hire, whether or not such drug or narcotic is defined as a dangerous drug or as a controlled substance under state or federal law; or
- (6) Was convicted of any felony offense while holding a city chauffeur's license.
- (f) A person whose city chauffeur's license is revoked shall not:
  - (1) Apply for another city chauffeur's license before the expiration of twelve (12) months from the date the director revokes the license or, in the case of an appeal, the date the appeal hearing officer affirms the revocation; or
  - (2) Drive a taxicab inside the city.
- (g) The director shall notify the licensee in writing of a revocation and include in the notice the reason for the revocation, the date the director orders the revocation, and a statement informing the licensee of his right of appeal.
- (h) After receipt of notice of suspension, revocation, or denial of license renewal, the licensee shall, on the date specified in the notice, surrender his city chauffeur's license to the city secretary and discontinue driving a taxicab inside the city.
- (i) Notwithstanding subsections (c) and (h), if the licensee appeals the suspension or revocation under this section, the licensee may continue to drive a taxicab pending the appeal unless:
  - (1) The city chauffeur's license of the licensee is suspended pursuant to subsection (b) or revoked pursuant to subsection (e)(6) of this section; or
  - (2) The director determines that continued operation by the licensee would impose an immediate threat to public safety.

**Sec. 27-40. - Appeal.**

- (a) A person may appeal the following decisions of the director if he requests an appeal in writing and delivers it to the city secretary's office not more than ten (10) business days after receiving notice of the director's action:
  - (1) A denial of an application for a permit;
  - (2) A suspension or revocation of a permit;
  - (3) A denial of renewal of annual permit;
  - (4) Denial of a city chauffeur's license application;
  - (5) Suspension of a city chauffeur's license; or
  - (6) Revocation of a city chauffeur's license.

- (b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of the evidence presented at the hearing.
- (c) The hearing officer may affirm, modify, or reverse all or part of the action of the director being appealed. The decision of the hearing officer is final.

**Sec. 27-41. - Falsifying of a license.**

A person commits an offense if he:

- (1) Forges, alters, or counterfeits a city chauffeur's license, badge, sticker, or emblem required by law; or
- (2) Possesses a forged, altered, or counterfeited city chauffeur's license, badge, sticker, or emblem required by law.

**Sec. 27-42. - Current mailing address of licensee.**

An individual issued a city chauffeur's license shall maintain a current mailing address on file with the city secretary. The licensee shall notify the city secretary of any change in mailing address within five (5) business days of the change.

**Sec. 27-43. - License renewal.**

A person desiring to renew their city's chauffeur's license shall pay a renewal fee of ten dollars (\$10.00) to the city.

**Secs. 27-44—27-49. - Reserved.**

**ARTICLE 4. - MISCELLANEOUS HOLDER AND DRIVER REGULATIONS**

**Sec. 27-50. - Holder's and driver's duty to comply.**

- (a) *Holder.* In the operation of a taxicab service, a holder shall comply with the terms and conditions of the holder's operating authority and, except to the extent expressly provided otherwise by the operating authority, shall comply with this chapter, regulations established under this chapter, and other law applicable to the operation of a taxicab service.
- (b) *Driver.* A driver shall comply with this chapter, regulations established under this chapter, other law applicable to the operation of a motor vehicle in this state, and orders issued by the holder employing or contracting with the driver in connection with the holder's discharging of its duty under its operating authority and this chapter.



**Sec. 27-51. - Holder's duty to enforce compliance by drivers.**

- (a) A holder shall establish a policy and take action to discourage, prevent, or correct violations of this chapter by drivers who are employed by or contracting with the holder.
- (b) A holder shall not permit a driver who is employed by or contracting with the holder to drive a taxicab if the holder knows or has reasonable cause to suspect that the driver has failed to comply with this chapter, the rules and regulations established by the director or other applicable law.

**Sec. 27-52. - Insurance—Taxicabs.**

Every holder of a license to operate a taxicab service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of commercial automobile liability and property damage insurance, with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than the minimum coverage required by state law.

The applicant, prior to the issuance or renewal of the permit, shall furnish satisfactory proof of such coverage. Said policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If such notice of cancellation is given by the insurance company, the licensee shall obtain new insurance before meeting the requirements of this section prior to the expiration of the thirty-day period; if the licensee fails to do so his permit shall be immediately revoked.

**Sec. 27-53. - Holder's records and reports.**

- (a) Each holder shall maintain at a single location business records of its taxicab service. The director may specify methods used in maintaining the records, and the director may require maintenance of certain records which he determines are necessary for monitoring the activities, operations, service, and safety record of a holder. A holder shall make its records available for inspection by the director at reasonable times upon request.
- (b) Each holder shall submit to the city secretary such quarterly reports concerning its taxicab service as prescribed on a form provided by the city secretary.

**Secs. 27-54—27-59. - Reserved.**

**ARTICLE 5. - SERVICE REGULATIONS**

**Sec. 27-60. - City-wide taxicab service required.**

Except as otherwise provided by the holder's operating authority, a holder shall:

- (1) Provide taxicab service to the general public to and from any point inside the city that is accessible by public street except that this provision does not require a holder to subject a taxicab to mob violence or destruction;

- (2) During posted hours of operation, answer each call received for service inside the city as soon as practicable, and if the service cannot be rendered within a reasonable time, the holder shall inform the caller of the reason for the delay and the approximate time required to answer the call; and
- (3) If the holder is closed for business, the holder must inform callers through a recorded message of the hours of operation of the holder.

**Sec. 27-61. - Representation of availability of taxicab.**

A driver may not represent that his taxicab is engaged when it is in fact vacant.

**Sec. 27-62. - Refusal to convey passengers by taxicabs.**

- (a) While operating a taxicab a driver shall not refuse to convey a person who requests service unless:
  - (1) The person is disorderly;
  - (2) The driver is engaged in answering a previous request for service;
  - (3) The driver has reason to believe that the person is engaged in unlawful conduct; or
  - (4) The driver is in fear of his personal safety.

**Sec. 27-63. - Passenger limitations of taxicabs.**

- (a) While operating a taxicab a driver on duty may carry only a person who is a paying passenger, unless the passenger is an employee of the taxicab service that employs or contracts with the driver, a governmental inspector acting in an official capacity, or unless it is authorized by the holder's operating authority.
- (b) A driver may not carry at the same time more persons than the designed seating capacity of the taxicab.

**Sec. 27-64. - Carry passengers by direct route.**

A driver shall carry a passenger to his destination by the most direct and expeditious route available unless otherwise directed by the passenger.

**Sec. 27-65. - Solicitation of passengers by taxicabs.**

A driver may not solicit passengers.

**Sec. 27-66. - Conduct of drivers.**

A driver shall:

- (1) Act in a reasonable, prudent, and courteous manner;
- (2) Maintain a sanitary and well-groomed appearance;
- (3) Not possess, consume, or be under the influence of an alcoholic beverage, narcotic drug, or other substance that could adversely affect the driver's ability to drive a motor vehicle;

- (4) Not smoke tobacco products while transporting passengers;
- (5) Not interfere with the director in the performance of the director's duties;
- (6) Pull his vehicle to the curb when loading or unloading passengers;
- (7) Not refuse to discharge a passenger at any place designated by the passenger upon the streets of the city, except when the place so designated is a point not easily accessible because of a no parking zone, or conditions rendering the designated place or access to the designated place unreasonably hazardous; and
- (8) Comply with lawful orders of the director issued in the performance of his duties.

**Sec. 27-67. - Limitations on hours of work.**

- (a) No driver permitted under this chapter shall drive more than twelve (12) hours in any one (1) consecutive twenty-four-hour period.
- (b) No holder or owner shall allow any driver permitted under this chapter to drive for more than twelve (12) hours in any consecutive twenty-four-hour period.

**Sec. 27-68. - Return of passenger's property.**

- (a) Upon finding property left by a passenger in a taxicab, the driver shall immediately return the property to the owner. However, if the driver is unable to locate the owner or if the driver does not know the identity or whereabouts of the owner, the driver shall make a report of the property left in the taxicab to the holder, and within a reasonable time, not to exceed four (4) hours from discovery of the property, deliver the property to the holder's dispatching facility.
- (b) Upon return of property to the owner or delivery of property to the holder, the driver shall prepare a written report stating the description of the property, the identity of the owner if known, date the property was left in the taxicab, the circumstances relating to the loss, and the taxicab number. The holder shall keep the report on file for at least one (1) year and shall hold the property for not less than three (3) months.

**Sec. 27-69. - Service regulations for business establishments requesting taxicabs for customers.**

An employee of a business establishment, other than a taxicab service, who acts as an agent in obtaining taxicab service for prospective taxicab passengers shall not solicit nor accept payment from a driver in return for giving preferential treatment in directing passengers to a driver's taxicab.

**Secs. 27-70—27-79. - Reserved.**

**ARTICLE 6. - FARES**

**Sec. 27-80. - Rates of fare—Taxicabs.**

A holder of a taxicab permit may charge only rates of fare which have been approved by the director at the time the permit was issued. A holder of a taxicab permit may propose a change in its rates of fare by filing the proposal with the city secretary for consideration by

the director. The director may approve, disapprove, or modify the proposed change.

**Sec. 27-81. - Display of rate card by taxicabs.**

- (a) A holder shall provide the driver for each taxicab operating under its authority, printed cards or stickers containing the approved rates of fare of the holder. There shall be posted in two (2) conspicuous places on the inside of each licensed taxicab, a legible card of a size to be determined by the director, showing the rates allowed to be charged.
- (b) While operating a taxicab for hire, a driver shall, in a manner approved by the director, prominently display two (2) rate cards or stickers inside the taxicab and two (2) rate cards or stickers outside the taxicab so that passengers can easily read them.

**Sec. 27-82. - Computation of fares for taxicabs.**

A holder shall equip each taxicab with a taximeter, and a driver shall charge only a fee as computed by the taximeter. However, a holder may authorize a driver to make a flat rate charge for a trip to a destination which is not covered in the holder's approved rates of fare, if the taximeter is kept in operation while the taxicab has a passenger within the scope of the area designated in the approved rates of fare.

**Sec. 27-83. - Design and testing of taximeters; fees.**

- (a) A taximeter must accurately register in legible figures on the basis of both mileage and time under the rates and charges established herein. Figures denoting the fare must be illuminated when the meter is activated.
- (b) A taximeter must be mounted in a conspicuous location in the taxicab in a manner approved by the director so that the face of the taximeter and the fare numerals may be easily seen and read by a passenger sitting in any part of the taxicab.
- (c) The design of a taximeter is subject to approval by the director to assure that it complies with this section. No taximeter shall be used on any taxicab the type and design of which has not been approved by the director. Before installing a taximeter, taxicab owners shall submit the type and design of taximeter to the director. If the taximeter is capable of properly and accurately computing and registering on its face the charge for the distance traveled by and the waiting time of the taxicab, the director shall approve the taximeter. Virtual taximeters are acceptable, but are subject to all requirements of this chapter.
- (d) A holder shall cause each taximeter in taxicabs operating under its authority to be maintained in good operating condition. The director may establish a schedule of regular testing days and times for purposes of this section.
- (e) A person commits an offense if he operates a taxicab that is:
  - (1) Not equipped with a taximeter; or
  - (2) Equipped with a taximeter that has been tampered with or altered, or that incorrectly registers or computes taxicab fares because of alterations to the taxicab.

(f) The following persons shall be responsible and subject to the penalty for a violation of subsection (e):

- (1) The driver of the taxicab.
  - (2) The owner of the taxicab.
  - (3) The holder under whose authority the taxicab is being operated.
- (g) Proof of taxicab ownership for purposes of this section may be made by a copy of the registration of the vehicle with the state showing the name of the person to whom the state license plates for the vehicle were issued. The person in whose name the vehicle is registered shall be deemed to be the prima facie owner of the vehicle. If the vehicle is not currently registered, the person in whose name the vehicle was last registered shall be deemed to be the prima facie owner of the vehicle.

**Sec. 27-84. - Taxicab fare collection procedures.**

- (a) Before changing the taximeter to indicate that the taxicab is vacant, a driver shall call the attention of the passenger to the amount of fare registered on the taximeter.
- (b) Upon request by a person paying a fare, a driver shall give the person a legible receipt showing:
  - (1) The name of the holder under whose authority the taxicab is operated;
  - (2) The taxicab number;
  - (3) An itemized list of charges;
  - (4) The total amount of fare paid;
  - (5) The date of payment; and
  - (6) The driver's signature.
- (c) A holder shall provide each driver operating a taxicab under its authority with printed receipt forms adequate for providing the information required in subsection (b).

**Secs. 27-85—27-89. - Reserved.**

**ARTICLE 7. - VEHICLES AND EQUIPMENT**

**Sec. 27-90. - False representation as taxicab.**

- (a) A person may not represent that a vehicle is a taxicab if the vehicle is not in fact a taxicab authorized by operating authority granted under this chapter.
- (b) A person may not drive a vehicle that is not a taxicab in the city if the vehicle is marked, painted, or equipped in a way that is likely to result in mistaking the vehicle for a taxicab.

**Sec. 27-91. - Vehicle requirements and inspections.**

- (a) The director may by regulation establish requirements for size, condition, and accessories of taxicabs used by a taxicab owner or driver.
- (b) The director shall inspect each taxicab for compliance with this chapter and regulations before it is placed in service, at regular inspections, and at such times as determined by the director. The director shall complete a city inspection form and shall maintain such form as a public record. If any inspection reveals that the vehicle is unsafe or does not comply with the

- provisions of this chapter or state law the vehicle owner shall remove the vehicle from service.
- (c) A holder, owner, or driver shall make a taxicab available for inspection when ordered by the director. It shall be unlawful for any person to refuse to allow the director to inspect any vehicle used as a taxicab operating in the city pursuant to this chapter.
  - (d) If, upon inspection, the director determines that a taxicab is not in compliance with this chapter or regulations, the director shall order the taxicab to be brought into compliance within a reasonable period of time and require it to be re-inspected. The owner shall pay a ten dollar (\$10.00) fee for each re-inspection of a taxicab that is required before it is brought into compliance.
  - (e) If a holder, owner, or driver fails to make a taxicab available for inspection or if the director determines that a taxicab is not in compliance with this chapter or regulations, the director may order the taxicab removed from service until it is made available for inspection and brought into compliance.
  - (f) If the director determines that inspection of the mechanical condition or safety equipment of a taxicab by an expert mechanic or technician is necessary, the holder, owner, or driver shall pay the cost of the inspection.
  - (g) Before any taxicab will be approved for service, the holder or owner shall provide the director with a copy of the registration for the vehicle with the state, or a bill of sale if the vehicle is new and has not yet been registered, showing the name of the individual or holder owning the vehicle. The owner shown on the registration or bill of sale provided to the director shall notify the director of any change in ownership of the taxicab within ten (10) business days.
  - (h) Taxicab inspections conducted by the director shall be limited to those items observable by a layperson by external visual inspection. Items to be inspected shall include, but not be limited to, the following: vehicle identification number; taxicab number; head lamps; tail lamps; license plate lights; dome light; horn; windshield wipers; heating, ventilating, and air conditioning systems; presence of fire extinguisher; spare tire; the condition of the tires, passenger compartment, rearview mirrors; all windows; overall cleanliness; safety; condition of paint; color scheme; taximeter readings; rate card; required signage; fumes; permanent state license plates and current registration sticker; mileage; accuracy of taximeter, and condition of the body of the vehicle.
  - (i) Each inspection may include a ride-along inspection ride of up to one (1) hour's duration as deemed necessary by the director.

#### **Sec. 27-92. - Required equipment for taxicabs.**

- (a) Unless otherwise specified in the operating authority under which a taxicab is operated or by regulation of the director, and in addition to other equipment required by this chapter, a holder, owner, or driver shall provide and maintain in good operating condition the following equipment for each taxicab:
  - (1) Seat belts for each passenger, the number of which is determined by the designed seating capacity of the taxicab;
  - (2) Heater and air conditioner;
  - (3) Chemical-type fire extinguisher, of at least one (1) quart capacity, readily accessible for immediate use;
  - (4) Map of the city;

- (5) Permit card complying with section 27-95 of this chapter;
- (6) Rates of fare cards or stickers; and
- (7) Taximeter.

**Sec. 27-93. - Taxicab color scheme and distinctive markings.**

A holder shall develop the design of a color scheme and distinctive markings for taxicabs operating under its authority, and shall submit the design to the director for approval to insure that the design is readily distinguishable from the design used by other holders.

**Sec. 27-94. - Required taxicab identification.**

A holder shall cause each taxicab operating under its authority to be provided with the following uniform vehicle identification:

- (1) Every taxicab shall have on the door of the cab the name of the owner or the assumed name under which the owner operates, together with the company's telephone number and the cab number.
- (2) The number of the cab and the owner or the assumed name under which the owner operates, shall be stenciled or painted upon the rear of any such vehicle. Such lettering, stencil and/or paint must be kept legible at all times.

**Sec. 27-95. - Taxicab permit cards.**

- (a) The holder, owner, or driver of a taxicab shall obtain a permit card from the city secretary's office, indicating the taxicab's authority to operate, which shall show there on the date of expiration of the permit to operate a taxicab applicable to such vehicle. The permit card must be attached to the front windshield of the taxicab in a manner approved by the director.
- (b) A person commits an offense if he:
  - (1) Operates a taxicab with an expired permit card or with no permit card affixed to it;
  - (2) Attaches a permit card to a vehicle not authorized to operate as a taxicab;
  - (3) Forges, alters, or counterfeits a taxicab permit card required by this section;
  - (4) Possesses a forged, altered, or counterfeited taxicab permit card required by this section; or
  - (5) Displays more than one (1) taxicab permit cards issued by the city on a vehicle at the same time.
- (c) A taxicab permit card assigned to one (1) person is not transferable to another without consent of the director.

**Sec. 27-96. - Removal of equipment from taxicabs.**

- (a) Whenever a vehicle is removed from service or is no longer authorized to operate as a taxicab, the holder, owner, or driver shall remove from the vehicle all taxicab signs, markings, and equipment that would distinguish the vehicle as a taxicab, including, but not limited to, radios, top lights, meters, and decals.



- (b) A holder, owner, or driver of a taxicab shall not sell or transfer to a driver any radio, top light, meter, or other equipment that would distinguish a vehicle as a taxicab.

**Secs. 27-97—27-99. - Reserved.**

## **ARTICLE 8. - ENFORCEMENT**

### **Sec. 27-100. - Authority to inspect.**

The director and his delegates may inspect a taxicab service operating under this chapter to determine whether the service complies with this chapter, regulations established under this chapter, or other applicable law.

### **Sec. 27-101. - Removal of evidence of authorization.**

Whenever a holder's operating authority or a taxicab driver's license is suspended, revoked, or denied or whenever a vehicle fails to pass inspection as a taxicab, the director may remove or require the surrender of all evidence of authorization as a holder, taxicab driver, or taxicab, including, but not limited to, removal or surrender of operating authority, licenses, permit cards, and signs, if applicable.

### **Sec. 27-102. - Enforcement by police department.**

Officers of the police department shall assist in the enforcement of this chapter. A police officer upon observing a violation of this chapter or the regulations established by the director shall take necessary enforcement action to insure the effective regulation of taxicab service.

### **Sec. 27-103. - Correction order.**

- (a) If the director determines that a holder violates this chapter, terms of its operating authority, a regulation established by the director, or other law, the director may notify the holder in writing of the violation and by written order direct the holder to correct the violation within a reasonable period of time. In setting the time for correction the director shall consider the degree of danger to the public health or safety and the nature of the violation. If the violation involves equipment that is unsafe or functioning improperly, the director shall order the holder to immediately cease use of the equipment.
- (b) If the director determines that a violation constitutes an imminent and serious threat to the public health or safety, the director shall order the holder to correct the violation immediately, and, if the holder fails to comply, the director shall promptly take or cause to be taken such action as he considers necessary to enforce the order immediately.
- (c) The director shall include in a notice issued under this section an identification of the violation, the date of issuance of the notice and the time period within which the violation must be corrected, a warning that failure to comply with the order may result in suspension or revocation of operating authority or imposition of a fine or both, and a statement indicating that the order may be appealed to the city manager.

**Sec. 27-104. - Service of notice.**

- (a) A holder shall designate and maintain a representative to receive service of notice required under this chapter to be given a holder and to serve notice required under this chapter to be given a driver employed by a holder.
- (b) Notice required under this chapter to be given:
  - (1) A holder, or the holder's designated representative, must be personally served by the director; or
  - (2) A driver licensed by the city under division 3, must be personally served or sent by certified United States mail, five-day return receipt requested, to the address, last known to the director, of the person to be notified, or to the designated representative for drivers.
- (c) Notice required under this chapter to be given a person other than a driver licensed under division 3 or a holder may be served in the manner prescribed by subsection (b)(2).
- (d) Service executed in accordance with this section constitutes notice to the person to whom the notice is addressed. The date of service for notice that is mailed is the date received.
- (e) This section does not apply to notice served under section 27-39.

**Sec. 27-105. - Appeal.**

- (a) A holder may appeal a correction order issued under section 27-103 or any other action of the director if an appeal is requested in writing not more than ten (10) days after notice of the order or action is received.
- (b) The city manager or his designated representative shall act as the appeal hearing officer in an appeal hearing under this section. The hearing officer shall give the appealing party an opportunity to present evidence and make argument in his behalf. The formal rules of evidence do not apply to an appeal hearing under this section, and the hearing officer shall make his ruling on the basis of a preponderance of evidence presented at the hearing.
- (c) The hearing officer may affirm, modify, or reverse all or a part of the order of the director. The decision of the hearing officer is final.

**Secs. 27-106—27-110 - Reserved.**

**SECTION 4.**  
**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 5.**  
**SEVERABILITY**

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. 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 6.**  
**REPEALER**

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

**SECTION 7.**  
**EFFECTIVE DATE**

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

**SECTION 8.**  
**PROPER NOTICE AND MEETINGS**

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

**PASSED and APPROVED** on its first reading this the \_\_ day of \_\_ 2019.

**PASSED and APPROVED** on its second reading this the \_\_ day of \_\_ 2019.

\_\_\_\_\_  
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

\_\_\_\_\_  
Jeana Bellinger, TRMC, CMC  
City Secretary



## AGENDA ITEM 10

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------------|------------------------|-------------------|---------------------------------------------|-----------------------------------------|--------------------------------------------------|----------------------------------|----------------------------------|--------------------------------------------------|--------------------------------------------|---------------------------------------------|------------------------------------------------|--|---------------------------------------|--|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>DATE SUBMITTED:</b> August 9, 2019       |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>DEPT. OF ORIGIN:</b> Economic Development                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>SUBMITTED BY:</b> Susan Cates            |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"><b>MEETING TYPE:</b></td> <td style="width: 33%; vertical-align: top;"><b>CLASSIFICATION:</b></td> <td style="width: 33%; vertical-align: top;"><b>ORDINANCE:</b></td> </tr> <tr> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input type="checkbox"/> PUBLIC HEARING</td> <td><input type="checkbox"/> 1<sup>ST</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> SPECIAL</td> <td><input type="checkbox"/> CONSENT</td> <td><input type="checkbox"/> 2<sup>ND</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> EXECUTIVE SESSION</td> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input checked="" type="checkbox"/> RESOLUTION</td> </tr> <tr> <td></td> <td><input type="checkbox"/> WORK SESSION</td> <td></td> </tr> </table> |                                             | <b>MEETING TYPE:</b>                             | <b>CLASSIFICATION:</b> | <b>ORDINANCE:</b> | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 <sup>ST</sup> READING | <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 <sup>ND</sup> READING | <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input checked="" type="checkbox"/> RESOLUTION |  | <input type="checkbox"/> WORK SESSION |  |
| <b>MEETING TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <input checked="" type="checkbox"/> REGULAR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <input type="checkbox"/> PUBLIC HEARING     | <input type="checkbox"/> 1 <sup>ST</sup> READING |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <input type="checkbox"/> SPECIAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <input checked="" type="checkbox"/> REGULAR | <input checked="" type="checkbox"/> RESOLUTION   |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <input type="checkbox"/> WORK SESSION       |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Resolution No. R-19-021 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Del Sol Food Company, Inc. in Reinvestment Zone Number 47                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>SUMMARY STATEMENT:</b> Del Sol Food Company, Inc. will invest \$7.7M for this expansion project. Of this, \$2.85M will be for improvements to existing and newly acquired property that will increase the value an estimated \$1.38M. In addition, Del Sol is estimating adding 10 new full time equivalent positions related to this expansion.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><br><div style="margin-left: 40px;"> <b>A. PROS:</b> Estimated increase in value of the property within RZ47 of \$1.38M, additional employment of 10 full-time equivalent jobs, opportunity to support the expansion of our existing business, Del Sol Foods.<br/><br/> <b>B. CONS:</b> none noted         </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>ATTACHMENTS:</b> (1) Resolution No. R-19-021; (2) Memo regarding revised calculations; and (3) Revised projected investment by the City in Tax Phase In for this project                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>RECOMMENDED ACTION:</b> Approve Resolution No. R-19-021 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with Del Sol Food Company, Inc. in Reinvestment Zone Number 47                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                                |  |                                       |  |

## **RESOLUTION NO. R-19-021**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS ADOPTING A COMMERCIAL TAX PHASE-IN AGREEMENT WITH DEL SOL FOOD COMPANY, INC.; AUTHORIZING THE MAYOR TO EXECUTE THE TAX PHASE-IN AGREEMENT; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, Chapter 312 of the Texas Tax Code authorizes the City of Brenham, Texas, to participate in tax phase-in incentives; and

**WHEREAS**, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas previously passed a resolution stating the City's intent to participate in tax phase-in incentives; and

**WHEREAS**, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas also previously adopted tax phase-in incentive guidelines and criteria; and

**WHEREAS**, the City Council of the City of Brenham, Texas, finds and determines that the terms of the Tax Phase-In Agreement and the subject property meet the applicable tax phase-in incentive guidelines and criteria, and entering into the Tax Phase-In Agreement will be to the benefit of the citizens of the City of Brenham; and

**WHEREAS**, the City Council desires to adopt the Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes, by and between the City of Brenham, Texas, and Del Sol Food Company, Inc., a Texas corporation;

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

Section 1: That the foregoing recitals are hereby found to be true and correct legislative findings of the City of Brenham, Texas, and are fully incorporated into the body of this Resolution.

Section 2: That the City Council of the City of Brenham, Texas does hereby adopt the commercial Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A", by and between the City of Brenham, Texas, and Del Sol Food Company, Inc.

Section 3: That the Mayor is hereby authorized to execute the Tax Phase-In Agreement between the City of Brenham, Texas, and Del Sol Food Company, Inc., a copy of which is attached hereto as Exhibit "A".

Section 4: This Resolution shall become effective immediately from and after its passage.

**RESOLVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

\_\_\_\_\_  
Jeana Bellinger, TRMC, CMC  
City Secretary

**AGREEMENT FOR DEVELOPMENT AND TAX PHASE-IN  
IN REINVESTMENT ZONE NO. 47 FOR COMMERCIAL TAX PHASE-IN,  
CITY OF BRENHAM, TEXAS**

**THE STATE OF TEXAS**

**COUNTY OF WASHINGTON**

This Agreement is entered into by and between the CITY OF BRENHAM, TEXAS, a Texas home-rule municipal corporation, of Washington County, Texas, acting herein by and through its Mayor, hereinafter referred to as CITY, and DEL SOL FOOD COMPANY, INC., a Texas corporation hereinafter referred to as COMPANY.

**WITNESSETH:**

The City Council of the City of Brenham, Texas, ("COUNCIL") on February 20, 1992, adopted by resolution a policy for the creation of tax abatement zones in the City of Brenham ("POLICY"). Said POLICY was amended by COUNCIL on April 2, 1992, amended on June 4, 1992, and re-adopted on December 1, 1994, November 20, 1997, October 21, 1999, November 1, 2001, January 15, 2004, December 20, 2007, December 17, 2009, December 15, 2011, December 5, 2013, February 18, 2016 (as amended), and December 7, 2017 (entitled "City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises"). On August 15, 2019, the COUNCIL, by Ordinance, established Reinvestment Zone No. 47 for Commercial Tax Phase-In, City of Brenham, Texas ("ZONE") as authorized by V.T.C.A., Texas Tax Code Chapter 312. Said POLICY is attached hereto as Exhibit "A" and incorporated herein for all purposes.



**WHEREAS**, COMPANY has filed an application for the phase-in of ad valorem taxes, and

**WHEREAS**, COUNCIL finds that the application, this Agreement, and the property subject to this Agreement meet the applicable guidelines and criteria of said POLICY, and

**WHEREAS**, in order to provide for the proper development of such property and to aid in the conduct of the operation thereof to the best interest of the CITY in accordance with the above referenced ordinances, POLICY and statutes, the parties do mutually agree as follows:

1. **Location of Tax Phase-In.** The property that is the subject matter of this Agreement is the 29.137 acres of land and improvements located at 3015 – 3151 S. Blue Bell Road and described more particularly as four (4) certain tracts of land as follows: 1) TRACT ONE being a tract of land containing 10.560 acres, more or less, described as Lot Two, Replat of a Portion of Reserve “B”, Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 518-A of the Plat Records of Washington County (P.R.W.C.); 2) TRACT TWO being a tract of land containing 9.3353 acres, more or less, described as Lot 3, Reserve B, Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 592-A of the Plat Records of Washington County (P.R.W.C.); 3) TRACT THREE being a tract of land containing 8.07 acres, more or less, situated in the Isaac Lee Survey, Abstract No. 77, in Washington County, Texas, being a portion of the 32.16 acre tract of land described in Special Warranty Deed dated December 20, 2017 from John Beckendorf, et al. to Del Sol Food Company Incorporated as recorded in Volume 1613, Page 828, Official Records of Washington County, Texas; and 4) TRACT FOUR being a tract of land containing approximately 1.1717 acres, more or less,

described as Portion of Reserve “B”, Brenham Business Center, Phase I, as shown on the plat recorded in Plat Slide 592-A (P.R.W.C.), said TRACT FOUR being bounded on the north by Blue Bell Road, bounded on the east by TRACT ONE described herein above, bounded on the south by a called 22.237 acre tract of land in a Deed to Curtis Ignasiak, Trustee, recorded in Volume 1637, Page 710, Official Records of Washington County, Texas, and bounded on the west by TRACT TWO described herein above, said TRACT ONE, TRACT TWO, TRACT THREE and TRACT FOUR being further described in Exhibit “B”, attached hereto and incorporated herein for all purposes, and which property is hereinafter referred to as "PREMISES."

2. **Improvements.** In consideration of COMPANY'S construction of at least Two Million Eight Hundred Fifty-Five Thousand and No/100 Dollars (\$2,855,000.00) of real and personal property improvements to said PREMISES, including fixed machinery, equipment and buildings, CITY agrees that, subject to the terms and conditions contained herein, eligible improvements and renovations to the above described PREMISES shall be entitled to tax phase-in incentives in accordance with the schedule as provided in “Table 1A – Property Improvements by an Existing Local Business”, and tax phase-in incentives in accordance with the schedule as provided in “Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses”, said Tables being set out in the attached Exhibit “A” incorporated herein for all purposes, and that upon the expiration of such tax phase-in incentives this Agreement shall terminate.

"Improvements and renovations" as used herein shall be defined as including the building and all other associated improvements (personal and realty) and fixtures and equipment on the

PREMISES added by the COMPANY within said zone. COMPANY will limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the ZONE during the period that property tax exemptions are in effect.

COMPANY acknowledges and agrees that the purpose of CITY in entering into this Agreement is to encourage development of the property in the ZONE and, therefore, COMPANY agrees to limit the use of the property to further said purpose.

3. **Submission of Plans.** COMPANY agrees that the site plan, interior and exterior design drawings and materials ("PLANS") for each improvement will be submitted to CITY and/or its designated representative for its approval when available. An official set of PLANS will be designated by the COMPANY and will be kept on file with the CITY.

4. **Other Applicable Regulations.** COMPANY agrees to construct all improvements in accordance with all applicable laws, ordinances, codes, rules, requirements or regulations of the City of Brenham, Washington County, the State of Texas and the United States, and any subdivision, agency or authority thereof.

5. **Liability of City in Approving Plans.** CITY, by approving the PLANS or any revised PLANS, assumes no liability or responsibility therefore for any defect in any fixed machinery or equipment installed or any improvement or structure constructed, renovated, or repaired from the PLANS or approved revised PLANS. The relationship between CITY and COMPANY at all times shall not be deemed a partnership or joint venture for purposes of this Agreement or for any other purpose.

COMPANY AGREES TO HOLD HARMLESS, INDEMNIFY AND REIMBURSE CITY, ITS OFFICERS, AGENTS, AND/OR EMPLOYEES FOR ANY DAMAGES SUFFERED BY THEM DUE TO COMPANY'S NEGLIGENCE OR WILLFUL MISCONDUCT, SUCH DUTY AND LIABILITY NOT TO EXCEED WHAT COMPANY WOULD OWE TO ANY OF THEM UNDER COMMON LAW. CITY AGREES TO NOTIFY COMPANY AS SOON AS REASONABLY POSSIBLE AFTER CITY BECOMES AWARE OF ANY LEGAL ACTION (INCLUDING PRE-LITIGATION NOTICES, DEMAND LETTERS, ETC.) WHICH REASONABLY COULD THEN BE FORESEEN AS HAVING THE PROSPECTIVE POTENTIAL OF ACTIVATING THE TERMS OF THE IMMEDIATELY PRECEDING SENTENCE.

6. **Rights of City to Inspect.** At all reasonable times during the construction and installation of improvements and renovations on the PREMISES and following completion, CITY and its respective designees may inspect PREMISES in order to verify the construction, workmanship, materials and installations involved in or incident to the project are performed in substantial compliance with the approved PLANS and compliance with the applicable building permits and governmental regulations.

7. **Payment of Taxes by Company.** COMPANY agrees to pay all ad valorem taxes and assessments that may be owed to CITY or any other taxing entity by it prior to such taxes and/or assessments becoming delinquent; provided, that COMPANY shall have the right to contest in good faith the validity or application of any such tax or assessment and shall not be considered in default hereunder so long as such contest is diligently pursued to completion. If

COMPANY undertakes any such contest, COMPANY shall so notify in writing CITY and keep CITY apprised of the status of such contest. Should COMPANY be unsuccessful in such contest, COMPANY shall promptly pay the taxes, penalties, and/or interest, resulting therefrom.

COMPANY certifies that at the time of execution of this Agreement, there are no delinquent ad valorem taxes on the PREMISES, or fixed machinery, equipment and buildings located on the PREMISES, owed to any taxing jurisdiction. Subject to the foregoing paragraph, COMPANY shall pay all non-phased-in taxes subject to all requirements and due dates, as it would be required to pay in the absence of this Agreement.

8. **Tax Recapture.** In the event COMPANY (i) does not construct the improvements and renovations to the PREMISES as contemplated by this Agreement, (ii) fails to use the PREMISES for the purposes that are contemplated by this Agreement, (iii) fails to comply with the terms of the “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises”, or (iv) otherwise fails to comply with the terms of this Agreement, then the CITY shall have the right to terminate this Agreement and recapture the amount of all property taxes abated as a result of this Agreement in accordance with Texas Tax Code Sec. 312.205 and the POLICY after written notice of intended recapture by CITY to COMPANY and failure to cure by COMPANY within thirty (30) days of said notice.

9. **Default.** In the event COMPANY (i) allows the PREMISES to become vacant, (ii) fails to pay all non-abated ad valorem taxes as required by Section 7 hereof, (iii) fails to comply with the terms of the “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises”, or (iv) otherwise fails to comply with the terms

of this Agreement, then COMPANY shall be in "default" in the performance of this Agreement. The CITY shall notify COMPANY in writing of said "default." Further, in accordance with Chapter 2264, Texas Government Code, COMPANY certifies that COMPANY, or a branch, division, or department of COMPANY does not and will not knowingly employ an undocumented worker. COMPANY further certifies that in the event that COMPANY, or a branch, division, or department of COMPANY, is convicted of a violation under 8 U.S.C. Section 1324a(f), COMPANY shall be repay the amounts of ad valorem taxes previously abated by the CITY pursuant to this Agreement, with interest, calculated at the rate ten percent (10%) annually. Such a conviction shall constitute a default under this Agreement.

If COMPANY does not comply with this Agreement within thirty (30) days of written notice of such "default", CITY reserves the right to terminate this Agreement and terminate the benefits of tax phase-in provided for in this Agreement, and all taxes previously abated pursuant to this Agreement shall be recaptured and paid to the CITY by the COMPANY. In such event, the PREMISES and all improvements, fixed machinery and equipment installed thereon shall be deemed taxable and not entitled to tax phase-in as provided herein. If this Agreement is terminated, any taxes abated for the calendar year of the termination shall be paid within sixty (60) days of the date of such termination, and all taxes and all taxes previously abated pursuant to this Agreement shall be recaptured and paid to the CITY by the COMPANY within sixty (60) days of the date of termination.

10. **Tax Phase-In Amount.** COMPANY shall receive tax phase-in incentives for eligible property improvements in accordance with the schedule as provided in "Table 1A – Property Improvements by an Existing Local Business", and tax phase-in incentives for job

creation in accordance with the schedule as provided in “Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses” said Tables being set out in the attached Exhibit “A”, and that upon the expiration of such tax phase-in incentives this Agreement shall terminate. The total annual tax phase-in incentive amount received by the COMPANY, expressed on a percentage basis, shall be the sum of the respective percentages provided for in Table 1A and Table 2 for the applicable year of the tax phase-in.

COMPANY shall, on or before October 15 of each calendar year, submit a sworn statement to the CITY’S Compliance Review Committee that COMPANY is in compliance with this Agreement, including such information as may be necessary to verify compliance (e.g. employment and payroll information), subject to verification by the City of Brenham and/or the Compliance Review Committee

During the term of this Agreement, the CITY, its officers and employees, and/or the Compliance Review Committee is entitled to review and verify the COMPANY’S employment records, payroll records, and such other information and documents as the CITY and/or the Compliance Review Committee deems reasonably necessary to verify compliance with this Agreement. The CITY, its officers and employees, and/or the Compliance Review Committee may conduct on-site inspections of the PREMISES and facilities located thereon during the term of this Agreement to verify compliance with this Agreement.

The estimated value of eligible property improvements for tax phase-in incentives is at least Two Million Eight Hundred Fifty-Five Thousand and No/100 Dollars (\$2,855,000.00). Notwithstanding anything contained herein to the contrary, COMPANY and CITY agree that the



amount of eligible property improvements and jobs created & retained as set forth herein are based on projected property improvement and personnel employed, and the actual amount of tax phase-in incentives shall be determined annually by Table 1A and Table 2 of the POLICY based on the actual eligible improvements and the actual number of employees. COMPANY agrees to reasonably cooperate with CITY to determine compliance with this Agreement and the applicable level of tax phase-in incentives.

11. **Certificate of Compliance.** Upon completion of the improvements and renovations to the PREMISES, COMPANY shall submit to CITY a sworn Certificate of Compliance certifying that all construction of the improvements and renovations to the PREMISES has been completed in accordance with the approved plans. After receipt of this Certificate of Compliance, CITY shall make a final inspection of PREMISES to determine whether the improvements and renovations have been constructed and installed in compliance with this Agreement. Upon so finding, CITY shall approve such a Certificate of Compliance and authorize tax phase-in to commence on January 1 of the year indicated in said certificate and terminate after the property has received the tax phase-in incentives as provided by this Agreement and Exhibit "A."

12. **Eligible and Ineligible Property.** "Eligible property" is defined to include all of the following items located on the PREMISES which were not so located prior to execution of this Agreement and whether or not they are so affixed as to become "real property": buildings, structures, fixed machinery and equipment, site improvements (including landscaping), office space and related fixed improvements necessary to the operation and administration of the facility.

"Ineligible Property" shall be fully taxable and ineligible for abatement, defined as including:

- Land;
- Animals;
- Inventories;
- Supplies;
- Tools;
- Furnishings and other forms of movable personal property (except as described as "eligible property" above);
- Vehicles;
- Vessels;
- Aircraft;
- Hotels/motels;
- Housing or residential property;
- Fauna;
- Flora (excluding landscaping improvements);
- Retail facilities;
- Deferred maintenance investments;
- Improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion;
- Any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility; or
- Property owned or used by the State of Texas or its political subdivisions or by any organization owned operated or directed by a political subdivision of the State of Texas.

13. **Severability.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added automatically as part of this Agreement a provision that is similar in terms and substance to such deleted provision as may be possible and yet be legal, valid and enforceable under the Texas Tax Code and related state statutes.

14. **Texas Law to Apply.** This Agreement shall be construed under the POLICY adopted by the CITY, including the Glossary of Terms, in accordance with said POLICY in force at the date of execution hereof and in accordance with the laws of the State of Texas. All obligations of the parties created hereunder are performable in Washington County, Texas. In the event of litigation, or other claim or dispute arising out of or involving this Agreement, exclusive venue shall lie in a court of competent jurisdiction in Washington County, Texas.

15. **Prior Agreements Superseded.** This Agreement constitutes the sole agreement of the parties herein and supersedes any and all prior written or oral agreements, arrangements or understandings between the parties relating to the subject matter.

16. **Amendments.** No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date of this Agreement and duly executed by the parties hereto.

17. **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its rights to use all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

18. **No Waiver.** No waiver by CITY in any event of default, or breach of any covenant, condition or stipulation herein contained by COMPANY shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition or stipulation hereof.

19. **Assignment.** This Agreement may be assigned by COMPANY upon CITY'S written approval of said assignment by the adoption of a resolution by the COUNCIL, and assignee assumes any and all rights and obligations under this Agreement. Upon such assignment, the assignor shall be fully released from any and all obligations under this Agreement.

20. **Authority to Act.** The parties to this Agreement shall provide proof of authorization to execute this document.

21. **Notice.** Whenever notice or other communication is herein required to be given to COMPANY or to CITY, such notice will be sent, respectively, to the attention of COMPANY'S President or other designated officer at the address of Company's facility in the reinvestment ZONE, or to the attention of the City Manager at the address of said City Manager's then-current office location, via certified or registered mail, return receipt requested. Such notice will be considered effectively delivered when sent if such is properly addressed and sent and the return receipt is received by the sender, or if addressee fails to receive or accept delivery and the undelivered item is returned to sender.

22. **Definitions.** Any definitions of words or phrases given in the currently effective tax phase-in guidelines entitled "City of Brenham Policy Statement on Property Tax Phase-in Incentive for Selected Commercial Enterprises" shall be controlling in this document as well, except as may be specifically modified herein

23. This Agreement has been approved by the governing body of the CITY.

24. Any aspect of this Agreement which may happen to conflict with the underlying jurisdiction's tax phase-in guidelines shall be considered as an approved modification or clarification of such guidelines as may be required to affect the intent of this Agreement.

25. For the duration of this Agreement and for additional consideration for this tax phase-in, COMPANY agrees to purchase the following utilities: water, electric, natural gas, and sewer, exclusively from the City of Brenham in its service area.

26. If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing party shall be entitled to reasonable attorney's fees and costs of the action.

The parties hereto have executed or caused to be executed by their duly authorized officials this Agreement in multiple counterparts, each of equal dignity, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**DEL SOL FOOD COMPANY, INC.**

**CITY OF BRENHAM, TEXAS**

BY: \_\_\_\_\_  
Scott Eckert  
President & CEO  
3015 S. Blue Bell Road  
Brenham, TX 77833

BY: \_\_\_\_\_  
Milton Y. Tate, Jr.  
Mayor  
P.O. Box 1059  
Brenham, TX 77834-1059

**ATTEST:**

BY: \_\_\_\_\_  
Jeana Bellinger, TRMC, CMC  
City Secretary  
P.O. Box 1059  
Brenham, TX 77834-1059

**THE STATE OF TEXAS**

**COUNTY OF WASHINGTON**

Before me, the undersigned authority, on this day personally appeared **MILTON Y. TATE, JR.**, Mayor of the CITY OF BRENHAM, TEXAS, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public in and for  
the State of Texas

**THE STATE OF TEXAS**

**COUNTY OF WASHINGTON**

Before me, the undersigned authority, on this day personally appeared **SCOTT ECKERT**, President and CEO of DEL SOL FOOD COMPANY, INC., known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public in and for  
the State of Texas



## **MEMORANDUM**

To: City of Brenham Mayor and City Council  
Washington County Judge and Commissioners Court  
Brenham City Manager James Fisher

From: Susan Cates, Director of Economic Development

Subject: Revised Calculations for Del Sol Food Company, Inc. Tax Phase-In

Date: August 9, 2019

In our Joint Workshop regarding the Tax Phase-In for Del Sol Food Company, Inc. on July 11, 2019 I presented a Tax Phase-In Calculation spread sheet estimated the amount of taxes abated on the proposed expansion project.

Following that meeting, Councilmember Clint Kolby reviewed the Tax Phase-In Policy as adopted by both City and County, specifically how Table 2 Jobs Created & Retained is applied. His opinion being that Table 2 should be calculated on total jobs, both created and retained, rather than only jobs created. The original calculation was based on jobs created by Del Sol for this expansion which will be ten (10). Following a discussion between Councilmember Kolby, James Fisher, Carolyn Miller, and myself, we agreed that Councilmember Kolby's interpretation of the Policy is correct. The comparison of original vs. revised is shown below.

The full revised Tax Phase-In Calculation is attached and reflects credit on Table 2 for total employment at Del Sol of 62 current employees retained plus the projected increase of 10 due to the expansion. Please note that actual dollars abated to Del Sol each year will be based on actual employment as verified by Texas Workforce Commission Form C-3 submitted as part of the annual compliance review.

Original Estimate

| <b><u>ESTIMATED ABATEMENT TOTAL</u></b> |                    |
|-----------------------------------------|--------------------|
| <b>City</b>                             | <b>\$26,844.31</b> |
| <b>County</b>                           | <b>\$26,849.50</b> |
| <b>Total</b>                            | <b>\$53,693.80</b> |

Revised Estimate

| <b><u>ESTIMATED ABATEMENT TOTAL</u></b> |                    |
|-----------------------------------------|--------------------|
| <b>City</b>                             | <b>\$41,205.33</b> |
| <b>County</b>                           | <b>\$41,213.30</b> |
| <b>Total</b>                            | <b>\$82,418.62</b> |



# TAX PHASE-IN CALCULATION

## PROJECT INFORMATION

|                |                                          |
|----------------|------------------------------------------|
| Project:       | <b>Del Sol Foods 2019 Expansion</b>      |
| Business Name: | <b>Del Sol Foods</b>                     |
| Prepared for:  | <b>Scott Eckert, President &amp; CEO</b> |
| Date Prepared: | <b>Revised 7/30/2019</b>                 |

| Jurisdiction            | Tax Rate <sup>1</sup> |
|-------------------------|-----------------------|
| City of Brenham*        | 0.232966835           |
| Washington County*      | 0.5170                |
| Blinn College           | 0.5171                |
| Brenham ISD             | 0.0601                |
|                         | 1.1250                |
| <b>Total Annual Tax</b> | <b>2.2192</b>         |

| <u>ESTIMATED ABATEMENT TOTAL</u> |                    |
|----------------------------------|--------------------|
| City                             | \$41,205.33        |
| County                           | \$41,213.30        |
| Total                            | <u>\$82,418.62</u> |

**\*Only City and County tax are available for possible abatement**

| TAX ABATEMENT SUMMARY                                  |                                      |              |              |              |              |              |              |              |              |               |             |             |
|--------------------------------------------------------|--------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|-------------|-------------|
|                                                        | Yr 1<br>2020                         | Yr 2<br>2021 | Yr 3<br>2022 | Yr 4<br>2023 | Yr 5<br>2024 | Yr 6<br>2025 | Yr 7<br>2026 | Yr 8<br>2027 | Yr 9<br>2028 | Yr 10<br>2029 | TOTAL       |             |
| TABLE 1A                                               |                                      |              |              |              |              |              |              |              |              |               |             |             |
| Property Improvements by<br>an Existing Local Business | Est. Valuation Increase <sup>2</sup> | \$0          | \$1,379,917  | L            | \$1,414,415  | \$1,449,775  | \$1,486,020  | \$1,523,170  | \$1,561,249  | \$1,600,281   | \$1,681,295 |             |
|                                                        | Abatement Rate                       | 0%           | 45%          | 45%          | 45%          | 40%          | 30%          | 20%          | 0%           | 0%            | 0%          |             |
|                                                        | City                                 | \$0.00       | \$3,210.38   | \$3,290.64   | \$3,372.90   | \$3,073.09   | \$2,362.44   | \$1,614.33   | \$0.00       | \$0.00        | \$0.00      | \$16,923.77 |
|                                                        | County                               | \$0.00       | \$3,211.00   | \$3,291.27   | \$3,373.55   | \$3,073.68   | \$2,362.89   | \$1,614.64   | \$0.00       | \$0.00        | \$0.00      | \$16,927.05 |
|                                                        | Total Abated                         | \$0.00       | \$6,421.37   | \$6,581.91   | \$6,746.46   | \$6,146.77   | \$4,725.33   | \$3,228.98   | \$0.00       | \$0.00        | \$0.00      | \$33,850.82 |
| TABLE 2                                                |                                      |              |              |              |              |              |              |              |              |               |             |             |
| Jobs Created and/or<br>Retained                        | Abatement Rate                       | 0%           | 45%          | 45%          | 45%          | 45%          | 40%          | 30%          | 20%          | 0%            | 0%          |             |
|                                                        | City                                 | \$0.00       | \$3,210.38   | \$3,290.64   | \$3,372.90   | \$3,457.22   | \$3,543.66   | \$3,228.66   | \$2,482.04   | \$1,696.06    | \$0.00      | \$24,281.55 |
|                                                        | County                               | \$0.00       | \$3,211.00   | \$3,291.27   | \$3,373.55   | \$3,457.89   | \$3,544.34   | \$3,229.29   | \$2,482.52   | \$1,696.39    | \$0.00      | \$24,286.25 |
|                                                        | Total Abated                         | \$0.00       | \$6,421.37   | \$6,581.91   | \$6,746.46   | \$6,915.12   | \$7,088.00   | \$6,457.95   | \$4,964.55   | \$3,392.44    | \$0.00      | \$48,567.80 |
| TAXES ABATED                                           |                                      |              |              |              |              |              |              |              |              |               |             |             |
| TOTALS                                                 | Rate                                 | 0%           | 90%          | 85%          | 75%          | 60%          | 30%          | 20%          | 0%           | 20%           | 0%          |             |
|                                                        | City                                 | \$0.00       | \$6,420.75   | \$6,581.27   | \$6,745.80   | \$6,530.31   | \$5,906.09   | \$4,843.00   | \$2,482.04   | \$1,696.06    | \$0.00      | \$41,205.33 |
|                                                        | County                               | \$0.00       | \$6,422.00   | \$6,582.55   | \$6,747.11   | \$6,531.58   | \$5,907.23   | \$4,843.93   | \$2,482.52   | \$1,696.39    | \$0.00      | \$41,213.30 |
| TOTAL TAXES ABATED:                                    |                                      | \$0.00       | \$12,842.75  | \$13,163.82  | \$13,492.91  | \$13,061.89  | \$11,813.33  | \$9,686.93   | \$4,964.55   | \$3,392.44    | \$0.00      | \$82,418.62 |

| TAXES TO BE PAID SUMMARY     |  |  |  |  |  |  |  |  |  | Tax Rate |        |              |              |              |              |              |              |              |              |              |              |                |
|------------------------------|--|--|--|--|--|--|--|--|--|----------|--------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|----------------|
| Total Valuation <sup>2</sup> |  |  |  |  |  |  |  |  |  |          | 2021   | 2022         | 2023         | 2024         | 2025         | 2026         | 2027         | 2028         | 2029         | TOTAL        |              |                |
| TAXES PAID                   |  |  |  |  |  |  |  |  |  |          |        |              |              |              |              |              |              |              |              |              |              |                |
| TOTALS                       |  |  |  |  |  |  |  |  |  |          |        |              |              |              |              |              |              |              |              |              |              |                |
| City                         |  |  |  |  |  |  |  |  |  |          | 0.5170 | \$68,918.15  | \$70,641.11  | \$72,407.13  | \$74,217.31  | \$76,072.75  | \$77,974.56  | \$79,923.93  | \$81,922.03  | \$83,970.08  | \$86,069.33  | \$772,116.37   |
| County                       |  |  |  |  |  |  |  |  |  |          | 0.5171 | \$68,931.48  | \$70,654.77  | \$72,421.14  | \$74,231.67  | \$76,087.46  | \$77,989.65  | \$79,939.39  | \$81,937.87  | \$83,986.32  | \$86,085.98  | \$772,265.72   |
| Blinn                        |  |  |  |  |  |  |  |  |  |          | 0.0601 | \$8,011.57   | \$8,211.86   | \$8,417.15   | \$8,627.58   | \$8,843.27   | \$9,064.35   | \$9,290.96   | \$9,523.24   | \$9,761.32   | \$10,005.35  | \$89,756.66    |
| Brenham ISD                  |  |  |  |  |  |  |  |  |  |          | 1.1250 | \$149,966.97 | \$153,716.14 | \$157,559.04 | \$161,498.02 | \$165,535.47 | \$169,673.86 | \$173,915.70 | \$178,263.60 | \$182,720.19 | \$187,288.19 | \$1,680,137.18 |
| Taxes Paid:                  |  |  |  |  |  |  |  |  |  |          | 2.2192 | \$295,828.17 | \$303,223.87 | \$310,804.47 | \$318,574.58 | \$326,538.95 | \$334,702.42 | \$343,069.98 | \$351,646.73 | \$360,437.90 | \$369,448.85 | \$3,314,275.93 |

<sup>1</sup> Annual Tax Rates may vary and are determined solely by the governing body of each jurisdiction.

<sup>2</sup>Estimating 2.5% annual growth rate of appraised value



## AGENDA ITEM 11

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>DATE SUBMITTED:</b> August 8, 2019                                                                                                                                                         |
| <b>DEPT. OF ORIGIN:</b> Finance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>SUBMITTED BY:</b> Carolyn D. Miller                                                                                                                                                        |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> WORK SESSION |
| <b>ORDINANCE:</b><br><input type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                               |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon the Approval of the FY2019-20 Proposed Budget for the Washington County Appraisal District                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                               |
| <b>SUMMARY STATEMENT:</b> The City has received a copy of the Washington County Appraisal District's (WCAD) FY2019-2020 Proposed Budget. The WCAD proposed budget shows an increase of \$80,758 over the prior year's budget mainly due to salary and benefit increases. Professional and contracted services also increased over the prior year along with several smaller line items in other categories. The impact for the City of Brenham is an increase of \$8,430 for FY19-20 which was included in the General Fund proposed budget already reviewed with Council.<br><br>I have attached the transmittal letter from Mr. Willy Dilworth and he will be attending the Council meeting to present the information and to answer any questions that may arise. |                                                                                                                                                                                               |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b><br><b>B. CONS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                               |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                               |
| <b>ATTACHMENTS:</b> (1) Transmittal letter from Willy Dilworth, Chief Appraiser                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                                                                                                                                               |
| <b>RECOMMENDED ACTION:</b> Staff recommends the approval of the FY2019-20 Washington County Appraisal District Proposed Budget                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                               |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                                                                               |

# WASHINGTON COUNTY APPRAISAL DISTRICT

1301 NIEBUHR  
P. O. BOX 681  
BRENHAM, TX 77834-0681  
(979) 277-3740

August 1, 2019

City of Brenham  
Mr. James Fisher  
PO Box 1059  
Brenham, TX 77834-1059

Dear Mr. Fisher,

The Washington County Appraisal District Board of Directors adopted our budget for the 2019-2020 budget year on July 23, 2019. The total amount of the budget is \$910,594. A copy is attached. Please note that this is an increase of \$80,758 from last year's budget.

We are asking you to approve this budget for the coming fiscal year.

Thank you for your consideration in this matter.

Sincerely;



Willy Dilworth  
Chief Appraiser

RECEIVED

AUG 7 2019

James Fisher  
City Manager



**Washington County Appraisal District**  
**2019-2020 Budget**  
**Adopted**  
**July 23, 2019**

41 General Administration

| <b>6100 Payroll Costs</b>        |                  | <b>2017-2018</b>  | <b>2018-2019</b>  | <b>2019-2020</b>  |
|----------------------------------|------------------|-------------------|-------------------|-------------------|
| Professional Personnel           | 6119.00-952-0-99 | \$ 67,712         | \$ 69,750         | \$ 70,849         |
| Para Professional Personnel      | 6129.00-952-0-99 | \$ 451,327        | \$ 445,762        | \$ 473,000        |
| In District Travel               | 6139.00-952-0-99 | \$ 600            | \$ 600            | \$ 600            |
| FIMM Medicare                    | 6141.00-952-0-99 | \$ 5,826          | \$ 5,826          | \$ 7,584          |
| Health Insurance/ Life Insurance | 6142.00-952-0-99 | \$ 28,212         | \$ 28,212         | \$ 43,485         |
| Workers Comp.                    | 6143.00-952-0-99 | \$ 661            | \$ 661            | \$ 665            |
| Unemployment Comp.               | 6145.00-952-0-99 | \$ -              | \$ -              | \$ -              |
| Teacher Retirement               | 6146.00-952-0-99 | \$ 2,853          | \$ 10,000         | \$ 16,830         |
| New Staff Member                 |                  | \$ -              | \$ -              |                   |
| <b>Payroll Costs</b>             |                  | <b>\$ 557,191</b> | <b>\$ 560,811</b> | <b>\$ 613,013</b> |

| <b>6200 Professional &amp; Contracted Services</b> |                  | <b>2017-2018</b>  | <b>2018-2019</b>  | <b>2019-2020</b>  |
|----------------------------------------------------|------------------|-------------------|-------------------|-------------------|
| Legal Services                                     | 6211.00-952-0-99 | \$ 1,200          | \$ 1,200          | \$ 1,200          |
| Arbitration                                        | 6212.00-952-0-99 | \$ 2,000          | \$ 2,000          | \$ 2,000          |
| Audit Services                                     | 6212.00-952-0-99 | \$ 5,900          | \$ 6,000          | \$ 6,000          |
| Tax Evaluation- T.Y. Pickett                       | 6213.00-952-0-99 | \$ 51,000         | \$ 51,000         | \$ 60,000         |
| Data Processing Services                           | 6218.00-952-0-99 | \$ 5,000          | \$ 5,000          | \$ 5,000          |
| Appraisal Review Board                             | 6219.00-952-0-99 | \$ 6,000          | \$ 6,000          | \$ 6,000          |
| Contracted Services- Software                      | 6249.00-952-0-99 | \$ 52,405         | \$ 52,405         | \$ 62,781         |
| Equipment Repair                                   | 6249.01-952-0-99 | \$ 1,500          | \$ 1,500          | \$ 1,500          |
| Contracted Maintenance- MAP                        | 6249.P2-952-0-99 | \$ 11,300         | \$ 12,700         | \$ 12,700         |
| Contracted Maintenance- Copier                     | 6249.P5-952-0-99 | \$ 4,000          | \$ 4,000          | \$ 4,100          |
| Building Rental                                    | 6269.01-952-0-99 | \$ 20,000         | \$ 20,000         | \$ 20,000         |
| <b>Professional &amp; Contracted Services</b>      |                  | <b>\$ 160,305</b> | <b>\$ 161,805</b> | <b>\$ 181,281</b> |

| <b>6300 Supplies &amp; Materials</b> |                  | <b>2017-2018</b> | <b>2018-2019</b> | <b>2019-2020</b> |
|--------------------------------------|------------------|------------------|------------------|------------------|
| Vehicle Supplies                     | 6311.00-952-0-99 | \$ 10,000        | \$ 10,000        | \$ 10,000        |
| Books & Magazines                    | 6329.00-952-0-99 | \$ 2,400         | \$ 2,400         | \$ 2,400         |
| Computer Supplies                    | 6397.00-952-0-99 | \$ 5,200         | \$ 5,200         | \$ 5,200         |
| General Supplies                     | 6399.00-952-0-99 | \$ 20,000        | \$ 20,000        | \$ 20,000        |
| <b>Supplies &amp; Materials</b>      |                  | <b>\$ 37,600</b> | <b>\$ 37,600</b> | <b>\$ 37,600</b> |

| <b>6400 Other Operating Costs</b> |                  | <b>2017-2018</b> | <b>2018-2019</b> | <b>2019-2020</b> |
|-----------------------------------|------------------|------------------|------------------|------------------|
| Travel                            | 6411.00-952-0-99 | \$ 3,600         | \$ 3,600         | \$ 3,600         |
| Insurance & Bonding Expenses      | 6429.00-952-0-99 | \$ 11,000        | \$ 11,000        | \$ 11,000        |
| Fees & Dues                       | 6499.00-952-0-99 | \$ 5,500         | \$ 5,500         | \$ 5,500         |
| Misc. Expenses                    | 6499.01-952-0-99 | \$ 5,000         | \$ 5,000         | \$ 5,000         |
| <b>Other Operating Costs</b>      |                  | <b>\$ 25,100</b> | <b>\$ 25,100</b> | <b>\$ 25,100</b> |

| <b>6500 Debt Service</b> |                  | <b>2017-2018</b> | <b>2018-2019</b> | <b>2019-2020</b> |
|--------------------------|------------------|------------------|------------------|------------------|
| Computer Note Payment    | 6512.00-952-0-99 | \$ -             | \$ -             | \$ -             |
| Interest on Loan         | 6522.00-952-0-99 | \$ -             | \$ -             | \$ -             |
| <b>Debt Service</b>      |                  | <b>\$ -</b>      | <b>\$ -</b>      | <b>\$ -</b>      |

| <b>6600 Capital Outlay- Land, Buildings &amp; Equip.</b> |                  | <b>2017-2018</b> | <b>2018-2019</b> | <b>2019-2020</b> |            |
|----------------------------------------------------------|------------------|------------------|------------------|------------------|------------|
| Vehicles                                                 | 6631.00-952-0-99 | \$ -             | \$ -             | \$ -             |            |
| Fixed Assets- >\$5000                                    | 6638.00-952-0-99 | \$ 7,270         | \$ 7,270         | \$ 13,000        | Server     |
| Fixed Assets                                             | 6639.00-952-0-99 | \$ -             | \$ -             | \$ -             |            |
| Fixed Assets- Unit<\$5000                                | 6649.00-952-0-99 | \$ 13,500        | \$ 13,500        | \$ 10,000        |            |
| Capital Outlay-Special Projects                          | 6649.SP-952-0-99 | \$ -             | \$ -             | \$ 6,600         | Pictometry |
| <b>Capital Outlay- Land, Buildings &amp; Equip.</b>      |                  | <b>\$ 20,770</b> | <b>\$ 20,770</b> | <b>\$ 29,600</b> |            |

Washington County Appraisal District  
2019-2020 Budget  
Adopted  
July 23, 2019

51 Plant Maintenance and Operations

**6200 Professional & Contracted Services(51)**

|                                                   |                  | 2017-2018        | 2018-2019        | 2019-2020        |
|---------------------------------------------------|------------------|------------------|------------------|------------------|
| GCA                                               | 6248.00-952-0-99 | \$ 5,750         | \$ 6,000         | \$ 6,250         |
| Water                                             | 6255.00-952-0-99 | \$ 1,000         | \$ 1,000         | \$ 1,000         |
| Telephone                                         | 6256.00-952-0-99 | \$ 1,000         | \$ 2,500         | \$ 2,500         |
| Electricity                                       | 6257.00-952-0-99 | \$ 12,000        | \$ 12,000        | \$ 12,000        |
| Garbage & Sewer                                   | 6259.00-952-0-99 | \$ 1,500         | \$ 1,500         | \$ 1,500         |
| Natural Gas                                       | 6258.00-952-0-99 | \$ 750           | \$ 750           | \$ 750           |
| <b>Professional &amp; Contracted Services(51)</b> |                  | <b>\$ 22,000</b> | <b>\$ 23,750</b> | <b>\$ 24,000</b> |

|                                                     | Budget | 2017-2018         | 2018-2019         | 2019-2020         |
|-----------------------------------------------------|--------|-------------------|-------------------|-------------------|
| <b>Payroll Costs</b>                                |        | \$ 557,191        | \$ 560,811        | \$ 613,013        |
| <b>Professional &amp; Contracted Services (41)</b>  |        | \$ 160,305        | \$ 161,805        | \$ 181,281        |
| <b>Supplies &amp; Materials</b>                     |        | \$ 37,600         | \$ 37,600         | \$ 37,600         |
| <b>Other Operating Costs</b>                        |        | \$ 25,100         | \$ 25,100         | \$ 25,100         |
| <b>Debt Service</b>                                 |        | \$ -              | \$ -              | \$ -              |
| <b>Capital Outlay- Land, Buildings &amp; Equip.</b> |        | \$ 20,770         | \$ 20,770         | \$ 29,600         |
| <b>Professional &amp; Contracted Services(51)</b>   |        | \$ 22,000         | \$ 23,750         | \$ 24,000         |
| <b>Totals</b>                                       |        | <b>\$ 822,966</b> | <b>\$ 829,836</b> | <b>\$ 910,594</b> |

**Entity/ Appraisal Allocation**

|                           | 2018 Levy            | Entity Cost |
|---------------------------|----------------------|-------------|
| Brenham ISD               | \$ 30,944,243 49.03% | \$ 446,467  |
| Burton ISD                | \$ 5,239,152 8.30%   | \$ 75,591   |
| City of Brenham           | \$ 6,854,458 10.86%  | \$ 98,897   |
| City of Burton            | \$ 125,883 0.20%     | \$ 1,816    |
| Oak Hill FWD              | \$ 161,895 0.26%     | \$ 2,336    |
| Washington County General | \$ 13,267,740 21.02% | \$ 191,428  |
| Washington County F&M     | \$ 4,218,893 6.68%   | \$ 60,871   |
| Blinn College             | \$ 2,067,336 3.28%   | \$ 29,828   |
| Giddings ISD              | \$ 232,945 0.37%     | \$ 3,361    |
|                           | \$ 63,112,545 100%   | \$ 910,594  |

2019 Cost \$ 910,594  
2018 Cost \$ 829,836  
Increase \$ 80,758  
% Increase 9.8130%

%Total= 2018 Levy/\$63,112,545

Budget Allocation= % Total Levy x \$ 910,594

**Entity/ Appraisal Allocation**

|                           | 2019 Cost  | 2018 Cost  | Change    |
|---------------------------|------------|------------|-----------|
| Brenham ISD               | \$ 446,467 | \$ 408,335 | \$ 38,131 |
| Burton ISD                | \$ 75,591  | \$ 67,428  | \$ 8,163  |
| City of Brenham           | \$ 98,897  | \$ 90,467  | \$ 8,430  |
| City of Burton            | \$ 1,816   | \$ 1,650   | \$ 167    |
| Oak Hill FWD              | \$ 2,336   | \$ 2,040   | \$ 296    |
| Washington County General | \$ 191,428 | \$ 174,008 | \$ 17,420 |
| Washington County F&M     | \$ 60,871  | \$ 55,567  | \$ 5,303  |
| Blinn College             | \$ 29,828  | \$ 27,148  | \$ 2,680  |
| Giddings ISD              | \$ 3,361   | \$ 3,193   | \$ 168    |
|                           | \$ 910,594 | \$ 829,836 | \$ 80,758 |





## AGENDA ITEM 12

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>DATE SUBMITTED:</b> August 8, 2019                                                                                                                                                         |
| <b>DEPT. OF ORIGIN:</b> Finance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>SUBMITTED BY:</b> Carolyn D. Miller                                                                                                                                                        |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> WORK SESSION |
| <b>ORDINANCE:</b><br><input type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                               |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon the Approval of a Request from the Washington County Appraisal District to Retain the Accumulated Funds of \$39,275 from FY2017-18 Budget Savings, the City of Brenham's Portion Being \$4,281.66                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |
| <b>SUMMARY STATEMENT:</b> The Washington County Appraisal District's (WCAD) audited financial statement for the fiscal year ending August 31, 2018 showed budget savings of \$39,275. WCAD is requesting to retain the savings to use for the 2020 Pictometry flight. If approved, the City of Brenham's portion of the funds to be retained would be \$4,281.66. If the \$39,275 is not retained by the WCAD, \$4,281.66 would be returned to the City.<br><br>I have attached the transmittal letter from Mr. Willy Dilworth and he will be attending the Council meeting to present the information and to answer any questions that may arise. |                                                                                                                                                                                               |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b><br><b>B. CONS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                               |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
| <b>ATTACHMENTS:</b> (1) Transmittal letter from Willy Dilworth, Chief Appraiser                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                               |
| <b>RECOMMENDED ACTION:</b> Approve a request from the Washington County Appraisal District to retain the accumulated funds of \$39,275, from FY2017-18 budget savings, with the City of Brenham's portion being \$4,281.66, for the 2020 Pictometry flight                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                                                                                               |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                               |

# WASHINGTON COUNTY APPRAISAL DISTRICT

1301 NIEBUHR  
P. O. BOX 681  
BRENHAM, TX 77834-0681  
(979) 277-3740

August 1, 2019

City of Brenham  
Mr. James Fisher  
PO Box 1059  
BrenhamTX77834-1059

The audit of the 2017-2018 budget year of the Washington County Appraisal District showed that we were \$39,275 under budget. We would like to request that the taxing entities of Washington County allow us to retain this money for 2020 Pictometry.

The cost of allowing the retention of this money is shown with an attached chart.

Please contact me with any questions you may have about this or any other matter regarding this office.

Thank you for your consideration in this matter.

Sincerely;



Willy Dilworth  
Chief Appraiser

**RECEIVED**

AUG 7 2019

James Fisher  
City Manager

**Entity/ Appraisal Allocation****2017 Levy****Entity Cost**

|                           |               |        |              |
|---------------------------|---------------|--------|--------------|
| Brenham ISD               | \$ 29,793,656 | 49.21% | \$ 19,325.94 |
| Burton ISD                | \$ 4,919,820  | 8.13%  | \$ 3,191.29  |
| City of Brenham           | \$ 6,600,776  | 10.90% | \$ 4,281.66  |
| City of Burton            | \$ 120,366    | 0.20%  | \$ 78.08     |
| Oak Hill FWD              | \$ 148,841    | 0.25%  | \$ 96.55     |
| Washington County General | \$ 12,696,309 | 20.97% | \$ 8,235.58  |
| Washington County F&M     | \$ 4,054,412  | 6.70%  | \$ 2,629.93  |
| Blinn College             | \$ 1,980,814  | 3.27%  | \$ 1,284.87  |
| Giddings ISD              | \$ 232,945    | 0.38%  | \$ 151.10    |
|                           | \$ 60,547,939 | 100%   | \$ 39,275.00 |

**Refund****\$ 39,275.00**





## AGENDA ITEM 13

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                             |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|-------------------------------------------------------------|------------------------|-------------------|---------------------------------------------|-----------------------------------------|-------------------------------------------------------------|----------------------------------|----------------------------------|--------------------------------------------------|--------------------------------------------|---------------------------------------------|-------------------------------------|--|---------------------------------------|--|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>DATE SUBMITTED:</b> August 12, 2019      |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>DEPT. OF ORIGIN:</b> Finance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <b>SUBMITTED BY:</b> Carolyn Miller         |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"><b>MEETING TYPE:</b></td> <td style="width: 33%; vertical-align: top;"><b>CLASSIFICATION:</b></td> <td style="width: 33%; vertical-align: top;"><b>ORDINANCE:</b></td> </tr> <tr> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input type="checkbox"/> PUBLIC HEARING</td> <td><input checked="" type="checkbox"/> 1<sup>ST</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> SPECIAL</td> <td><input type="checkbox"/> CONSENT</td> <td><input type="checkbox"/> 2<sup>ND</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> EXECUTIVE SESSION</td> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input type="checkbox"/> RESOLUTION</td> </tr> <tr> <td></td> <td><input type="checkbox"/> WORK SESSION</td> <td></td> </tr> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                             | <b>MEETING TYPE:</b>                                        | <b>CLASSIFICATION:</b> | <b>ORDINANCE:</b> | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input checked="" type="checkbox"/> 1 <sup>ST</sup> READING | <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 <sup>ND</sup> READING | <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |  | <input type="checkbox"/> WORK SESSION |  |
| <b>MEETING TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                           |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input checked="" type="checkbox"/> REGULAR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <input type="checkbox"/> PUBLIC HEARING     | <input checked="" type="checkbox"/> 1 <sup>ST</sup> READING |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input type="checkbox"/> SPECIAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING            |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION                         |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <input type="checkbox"/> WORK SESSION       |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 24, Taxation, Code of Ordinances, City of Brenham, Texas to Provide for the Creation of a Municipal Sales and Use Tax for the City of Brenham                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                             |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>SUMMARY STATEMENT:</b> Cities that adopted local sales and use tax prior to October 1, 1979, may, in accordance with the provisions in Tax Code 321.105(l), choose to repeal the exemption for residential use of natural gas and electricity. The Texas Comptroller maintains a list of cities eligible to reimpose the local sales tax (See Exhibit A). The City of Brenham adopted a local sales and use tax on April 1, 1969. The current local sales and use tax rate is \$0.015. A portion of this rate, \$0.00375 (25%) is 4B sales tax and goes to BCDC. Reimposing local sales and use tax on the residential use of electric and gas should generate an estimated \$97,000 to the General Fund for supporting basic city services and \$32,000 to BCDC.<br><br>We are asking Council to designate 100% of the BCDC amount to support economic development initiatives, rather than the current 35/65 split between economic development and parks and recreation. In the FY19-20 BCDC budget, over \$649,000 is allocated towards economic development which includes \$306,000 for debt service payments (47%). Notes payable to the City were issued in 2010 and 2017 for the SWIP business park expansion and the FY19-20 budget includes debt for construction of detention ponds in Brenham Business Center and SWIP. One note matures in 2026, one in 2029 and the new debt in 20 years. This action by Council will provide additional resources for economic development projects and initiatives funded by BCDC.<br><br>If approved, the reimposition of local sales and use tax on the residential use of electric and gas will be effective with utility billing occurring on or after October 1, 2019. |                                             |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><br><b>A. PROS:</b> Increased revenues for supporting City services.<br><b>B. CONS:</b> Higher monthly charges for residential electric and gas customers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                             |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                             |                                                             |                        |                   |                                             |                                         |                                                             |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |

|                                                                                                                                                                                                                                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ATTACHMENTS:</b> (1) Ordinance for first reading; and (2) Exhibit A - List of Cities Eligible to Reimpose Local Sales and Use Tax on the Residential Use of Gas and Electricity                                                  |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                           |
| <b>RECOMMENDED ACTION:</b> Approve an Ordinance on its first reading amending Chapter 24, Taxation, Code of Ordinances, City of Brenham, Texas to Provide for the Creation of a Municipal Sales and Use Tax for the City of Brenham |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                      |

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 24, TAXATION, OF THE CODE OF ORDINANCES, CITY OF BRENHAM, TEXAS PROVIDING FOR THE IMPOSITION OF SALES TAX ON RESIDENTIAL USE OF GAS AND ELECTRICITY; 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**, in accordance with Section 321.105 of the Municipal Sales and Use Tax Act, codified in Chapter 321, Texas Tax Code, the City of Brenham is authorized to impose a sales taxes on residential use of gas and electricity by Ordinance adopted by a vote of the majority of the membership of the City Council and entered in its Minutes;

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

**SECTION 1.**

That Chapter 24, Article I, In General, of the Code of Ordinances of the City of Brenham, is hereby amended by adding Sec. 24-5 to read as follows:

**Sec. 24-5. -Residential Use of Gas and Electricity.**

The expression "residential use" means the use of gas and electricity in a single or two-family dwelling, a multifamily dwelling including but not limited to an apartment and similar use, a housing complex, or any other building or portion of a building occupied as a home, dwelling or residence.

- (a) A tax is hereby authorized on all residential gas and electric services sold within the City. For the purposes of this section, the sale of residential gas and electric services is for services consumed at the address to which the service is billed.
- (b) The taxes on gas and electricity for residential use are imposed pursuant to Section 321.105 of the Municipal Sales and Use Tax Act, codified in Chapter 321, Texas Tax Code.
- (c) The rate of the tax imposed by this Section shall be the same as the rate imposed by the City for all other local sales and use taxes as authorized by the Legislature of the State of Texas, that being one cent for general revenue, three-eighths of one cent for –Type B economic development, and one-eighth of one cent for property tax relief.

- (d) The tax provided for in this Ordinance shall not serve as an offset to, be in lieu of, or in any way reduce any amount payable to the City pursuant to any franchise, street use ordinance or rental fee, charter provision, statute, or, without limitation by the foregoing enumeration, otherwise payable by any provider of residential gas or electric service; it being the express intent hereof that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.
- (e) All sales tax revenue received by the Brenham Community Development Corporation (“BCDC”) which is generated by the three-eighths of one cent sales tax for Type B economic development imposed on the sale of gas and electricity for residential use shall be allocated to economic development initiatives of the BCDC; said sales tax revenue shall not be expended on recreation/community development projects.

## **SECTION 2.**

That the City Secretary is hereby directed to send to the Texas Comptroller of Public Accounts by United States certified or registered mail a copy of this Ordinance imposing the taxes on residential use of gas and electricity and directed to enter this Ordinance and the vote hereon in the Minutes of the City Council Meeting.

## **SECTION 3.** **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 4.** **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 5.** **REPEALER**

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

**SECTION 6.**  
**EFFECTIVE DATE**

This Ordinance shall become effective on and after October 1, 2019, upon adoption and publication as required by law.

**SECTION 7.**  
**PROPER NOTICE AND MEETINGS**

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

**PASSED and APPROVED** on its first reading this the \_\_\_\_ day of August, 2019.

**PASSED and APPROVED** on its second reading this the \_\_\_\_ day of September, 2019.

\_\_\_\_\_  
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

\_\_\_\_\_  
Jeana Bellinger, TRMC, CMC  
City Secretary

# EXHIBIT A



Glenn Hegar  
Texas Comptroller of Public Accounts



## Cities Eligible to Reimpose Local Sales and Use Tax on the Residential Use of Gas and Electricity

- Alamo Heights
- Anahuac
- Anthony
- Aquilla
- Bartlett
- Baytown
- Bellaire
- Berryville
- Blooming Grove
- Brenham
- Brookside Village
- Brownsboro
- Buda
- Buffalo
- Buffalo Gap
- Burton
- Caldwell
- Campbell
- Carmine
- Castle Hills
- Centerville
- Chester
- China Grove
- Cibolo
- Cockrell Hill
- Coleman
- Collinsville
- Columbus
- Cotulla
- Crosbyton
- Daingerfield
- Deer Park



- De Leon
- Denver City
- Diboll
- Dilley
- Dimmitt
- Domino
- Eagle Lake
- Edmonson
- El Paso
- Estelline
- Falfurrias
- Flatonia
- Galena Park
- George West
- Gonzales
- Granite Shoals
- Greenville
- Gunter
- Hart
- Hedwig Village
- Hempstead
- Hollywood Park
- Humble
- Hutchins
- Impact
- Jacinto City
- Jersey Village
- Jewett
- Johnson City
- Junction
- Kennard
- Kress
- La Porte
- League City
- Leakey
- Liberty
- Live Oak
- Lone Star
- Lovelady
- Lufkin
- Lytle

- Malakoff
- McLean
- Milano
- Monahans
- Moody
- Morton
- Mullin
- Murphy
- Mustang
- Needville
- Newark
- Olmos Park
- Pasadena
- Plains
- Post
- Prairie View
- Quintana
- Reklaw
- Richmond
- Rising Star
- Rocksprings
- Rockwall
- Rocky Mound
- Rogers
- Sachse
- San Antonio
- San Saba
- Schulenburg
- Scotland
- Seguin
- Shiner
- Snyder
- Sonora
- Splendora
- Spur
- Stafford
- Sunrise Beach
- Sunset Valley
- Sun Valley
- Taylor Lake Village
- Texas City

- Texline
- Thornton
- Three Rivers
- Toco
- Tomball
- Trent
- Troup
- Tulia
- Universal City
- Wake Village
- Webster
- Weimar
- West Lake Hills
- Weston
- Whitehouse
- White Oak
- Wickett
- Wilmer
- Windcrest
- Woodsboro
- Woodson



## AGENDA ITEM 14

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>DATE SUBMITTED:</b> August 9, 2019                                                                                                                                                         |
| <b>DEPT. OF ORIGIN:</b> Public Utilities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>SUBMITTED BY:</b> Lowell Ogle                                                                                                                                                              |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> SPECIAL<br><input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <b>CLASSIFICATION:</b><br><input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> CONSENT<br><input checked="" type="checkbox"/> REGULAR<br><input type="checkbox"/> WORK SESSION |
| <b>ORDINANCE:</b><br><input checked="" type="checkbox"/> 1 <sup>ST</sup> READING<br><input type="checkbox"/> 2 <sup>ND</sup> READING<br><input type="checkbox"/> RESOLUTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                               |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham Water Rates                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                               |
| <b>SUMMARY STATEMENT:</b> The City's water rates are designed to cover the cost of water services, in an equitable manner, among rate classes. The last rate adjustment was in 2008. In December of 2018, NewGen Strategies & Solutions, LLC (NewGen) was engaged to update the City's water rate model and recommend water rate changes based on new cost of service projections and consumption estimates. NewGen initially recommended a 1.3% increase in water rates but increased their recommendation to 4% after consumption estimates were lowered to reflect the City's true historical experience.<br><br>Currently, the average monthly residential water bill on 5,000 consumption gallons is \$24.79. Under the proposed new rate structure, the monthly bill would increase to \$25.78, a +\$0.99 difference. According to the 2019 Texas Municipal League Survey, the average monthly residential water bill on 5,000 consumption gallons is \$31.40 for cities with populations between 15,000 and 20,000.<br><br>The proposed new rates are effective with utility billing occurring on or after October 1, 2019. |                                                                                                                                                                                               |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b> Increased revenues to better cover cost of water services.<br><b>B. CONS:</b> Higher monthly charges on water for customers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                               |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
| <b>ATTACHMENTS:</b> (1) Ordinance for first reading; and (2) Redlined copy of rate tariff schedule showing changes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                               |
| <b>FUNDING SOURCE (Where Applicable):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                               |
| <b>RECOMMENDED ACTION:</b> Approve an Ordinance on its first reading amending the Rate Tariff Schedule(s) for the City of Brenham Water Rates                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                               |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                               |

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE WATER RATE TARIFF SCHEDULES FOR WATER SERVICES FOR THE CITY OF BRENHAM, TEXAS; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE.**

**WHEREAS**, the City Council of the City of Brenham, Texas deems it necessary to change the rates charged for water services to its customers in order to provide for conditions of utility service which promote health, safety and welfare of the citizens of Brenham, Texas.

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

**SECTION I.**

The City Council of the City of Brenham, Texas, does hereby adopt the Water Rate Schedules for water services set forth in the attached Exhibit "A", which is made a part hereof for all purposes pertinent, to be effective with utility billing occurring on or after October 1, 2019.

**SECTION II.**

This Ordinance shall take effect as provided by the Charter of the City of Brenham, Texas. The implementation of rates as forth herein and on the attached Exhibit "A" shall be effective with utility billing occurring on and after October 1, 2019.

**PASSED AND APPROVED** on its first reading this the \_\_\_\_ day of \_\_\_\_\_, 2019.

**PASSED AND APPROVED** on its second reading this the \_\_\_\_ day of \_\_\_\_\_, 2019.

---

Milton Y. Tate, Jr., Mayor

**ATTEST:**

---

Jeana Bellinger, TRMC, CMC  
City Secretary

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

610

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULE

~~OCTOBER 1, 2008~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**GENERAL SERVICE - URBAN**

**RATE SCHEDULE - W-A**

**APPLICABILITY**

This rate is applicable to all residential customers receiving water service through a permanent meter installation.

**AVAILABILITY**

This rate is available to all customers located within the corporate limits of the City of Brenham, Texas.

**RATES**

|                             |                                              |
|-----------------------------|----------------------------------------------|
| First 3,000 gallons or less | <del>\$17.23</del> <u>17.92</u>              |
| 3,001 – 10,000 gallons      | <del>\$3.78</del> <u>3.93</u> /1,000 gallons |
| 10,001 – 25,000 gallons     | <del>\$4.73</del> <u>4.92</u> /1,000 gallons |
| 25,001 and above            | <del>\$5.91</del> <u>6.15</u> /1,000 gallons |

**MINIMUM CHARGES**

The minimum monthly bill shall be ~~\$17.23~~ 17.92

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                                                                         |                            |                            |
|-------------------------------------------------------------------------|----------------------------|----------------------------|
| ALL SERVICES                                                            | 600                        | 611                        |
| TARIFF                                                                  | SECTION NO.                | SHEET NO.                  |
| WATER RATE SCHEDULE                                                     | <del>OCTOBER 1, 2008</del> | <del>OCTOBER 1, 2019</del> |
| SECTION TITLE                                                           | EFFECTIVE DATE             |                            |
| (Supersedes Rate Change effective <del>01/22/06</del> <u>10/01/08</u> ) |                            |                            |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. ~~The homeowner will be billed for metered water when the water meter is found on by City personnel.~~  
The homeowner will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$150. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.



**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

| ALL SERVICES        | 600                        | 620                    |
|---------------------|----------------------------|------------------------|
| TARIFF              | SECTION NO.                | SHEET NO.              |
| WATER RATE SCHEDULE | <del>OCTOBER 1, 2008</del> | <u>OCTOBER 1, 2019</u> |
| SECTION TITLE       | EFFECTIVE DATE             |                        |

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**GENERAL SERVICE - RURAL**

**RATE SCHEDULE W-B**

**APPLICABILITY**

This rate is applicable to all residential customers receiving water service through a permanent meter installation.

**AVAILABILITY**

This rate is available to all customers located outside the corporate limits of the City of Brenham, Texas.

**RATES**

|                             |                                              |
|-----------------------------|----------------------------------------------|
| First 3,000 gallons or less | <del>\$19.81</del> <u>20.60</u>              |
| 3,001 – 10,000 gallons      | <del>\$4.35</del> <u>4.52</u> /1,000 gallons |
| 10,001 – 25,000 gallons     | <del>\$5.44</del> <u>5.66</u> /1,000 gallons |
| 25,001 and above            | <del>\$6.80</del> <u>7.07</u> /1,000 gallons |

**MINIMUM CHARGES**

The minimum monthly bill shall be ~~\$19.81~~ 20.60

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                     |                                                                |                 |
|---------------------|----------------------------------------------------------------|-----------------|
| ALL SERVICES        | 600                                                            | 621             |
| TARIFF              | SECTION NO.                                                    | SHEET NO.       |
| WATER RATE SCHEDULE | <del>OCTOBER 1, 2008</del>                                     | OCTOBER 1, 2019 |
| SECTION TITLE       | EFFECTIVE DATE                                                 |                 |
|                     | (Supersedes Rate Change effective <del>1/22/06</del> 10.01.08) |                 |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. ~~The homeowner will be billed for metered water when the water meter is found on by City personnel.~~  
The customer will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

630

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULE

~~APRIL 1, 2012~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~10/01/08~~ 4/01/12)

**TEMPORARY CONSTRUCTION SERVICE**

**RATE SCHEDULE W-D**

**APPLICABILITY**

This rate is applicable to all customers that receive water delivered into a tank truck, tank trailer, portable sprayer, portable mixer, or other similar container from a temporary meter set on a fire hydrant.

**AVAILABILITY**

This rate and service is only applicable to those who pay the required deposit and the fee for meter placement, and who are approved by the ~~Director~~ General Manager of Public Utilities prior to usage.

**RATES**

|                             |                                              |
|-----------------------------|----------------------------------------------|
| First 3,000 gallons or less | <del>\$17.23</del> <u>17.92</u>              |
| 3,001 – 10,000 gallons      | <del>\$5.01</del> <u>5.21</u> /1,000 gallons |
| 10,001 – 25,000 gallons     | <del>\$6.26</del> <u>6.51</u> /1,000 gallons |
| 25,001 and above            | <del>\$7.83</del> <u>8.14</u> /1,000 gallons |

**MINIMUM CHARGES**

The minimum monthly bill shall be ~~\$17.23~~ 17.92

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, the customer will forfeit the entire deposit and the City may, at its sole option, remove the fire hydrant meter and terminate service to the customer.

**CHARACTER OF SERVICE**

Water supplied under this rate schedule is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

| ALL SERVICES         | 600                                      | 631       |
|----------------------|------------------------------------------|-----------|
| TARIFF               | SECTION NO.                              | SHEET NO. |
| WATER RATE SCHEDULES | <del>APRIL 1, 2012</del> OCTOBER 1, 2019 |           |
| SECTION TITLE        | EFFECTIVE DATE                           |           |

(Supersedes Rate Change effective ~~10/01/08~~ 4/01/12)

SPECIAL CONDITIONS OF SERVICE

1. The customer will pay an initial deposit of three hundred dollars (\$300.00) in cash or check to the City of Brenham.
2. In addition, where service is rendered from a fire hydrant, the customer will be required to pay an a non-refundable fee of two hundred dollars (\$200.00) to cover the City's cost of setting up and removing a temporary meter on a fire hydrant. The superintendent of the Water Distribution Department has the authority to refuse service from any fire hydrant where, in his opinion, the rendering of such service would have an adverse effect on the pressure or flow to other customers in the surrounding area.
3. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
4. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                                                         |                 |
|----------------------|-------------------------------------------------------------------------|-----------------|
| ALL SERVICES         | 600                                                                     | 640             |
| TARIFF               | SECTION NO.                                                             | SHEET NO.       |
| WATER RATE SCHEDULES | OCTOBER 1, 2008                                                         | OCTOBER 1, 2019 |
| SECTION TITLE        | EFFECTIVE DATE                                                          |                 |
|                      | (Supersedes Rate Change effective <del>01/22/06</del> <u>10/01/08</u> ) |                 |

**YARD SPRINKLER SYSTEM SERVICE – URBAN**

**RATE SCHEDULE W-E**

**APPLICABILITY**

This rate is applicable to all residential customers receiving water service through a permanent meter installation, which serves ~~non-household consumption~~ which serves only a yard sprinkler system.

**AVAILABILITY**

This rate is available to all customers located within the corporate limits of the City of Brenham, Texas.

**RATES**

|                         |                                              |
|-------------------------|----------------------------------------------|
| 0 – 10,000 gallons      | <del>\$4.09</del> <u>4.25</u> /1,000 gallons |
| 10,001 – 25,000 gallons | <del>\$5.11</del> <u>5.31</u> /1,000 gallons |
| 25,001 and above        | <del>\$6.39</del> <u>6.65</u> /1,000 gallons |

**MINIMUM CHARGES**

No minimum monthly bill

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                                                         |                        |
|----------------------|-------------------------------------------------------------------------|------------------------|
| ALL SERVICES         | 600                                                                     | 641                    |
| TARIFF               | SECTION NO.                                                             | SHEET NO.              |
| WATER RATE SCHEDULES | <del>OCTOBER 1, 2008</del>                                              | <u>OCTOBER 1, 2019</u> |
| SECTION TITLE        | EFFECTIVE DATE                                                          |                        |
|                      | (Supersedes Rate Change effective <del>01/22/06</del> ) <u>10.01.08</u> |                        |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. ~~The homeowner will be billed for metered water when the water meter is found on by City personnel.~~  
The customer will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                            |                        |
|----------------------|----------------------------|------------------------|
| ALL SERVICES         | 600                        | 642                    |
| <b>TARIFF</b>        | <b>SECTION NO.</b>         | <b>SHEET NO.</b>       |
| WATER RATE SCHEDULES | <del>OCTOBER 1, 2008</del> | <u>OCTOBER 1, 2019</u> |
| <b>SECTION TITLE</b> | <b>EFFECTIVE DATE</b>      |                        |

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**YARD SPRINKLER SYSTEM SERVICE – URBAN**

**RATE SCHEDULE W-I**

**APPLICABILITY**

This rate is applicable to all commercial and industrial customers receiving water service through a permanent meter installation, which serves ~~non-household consumption~~ only a yard sprinkler system.

**AVAILABILITY**

This rate is available to all customers located inside the corporate limits of the City of Brenham, Texas.

**RATES**

|                         |                                              |
|-------------------------|----------------------------------------------|
| 0 – 10,000 gallons      | <del>\$4.09</del> <u>4.25</u> /1,000 gallons |
| 10,001 – 25,000 gallons | <del>\$5.11</del> <u>5.31</u> /1,000 gallons |
| 25,001 and above        | <del>\$6.39</del> <u>6.65</u> /1,000 gallons |

**MINIMUM CHARGES**

No minimum monthly bill

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next work day. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.



**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                                                         |                        |
|----------------------|-------------------------------------------------------------------------|------------------------|
| ALL SERVICES         | 600                                                                     | 643                    |
| TARIFF               | SECTION NO.                                                             | SHEET NO.              |
| WATER RATE SCHEDULES | <del>OCTOBER 1, 2008</del>                                              | <u>OCTOBER 1, 2019</u> |
| SECTION TITLE        | EFFECTIVE DATE                                                          |                        |
|                      | (Supersedes Rate Change effective <del>01/22/06</del> <u>10/01/08</u> ) |                        |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. ~~The homeowner will be billed for metered water when the water meter is found on by City personnel.~~  
The customer will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

650

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULES

~~OCTOBER 1, 2008~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**GENERAL SERVICE - URBAN**

**RATE SCHEDULE W-F**

**APPLICABILITY**

This rate is applicable to all commercial and industrial customers receiving water service through a permanent meter installation.

**AVAILABILITY**

This rate is available to all customers located within the corporate limits of the City of Brenham, Texas.

**RATES**

|                             |                                              |
|-----------------------------|----------------------------------------------|
| First 3,000 gallons or less | <del>\$17.23</del> <u>17.92</u>              |
| 3,001 – 10,000 gallons      | <del>\$2.37</del> <u>2.46</u> /1,000 gallons |
| 10,001 – 25,000 gallons     | <del>\$2.96</del> <u>3.08</u> /1,000 gallons |
| 25,001 and above            | <del>\$3.70</del> <u>3.85</u> /1,000 gallons |

**MINIMUM CHARGES**

The minimum monthly bill shall be ~~\$17.23~~ 17.92

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                                                         |                        |
|----------------------|-------------------------------------------------------------------------|------------------------|
| ALL SERVICES         | 600                                                                     | 651                    |
| TARIFF               | SECTION NO.                                                             | SHEET NO.              |
| WATER RATE SCHEDULES | <del>OCTOBER 1, 2008</del>                                              | <u>OCTOBER 1, 2019</u> |
| SECTION TITLE        | EFFECTIVE DATE                                                          |                        |
|                      | (Supersedes Rate Change effective <del>01/22/06</del> <u>10/01/08</u> ) |                        |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. The homeowner will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

660

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULES

~~OCTOBER 1, 2008~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**GENERAL SERVICE - RURAL**

**RATE SCHEDULE W-G**

**APPLICABILITY**

This rate is applicable to all commercial and industrial customers receiving water service through a permanent meter installation.

**AVAILABILITY**

This rate is available to all customers located outside the corporate limits of the City of Brenham, Texas.

**RATES**

|                             |                                              |
|-----------------------------|----------------------------------------------|
| First 3,000 gallons or less | <del>\$19.81</del> <u>20.60</u>              |
| 3,001 – 10,000 gallons      | <del>\$2.73</del> <u>2.84</u> /1,000 gallons |
| 10,001 – 25,000 gallons     | <del>\$3.41</del> <u>3.55</u> /1,000 gallons |
| 25,001 and above            | <del>\$4.26</del> <u>4.43</u> /1,000 gallons |

**MINIMUM CHARGES**

The minimum monthly bill shall be ~~\$19.81~~ 20.60

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate schedule is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                                                |           |
|----------------------|----------------------------------------------------------------|-----------|
| ALL SERVICES         | 600                                                            | 661       |
| TARIFF               | SECTION NO.                                                    | SHEET NO. |
| WATER RATE SCHEDULES | <del>OCTOBER 1, 2008</del> OCTOBER 1, 2019                     |           |
| SECTION TITLE        | EFFECTIVE DATE                                                 |           |
|                      | Supersedes Rate Change effective <del>01/22/06</del> 10/01/08) |           |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. The customer will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

670

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULES

~~OCTOBER 1, 2008~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~01/22/06~~ 10/01/08)

**YARD SPRINKLER SYSTEM - RURAL**

**RATE SCHEDULE W-H**

**APPLICABILITY**

This rate is applicable to all residential, commercial and industrial service through a permanent meter installation, which serves only a yard sprinkler system.

**AVAILABILITY**

This rate is available to all customers located outside the corporate limits of the City of Brenham, Texas

**RATES**

|                         |                                              |
|-------------------------|----------------------------------------------|
| 0 – 10,000 gallons      | <del>\$4.70</del> <u>4.89</u> /1,000 gallons |
| 10,001 – 25,000 gallons | <del>\$5.87</del> <u>6.10</u> /1,000 gallons |
| 25,001 and above        | <del>\$7.34</del> <u>7.63</u> /1,000 gallons |

**MINIMUM CHARGES**

No minimum monthly charge

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate schedule is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                                                                         |                            |                        |
|-------------------------------------------------------------------------|----------------------------|------------------------|
| ALL SERVICES                                                            | 600                        | 671                    |
| TARIFF                                                                  | SECTION NO.                | SHEET NO.              |
| WATER RATE SCHEDULES                                                    | <del>OCTOBER 1, 2008</del> | <u>OCTOBER 1, 2019</u> |
| SECTION TITLE                                                           | EFFECTIVE DATE             |                        |
| (Supersedes Rate Change effective <del>01/22/06</del> <u>10/01/08</u> ) |                            |                        |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and meter is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. A special charge will be made for a requested service turn-off or on as follows:
  - A. \$10 if such service is requested to be rendered during normal business hours.
  - B. \$20 if such service is requested to be rendered during non-business hours.
6. The customer will be billed for metered water when City personnel find the water meter on.
7. Abnormally high water bills caused when a customer has a water leak (break in line, leaking commode, etc) will be adjusted a maximum of \$150 for a maximum of two billing periods. A customer whose current water bill is abnormally high because of a water leak must bring or mail a receipt to the Utility Billing Department showing that the problem has been fixed or a written and signed statement from the customer if the customer repaired the problem himself. Utility Billing will require the completion of one additional full billing cycle in order to be certain that the problem has been fixed. If the customer's water bill returns to normal, they will be credited for one-half of the water that leaked for a total maximum adjustment of \$75. If necessary, this adjustment/credit may be made for a maximum of two billing periods if the customer experienced an abnormally high water bill for more than one billing period.
8. Minimum water bills will be assessed based on the number of electric meters. Apartments will be billed one minimum for each rental unit on the premises.



**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

680A

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULES

~~JANUARY 22, 2006~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~9/22/03~~ 1/22/06)

**FIRE LINE SERVICE - URBAN**

**RATE SCHEDULE 20, 21, 22, 23, and 24**

**APPLICABILITY**

This rate is applicable to all residential, commercial, and industrial customers receiving unmetered standby water service for the sole purpose of feeding an automatic fire sprinkler system or similar apparatus.

**AVAILABILITY**

This rate schedule is available to all customers located within the corporate limits of the City of Brenham, Texas.

**RATES**

| Size of Service Line       | Flat Monthly Rate               |
|----------------------------|---------------------------------|
| 4 inch (Rate Schedule 20)  | <del>\$20.56</del> <u>21.38</u> |
| 6 inch (Rate Schedule 21)  | <del>59.72</del> <u>62.11</u>   |
| 8 inch (Rate Schedule 22)  | <del>127.27</del> <u>132.36</u> |
| 10 inch (Rate Schedule 23) | <del>228.87</del> <u>238.02</u> |
| 12 inch (Rate Schedule 24) | <del>369.69</del> <u>384.48</u> |

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate schedule is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**  
200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

| ALL SERVICES         | 600                                                                   | 681A                       |
|----------------------|-----------------------------------------------------------------------|----------------------------|
| TARIFF               | SECTION NO.                                                           | SHEET NO.                  |
| WATER RATE SCHEDULES | <del>JANUARY 22, 2006</del>                                           | <del>OCTOBER 1, 2019</del> |
| SECTION TITLE        | EFFECTIVE DATE                                                        |                            |
|                      | (Supersedes Rate Change effective <del>9/22/03</del> <u>1/22/06</u> ) |                            |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and service line is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. Service rendered under this schedule is for standby service only. Connection of fixtures or facilities used on a regular basis is specifically prohibited.
6. The City does not guarantee minimum pressure or rates of flow for service provided under this schedule.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

ALL SERVICES

600

680B

**TARIFF**

**SECTION NO.**

**SHEET NO.**

WATER RATE SCHEDULES

~~JANUARY 22, 2006~~ OCTOBER 1, 2019

**SECTION TITLE**

**EFFECTIVE DATE**

(Supersedes Rate Change effective ~~9/22/03~~ 1/22/06)

**FIRE LINE SERVICE - RURAL**

**RATE SCHEDULE 30, 31, 32, 33, AND 34**

**APPLICABILITY**

This rate is applicable to all residential, commercial, and industrial customers receiving unmetered standby water service for the sole purpose of feeding an automatic fire sprinkler system or similar apparatus.

**AVAILABILITY**

This rate schedule is available to all customers located outside the corporate limits of the City of Brenham, Texas.

**RATES**

| Size of Service Line       | Flat Monthly Rate               |
|----------------------------|---------------------------------|
| 4 inch (Rate Schedule 30)  | <del>\$23.64</del> <u>24.59</u> |
| 6 inch (Rate Schedule 31)  | <del>68.68</del> <u>71.43</u>   |
| 8 inch (Rate Schedule 32)  | <del>146.36</del> <u>152.21</u> |
| 10 inch (Rate Schedule 33) | <del>263.20</del> <u>273.73</u> |
| 12 inch (Rate Schedule 34) | <del>425.14</del> <u>442.15</u> |

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, all of the customer's utility services will be considered delinquent and subject to disconnection.

**CHARACTER OF SERVICE**

Water supplied under this rate schedule is normally treated surface water approved for public water supply by the Texas Commission on Environmental Quality.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

| ALL SERVICES         | 600                                                                   | 681B                       |
|----------------------|-----------------------------------------------------------------------|----------------------------|
| TARIFF               | SECTION NO.                                                           | SHEET NO.                  |
| WATER RATE SCHEDULES | <del>JANUARY 22, 2006</del>                                           | <del>OCTOBER 1, 2019</del> |
| SECTION TITLE        | EFFECTIVE DATE                                                        |                            |
|                      | (Supersedes Rate Change effective <del>9/22/03</del> <u>1/22/06</u> ) |                            |

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.
3. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
4. If the installation of a service tap and service line is necessary to provide the customer with service, the cost of such installation is the responsibility of the customer.
5. Service rendered under this schedule is for standby service only. Connection of fixtures or facilities used on a regular basis is specifically prohibited.
6. The City does not guarantee minimum pressure or rates of flow for service provided under this schedule.

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                           |           |
|----------------------|-------------------------------------------|-----------|
| ALL SERVICES         | 600                                       | 690       |
| TARIFF               | SECTION NO.                               | SHEET NO. |
| WATER RATE SCHEDULES | MARCH 19, 1998                            |           |
| SECTION TITLE        | EFFECTIVE DATE                            |           |
|                      | (Supersedes Rate Change effective 7/1/95) |           |

**WATER TAPPING SERVICE**

**RATE SCHEDULE W-N**

**APPLICABILITY**

This rate is applicable to the installation of service taps, service lines, and water meters for residential, commercial, and/or industrial customers.

**AVAILABILITY**

This rate is available to all customers or prospective customers of the City's water system.

- I. The actual tapping of a water main to provide service to an adjoining lot.

**RATES**

|                                                                                                                                                                                                 |          |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| 1 inch service tap, service line, and meter                                                                                                                                                     | \$494.00 |
| 1-1/2 inch service tap, service line, and meter                                                                                                                                                 | 627.00   |
| 2 inch service tap, service line, and meter                                                                                                                                                     | 727.00   |
| *3 inch service tap, service line, and meter                                                                                                                                                    | 877.00   |
| *4 inch service tap, service line, and meter or larger – actual cost of installation including, but not limited to, materials, labor, and equipment, including appropriate factors for overhead |          |

\* Turbine meters only

- II. Setting meters at existing water services provided by the Developer.

Water Hook-up Fees        \$ 35.00

- III. Developments where the City has provided water service and the services are available at each individual property.

|            |          |
|------------|----------|
| 1 inch     | \$200.00 |
| 1-1/2 inch | 300.00   |

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                  |        |
|------------------|--------|
| 2 inch           | 350.00 |
| 3 inch or larger | 400.00 |

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                                           |           |
|----------------------|-------------------------------------------|-----------|
| ALL SERVICES         | 600                                       | 691       |
| TARIFF               | SECTION NO.                               | SHEET NO. |
| WATER RATE SCHEDULES | MARCH 19, 1998                            |           |
| SECTION TITLE        | EFFECTIVE DATE                            |           |
|                      | (Supersedes Rate Change effective 7/1/95) |           |

- IV. Replacement of water taps due to deterioration. Water tap deterioration will be determined by the City based on standards set by the Texas Natural Resource Conservation Commission and the Southern Plumbing Code for minimum residual pressure and flow.

|          |           |
|----------|-----------|
| All Taps | No Charge |
|----------|-----------|

**CHARACTER OF SERVICE**

Facilities provided under this rate will consist of the installation of an appropriate size corporation stop or tapping saddle, installation of an appropriate size angle meter stop or gate valve, installation of an appropriate size meter, installation of a meter box, and the installation of a sufficient amount of an appropriate size service line to allow the placement of the meter at or near the customer's property line.

**SPECIAL CONDITIONS OF SERVICE**

1. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
2. Service will be rendered under this schedule when the City has facilities immediately adjacent to the customer's premises. If a main line extension is required to provide service to the customer, the customer's cost of the line extension will be determined in accordance with the City's extension policy in effect at the time of the extension.
3. In the event a customer desires to increase the size of an existing service, the cost of such enlargement will be equal to the cost of the installation of the new size of service.



**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                     |                |           |
|---------------------|----------------|-----------|
| ALL SERVICES        | 600            | 693       |
| TARIFF              | SECTION NO.    | SHEET NO. |
| WATER RATE SCHEDULE | APRIL 1, 2012  |           |
| SECTION TITLE       | EFFECTIVE DATE |           |

**RECLAIMED WHOLESALE WATER**

**RATE SCHEDULE W-R**

**APPLICABILITY**

This rate is applicable to all customers that receive Type 1 Reclaimed Water to be used for industrial and manufacturing processing, residential irrigation, irrigation for urban or rural uses, food crops, municipality-owned right-of-way, fire protection, maintenance of off-channel impoundments, toilet flush water, dust control, road construction, construction activities and process water.

**AVAILABILITY**

This rate is available to all customers who enter into a Reclaimed Water Use Agreement, pay the applicable deposit, and receive Type 1 Reclaimed Water at the Reclaimed Water Station located at 2005 Old Chappell Hill Rd.

**RATES**

\$4.00 per 1,000 gallons

**MINIMUM CHARGES**

No minimum charge.

**TERMS OF PAYMENT**

All rates specified herein are net, and the gross rates for delinquent payments are ten percent (10%) higher. Each bill for service is due within fifteen (15) days after issuance unless such day falls on a holiday or weekend, in which case payment is due on the next workday. If full payment is not received at the City's offices or other approved payment location on or before the due date, the customer's deposit will be forfeited and the City may, at its sole option, terminate services and the Reclaimed Water Use Agreement, according to its terms.

**CHARACTER OF SERVICE**

Reclaimed water supplied under this rate schedule is Type 1 Reclaimed Water produced at the Brenham Wastewater Treatment Plant that is authorized and approved for re-sale by the Texas Commission on Environmental Quality. (Authorization # R10388001)

**“EXHIBIT A”**

**CITY OF BRENHAM**

200 WEST VULCAN STREET P. O. BOX 1059  
BRENHAM, WASHINGTON COUNTY, TEXAS 77834-1059

|                      |                |           |
|----------------------|----------------|-----------|
| ALL SERVICES         | 600            | 694       |
| TARIFF               | SECTION NO.    | SHEET NO. |
| WATER RATE SCHEDULES | APRIL 1, 2012  |           |
| SECTION TITLE        | EFFECTIVE DATE |           |

**SPECIAL CONDITIONS OF SERVICE**

1. Where service is rendered from the Reclaimed Bulk Water Station, the customer will be required to pay an initial deposit of three hundred dollars (\$300.00). The customer will also be required to sign a Reclaimed Water Use Agreement prior to usage of the station. The station will have 24-hour access and will be controlled through individual pin codes per account that are distributed upon compliance with the above requirements.
2. Service rendered under this schedule is subject to the City's Rules and Regulations in effect from time to time.
3. Bills will be adjusted by the proportionate part of any tax or charge levied or assessed against the City or upon its water business as a result of any new or amended laws becoming effective after the effective date of this rate schedule.



## AGENDA ITEM 15

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|--------------------------------------------------|------------------------|-------------------|---------------------------------------------|-----------------------------------------|--------------------------------------------------|----------------------------------|----------------------------------|--------------------------------------------------|--------------------------------------------|---------------------------------------------|-------------------------------------|--|---------------------------------------|--|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>DATE SUBMITTED:</b> August 9, 2019       |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>DEPT. OF ORIGIN:</b> Public Utilities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>SUBMITTED BY:</b> Lowell Ogle            |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top;"><b>MEETING TYPE:</b></td> <td style="width: 33%; vertical-align: top;"><b>CLASSIFICATION:</b></td> <td style="width: 33%; vertical-align: top;"><b>ORDINANCE:</b></td> </tr> <tr> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input type="checkbox"/> PUBLIC HEARING</td> <td><input type="checkbox"/> 1<sup>ST</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> SPECIAL</td> <td><input type="checkbox"/> CONSENT</td> <td><input type="checkbox"/> 2<sup>ND</sup> READING</td> </tr> <tr> <td><input type="checkbox"/> EXECUTIVE SESSION</td> <td><input checked="" type="checkbox"/> REGULAR</td> <td><input type="checkbox"/> RESOLUTION</td> </tr> <tr> <td></td> <td><input type="checkbox"/> WORK SESSION</td> <td></td> </tr> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                             | <b>MEETING TYPE:</b>                             | <b>CLASSIFICATION:</b> | <b>ORDINANCE:</b> | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 <sup>ST</sup> READING | <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 <sup>ND</sup> READING | <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |  | <input type="checkbox"/> WORK SESSION |  |
| <b>MEETING TYPE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input checked="" type="checkbox"/> REGULAR                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <input type="checkbox"/> PUBLIC HEARING     | <input type="checkbox"/> 1 <sup>ST</sup> READING |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input type="checkbox"/> SPECIAL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <input type="checkbox"/> EXECUTIVE SESSION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION              |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | <input type="checkbox"/> WORK SESSION       |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon the Purchase of Equipment for the Electric Department from Techline, Inc. Through the Lower Colorado River Authority (LCRA) Material Program and Authorize the Mayor to Execute Any Necessary Documentation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>SUMMARY:</b> Blue Bell Creameries is requesting new 4000 amp service for its new milk bay relocation project. The project is scheduled to begin this summer. This will require the purchase of (4) 1250 KVA transformers.<br><br><p>Three (3) of the 1250 KVA transformers are needed to supply the load capacity they requested. The unit cost for these transformers is \$30,500 for a total for the three of \$91,500. One (1) 1250 KVA transformer is requested as an emergency spare in case of a transformer failure. This unit requires special engineering and will be designed to a more compact size in order to fit inside the existing vault that serves the production area. The cost of this transformer is \$60,421.05. Currently, Blue Bell is using the spare transformer. The transformer normally contained in the vault is out for repair. The plant currently has 12 units of this size in service and due to the extended lead time, an additional spare would be beneficial should there be a unit failure. This would also allow one of the spares to be used when any of the transformers are being rebuilt etc. without fear of a spare not being available.</p> <p>Lead time for these transformers can be as long as six months. The cost of these transformers has been budgeted in the FY20 budget and will not be delivered prior to October 1, 2019. We would ask council to approve this purchase and allow us to issue a purchase order so that manufacturing of these transformers can begin.</p> <p>The transformers will be purchased from Techline Inc. through the LCRA Material Acquisition Services Program Agreement dated August 15, 2006.</p> |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b> Provides new service to milk bay and allows for an additional spare transformer<br><b>B. CONS:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |
| <b>ATTACHMENTS:</b> (1) Quote #1097793-00 and #1097727-00 from Techline, Inc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                             |                                                  |                        |                   |                                             |                                         |                                                  |                                  |                                  |                                                  |                                            |                                             |                                     |  |                                       |  |

|                                                                                                                                                                                                                                                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>FUNDING SOURCE (Where Applicable):</b> 102-5-161-807.00                                                                                                                                                                                                                     |
| <b>RECOMMENDED ACTION:</b> Approve the purchase of equipment for the Electric Department from Techline, Inc., in the amount of \$151,921.05, through the Lower Colorado River Authority (LCRA) Material Program and authorize the Mayor to execute any necessary documentation |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                                                                 |



# TECHLINE, Inc.

9609 Beck Circle ■ Austin, Texas 78758-5401  
Phone: (512) 833-5410 ■ Fax: (512) 833-5407

## QUOTE

| QUOTE DATE | ORDER NO.  |
|------------|------------|
| 07/19/19   | 1097793-00 |
| P.O. NO.   | PAGE #     |
|            | 1          |

CUST.#: 1182

SHIP TO:

CITY OF BRENHAM  
315 W 2ND ST  
CENTRAL WAREHOUSE  
BRENHAM, TX 77833

Please remit all payments to:  
Techline, Inc.  
P.O. Box 674005  
Dallas, TX 75267-4005  
Phone: (512) 833-5401

BILL TO:

CITY OF BRENHAM  
PO BOX 1059  
BRENHAM, TX 77834-1059

| INSTRUCTIONS    |             |
|-----------------|-------------|
|                 |             |
| SHIP POINT      | SHIP VIA    |
| Techline Austin | BEST WAY    |
| SHIPPED         | TERMS       |
|                 | NET 30 DAYS |

| LINE NO. | PRODUCT AND DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | QUANTITY ORDERED  | QUANTITY AVAILABLE | QTY. U/M | UNIT PRICE             | AMOUNT (NET)         |
|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|----------|------------------------|----------------------|
|          | Leadtime: 16 to 18 weeks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                   |                    |          |                        |                      |
| 1        | 9298-460382-050<br>1250KVA 7.2 277/480 Single Phase Substation<br>Customer Prod: 26037<br>1250 KVA Single Phase Substation Transformer<br>Primary Voltage: 7200/1247Y<br>Secondary Voltage: 480Y/277<br>Primary Taps: 2-2.5% FCAN & BN<br>65 Degree C Rise OA, 60 Hertz, Standard Impedance<br>Cover Mounted Primary Bushings (Studs) - ANSI Seg #3<br>Cover Mounted Secondary Bushings (4 Hole Spades)<br>Liquid Level and Temperature Gauges<br>Pressure Vacuum Gauge & Bleeder Assembly<br>Pressure Relief Device, Drain Valve and Sampler<br>Inspection Lid, Lifting Facilities<br>Copper Primary and Secondary Rectangular Layer Windings<br>New DR3 Fluid | 3                 | 3                  | ea       | 30500.00               | 91500.00             |
| 1        | Lines Total                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Qty Shipped Total | 3                  |          | Total<br>Invoice Total | 91500.00<br>91500.00 |



9609 Beck Circle ■ Austin, Texas 78758-5401  
Phone: (512) 833-5410 ■ Fax: (512) 833-5407

## QUOTE

| QUOTE DATE | ORDER NO.  |
|------------|------------|
| 07/17/19   | 1097727-00 |
| P.O. NO.   | PAGE #     |
|            | 1          |

CUST.#: 1182

SHIP TO:

CITY OF BRENHAM  
315 W 2ND ST  
CENTRAL WAREHOUSE  
BRENHAM, TX 77833

Please remit all payments to:  
Techline, Inc.  
P.O. Box 674005  
Dallas, TX 75267-4005  
Phone: (512) 833-5401

BILL TO:

CITY OF BRENHAM  
PO BOX 1059  
BRENHAM, TX 77834-1059

| INSTRUCTIONS    |             |
|-----------------|-------------|
|                 |             |
| SHIP POINT      | SHIP VIA    |
| Techline Austin | BEST WAY    |
| SHIPPED         | TERMS       |
|                 | NET 30 DAYS |

| LINE NO. | PRODUCT AND DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | QUANTITY ORDERED  | QUANTITY AVAILABLE | QTY. U/M | UNIT PRICE             | AMOUNT (NET)         |
|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|--------------------|----------|------------------------|----------------------|
| .        | OPTION #2 Copper/Copper Windings                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                   |                    |          |                        |                      |
| .        | Leadtime: 7 to 9 weeks                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                   |                    |          |                        |                      |
| 1        | Brenham Transformer<br>1250KVA 7.2 277/480 Single Phase Substation<br>1250 KVA Single Phase Substation Transformer<br>Primary Voltage: 7200/12470Y (110 KV BIL)<br>Secondary Voltage: 277/480Y (30 KV BIL)<br>Primary Taps: 2-2.5% FCAN & BN<br>65 Degree C Rise OA, 60 Hertz, Standard Impedance<br>Cover Mounted Primary Bushings (Studs) - ANSI Seg #3<br>Cover Mounted Secondary Bushings (Studs with 4 Hole Spades)<br>- ANSI Seg #1, Liquid Level & Temperature Gauges<br>Pressure Vacuum Gauge & Bleeder Assembly, Pressure Relief Device, Drain Valve and Sampler Inspection Lid, Lifting Facilities, New Tanks, New Core Steel, Non-PCB Mineral Oil | 1                 | 1                  | ea       | 60421.05               | 60421.05             |
| 1        | Lines Total                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Qty Shipped Total | 1                  |          | Total<br>Invoice Total | 60421.05<br>60421.05 |

Last Page



## AGENDA ITEM 16

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                                                           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>DATE OF MEETING:</b> August 15, 2019                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <b>DATE SUBMITTED:</b> August 9, 2019                                                                                                                                                                                     |
| <b>DEPT. OF ORIGIN:</b> Public Works                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <b>SUBMITTED BY:</b> Dane Rau                                                                                                                                                                                             |
| <b>MEETING TYPE:</b><br><input checked="" type="checkbox"/> <b>REGULAR</b><br><input type="checkbox"/> <b>SPECIAL</b><br><input type="checkbox"/> <b>EXECUTIVE SESSION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>CLASSIFICATION:</b><br><input type="checkbox"/> <b>PUBLIC HEARING</b><br><input type="checkbox"/> <b>CONSENT</b><br><input checked="" type="checkbox"/> <b>REGULAR</b><br><input type="checkbox"/> <b>WORK SESSION</b> |
| <b>ORDINANCE:</b><br><input type="checkbox"/> <b>1<sup>ST</sup> READING</b><br><input type="checkbox"/> <b>2<sup>ND</sup> READING</b><br><input type="checkbox"/> <b>RESOLUTION</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                           |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Bid No. E2017-01 Related to the Higgins Branch Creek Channel Restoration and Authorize the Mayor to Execute Any Necessary Documentation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                           |
| <b>SUMMARY:</b> On July 30, 2018 Gunda Engineering and City of Brenham staff opened bids regarding the Higgins Branch Creek Restoration Improvements. There were 2 bids received and were very close. Lindsey Construction, Inc. was the low bidder at \$664,176.65.<br><br>This project stems from the 2016 flood events and is in need of repair from Main St to Burleson regarding the creek channel. In 2016 we lost many outfalls that lead from developments upstream of the creek channel along with the force of water causing major erosion which makes it hard to maintain.<br><br>We have had success receiving funding through NRCS and the USDA relating to this project. NRCS has allocated roughly \$604,000 toward the restoration of this creek channel. This will be a 90/10 match in which the City of Brenham will be responsible for roughly \$55,000-\$65,000 of the costs to restore the channel. This has been confirmed and approved as seen in the attached notice and agreement award by USDA. Our portion of the restoration costs is currently budgeted in the FEMA Fund that was established in the 2018-19 budget.<br><br>The scope of work is approximately 3,260 ft. of drainage channel in which it will be restored to prior flood status and allow for easier maintenance of the park that it passes by. It will also improve the outfalls that received damage along with sloping the channel back to help on future erosion.<br><br>We would like to ask council to approve the bid and award the project to Lindsey Construction, Inc. in the amount of \$664,176.65. Gunda has reviewed the documents and provided reference checks on Lindsey and approve moving forward. |                                                                                                                                                                                                                           |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b><br><b>A. PROS:</b> Another project moving forward and this one we will get significant support on.<br><b>B. CONS:</b> Will not get reimbursed on engineering fees and also have a 10% match totaling around \$55,000-\$65,000.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                           |

|                                                                                                                                                                                                                                          |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                                                                                                                                                            |
| <b>ATTACHMENTS:</b> (1) Letter of Recommendation and Bid Tab; (2) Agreement; (3) USDA Notice of Grant and Agreement Award; and (4) Scope of Work Map                                                                                     |
| <b>FUNDING SOURCE (Where Applicable):</b> FEMA FUND                                                                                                                                                                                      |
| <b>RECOMMENDED ACTION:</b> Approve Bid No. E2017-01 to Lindsey Construction. Inc., in the amount of \$664,176.65, related to the Higgins Branch Creek Channel Restoration and authorize the Mayor to execute any necessary documentation |
| <b>APPROVALS:</b> James Fisher                                                                                                                                                                                                           |





# GUNDA CORPORATION

*Engineers, Planners & Managers*

August 1, 2019

City of Brenham  
200 W. Vulcan St., Suite 206  
Brenham, Texas 77833

Attn: Dane Rau, Director of Public Works

Re: City of Brenham  
Storm Damage Repairs, Package 2  
Project Bid No. E2017-01  
GUNDA Project No. 17015-01

## **Tabulation of Bids Received and Engineer's Recommendation**

Dear Mr. Rau:

On July 30, 2019, a total of two (2) bids were received and opened for the Storm Damage Repairs, Package 2 project in accordance with the Notice to Bidders. The bids have been reviewed and tabulated, see enclosure.

Lindsey Construction, Inc. is the responsive low bidder in the amount \$664,176.65. The bid included the five percent (5%) bid bond.

The bid submitted by Lindsey Construction, Inc. shows no signs of imbalance. Therefore, we pose no objection to the recommendation of awarding the construction contract for City of Brenham Storm Damage Repairs, Package 2, to Lindsey Construction, Inc.

Below is a summary of our full review of the bids received for the project.

The Total Bid Price was utilized to establish the order of the bids and identification of apparent low bidder.

Bidders and their Total Bids were:

|    | Contractor                 | Total Bid Price Submitted |
|----|----------------------------|---------------------------|
| 1) | Lindsey Construction, Inc. | \$664,176.65              |
| 2) | ERS of MS, Inc.            | \$667,667.00              |

If you have any questions, please do not hesitate to call.

Sincerely,

Kyle A. Bertrand, P.E.  
Branch Manager, Montgomery County Office

Enclosure: Project Bid Tabulation

Bid Tab

| Engineer's Estimate  | BIDDER No. 1         | BIDDER No. 2         |
|----------------------|----------------------|----------------------|
| \$107,780.00         | \$147,570.00         | \$167,592.00         |
| \$433,690.00         | \$438,359.15         | \$453,717.00         |
| \$10,000.00          | \$5,900.00           | \$4,000.00           |
| \$19,072.50          | \$31,972.50          | \$18,358.00          |
| \$29,850.00          | \$40,375.00          | \$24,000.00          |
| <b>\$ 600,392.50</b> | <b>\$ 664,176.65</b> | <b>\$ 667,667.00</b> |

B1. BASE UNIT PRICE TABLE - SITE PREPARATION AND EARTHWORK ITEMS:  
B2. BASE UNIT PRICE TABLE - CHANNEL ITEMS  
B3. BASE UNIT PRICE TABLE - TRAFFIC CONTROL ITEMS  
B.4 BASE UNIT PRICE TABLE - SWPPP & SWQMP ITEMS  
C. EXTRA UNIT PRICES  
**TOTAL BID PRICE**

| B1. BASE UNIT PRICE TABLE - SITE PREPARATION AND EARTHWORK ITEMS:  |              |                                                                                                                                                                                                                    |              |               | ENGINEER'S ESTIMATE |                  | LINDSEY CONSTRUCTION, INC. |                  | ERS OF MS, Inc. |                  |
|--------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|---------------|---------------------|------------------|----------------------------|------------------|-----------------|------------------|
| ITEM NO.                                                           | CONTROL NO.  | ITEM DESCRIPTION                                                                                                                                                                                                   | UNIT MEASURE | UNIT QUANTITY | UNIT PRICE          | TOTAL IN FIGURES | UNIT PRICE                 | TOTAL IN FIGURES | UNIT PRICE      | TOTAL IN FIGURES |
| 1                                                                  | 01502        | Mobilization Including Performance and Payment Bonds, Insurance and Permits (Max. 4% of Total Base Bid).                                                                                                           | LS           | 1             | \$ 22,000.00        | \$22,000.00      | \$27,400.00                | \$ 27,400.00     | \$24,000.00     | \$ 24,000.00     |
| 2                                                                  | 02200, 02221 | Site Preparation to Include Demolition and Removal of Remaining Articulated Concrete Blocks, Retaining Wall, and Concrete Headwall Structures, Complete in Place                                                   | LS           | 1             | \$ 25,000.00        | \$25,000.00      | \$32,000.00                | \$ 32,000.00     | \$48,000.00     | \$ 48,000.00     |
| 3                                                                  | 02233        | Clearing and Grubbing (Channel Overgrowth only), Complete in Place                                                                                                                                                 | AC           | 0.50          | \$ 15,000.00        | \$7,500.00       | \$16,500.00                | \$ 8,250.00      | \$42,000.00     | \$ 21,000.00     |
| 4                                                                  | 02922        | Block Sodding, Complete in Place                                                                                                                                                                                   | SY           | 10,656        | \$ 5.00             | \$53,280.00      | \$ 7.50                    | \$ 79,920.00     | \$ 7.00         | \$ 74,592.00     |
| TOTAL B.1 BASE UNIT PRICES - SITE PREPARATION AND EARTHWORK ITEMS: |              |                                                                                                                                                                                                                    |              |               |                     | \$107,780.00     |                            | \$ 147,570.00    |                 | \$ 167,592.00    |
| B2. BASE UNIT PRICE TABLE - CHANNEL ITEMS                          |              |                                                                                                                                                                                                                    |              |               | ENGINEER'S ESTIMATE |                  | LINDSEY CONSTRUCTION, INC. |                  | ERS OF MS, Inc. |                  |
| ITEM NO.                                                           | CONTROL NO.  | ITEM DESCRIPTION                                                                                                                                                                                                   | UNIT MEASURE | UNIT QUANTITY | UNIT PRICE          | TOTAL IN FIGURES | UNIT PRICE                 | TOTAL IN FIGURES | UNIT PRICE      | TOTAL IN FIGURES |
| 5                                                                  | 02222; 02720 | 18" RCP Storm, Complete in Place                                                                                                                                                                                   | LF           | 8             | \$ 100.00           | \$800.00         | \$ 330.00                  | \$ 2,640.00      | \$ 300.00       | \$ 2,400.00      |
| 6                                                                  | 02240        | Cement Stabilized Sand (1.5 Sack), Complete in Place                                                                                                                                                               | CY           | 40            | \$ 110.00           | \$4,400.00       | \$ 100.00                  | \$ 4,000.00      | \$ 305.00       | \$ 12,200.00     |
| 7                                                                  | 02314; 02316 | Channel Excavation, including cut, embankment (est. 713 CY), compaction (95% SPD; +/- 2%), bench repair, muckout (est. 550 CY), desilting, flow line grading (est. 2,327 LF) and final dressing. Complete in Place | CY           | 3,839         | \$ 40.00            | \$153,560.00     | \$ 27.85                   | \$ 106,916.15    | \$ 30.00        | \$ 115,170.00    |
| 8                                                                  | 02322        | Flowable Fill, including core under existing outfall pads, as directed by Engineer's Representative, Complete in Place                                                                                             | CY           | 5             | \$ 220.00           | \$1,100.00       | \$ 1,030.00                | \$ 5,150.00      | \$ 850.00       | \$ 4,250.00      |
| 9                                                                  | 02376        | Proposed 5" Slope Paving, Complete in Place                                                                                                                                                                        | SY           | 171           | \$ 95.00            | \$16,245.00      | \$ 116.00                  | \$ 19,836.00     | \$ 112.00       | \$ 19,152.00     |
| 10                                                                 | 02378        | Riprap (Stone Typ R)(Dry)(18in), Complete in Place                                                                                                                                                                 | SY           | 1,811         | \$ 85.00            | \$153,935.00     | \$ 112.00                  | \$ 202,832.00    | \$ 95.00        | \$ 172,045.00    |

Bid Tab

| Engineer's Estimate                                 |                           |                                                                                                                                       |  |  | BIDDER No. 1 |              |               | BIDDER No. 2 |                  |               |                  |                  |
|-----------------------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------|--|--|--------------|--------------|---------------|--------------|------------------|---------------|------------------|------------------|
| 11                                                  | 02314;<br>02316           | Toe Erosion Slope Repairs, including geotextile,<br>Complete in Place                                                                 |  |  | SY           | 985          | \$ 90.00      | \$88,650.00  | \$ 81.00         | \$ 79,785.00  | \$ 100.00        | \$ 98,500.00     |
| 12                                                  | 03100;<br>03200;<br>03300 | Remove and Replace In-Service Concrete Pipe<br>Support, Complete in Place                                                             |  |  | EA           | 2            | \$ 7,500.00   | \$15,000.00  | \$ 8,600.00      | \$ 17,200.00  | \$15,000.00      | \$ 30,000.00     |
| TOTAL B.2 BASE UNIT PRICES - CHANNEL ITEMS          |                           |                                                                                                                                       |  |  |              |              |               | \$433,690.00 |                  | \$ 438,359.15 |                  | \$ 453,717.00    |
| B3. BASE UNIT PRICE TABLE -TRAFFIC CONTROL ITEMS    |                           |                                                                                                                                       |  |  |              |              |               |              |                  |               |                  |                  |
| ITEM NO.                                            | CONTROL NO.               | ITEM DESCRIPTION                                                                                                                      |  |  |              | UNIT MEASURE | UNIT QUANTITY | UNIT PRICE   | TOTAL IN FIGURES | UNIT PRICE    | TOTAL IN FIGURES | TOTAL IN FIGURES |
| 13                                                  | 01555                     | Traffic Control - Furnish, Install, Maintain & Remove<br>Barricades, Barriers, Barrels, Signing, etc.                                 |  |  |              | LS           | 1             | \$ 10,000.00 | \$10,000.00      | \$ 5,900.00   | \$ 5,900.00      | \$ 4,000.00      |
| TOTAL B.3 BASE UNIT PRICES - TRAFFIC CONTROL ITEMS: |                           |                                                                                                                                       |  |  |              |              |               |              |                  |               |                  |                  |
| B.4 BASE UNIT PRICE TABLE - SWPPP & SWQMP ITEMS     |                           |                                                                                                                                       |  |  |              |              |               |              |                  |               |                  |                  |
| ITEM NO.                                            | CONTROL NO.               | ITEM DESCRIPTION                                                                                                                      |  |  |              | UNIT MEASURE | UNIT QUANTITY | UNIT PRICE   | TOTAL IN FIGURES | UNIT PRICE    | TOTAL IN FIGURES | TOTAL IN FIGURES |
| 14                                                  | 01570<br>01410            | Storm Water Pollution Prevention (Maintenance &<br>Removal);(60% of unit costs at installation, and 40% of<br>unit costs for removal) |  |  |              | LS           | 1             | \$ 4,500.00  | \$4,500.00       | \$ 7,625.00   | \$ 7,625.00      | \$ 4,000.00      |
| 15                                                  | 02361                     | Reinforced Filter Fabric Fence                                                                                                        |  |  |              | LF           | 575           | \$ 7.50      | \$4,312.50       | \$ 6.50       | \$ 3,737.50      | \$ 3,450.00      |
| 16                                                  | 02364                     | Rock Filter Dam (Type 1)                                                                                                              |  |  |              | LF           | 60            | \$ 60.00     | \$3,600.00       | \$ 121.50     | \$ 7,290.00      | \$ 6,912.00      |
| 17                                                  | 02365                     | Stabilized Construction Access                                                                                                        |  |  |              | SY           | 333           | \$ 20.00     | \$6,660.00       | \$ 40.00      | \$ 13,320.00     | \$ 3,996.00      |
| TOTAL B.4 BASE UNIT PRICES - SWPPP & SWQMP ITEMS    |                           |                                                                                                                                       |  |  |              |              |               | \$19,072.50  |                  | \$ 31,972.50  |                  | \$ 18,358.00     |
| TOTAL BASE UNIT PRICES                              |                           |                                                                                                                                       |  |  |              |              |               |              |                  |               |                  |                  |
|                                                     |                           |                                                                                                                                       |  |  |              |              |               | \$570,542.50 |                  | \$ 623,801.65 |                  | \$ 643,667.00    |
| C. EXTRA UNIT PRICES                                |                           |                                                                                                                                       |  |  |              |              |               |              |                  |               |                  |                  |
| ITEM NO.                                            | CONTROL NO.               | ITEM DESCRIPTION                                                                                                                      |  |  |              | UNIT MEASURE | UNIT QUANTITY | UNIT PRICE   | TOTAL IN FIGURES | UNIT PRICE    | TOTAL IN FIGURES | TOTAL IN FIGURES |
| 18                                                  | 02318                     | EXTRA HAND EXCAVATION                                                                                                                 |  |  |              | CY           | 100           | \$ 10.00     | \$ 1,000.00      | \$ 17.00      | \$ 1,700.00      | \$ 1,000.00      |
| 19                                                  | 02318                     | EXTRA MACHINE EXCAVATION                                                                                                              |  |  |              | CY           | 100           | \$ 25.00     | \$ 2,500.00      | \$ 32.00      | \$ 3,200.00      | \$ 2,500.00      |
| 20                                                  | 02318                     | EXTRA BANK SAND BACKFILL                                                                                                              |  |  |              | CY           | 100           | \$ 30.00     | \$ 3,000.00      | \$ 39.00      | \$ 3,900.00      | \$ 3,000.00      |
| 21                                                  | 02318                     | EXTRA CEMENT-STABILIZED SAND                                                                                                          |  |  |              | CY           | 100           | \$ 18.00     | \$ 1,800.00      | \$ 35.00      | \$ 3,500.00      | \$ 1,800.00      |
| 22                                                  | 02321                     | EXTRA BACKFILL                                                                                                                        |  |  |              | CY           | 150           | \$ 22.00     | \$ 3,300.00      | \$ 28.00      | \$ 4,200.00      | \$ 3,300.00      |

Bid Tab

|                            |       |                                                                              |    |    | Engineer's Estimate |              | BIDDER No. 1  |              | BIDDER No. 2  |              |
|----------------------------|-------|------------------------------------------------------------------------------|----|----|---------------------|--------------|---------------|--------------|---------------|--------------|
|                            |       |                                                                              |    |    | \$ 100.00           | \$ 4,500.00  | \$ 225.00     | \$ 10,125.00 | \$ 80.00      | \$ 3,600.00  |
| 23                         | 02502 | Extra Remove and Replace In-Service 10" Steel Pipe Casing, Complete in Place | LF | 45 |                     |              |               |              |               |              |
| 24                         | 02502 | Extra Remove and Replace In-Service 30" Steel Pipe Casing, Complete in Place | LF | 55 | \$ 250.00           | \$ 13,750.00 | \$ 250.00     | \$ 13,750.00 | \$ 160.00     | \$ 8,800.00  |
| TOTAL C. EXTRA UNIT PRICES |       |                                                                              |    |    |                     | \$29,850.00  |               | \$ 40,375.00 |               | \$ 24,000.00 |
|                            |       |                                                                              |    |    |                     |              |               |              |               |              |
|                            |       |                                                                              |    |    | \$ 600,392.50       |              | \$ 664,176.65 |              | \$ 667,667.00 |              |

Document 00520

**AGREEMENT**

**Project:** Storm Damage Repairs, Package 2

**Project Location:** Higgins Creek from W. Main Street to Rippetoe Street (Key Map No. )

**Project Bid No:** \_\_\_\_\_

**E&P Project No:** E2017-01

**The City:** The City of Brenham, County of Washington, Texas (the “City”)  
and

**Contractor:** Lindsey Construction, Inc.

(Address for Written Notice) P.O. Box 73169, Houston, TX 77273

**Fax Number:** \_\_\_\_\_

**City Engineer is:** Consulting Engineer Representing the City - Gunda Corporation

(Address for Written Notice) 200 West Vulcan P.O. Box 1059, Brenham, TX, 77834

**Fax Number:** \_\_\_\_\_

**THE CITY AND CONTRACTOR AGREE AS FOLLOWS:**

**ARTICLE 1**

**THE WORK OF THE CONTRACT**

- 1.1 Contractor shall perform the Work in accordance with the Contract.

**ARTICLE 2**

**CONTRACT TIME**

- 2.1 Contractor shall achieve Date of Substantial Completion within **80 days** after Date of Commencement of the Work, subject to adjustments of Contract Time as provided in the Contract.
- 2.2 The Parties recognize that time is of the essence for this Agreement and that the City will suffer financial loss if the Work is not completed within the Contract Time. Parties also recognize delays, expense, and difficulties involved in proving in a legal or arbitration proceeding actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay the City the amount stipulated in Document 00800 – Supplementary Conditions, for each day beyond Contract Time.

**ARTICLE 3**

**CONTRACT PRICE**

- 3.1 Subject to terms of the Contract, the City will pay Contractor in current funds for Contractor's performance of the Contract, Contract Price of \$664,176.65 which includes Alternates, if any, accepted below.
- 3.2 The City accepts Alternates as follows:  
Alternate No. 1 Not Applicable

**ARTICLE 4**  
**PAYMENTS**

- 4.1 The City will make progress payments to Contractor as provided below and in the General Conditions.
- 4.2 The Period covered by each progress payment is one calendar month ending on the [ ] 10th, [ ] 20th, or [X] last day of the month.
- 4.3 The Schedule of Values established as provided in paragraph 2.07.A of the General Conditions will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed. The City will make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as provided below in paragraphs 4.3.1 and 4.3.2.
- 4.3.1 Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or City may withhold, in accordance with paragraph 14.02 of the General Conditions:
- a. For contracts under \$400,000.00, 90% of Work completed (with the balance being retainage). For contracts over \$400,000.00, 95% of Work completed (with the balance being retainage.)
  - b. For contracts under \$400,000.00, 90% (with the balance being retainage) and for contracts over \$400,000.00, 95% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to the City as provided in paragraph 14.02 of the General Conditions).
- 4.3.2 Upon Substantial Completion, the City shall pay an amount sufficient to increase total payments to Contractor to 95% of the Work completed, less such amounts as Engineer shall determine in accordance with paragraph 14.02.B.5 of the General Conditions and less 100% of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the Certificate of Substantial Completion.
- 4.4 Final payment, constituting entire unpaid balance of Contract Price, will be made by the City to Contractor as provided in the General Conditions.

**ARTICLE 5  
CONTRACTOR REPRESENTATIONS**

- 5.1 Contractor represents:
- 5.1.1 Contractor has examined and carefully studied Contract documents and other related data identified in Bid Documents.
  - 5.1.2 Contractor has visited the site and become familiar with and is satisfied as to general, local, and site conditions that may affect cost, progress, and performance of the Work.
  - 5.1.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.
  - 5.1.4 Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in Contract documents and (2) reports and drawings of a hazardous environmental condition, if any, at the site which has been identified in Contract documents.
  - 5.1.5 Contractor has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract to be employed by Contractor, and safety precautions and programs incident thereto
  - 5.1.6 Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for performance of the Work at Contract Price, within Contract Time, and in accordance with the Contract.
  - 5.1.7 Contractor is aware of general nature of work to be performed by the City and others at the site that relates to the Work as indicated in Contract documents.
  - 5.1.8 Contractor has correlated information known to Contractor, information and observations obtained from visits to the site, reports and drawings identified in the Contract, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract.
  - 5.1.9 Contractor has given City Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract, and written resolution thereof by City Engineer is acceptable to Contractor.
  - 5.1.10 Contract documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.



**ARTICLE 6**

**MISCELLANEOUS PROVISIONS**

- 6.1 The Contract may be terminated by either Party as provided in Conditions of the Contract.
- 6.2 The Work may be suspended by the City as provided in Conditions of the Contract.

**ARTICLE 7**

**ENUMERATION OF CONTRACT DOCUMENTS**

- 7.1 The following documents are incorporated into this Agreement:
- 7.1.1 Document 00700 - General Conditions
  - 7.1.2 Document 00800 - Supplementary Conditions
  - 7.1.3 General Requirements.
  - 7.1.4 Divisions 02 through 16 of Specifications attached hereto or incorporated by reference in Document 00010 - Table of Contents.
  - 7.1.5 Drawings listed in Document 00015 - List of Drawings and bound separately.
  - 7.1.6 Addenda which apply to the Contract, are as follows:
    - Addendum No. 1, dated [July 26, 2019]
    - Addendum No. 2, dated [\_\_\_\_\_]
    - Addendum No. 3, dated [\_\_\_\_\_]
  - 7.1.7 Other documents:

|       | <u>Document No.</u> | <u>Title</u>                                                         |
|-------|---------------------|----------------------------------------------------------------------|
| [ X ] | 00410B              | Bid Form – Part B                                                    |
| [ X ] | 00431               | Prohibition on Boycotting Israel Verification                        |
| [ X ] | 00432               | Conflict of Interest Questionnaire                                   |
| [ X ] | 00433               | Contracts with Governmental Entity SB 252 Chapter 2252 Certification |
| [ X ] | 00434               | Certificate of Interested Parties Form 1295                          |
| [ X ] | 00460A              | HUB Subcontracting Plan (HSP)                                        |
| [ X ] | 00500               | Form of Business                                                     |
| [ X ] | 00501               | Resolution of Corporation (if a corporation)                         |
| [ X ] | 00610               | Performance Bond                                                     |
| [ X ] | 00611               | Statutory Payment Bond                                               |
| [ ]   | 00612               | One-year Maintenance Bond                                            |
| [ X ] | 00620               | Affidavit of Insurance (with the Certificate of Insurance attached)  |
| [ ]   | 00800               | Exhibit A, Wage Rates                                                |
| [ ]   | 00821               | Wage Rate for Building Construction                                  |
| [ ]   | 00830               | Trench Safety Geotechnical Information                               |



**ARTICLE 8  
SIGNATURES**

8.1 This Agreement is executed in two originals and is effective on \_\_\_\_\_.

**CONTRACTOR: LINDSEY CONSTRUCTION,  
INC.**

(If Joint Venture)

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Tax Identification Number: \_\_\_\_\_

Tax Identification Number: \_\_\_\_\_

ATTEST/SEAL:

[SEAL]

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF BRENHAM, TEXAS:**

By: \_\_\_\_\_

Mayor

Date: \_\_\_\_\_

ATTEST/SEAL:

[SEAL]

Attest: \_\_\_\_\_

City Secretary

Date: \_\_\_\_\_

**END OF DOCUMENT**



U.S. Department of Agriculture  
Natural Resources Conservation Service

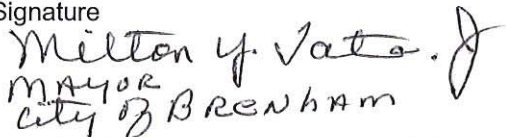
NRCS-ADS-093

### NOTICE OF GRANT AND AGREEMENT AWARD

|                                                                                                                                                                                                           |                                                                                                                                 |                                                                                                                                            |                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| 1. Award Identifying Number<br>NR197442XXXXC006                                                                                                                                                           | 2. Amendment Number                                                                                                             | 3. Award /Project Period<br>04/29/2019 - 12/05/2019                                                                                        | 4. Type of award instrument:<br>Cooperative Agreement                                                                                |
| 5. Agency (Name and Address)<br><br>Natural Resources Conservation Service<br>101 South Main Street<br>Temple, TX 76501                                                                                   |                                                                                                                                 | 6. Recipient Organization (Name and Address)<br><br>CITY OF BRENHAM<br>PO BOX 1059<br>BRENHAM TX 77834-1059<br><br>DUNS: 074164922    EIN: |                                                                                                                                      |
| 7. NRCS Program Contact<br><br>Name: Mark Northcut<br>Phone: (413) 253-4361<br>Email: Mark.Northcut@tx.usda.gov                                                                                           | 8. NRCS Administrative Contact<br><br>Name: KALAYA WASHINGTON<br>Phone: (202) 692-0353<br>Email: Kalaya.Washington@wdc.usda.gov | 9. Recipient Program Contact<br><br>Name: Lori Sanguedolce<br>Phone: (979) 337-7215<br>Email: lsanguedolce@cityofbrenham.org               | 10. Recipient Administrative Contact<br><br>Name: Lori Sanguedolce<br>Phone: (979) 337-7215<br>Email: lsanguedolce@cityofbrenham.org |
| 11. CFDA<br>10.923                                                                                                                                                                                        | 12. Authority<br>33 U.S.C. 701b-1                                                                                               | 13. Type of Action<br>New Agreement                                                                                                        | 14. Program Director<br><br>Name: Lori Sanguedolce<br>Phone: (979) 337-7215<br>Email: lsanguedolce@cityofbrenham.org                 |
| 15. Project Title/ Description: Remove and dispose of accumulated sediment along approximately 3260 feet of channel by reestablishing flow lines, side slopes, and armor eroded areas in Hattie Mae Park. |                                                                                                                                 |                                                                                                                                            |                                                                                                                                      |
| 16. Entity Type: 02 = City or Township government                                                                                                                                                         |                                                                                                                                 |                                                                                                                                            |                                                                                                                                      |
| 17. Select Funding Type                                                                                                                                                                                   |                                                                                                                                 |                                                                                                                                            |                                                                                                                                      |
| Select funding type:                                                                                                                                                                                      | <input checked="" type="checkbox"/> Federal                                                                                     | <input checked="" type="checkbox"/> Non-Federal                                                                                            |                                                                                                                                      |
| Original funds total                                                                                                                                                                                      | \$589,923.18                                                                                                                    | \$60,412.00                                                                                                                                |                                                                                                                                      |
| Additional funds total                                                                                                                                                                                    | \$0.00                                                                                                                          | \$0.00                                                                                                                                     |                                                                                                                                      |
| Grand total                                                                                                                                                                                               | \$589,923.18                                                                                                                    | \$60,412.00                                                                                                                                |                                                                                                                                      |
| 18. Approved Budget                                                                                                                                                                                       |                                                                                                                                 |                                                                                                                                            |                                                                                                                                      |

|                   |              |                             |              |
|-------------------|--------------|-----------------------------|--------------|
| Personnel         | \$0.00       | Fringe Benefits             | \$0.00       |
| Travel            | \$0.00       | Equipment                   | \$0.00       |
| Supplies          | \$0.00       | Contractual                 | \$0.00       |
| Construction      | \$543,708.00 | Other                       | \$46,215.18  |
| Total Direct Cost | \$589,923.18 | Total Indirect Cost         | \$0.00       |
|                   |              | Total Non-Federal Funds     | \$60,412.00  |
|                   |              | Total Federal Funds Awarded | \$589,923.18 |
|                   |              | Total Approved Budget       | \$650,335.18 |

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any, found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

|                                                        |                                                                                                                                                                                                       |                    |
|--------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|
| Name and Title of Authorized Government Representative | Signature<br><b>SALVADOR SALINAS</b><br> Digitally signed by SALVADOR SALINAS<br>Date: 2019.04.29 14:02:31 -05'00' | Date               |
| Name and Title of Authorized Recipient Representative  | Signature<br><br>MAYOR<br>CITY OF BRENHAM                                                                          | Date<br>04/11/2019 |

#### NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

#### PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

## Statement of Work

### Purpose

The purpose of this agreement is for the United States Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the "NRCS", to provide technical and financial assistance to City of Brenham, hereinafter referred to as the "Sponsor", for EWP Project # 5103 in Washington County, TX for implementation of recovery measures, that, if left undone, pose a risk to life and/or property.

### Objectives

The design and installation of EWP measures as detailed in the individual Damage Survey Report (DSR - 2017\_48477\_CoB-001) and described here:

- Remove and dispose of accumulated sediment along approximately 3260 feet of channel by reestablishing flow lines, side slopes, and armor eroded areas in Hattie Mae Park.

### Budget Narrative

A. The estimated costs for the Project:

1. Total Estimated Project Budget: \$650,335.18

The budget includes:

Financial Assistance (FA) Costs:

Construction Costs (90% NRCS \$543,708.00 + 10% Sponsor \$60,412.00): \$604,120.00

Technical Assistance (TA) Costs:

100% NRCS (8.5% of total NRCS Financial Assistance): \$46,215.18

2. NRCS pays up to 90 percent of eligible construction costs, and Sponsor pays 10 percent of construction costs. NRCS will contribute up to 8.5% of total NRCS Financial Assistance for contract administration and construction management costs. It is possible that technical and administrative costs will exceed this amount, requiring the Sponsor to contribute resources to complete technical and administrative work.

3. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for financial assistance (FA) and one for technical assistance (TA). FA costs are associated with construction activities; TA costs are associated with services. These expenditures shall be accounted for separately in order for expenses to be eligible for reimbursement.

4. NRCS will provide FA for actual costs as reimbursement to the Sponsor for approved on-the-ground construction costs, subject to above limits. If costs are reduced, reimbursement will be reduced accordingly. Construction costs are associated with the installation of the project measures including labor, equipment and materials.

5. NRCS will provide TA reimbursement to the Sponsor for technical and administrative costs directly charged to the project, subject to the above limits. If costs are reduced, reimbursement will be reduced accordingly. These costs include

a. engineering costs include, but not limited to, developing a project design that includes construction drawings and specifications, an operation and maintenance plan, a quality assurance/inspection plan and an engineer's estimate of the project installation costs in addition to providing necessary quality assurance during construction.

b. contract administration costs include, but not limited to, soliciting, evaluating, awarding and administering contracts for construction and engineering services, including project management, verifying invoices and record keeping.

6. The Sponsor will contribute funds toward the total construction costs in either direct cash expenditures, the value of non-cash materials or services, or in-kind contributions. The value of any in-kind contribution shall be agreed to in writing prior to implementation.



## **Responsibilities of the Parties:**

### **A. Sponsor will—**

1. Accomplish construction of the EWP project measures by contracting, in-kind construction services, or a combination of both.
2. Ensure and certify by signing this agreement that its cost share obligation is from a non-Federal source.
3. Designate a project liaison to serve between the Sponsor and NRCS and identify that person's contact information with this executed agreement. Any change in the project liaison during the terms of this agreement must be immediately communicated to NRCS.
4. Appoint a contracting officer and an authorized representative who will have authority to act for the contracting officer, listing their duties, responsibilities, and authorities. Furnish such information in writing to the NRCS State Conservationist.
5. Comply with the terms and conditions of this agreement and the attached general terms and conditions except those that are not applicable to State and local governments.
6. Acquire and provide certification to NRCS that real property rights (land and water), permits and licenses in accordance with local, state, and Federal laws necessary for the installation of EWP project measures have been obtained at no cost to NRCS prior to construction. This includes any rights associated with required environmental mitigation. Sponsors shall provide such certification on Form NRCS-ADS-78, Assurances Relating to Real Property Acquisition. Sponsors shall also provide an attorney's opinion supporting this certification. Costs related to land rights and permits are the Sponsor's responsibility and ineligible for reimbursement.
7. Accept all financial and other responsibility for excess costs resulting from their failure to obtain, or their delay in obtaining, adequate land and water rights, permits and licenses needed for the Project.
8. Provide the agreed-to portion of the actual, eligible and approved construction cost. These costs may be in the form of cash, in-kind construction services, or a combination of both. Final construction items that are eligible construction costs will be agreed upon during the pre-design conference. These costs consist of costs from contracts awarded to contractors and eligible Sponsor in-kind construction costs for materials, labor, and equipment. The Sponsor shall provide NRCS documentation to support all eligible construction costs. Construction costs incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.
9. Be responsible for 100 percent of all ineligible construction costs and 100 percent of any unapproved upgrade to increase the level of protection over and above that described in the DSR.
10. Account for and report FA and TA expenditures separately in order for expenses to be eligible for reimbursement. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for TA and one for FA, requiring this separation.
11. Prepare design, construction specifications, and drawings in accordance with standard engineering principles that comply with NRCS programmatic requirements; and/or contract/install the designed construction. Any design services will be by a professional registered engineer. Sponsor will obtain NRCS review and concurrence on the design, construction plans, and specifications. The Sponsor must ensure description of work is reviewed, concurred, and approved by NRCS. A copy of the final signed and sealed plans and specifications shall be provided to NRCS.
12. Contract for services and construction in accordance with the Code of Federal Regulations (CFR), 2 CFR § 200.317 through 200.326, applicable State regulations, and the Sponsor's procurement regulations, as appropriate. (See general terms and conditions attached to this agreement for a link to the CFR.) In accordance with 2 CFR § 200.326, contracts must contain the applicable provisions described in Appendix II to Part 200. Davis-Bacon Act would not apply under this Federal program legislation.
13. The contracts for design services and construction described in this Agreement shall not be awarded to the Sponsor or to any firm in which any Sponsor's official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.



14. For contracts, provide NRCS a copy of solicitation notice, bid abstract, and notice of contract award, or other basis of cost and accomplishment.

15. For in-kind construction services (materials, labor, and/or equipment supplied by the Sponsor), develop a Plan of Operations describing the construction services to be performed including estimated quantities and values. The Plan of Operations shall be concurred in by NRCS at the pre-design conference. In-kind construction services for equipment shall not exceed published FEMA equipment rates unless otherwise documented and concurred in advance by NRCS.

16. The following documentation is required to support the Sponsor's request for reimbursement of in-kind construction services:

- a. Invoices covering actual costs of materials used in constructing the eligible EWP project measures.
- b. Records documenting the type, quality, and quantities of materials actually used in constructing the eligible EWP project measures.
- c. Daily time records for each employee showing name, classification, wage rate, hours, and dates actually employed for constructing the eligible EWP project measures.
- d. Equipment operating records showing the type and size of equipment, hourly rate, actual hours of operation and dates used to install the eligible EWP project measures. Equipment idle time is not eligible in-kind construction services, even if on the job site, and should not be included in the equipment operating records.

17. Prior to commencement of work and/or solicitation of bids, submit for NRCS review and concurrence a Quality Assurance Plan (QAP). The QAP shall outline technical and administrative expertise required to ensure the EWP project measures are installed in accordance with the plans and specifications, identify individuals with the expertise, describe items to be inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements. A copy of the final QAP shall be provided to NRCS prior to commencement of construction.

18. Provide construction inspection in accordance with the QAP.

19. Prepare and submit for NRCS concurrence an Operation and Maintenance (O&M) Plan, if applicable, prior to commence of work. The O&M Plan shall describe the activities the Sponsor will do to ensure the project performs as designed. Upon completion of the project measures, the Sponsor shall assume responsibility for O&M.

20. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns as well as copies of all permits, licenses, and other documents required by Federal, state, and local statutes and ordinances prior to solicitation for installation of the EWP project measures. All modifications to the plans and specifications shall be reviewed and concurred on by NRCS.

21. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.

22. The Sponsor must secure at its own expense all Federal, State, and local permits and licenses necessary for completion of the work described in this agreement as well as any necessary natural resource rights and provide copies of all permits and licenses obtained to NRCS.

23. Will arrange and pay for any necessary location, removal, or relocation of utilities. EWP program regulations prohibit NRCS from reimbursing the Sponsor or otherwise paying for any such costs; nor do the costs qualify as a Sponsor cost-share contribution.

24. Ensure that technical and engineering standards and specifications of NRCS are adhered to during construction of the Project, as interpreted by NRCS Program/Technical Contact. Provide NRCS Program/Technical Contact progress reports as necessary and agreed to. Progress reports should include technical on-site inspections of work accomplished for the period, work planned, results of material tests, deficient work products and/or tests with corrective actions taken, modifications anticipated, technical problems encountered, contractual issues and other relevant information.

25. Ensure that adequate accident prevention measures are incorporated into the construction contract for the EWP measures described in this agreement. Contractors on NRCS assisted projects are to perform their work in accordance with OSHA regulations and the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). This may require the inclusion of an appropriate accident prevention clause and supplement such as the NRCS supplement to OSHA Parts 1910 and 1926, be made a part of the construction contract. Secure concurrence of the State Conservationist before approving a waiver or an adaptation of any of the safety provisions. The Sponsor is responsible for checking the contractor's compliance with safety requirements.



26. Arrange for and conduct final inspection of completed project with NRCS to determine whether all work has been performed in accordance with contractual requirements. Provide a PE certification that the Project was installed in accordance with approved plans and specifications.

27. Provide PE-certified as-built drawings and quantities for the project. A copy of the as-built drawings will be submitted to the NRCS Program/Technical Contact.

28. Pay the contractor(s) for work performed in accordance with the agreement and submit a SF-270, "Request for Advance or Reimbursement" to the NRCS Program/Technical Contact with all documentation to support the request. Final payment request shall be submitted within 90 calendar days of completion of the EWP project measures. Payments will be withheld until all required documentation is submitted and complete.

a. The required supporting documentation for reimbursement of construction costs include invoices and proof of payment to the contractor showing the items and quantities installed and certified by the engineer of record along with any supporting documentation such as quantity calculations, rock weight tickets, etc.

b. The required supporting documentation for reimbursement of in-kind construction expenses will include employee time sheets, employee hourly rate, equipment operating logs, equipment hourly rate, and material quantities and invoices.

c. The required documentation for reimbursement of technical and administrative services will be invoices and proof of payment to consultants and/or employee time sheets along with the employee's hourly rate, hours worked, and date work was performed.

29. Ensure that information in the System for Award Management (SAM) is current and accurate until the final financial report (SF-425) under this award or final payment is received, whichever is later.

30. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the contract(s) awarded under this Agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the Project. Such actions will be at the expense of the Sponsor, including any legal expenses. The Sponsor will advise, consult with, and obtain prior written concurrence of NRCS on any litigation matters in which NRCS could have a financial interest.

31. Sponsor must indemnify and hold NRCS harmless to the extent permitted by State law for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the Sponsor in connection with its acquisition and management of the Emergency Watershed Protection Program pursuant to this agreement. Further, the Sponsor agrees that NRCS will have no responsibility for acts and omissions of the Sponsor, its agents, successors, assigns, employees, contractors, or lessees in connection with the acquisition and management of the Emergency Watershed Protection Program pursuant to this agreement that result in violation of any laws and regulations that are now or that may in the future become applicable.

32. Retain all records dealing with the award and administration of the contract(s) for 3 years from the date of the Sponsor's submission of the final request for reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the 3-year period, records are to be retained until the litigation is resolved or the end of the 3-year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcriptions.

33. Be liable to the NRCS for damages sustained by the NRCS as a result of the contractor failing to complete the work within the specified time. The damages will be based upon the additional costs incurred by the NRCS resulting from the contractor not completing the work within the allowable performance period. These costs include but are not limited to personnel costs, travel, etc. The NRCS will have the right to withhold such amount out of any monies that may be then due or that may become due and payable to the Sponsor. This liability is not applicable to the extent that the contract performance time is extended by court judgment unless such judgment results from actions of the Sponsor not concurred in by NRCS.

34. Take necessary legal action, including bringing suit, to collect from the contractor any monies due in connection with the contract, or upon request of NRCS, assign and transfer to NRCS any or all claims, demands, and causes of action of every kind whatsoever that the Sponsor has against the contractor or his or her sureties.

B. NRCS will—

1. Assist Sponsor in establishing design parameters; determine eligible construction costs during the pre-design conference.

2. Designate a Government representative (GR) to serve as liaison with the Sponsor and identify that person's contact



information with this executed agreement.

3. Review, comment and concur in preliminary and final plans, specifications, O&M Plan, Plan of Operations (if required) and QAP.

4. Make periodic site visits during the installation of the EWP project measures to review construction progress, document conformance to engineering plans and specifications, and provide any necessary clarification on the Sponsor's responsibilities.

5. Upon notification of the completion of the EWP project measures, NRCS shall promptly review the performance of the Sponsor to determine if the requirements of this agreement and fund expenditures as agreed have been met.

6. Make payment to the Sponsor covering NRCS' share of the cost upon receipt and approval of Form SF-270 and supporting documentation, withholding the amount of damages sustained by NRCS as provided for in this agreement. In the event there are questions regarding the SF 270 and supporting documentation, NRCS will contact the Sponsor in a timely manner to resolve concerns.

#### **SPECIAL PROVISIONS**

A. The furnishing of financial, administrative, and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and uncommitted funding in the Emergency Watershed Protection Program that is available for obligation in the year in which the assistance will be provided. NRCS may not make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS's ability to provide such assistance.

B. In the event of default of a construction contract awarded pursuant to this agreement, any additional funds properly allocable as construction costs required to ensure completion of the job are to be provided in the same ratio as construction funds are contributed by the parties under the terms of this agreement. Any excess costs including interest resulting from a judgment collected from the defaulting contractor, or his or her surety, will be prorated between the Sponsor and NRCS in the same ratio as construction funds are contributed under the terms of the agreement.

C. Additional funds, including interest properly allocable as construction costs as determined by NRCS, required as a result of decision of the CO or a court judgment in favor of a claimant will be provided in the same ratio as construction funds are contributed under the terms of this agreement. NRCS will not be obligated to contribute funds under any agreement or commitment made by the Sponsor without prior concurrence of NRCS.

D. The State Conservationist may make adjustments in the estimated cost to NRCS set forth in this agreement for constructing the EWP measures. Such adjustments may increase or decrease the amount of estimated funds that are related to differences between such estimated cost and the amount of the awarded contract or to changes, differing site conditions, quantity variations, or other actions taken under the provisions of the contract. No adjustment will be made to change the cost sharing assistance provided by NRCS as set forth in this agreement, nor reduce funds below the amount required to carry out NRCS' share of the contract.

E. Except for item D. above, this document may be revised as mutually agreed through a written amendment duly executed by authorized officials of all signatory parties to this agreement.

F. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without obtaining concurrence as set out in this agreement.

G. Once the project is completed and all requests for reimbursement submitted, any excess funding remaining in the agreement will be de-obligated from the agreement.

H. If inconsistencies arise between the language in the Statement of Work (SOW) in the agreement and the general terms and conditions, the language in the SOW takes precedence.

#### **Expected Accomplishments and Deliverables**

The following accomplishments and deliverable will be provided to NRCS.

1. One copy of the final engineering plans, specifications signed and sealed by a licensed professional engineer, including engineer's cost estimate, and approved Plan of Operations (if applicable).
2. Signed NRCS-ADS-78 supported by an attorney's opinion.
3. One copy of the quality assurance plan.
4. One copy of the operation and maintenance plan.
5. One copy of the notice of solicitation, bid abstract, and notice of award.



6. Certification that the project was installed in accordance with the plans and specifications.
7. As-built drawings of final construction sign by a licensed professional engineer within 30 days of completion of construction.
8. Quantities of the units of work applied for each site within 30 days of completion of construction.

#### **Resources Required**

No other resources required other than funding.

#### **Milestones**

Milestones shall include, but not limited to, the following items:

1. Pre-construction design conference within 30 days of signing agreement.
2. Submit to NRCS a schedule with time lines of major items to be completed within 14 days of the pre-design conference.
3. Acquire needed real property rights and permits (signed NRCS-ADS-78 supported by an attorney's opinion) prior to start of construction.
4. Obtaining permits.
5. Completing any necessary surveys.
6. Completing draft engineering plans and specifications for NRCS review.
7. Completing final engineering plans and specifications.
8. Completing quality assurance plan.
9. Solicit bids.
10. Award contract.

## GENERAL TERMS AND CONDITIONS

Please reference the below link(s) for the General Terms and Conditions pertaining to this award:

### NATURAL RESOURCES CONSERVATION SERVICE U.S. DEPARTMENT OF AGRICULTURE

### GENERAL TERMS AND CONDITIONS GRANTS AND COOPERATIVE AGREEMENTS

#### I. APPLICABLE REGULATIONS

a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 25, "Universal Identifier and System of Award Management" (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information" (3) 2 CFR Part 180, "OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)" (4) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (5) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards"

b. The recipient, and recipients of any subawards under this award, assure and certify that they have and/or will comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 175, "Award Term for Trafficking in Persons" (2) 2 CFR Part 417, "Nonprocurement Debarment and Suspension" (3) 2 CFR Part 418, "New Restrictions on Lobbying" (4) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)"

c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference. The full text of Code of Federal Regulations references may be found at <https://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR> and <http://www.ecfr.gov/>.

(1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards" (2) 48 CFR Part 31, "Contract Cost Principles and Procedures"

#### II. UNALLOWABLE COSTS

The following costs are not allowed:

a. Costs above the amount authorized for the project b. Costs incurred after the expiration of the award including any no-cost extensions of time c. Costs that lie outside the scope of the approved project and any amendments thereto d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E – Cost Principles", or direct specific inquiries to the NRCS administrative contact identified in the award.

#### III. CONFIDENTIALITY

a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.

b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).



c. The recipient agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), U.S.C. 8791.

d. The recipient agrees to comply with the "Prohibition Against Certain Internal Confidentiality Agreements:"

1. You may not require your employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. 2. You must notify your employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect. 3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information. 4. If NRCS determines that you are not in compliance with this award provision, NRCS: a. Will prohibit your use of funds under this award, in accordance with sections 743 and 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; b. May pursue other remedies available for your material failure to comply with award terms and conditions.

#### IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following: 1. Grant or agreement number 2. Narrative explaining the requested modification to the project purpose or deliverables 3. A description of the revised purpose or deliverables 4. Signatures of the authorized representative, project director, or both

b. Subaward/contractual Arrangement.—The recipient must submit a justification for the proposed subaward/contractual arrangements, a statement of work to be performed, and a detailed budget for the subaward/contract to the NRCS administrative contact. Subaward/contractual arrangements disclosed in the application do not require additional postaward approval.

c. Absence or Change in Project Leadership.—When a project director or the person responsible for the direction or management of the project—

1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.

2. Severs his or her affiliation with the grantee, the grantee's options include— i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project. ii. Subcontracting to the former project director's new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director's new organization certain portions of the project to be completed by the former project director. iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.

3. Transfers the award to his or her new organization, the authorized organization's representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known: i. The forms and certifications included in the application package ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal) iii. An updated qualifications statement for the project director showing his or her new organizational affiliation iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization

Note: The transfer of an award from one organization to another can take up to 90 calendar days to accomplish, which may result in a delay in the project director resuming the project at the new organization.



d. Budget Revisions.—Budget revisions will be in accordance with 2 CFR Part 200.308.

e. No-Cost Extensions of Time.—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 calendar days before the expiration date of the award. The request must contain the following: The length of additional time required to complete the project and a justification for the extension A summary of progress to date An estimate of funds expected to remain unobligated on the scheduled expiration date A projected timetable to complete the portions of the project for which the extension is being requested Signature of the grantee and the project director A status of cost sharing to date (if applicable)

Note: An extension will not exceed 12 months. Requests for no-cost extensions received after the expiration of the award will not be granted. V. PAYMENTS

a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270 with supporting documentation. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS administrative contact at the email address identified in block 8 of the Notice of Grant/Agreement Award.

b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.

c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and 31 CFR Part 205.

d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.

e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subaward documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

## VI. ACCRUALS

a. Recipients must submit an accrual estimate to the NRCS Program/Technical no later than 15 calendar days prior to the end of the quarter (submit by March 15, June 15, September 15 and December 15th). b. An accrual represents the value of goods or services provided to NRCS for which you have not requested payment. The quality and completeness of NRCS audited financial statements depends on your continuing cooperation and timely information. c. At a minimum, the signed accrual statement should include, "Under agreement number \_\_\_\_, at the close of the quarter ending \_\_\_\_, we have provided or anticipate providing goods or services that we have not requested payment for in the amount of \$ \_\_\_\_." Include the name and title of the person preparing the accrual estimate.

## VII. FINANCIAL REPORTING

a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule:

Quarterly Schedule Report Due Date October 1 to December 31 January 31 January 1 to March 31 April 30 April 1 to June 30 July 31 July 1 to September 30 October 31

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

b. A final Report must be submitted no later than 90 calendar days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

## VIII. PERFORMANCE MONITORING AND REPORTING



- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subaward arrangements, the recipient is also responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.
- b. Every 6 months the recipient must submit a written progress report. Each report must cover— 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
2. The reasons why goals and objectives were not met, if appropriate.
3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 calendar days after completion of project.

#### IX. AUDIT REQUIREMENTS

The recipient is responsible for complying with audit requirements in accordance with 2 CFR 200, Subpart F. A non-Federal entity that expends \$750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year.

#### X. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum- hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

#### XI. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division Grants and Agreements Services Branch 1400 Independence Avenue, SW. Room 6823 South Building Washington, DC 20250

- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
  - "This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here]."

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- "Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture."



e. All publications printed with Federal Government funds will include the most current USDA nondiscrimination statement, available from the Public Affairs Division, Civil Rights Division, or on the USDA and NRCS home pages. If the material is too small to permit the full nondiscrimination statement to be included, the material must, at a minimum, include the statement:

• "USDA is an equal opportunity provider and employer." Any publication prepared with funding from this agreement must include acknowledgement to USDA, Natural Resources Conservation Service."

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

## XII. COST-SHARING REQUIREMENTS

a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.

b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must— 1. Immediately notify the NRCS administrative contact of the situation. 2. Specify the steps it plans to take to secure replacement cost sharing. 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.

c. If NRCS agrees to the organization's proposed plans, the recipient will be notified accordingly. If the organization's plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.

d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.

e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

## XIII. PROGRAM INCOME

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

## XIV. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

## XV. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

## XVI. MODIFICATIONS AND TERMINATIONS

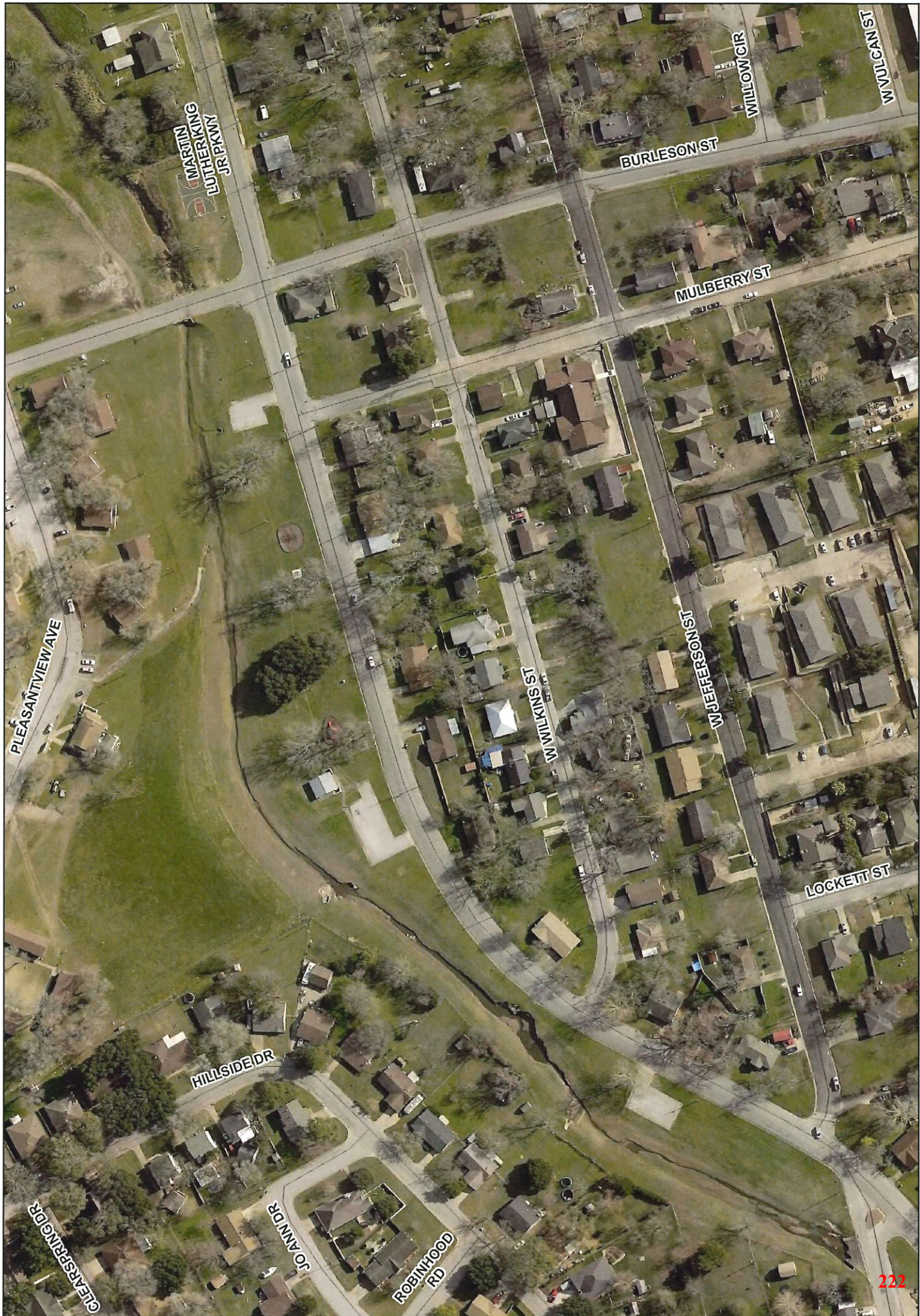
NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties

will be those set forth in 2 CFR Part 200.339.

#### XVII. AWARD CLOSEOUT

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.





## Higgins Branch Creek Reconstruction Scope of Work

