



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, AUGUST 6, 2020 AT 01:00 PM
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN STREET
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags - Councilmember Adonna Saunders**
- 3. Citizens Comments**

CONSENT AGENDA

4. Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that Council may act on with one single vote. A councilmember may pull any item from the Consent Agenda in order that the Council discuss and act upon it individually as part of the Regular Agenda.

- 4-a. Minutes from the July 2, 2020 and July 16, 2020 Regular City Council Meetings and the July 16, 2020 Special Workshop Meeting**
- 4-b. Approve Change Order No. 1 and Final Payment on City of Brenham Project No. 2017-06 to Barclay's Premier Utility Services, LLC in the Amount of \$31,233.00 for the 24' Raw Water Line Lowering at Sandy Creek and Authorize the Mayor to Execute Any Necessary Documentation**
- 4-c. Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Dillo Disposal Service, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside the City Limits of the City of Brenham, Texas**

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

5. **Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham to Change the Zoning District from an Industrial District (I) to a Commercial, Research and Technology District (B-2) on the Following:**
 - a. **Approximately 0.849 Acres of Land Located Adjacent to 1303 Prairie Lea Street and 1305 Prairie Lea Street, Being Further Described as Part of Lot No. 2 of Continental Ribbon and Carbon Company Subdivision Out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas; and**
 - b. **Approximately 4.236 Acres of Land Addressed as 1303 Prairie Lea Street, Being Further Described as Part of Lot No. 2, of the Continental Ribbon and Carbon Company Subdivision Out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-027)**

REGULAR SESSION

6. **Submission of, Discussion and Possible Action Regarding the No-New-Revenue Tax Rate, Voter-Approval Tax Rate and Proposed Tax Rate of \$0.5040 per \$100 Valuation for the 2020 Tax Year, and Take Record Vote on Proposed Tax Rate and Meeting Dates for Final Adoption of Tax Rate by City Council**
7. **Discuss and Possibly Act Upon the Termination of the Contract Between the City of Brenham and Southern Flyer, Inc. for Fixed Base Operator at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation**
8. **Discuss and Possibly Act Upon the Purchase and Installation of Precision Approach Path Indicator (PAPI) Lights at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation**
9. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for No Parking Zones in Certain Designated Areas Along W. Second St., Green St., High St., and W. Fifth St. in the City of Brenham**
10. **Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand Associates, Inc. for Engineering Services Related to the Atlow Elevated Storage Tank Rehabilitation Project and Authorize the Mayor to Execute Any Necessary Documentation**

11. **Discuss and Possibly Act Upon the Award of RFQ No. 20-006 Related to Engineering/Architectural/Surveying Services for the Community Development Block Grant Disaster Recovery Mitigation (CDBG-MIT) Projects and Authorize the Mayor to Execute Any Necessary Documentation**
12. **Discuss and Possibly Act Upon Award of RFP No. 20-004 Related to Lease of Telecommunications Space on City-Owned Water Towers and Authorize the Mayor to Execute Any Necessary Documentation**
13. **Discuss and Possibly Act Upon Upcoming Community Events and Authorize the Mayor to Execute Any Necessary Documentation**
14. **Discussion and Update on the City of Brenham's COVID-19 (Coronavirus) Response and Recovery Efforts**
15. **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.

EXECUTIVE SESSION

16. **Section 551.071 - Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Pending Litigation: T. Hyde v. Washington County Sheriff's Department and Brenham Police Department, Cause No. 37404; 21st Judicial District, Washington County, Texas**

RE-OPEN REGULAR SESSION

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 6, 2020 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan St., Brenham, TX on August 3, 2020 at 11:00 a.m.

Jeana Bellinger, TRMC, CMC

City Secretary

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

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

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on July 2, 2020 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 Keith Herring
Councilmember Clint Kolby
Councilmember Adonna Saunders
Councilmember Albert Wright

Members absent:

None

Others present:

City Manager James Fisher, City Attorney Cary Bovey, City Secretary – Director of Administrative Services Jeana Bellinger, Assistant City Manager - Public Services/Utilities Donald Reese, Shauna Laauwe and Kim Hodde

Citizens present:

Shirley Harris Jackson, John Deans, David Kelly, Mia Neurhoft, Kathe Forrest and Michael Reynolds

Media Present:

Alyssa Faykus, Brenham Banner Press; Brette Kohring and Josh Blaschke, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Milton Tate**
- 3. Citizens Comments**

There were no citizen comments.

REGULAR AGENDA

7. **Discuss and Possibly Act Upon Upcoming Community Events and Authorize the Mayor to Execute Any Necessary Documentation**

City Manager James Fisher presented this item. Fisher said that due to the increase in COVID-19 cases in Texas, Governor Abbott issued Executive Order No. GA-28 on June 26, 2020. The Executive Order provides that gatherings in excess of 100 people are prohibited unless the mayor of the city in which the gathering is held approves of the gathering.

Fisher noted that the City of Brenham has several community events scheduled within the next few months and the expected attendance at these events would be greater than 100 people; therefore, staff would like the Mayor and City Council's direction on moving forward with the planning of these events. The events include, but may not be limited to:

- 2020 Summer Concert Series (Hot Nights, Cool Tunes) – July 11, 18, 25 and August 1
- 2020 Community Picnic – July 19
- Movies in the Park – July 16 and 30
- Summer Sip & Art Walk – August 8

A motion was made by Councilmember Kolby and seconded by Councilmember Saunders to postpone all community events until the fall.

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

10. **Discuss and Possibly Act Upon the City of Brenham's COVID-19 (Coronavirus) Response and Recovery Efforts**

- **Citizens Request for City-Wide Mask Order**
- **Current Declaration of Local Disaster Dated April 30, 2020 (Resolution No. R-20-019)**

City Manager James Fisher presented this item. Fisher explained that this item allows City Council to discuss and possibly take action on a mandatory mask order for the City of Brenham. Fisher noted that the City has received several e-mails and phone calls from concerned citizens requesting that Mayor Tate put a mandatory mask policy in place. Due to these requests, the Mayor would like to discuss this with the full City Council before taking any action and issuing an official order.

Several citizens addressed the Council about the mandatory mask policy with most citizens speaking out in opposition to such a policy. Councilmember Cantey stated that she is in favor of a mask policy, but also understands why many citizens are not. After further discussion it was the overall consensus of Council that they wanted to strongly urge all citizens to wear a mask.

A motion was made by Councilmember Herring and seconded by Councilmember Kolby that Resolution No. R-20-019 be amended to read that all individuals are strongly encouraged to wear face coverings in public settings, when around people who don't live in your household, or when unable to remain 6 feet away from others, and to further observe the face covering protocols designed to minimize the transmission and spread of COVID-19 as set forth in all applicable guidance from the Centers for Disease Control and Prevention ("CDC"), the Texas Department of State Health Services ("DSHS"), the Texas Division of Emergency Management ("TDEM"), and the Executive Orders issued by Texas Governor Greg Abbott.

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

CONSENT AGENDA

4. Statutory Consent Agenda

4-a. Minutes from the June 18, 2020 Regular City Council Meeting

4-b. Approve Three (3) Ground Space Lease Agreements with Todd Poehlmann for Hanger Spaces at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

4-c. Approve Two (2) Ground Space Lease Agreements with Veruca Salt, LLC for Hanger Spaces at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

4-d. Accept a Donation from The Fortnightly Club in the Amount of \$33,000.00 for the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation

4-e. Award of Base Bid and Alternate No. 1 for City of Brenham Project No. 66C-10 Related to the Munz Lift Station and Force Main Improvements to J&D Construction in the Amount of \$285,000.00 and Authorize the Mayor to Execute Any Necessary Documentation

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve the Statutory Consent Agenda Items 4-a. through 4-e. 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 Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

PUBLIC HEARING AND ASSOCIATED ACTION ITEM

5. Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow an Accessory Dwelling Unit (ADU) in an R-2 Mixed Residential Use Zoning District on Property Addressed as 501 Crockett Street, and Further Described as Lot L1-A, Block E of the Woodlawn Heights Addition in Brenham, Washington County, Texas (Case Number P-20-025)

Mayor Tate opened the Public Hearing.

Project Planner Shauna Laauwe presented this item. Laauwe reported that Alexander and Mikayla Knight, owners of the property at 501 Crockett Street, are requesting a Specific Use Permit (SUP) to construct a detached accessory dwelling unit (ADU) intended to be utilized as a mother-in-law quarters addition. Laauwe explained that the property is zoned R-2, therefore a SUP is required in order for the applicants to build an ADU on the property.

Laauwe advised that staff believes there would be no adverse impacts to adjacent properties, and the proposed request aligns with the goals and land use policies established in the Comprehensive Plan. On June 22, 2020, the Planning and Zoning Commission voted unanimously to recommend approval of the SUP.

There were no citizen comments. Mayor Tate closed the Public Hearing.

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to approve an Ordinance on its first reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham granting a Specific Use Permit to allow an Accessory Dwelling Unit (ADU) in an R-2 Mixed-Residential Use Zoning District on property addressed as 501 Crockett Street and further described as Lot L1-A, Block E of the Woodlawn Heights Addition in Brenham, Washington County, Texas (Case Number P-20-025).

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

REGULAR SESSION

6. **Discuss and Possibly Act Upon Resolution No. R-20-023 Adopting Updated and Revised Aviation Minimum Standards for the Brenham Municipal Airport**

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Saunders to remove this item from the table.

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

Assistant City Manager – Public Services/Utilities Donald Reese presented this item. Reese explained that the proposed Resolution adopts revised Aviation Minimum Standards for the Brenham Municipal Airport. Reese explained that this item was tabled at the last meeting because several Councilmembers wanted more time to review.

Councilmember Herring asked for clarification of several items and requested the following changes to the document: (1) Add wording to Section 15.b to provide notices in writing; and (2) correct “Section 7” to read “Section 2” in Section 7.H. Herring also pointed out a few minor grammar/spelling errors; Reese advised that these changes would be made and presented to the City Attorney for final approval before having Mayor Tate sign the Resolution.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Saunders to approve Resolution No. R-20-023 adopting the updated and revised 2020 Aviation Minimum Standards for the Brenham Municipal Airport with the changes noted by Councilmember Herring and approved 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 Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Discuss and Possibly Act Upon Resolution No. R-20-025 Authorizing the Execution of an Agreement with TxDOT for the Temporary Closure of State Right-of-Way in Connection with the 2020 Brenham Community Picnic to be Held on July 19, 2020

No action taken on this item.

9. Discuss and Possibly Act Upon a Noise Variance in Connection with the 2020 Brenham Community Picnic to be Held from 4:00 p.m. to 8:00 p.m. on July 19, 2020 and Authorize the Mayor to Execute Any Necessary Documentation

No action taken on this item.

11. Administrative/Elected Officials Report

City Manager James Fisher reported on the following:

- Budget workshops on July 9th and July 15th have been cancelled. The only budget workshop will be held on July 16th, starting at 9:00 a.m. at the Barnhill Center.
- City facilities will be closed tomorrow for the July 4th holiday.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

A special budget workshop meeting of the Brenham City Council was held on July 16, 2020 beginning at 9:00 a.m. in The Barnhill Center Ballroom, at 111 W. Main 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, Assistant City Manager – Chief Financial Officer Carolyn Miller, Assistant City Manager - Public Services/Utilities Donald Reese, Strategic Budget Analyst Debbie Gaffey, and City Secretary – Director of Administrative Services Jeana Bellinger

Citizens present:

None

Media Present:

Alyssa Faykus, Brenham Banner Press

- 1. Call Meeting to Order**
- 2. FY 2020-21 Proposed Budget Discussions**

City Manager James Fisher welcomed the Council and presented the following FY20-21 proposed budget information:

- City's Present Financial Condition
- City's Future Financial Condition

- FY20 Achievements
- COVID-19
- General Fund Highlights
 - Revenues/Taxes
 - Expenditures
 - Personnel
 - Fire SAFER Grant/AFG Grant
 - Street Reconstruction
 - Capital
 - BCDC Contributions
 - Hotel/Motel Support
- Revenues vs. Expenditures
- General Fund Sub-Fund Highlights
 - FEMA
 - Non-Routine Capital
 - Tourism & Marketing
 - Debt Service Fund Highlights
 - Hotel Motel Fund Highlights
 - Capital Project Fund Highlights
 - Airport Capital Improvements
 - 2017 Capital Projects Fund
 - Parks Capital Projects Fund
 - Streets Capital Projects Fund
 - BCDC Fund Highlights
- Utility Fund & Internal Service Funds Highlights
 - Utility Fund Revenues and Expenditures
 - Utility Fund Personnel
 - Non-Routine Capital Projects Update
 - Water Fund – Lake Intake Structure
- FY21 Decision Packages

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on July 16, 2020 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 Keith Herring
Councilmember Clint Kolby
Councilmember Adonna Saunders
Councilmember Albert Wright

Members absent:

None

Others present:

City Manager James Fisher, Assistant City Manager - Public Services/Utilities Donald Reese and City Secretary – Director of Administrative Services Jeana Bellinger

Citizens present:

None

Media Present:

Alyssa Faykus, Brenham Banner Press; and Josh Blaschke, KWHI

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

There were no citizen comments.

CONSENT AGENDA

4. Statutory Consent Agenda

- 4-a. Award Bid No. 20-003 for Sludge Removal and Aeration Basin Cleaning at the Wastewater Treatment Plant to Synagro in the Amount of \$228.50 per Cubic Yard and Authorize the Mayor to Execute Any Necessary Documentation
- 4-b. Award Bid No. 20-007 to Legacy Concrete Works, LLC Related to Annual Concrete Work for Various City Departments and Authorize the Mayor to Execute Any Necessary Documentation
- 4-c. Acceptance of a Grant from the Humane Society in the Amount of \$6,390.00 for a Spay/Neuter Program and Authorize the Mayor to Execute Any Necessary Documentation
- 4-d. Discuss and Possibly Act Upon Ordinance No. O-20-016 on Its Second Reading Amending Appendix A - 'Zoning' of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to Allow an Accessory Dwelling Use (ADU) in an R-2 Mixed Residential Use Zoning District on Property Addressed as 501 Crockett Street, and Further Described as Lot L1-A, Block E of the Woodlawn Heights Addition in Brenham, Washington County, Texas (Case No. P-20-025)

A motion was made by Councilmember Herring and seconded by Councilmember Cantey to approve the Statutory Consent Agenda Items 4-a. through 4-d. as presented.

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

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

REGULAR SESSION

- 5. Discuss and Possibly Act Upon a Commercial Promissory Note with the Bank of Brenham for An Advancing Line of Credit for the Raw Water Intake Structure Repair at Lake Somerville and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that the City is requesting a \$5 million advancing line of credit from Bank of Brenham for interim financing for the Raw Water Intake Repair Project at Lake Somerville.

Fisher explained that this critical infrastructure sustained significant damage in the May 2016 flooding event, and after a prolonged procurement, review and approval process, the City received a letter from FEMA on February 13, 2020 in support of the competitive bid process and the higher competitive bid amounts compared to the engineer's estimate of probable costs.

Fisher advised that the City is responsible for 25% of the final construction cost and would need a possible one (1) year renewal of the line of credit. At the April 6, 2020 meeting, the City Council approved Reimbursement Resolution No. R-20-018 giving official intent to reimburse these costs with the issuance of 20 year Certificates of Obligation (financed with water rates), which would be used to repay Bank of Brenham if FEMA does not approve the Cost Change increase. Bank of Brenham has prepared the Promissory Note for \$5 million at an interest rate of 2.6% for one year.

A motion was made by Councilmember Cantey and seconded by Councilmember Wright to approve a Commercial Promissory Note with the Bank of Brenham for an advancing line of credit for the Raw Water Intake Structure Repair at Lake Somerville 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 Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

6. Discuss and Possibly Act Upon Authorizing the Mayor to Execute and Deliver a Certificate of Mayor Related to the Issuance of Student Housing Revenue Bonds by the New Hope Cultural Education Facilities Finance Corporation to Finance the Construction of a Student Housing Facility to be Located on the Campus of Blinn College

City Manager James Fisher presented this item. Fisher explained that Blinn College, in partnership with Servitas LLC, is preparing for the construction of a new student dormitory along West Fifth Street across from the former football stadium. The project has been permitted through the Development Services Department and Blinn College/Servitas are formalizing funding for the project. The project is financed through a tax-exempt bond being that Blinn College is a non-profit entity. The construction bonds are being issued by the New Hope Cultural Education Facilities Corporation, and a certificate signed by the Mayor is required in adherence to requirements set forth by the Internal Revenue Code.

A motion was made by Councilmember Kolby and seconded by Councilmember Cantey to authorize the Mayor to execute and deliver a Certificate of Mayor related to the issuance of Student Housing Revenue Bonds by the New Hope Cultural Education Facilities Finance Corporation to finance the construction of a student housing facility to be located on the campus of Blinn College.

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

7. Discuss and Possibly Act Upon Award of RFQ No. 20-005 Related to Grant Administration and/or Planning Services Related to the Community Development Block Grant Disaster Recovery Mitigation (CDBG-MIT) Program and Authorize the Mayor to Execute Any Necessary Documentation

City Manager James Fisher presented this item. Fisher explained that the Texas General Land Office (GLO) is administering \$4,294,189,000 in U.S. Department of Housing Development (HUD) Community Development Block Grant Mitigation (CDBG-MIT) funds. These CDBG-MIT funds will be used to build and implement structural and non-structural projects, programs, and partnerships throughout the state of Texas that reduce the risks and impacts of future natural disasters. Fisher advised that staff has reviewed all the RFQs received and recommends awarding RFQ No. 20-005 to Public Management. Fisher explained that the City has had previous experience working with Public Management.

A motion was made by Mayor Pro Tem Ebel and seconded by Councilmember Saunders to award of RFQ No. 20-005 related to grant administration and/or planning services related to the Community Development Block Grant Disaster Recovery Mitigation (CDBG-MIT) Program to Public Management 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 Keith Herring	Yes
Councilmember Clint Kolby	Yes
Councilmember Adonna Saunders	Yes
Councilmember Albert Wright	Yes

8. Discussion and Update on the City of Brenham's COVID-19 (Coronavirus) Response and Recovery Efforts

City Manager James Fisher reported on the following:

- City Hall is still closed to the public; however, appointments can be made by calling the main City Hall number.
- Clarified that the Governor's Order does not prohibit outdoor sporting events. The City has allowed these events to take place in an effort to help our businesses that are struggling; however, if the Tournament Directors do not follow the City's guidelines for sanitizing and social distancing the City may be forced to cancel the events.

9. Administrative/Elected Officials Report

City Manager James Fisher reported on the following:

- TXDOT virtual hearing on US Highway 290 improvements from Waller to Chappell Hill will be available on TxDOT's website beginning July 21st.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 4-B.

Agenda Item: Approve Change Order No. 1 and Final Payment on City of Brenham Project No. 2017-06 to Barclay's Premier Utility Services, LLC in the Amount of \$31,233.00 for the 24' Raw Water Line Lowering at Sandy Creek and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Consent

SUMMARY STATEMENT:

On May 2, 2019, Barclay's Premier Utility Services, LLC was awarded Project 63C-9 related to the 24' Raw Water Line Lowering at Sandy Creek.

Barclays has completed the project. Attached is Application for Payment No. 5 & Final and Change Order No. 1. Change Order No. 1 reduced the total contract amount by \$15,875.00 making the final cost of the project \$280,470.00. Final construction amount is for retainage only at \$31,233.00.

ATTACHMENTS:

- (1) Application for Payment No. 5 & Final
- (2) Change Order No. 1
- (3) Additional Payment Documents

RECOMMENDED ACTION:

Approve Change Order No. 1 and Final Payment on City of Brenham Project No. 2017-06 to Barclay's Premier Utility Services, LLC in the amount of \$31,233.00 for the 24' Raw Water Line Lowering at Sandy Creek and authorize the Mayor to execute any necessary documentation.

APPLICATION FOR PAYMENT NO. 5 *Amend*

TO OWNER: CITY OF BRENHAM, 200 WEST VULCAN STREET, BRENHAM, TEXAS 77833
 FROM CONTRACTOR: BARCLAYS PREMIER UTILITY SERVICES LLC, 1630 GAULT RD, HOUSTON, TEXAS 77039
 PROJECT: 24" RAW WATER LINE LOWERING AT SANDY CREEK
 STRAND PROJECT NO. 3900.153

CONTRACT AWARDED: May 2, 2019
 PERIOD FROM: April 3, 2020
 CONST. TIME ALLOTTED: 392

NOTICE TO PROCEED: July 12, 2019
 PERIOD TO: August 6, 2020
 TIME USED: 392

ITEM	BASE BID	CONTRACT QUANTITY	UNIT	PREVIOUS PERIOD	CURRENT PERIOD	TOTAL	UNIT PRICE	TOTAL VALUE OF WORK COMPLETED
1	Mobilization	1	LS	1	0	1	\$ 65,000.00	\$ 65,000.00
2	Stabilized Construction Exit	220	SY	220	0	220	\$ 11.00	\$ 2,420.00
3	Silt Fence	125	LF	0	0	0	\$ 3.00	\$ -
4	Installation of 24-IN DI Pipe by Open Cut or by Bore at Contractor's Discretion	200	LF	200	0	200	\$ 400.00	\$ 80,000.00
5	Installation of 24-IN DI Pipe in 36-IN Steel Casing by Open Cut (Contractor Selection)	70	LF	70	0	70	\$ 1,150.00	\$ 80,500.00
6	Installation of 8-IN DI Pipe by Open Cut	40	LF	40	0	40	\$ 120.00	\$ 4,800.00
7	Remove and Dispose of Ex. 24-IN DI Pipe	156	LF	0	156	156	\$ 15.00	\$ 2,340.00
8	Wet Connections to Existing 24-IN DI Water Line	2	EA	1	0	1	\$ 15,500.00	\$ 15,500.00
9	Connection to Existing 8-IN Water Line	1	EA	1	0	1	\$ 1,500.00	\$ 1,500.00
10	Trench Safety	310	LF	310	0	310	\$ 1.00	\$ 310.00
11	TxDOT Seeding	1	LS	0	1	1	\$ 1,200.00	\$ 1,200.00
12	Traffic Control	1	LS	1	0	1	\$ 1,500.00	\$ 1,500.00
13	24-IN DI Bend, All Angles	8	EA	8	0	8	\$ 400.00	\$ 3,200.00
14	24-IN x 8-IN Tee	1	EA	1	0	1	\$ 500.00	\$ 500.00
15	8-IN Gate Valve and Valve Box	1	EA	1	0	1	\$ 500.00	\$ 500.00
16	8-IN DI Bend, All Angles	3	EA	3	0	3	\$ 400.00	\$ 1,200.00
17	24-IN Butterfly Valves and Valve Box	2	EA	2	0	2	\$ 10,000.00	\$ 20,000.00

Original Contract: \$ 296,345.00
 Plus Additions: \$ -
 Less Deductions: \$ 15,875.00
 Adjusted Contract: \$ 280,470.00

Value of Work Performed to Date \$ 280,470.00
 Plus Materials Stored at Close of \$ -
 Net Amt Earned to Date \$ 280,470.00
 Less 10% Retainage \$ -
 Subtotal \$ 280,470.00
 Less Previous Pay Applications \$ 249,237.00
 Amount Due this Application \$ 31,233.00

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

STATE OF TEXAS

COUNTY OF Harris

WHEREAS, the undersigned, Victor Bocanegra, who being duly sworn, on oath, says that he is the legal representative of Barclays Premier Utility Services, LLC, has been employed by City of Brenham to furnish labor and materials for the installation of the 24" Raw Water Line Lowering at Sandy Creek in Brenham, Texas.

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

BY:

BARCLAYS PREMIER UTILITY SERVICES, LLC

DATE: 7-31-2020

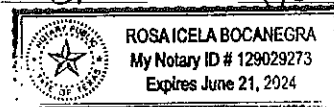
PRINTED NAME: Victor Bocanegra

TITLE: President

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE

31st DAY OF July, 2020

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS.



RECOMMENDED BY:

Strand Associates, Inc.

DATE: 7/31/2020

APPROVED BY:

CITY OF BRENHAM, TEXAS

DATE: 7/31/2020



Strand Associates, Inc.[®]
1906 Niebuhr Street
Brenham, TX 77833
(P) 979-836-7937

July 23, 2020

CHANGE ORDER NO. 1

PROJECT: 24-inch Raw Water Line Lowering at Sandy Creek
OWNER: City of Brenham, Texas
CONTRACT: 2017-06
CONTRACTOR: Barclays Premier Utility Services, LLC

Description of Change

1a	Decrease of Base Bid Item No. 3 quantity from 125 to 0 linear feet (LF).	(DEDUCT)	(\$375.00)
1b	Decrease of Base Bid Item No. 8 quantity from 2 to 1 each (EA).	(DEDUCT)	(\$15,500.00)
TOTAL VALUE OF THIS CHANGE ORDER:		(DEDUCT)	(\$15,875.00)

Contract Price Adjustment

Original Contract Price	\$296,345.00
Previous Change Order Adjustments	\$0.00
Adjustment in Contract Price this Change Order	(\$15,875.00)
Current Contract Price including this Change Order	\$280,470.00

Contract Final Completion Date Adjustment

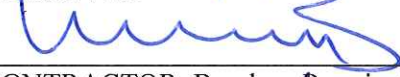
Original Contract Final Completion Date	February 6, 2020
Contract Final Completion Date Adjustments due to previous Change Orders	0 Days
Contract Final Completion Date Adjustments due to this Change Order	182 Days
Current Final Contract Completion Dates including all Change Orders	August 6, 2020

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

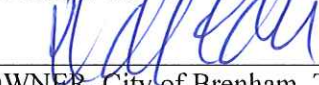
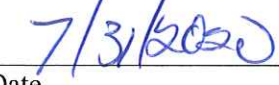
RECOMMENDED

	
ENGINEER—Strand Associates, Inc. [®]	Date

APPROVED

	
CONTRACTOR—Barclays Premier Utility Services, LLC	Date

APPROVED

	
OWNER—City of Brenham, Texas	Date

BRF:cdj\S:\BRE\3900--3999\3900\147\Wrd\Construction\Change Orders\CO1.docx

TBPE No. F-8405
TBPLS No. 10030000



Strand Associates, Inc.®

1906 Niebuhr Street

Brenham, TX 77833

(P) 979-836-7937

July 29, 2020

Mr. Dane Rau
City of Brenham, Texas
200 West Vulcan Street
Brenham, TX 77833

Mr. Victor Bocanegra
Barclays Premier Utility Services, LLC
1630 Gault Road
Houston, TX 77039

Re: 24-inch Raw Water Line Lowering at Sandy Creek
Contract No. 2017-06
City of Brenham, Texas

Dear Dane and Victor,

In accordance with Article 15.03 of the General Conditions and based on the comments received by Strand Associates, Inc.® from City of Brenham on July 24, 2020, this letter is a Final Certificate of Substantial Completion for the remainder of the project for Contract No. 2017-06. This certificate includes by reference the Preliminary Certificate of Substantial Completion dated July 23, 2020.

The Preliminary Certificate of Substantial Completion fixed the Substantial Completion date at April 3, 2020.

Please call (979) 836-7937 should you have any questions.

Sincerely,

STRAND ASSOCIATES, INC.®

Ryan D. Tinsley, P.E., ENV SP

Enclosures

c/enc: Jerome Hutzler, Strand Associates, Inc.®

**CONSENT OF SURETY
TO FINAL PAYMENT**

AIA Document G707

(Instructions on reverse side)

BOND NO.: 715541P

OWNER ☐
ARCHITECT ☐
CONTRACTOR ☐
SURETY ☒
OTHER ☐

TO OWNER:

(Name and address)

City of Brenham
200 West Vulcan St.
Brenham, TX 77833

ARCHITECT'S PROJECT NO.: 3900.153

CONTRACT FOR: OCP \$296,345.00
FCP \$280,470.00

PROJECT:

(Name and address)

CONTRACT DATED:

24" Raw Water Line Lowering at Sandy Creek Rebid - Storm Drainage Repairs
2017 Storm Damage Repair Projects, City of Brenham Project No. 2017-06

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

The Ohio Casualty Insurance Company
2200 Renaissance Blvd., Ste. 400
King of Prussia, PA 19406-2755

on bond of

, SURETY,

(insert name and address of Contractor)

Barclays Premier Utility Services, LLC
1630 Gault Rd.
Houston, Texas 77039

, CONTRACTOR,

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

(insert name and address of Owner)

City of Brenham
200 West Vulcan St.
Brenham, TX 77833

, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: April 13, 2020

(insert in writing the month followed by the numeric date and year)

The Ohio Casualty Insurance Company

(Surety)

By:

(signature of authorized representative)

Sean McCauley, Jr.

(Printed name and title)

Claudia Nuñez
Attest: Claudia Nuñez
(Seal): Witness



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



AIA DOCUMENT G707 • CONSENT OF SURETY TO FINAL PAYMENT • 1994 EDITION • AIA
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INGTON, D.C. 20006-5292 • WARNING: Unlicensed photocopying violates U.S. copy-
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G707—1994



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

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

Certificate No: **8202286 - 976311**

POWER OF ATTORNEY

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

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

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



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

By:

David M. Carey
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

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

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



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

By:

Teresa Pastella
Teresa Pastella, Notary Public

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

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

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

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

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

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

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 13th day of April, 2020



By:

Renee C. Llewellyn
Renee C. Llewellyn, Assistant Secretary

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

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

Texas Department of Insurance



Sircon Co. No. 1874

License No. 62750

Certificate of Authority

THIS IS TO CERTIFY THAT

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

KEENE, NEW HAMPSHIRE

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

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

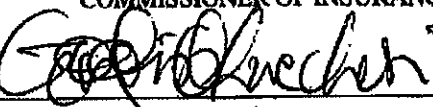
insurance within the state of Texas. This Certificate of Authority shall be in full force and effect until it is revoked, canceled or suspended according to law.

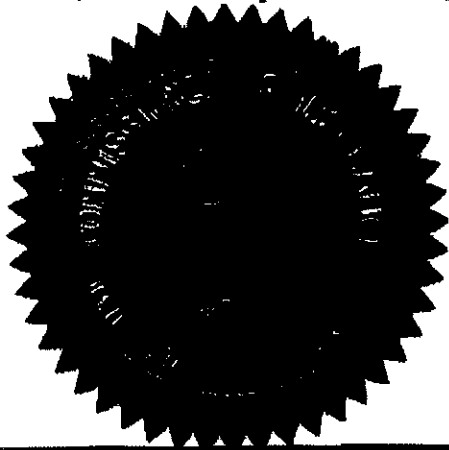
IN TESTIMONY WHEREOF, witness my hand and seal of office at Austin, Texas, this

25th day of February A.D. 2013

ELEANOR KITZMAN
COMMISSIONER OF INSURANCE

BY


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



BARCLAYS PREMIER UTILITY SERVICE
1630 GAULT RD
HOUSTON, TX 77039

NOTICE:

This document waives rights unconditionally and states that you have been paid for giving up those rights. It is prohibited for a person to require you to sign this document if you have not been paid the payment amount set forth below. If you have not been paid, use a Conditional Release form.

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project: 2019-1003 24 INCH RAW WAT

Job No: 39811

The signer of this document has been paid and has received a progress payment in the sum of **\$4,570.03** for all labor, services, equipment or material furnished to the property or to **BARCLAYS PREMIER UTILITY SERVICE** (person with whom signer contracted) on the property of **CITY OF BRENHAM** (owner) located at **SANDY CREEK LANE, BRENHAM, TX 77833** (location) to the following extent:

PLUMBING/HVAC/PIPE/WATERWORKS/APPLIANCES/INSTALLATION SVS/LIGHTING/CONSTR MTLs through 04/30/2020 on (Job description).

The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to **BARCLAYS PREMIER UTILITY SERVICE** (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

[Among the businesses operated by Ferguson Enterprises LLC ("Ferguson") are Air Cold Supply, Wright Plumbing Supply, Ferguson Heating & Cooling, Ferguson Fire & Fabrication, Inc., Ferguson Waterworks, and Ferguson Enterprises LLC. Each business has multiple branch locations and each branch maintains its own accounts receivables records for materials sold at that location. This Release is effective only as to the claims and accounts receivables of the branch whose address appears below and does not release any claims for materials sold by any other division, subsidiary, or branch.]

Date:

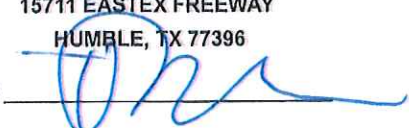
FERGUSON ENTERPRISES LLC, on its behalf and as an agent for its subsidiaries and affiliates

(Company Name)

15711 EASTEX FREEWAY

HUMBLE, TX 77396

By (Signature):

By: 

(Title)

Credit Manager

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Date: 07/31/2020

BICA No: 6306704

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

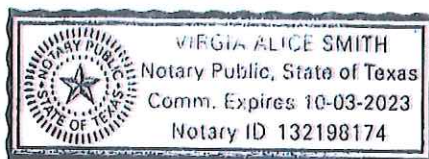
CERTIFICATE OF ACKNOWLEDGMENT

State of Texas, County of Harris. On 7/31/20 before me, Virginia Smith, a notary public, personally appeared Nathalie Nguyen, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Texas that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature] Seal





Regular City Council
AGENDA ITEM 4-C.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading to Grant a Non-Exclusive Franchise to Dillo Disposal Service, LLC to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside the City Limits of the City of Brenham, Texas

Meeting Type: Regular Meeting-August 06, 2020

Department: City Secretary

Staff Contact: Jeana Bellinger

Classification:

SUMMARY STATEMENT:

The City received a letter from Dillo Disposal Service, LLC on July 27, 2020 requesting a sanitation franchise to provide roll-off service inside the city limits of Brenham. We currently have franchises with 7 companies; however, Dillo Disposal has been contacted by several businesses in Brenham to provide them with roll-off dumpsters.

ATTACHMENTS:

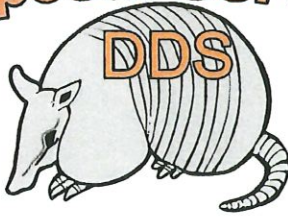
- (1) Letter from Dillo Disposal Service, LLC
- (2) Ordinance for First Reading

RECOMMENDED ACTION:

Approve an Ordinance on its first reading to grant a Non-Exclusive Franchise to Dillo Disposal Service, LLC to operate a roll-off container service for residents, businesses, and industries Inside the city limits of the City of Brenham, Texas

Dillo Disposal Service, LLC

PO Box 47
Lyons, TX 77863



Phone: 979-596-2130
Fax: 979-596-1590

July 27, 2020

Dear Brenham City Council,

Dillo Disposal Service, LLC is a locally owned and operated garbage company located in Lyons, Texas that has been in business for 17 years. Recently, we have had requests for roll service inside the city limits of Brenham. Therefore, we would like to enter into a sanitation franchise agreement with the City of Brenham so we can continue to meet our customers' needs. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ashley T. Brode'.

Ashley T. Brode
member

ORDINANCE NO. O-_____

AN ORDINANCE GRANTING DILLO DISPOSAL SERVICE, LLC, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE FOR THE PRIVILEGE AND USE OF PUBLIC STREETS, ALLEYS, AND PUBLIC WAYS WITHIN THE CORPORATE LIMITS OF THE CITY OF BRENHAM FOR THE PURPOSE OF ENGAGING IN THE BUSINESS OF COLLECTING SOLID WASTE FROM COMMERCIAL, RESIDENTIAL AND INDUSTRIAL SITES USING ROLL-OFF CONTAINERS AND/OR COMMERCIAL COMPACTORS; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS, AND LIMITATIONS UNDER WHICH SAID FRANCHISE SHALL BE EXERCISED; PROVIDING FOR THE CONSIDERATION; FOR PERIOD OF GRANT; FOR ASSIGNMENT; FOR METHOD OF ACCEPTANCE; FOR REPEAL OF CONFLICTING ORDINANCES AND FOR PARTIAL INVALIDITY.

WHEREAS, the City of Brenham, by ordinance, provides exclusively all solid waste collection and disposal services for solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham may, by ordinance and charter, grant franchises to other entities for the use of public streets, alleys and thoroughfares within the corporate limits of CITY and for the collection and disposal of solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham desires to exercise the authority provided to it by ordinance and charter to grant a franchise for the collection and disposal of certain solid waste generated from within the corporate limits of the City of Brenham; and

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to DILLO DISPOSAL SERVICE, LLC, under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

Agreement. This contract between the City of Brenham and for the provision of certain roll-off container and/or commercial compactor service within the corporate limits of the City of Brenham under certain terms and conditions set out herein.

City of Brenham. Also referred to as "CITY" in this Agreement.

City Council. Also referred to as "COUNCIL" denoting the governing body of the City of Brenham.

Customers. Those industrial, residential, and/or commercial premises located within the CITY that generates solid waste requiring collection using roll-off containers and/or commercial compactors.

Solid Waste. All putrescible and nonputrescible solid, semi-solid, and liquid wastes, including residential, industrial, commercial and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, discarded home and industrial appliances, vegetable or animal solid and semi-solid wastes, and other discarded solid and semi-solid wastes.

Roll-Off Containers. A type of solid waste industry container that is loaded by a winch truck. Also referred to as "container".

Commercial Compactor. A type of solid waste industry container that is loaded by a winch truck and compacts solid waste. Also referred to as "compactor".

Dillo Disposal Service, LLC. Herein-after referred to as "DILLO DISPOSAL SERVICE, LLC". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

For and in consideration of the compliance by DILLO DISPOSAL SERVICE, LLC with the covenants and conditions herein set forth, and the Charter, Ordinances and Regulations of the City governing the collection and disposal of solid waste, CITY hereby grants to DILLO DISPOSAL SERVICE, LLC a non-exclusive franchise for use of designated public streets, alleys and thoroughfares within the corporate limits of City for the sole purpose of engaging in the business of collecting solid waste using roll-off containers and/or commercial compactors from commercial, residential and industrial sites within the jurisdictional limits of CITY, as approved by the City Manager or his designee.

SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE

CITY hereby grants to DILLO DISPOSAL SERVICE, LLC the privilege to collect from commercial, residential, and industrial customers within the City limits solid waste using roll-off containers and/or commercial compactors only.

SECTION 4.
DISPOSAL SITE TO BE USED

Unless approved otherwise in writing by the CITY, DILLO DISPOSAL SERVICE, LLC shall utilize any Type I permitted landfill that DILLO DISPOSAL SERVICE, LLC deems appropriate and is authorized for disposal of all solid waste, which is collected by DILLO DISPOSAL SERVICE, LLC from within the corporate limits of the CITY.

SECTION 5.
RATES TO BE CHARGED

A written Schedule of Rates that DILLO DISPOSAL SERVICE, LLC shall charge for the aforementioned services shall be provided to each customer, and such Schedule of Rates may be revised periodically as agreed by DILLO DISPOSAL SERVICE, LLC and its customers. DILLO DISPOSAL SERVICE, LLC shall immediately provide the CITY with copies of any and all revised Schedule of Rates documents.

SECTION 6.
PAYMENTS TO CITY

For and in consideration of the use of designated streets, alleys, and thoroughfares as well as in consideration of the covenants and agreements contained herein, DILLO DISPOSAL SERVICE, LLC agrees and shall pay to CITY upon acceptance of this Agreement and thereafter during the term hereof, a sum equivalent to five percent (5%) of DILLO DISPOSAL SERVICE, LLC monthly gross revenues generated from DILLO DISPOSAL SERVICE, LLC provision of solid waste roll-off container collection services within the CITY excluding actual landfill tipping charges.

Any revenue received by DILLO DISPOSAL SERVICE, LLC in excess of the actual landfill tipping charges will be subject to the franchise fee and shall be computed into DILLO DISPOSAL SERVICE, LLC monthly gross revenue. Said payment shall be paid monthly to the City of Brenham Attn: City Secretary and must be received by the CITY no later than the twenty-fifth (25th) day of the month following the end of the previous month. If the payment due date falls on a Saturday, Sunday or other holiday designated by the CITY, the payment must be received by the CITY on the next regular business day.

Payments received by the CITY after the due date shall be assessed a ten percent (10%) penalty on the outstanding franchise fee amount owed under this Section.

Failure by DILLO DISPOSAL SERVICE, LLC to pay amounts due under this Agreement, after written notice by CITY, shall constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM), and/or any other remedy available to the CITY in law or equity.

SECTION 7. ACCESS TO RECORDS & REPORTING

CITY shall have access to DILLO DISPOSAL SERVICE, LLC records, billing records of those customers served by DILLO DISPOSAL SERVICE, LLC and all papers relating to this Agreement and the operation of solid waste roll-off container collection and disposal services within the CITY. Access by CITY to DILLO DISPOSAL SERVICE, LLC records shall be provided to CITY within ten (10) business days, after written notice to DILLO DISPOSAL SERVICE, LLC during normal business hours.

The following records and reports shall be filed quarterly with the City Secretary or his/her designee:

- A. Reports of all complaints, investigations, and actions taken by DILLO DISPOSAL SERVICE, LLC with regard to services provided pursuant to this Agreement.
- B. A listing of all DILLO DISPOSAL SERVICE, LLC accounts served and monthly revenue derived from roll-off containers placed in the CITY under the terms of this Agreement. The reports should include: a unique customer identification or account number, frequency of pick-up, size of container and monthly charges.

The CITY is subject to the Texas Public Information Act ("Act"). Generally, the Act requires the release of requested information by the CITY, but there are exceptions. If the requested information meets the criteria outlined in the exceptions, the CITY may decline to release the information for the purpose of requesting a decision from the Texas Attorney General's Office. The Act excepts from public disclosure trade secrets and certain commercial or financial information. The Act states the CITY may withhold:

- A. A trade secret obtained from a person and privileged or confidential by statute or judicial decision; or
- B. Commercial or financial information for which it is determined based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Pursuant to Section 552.305 of the Act, the CITY is obligated to make a good faith attempt to contact third parties who have a trade secret interest or a commercial financial interest in the information that's been requested so that the third party has an opportunity to submit reasons to the Texas Attorney General's Office why the information should be withheld or released.

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning DILLO DISPOSAL SERVICE, LLC that invoke Section 552.305.

SECTION 8. PLACEMENT OF CONTAINERS

All roll-off containers and/or compactors placed for service within CITY shall be located in such a manner so as not to be a safety or traffic hazard. Under no circumstances shall DILLO DISPOSAL SERVICE, LLC place containers on public streets, alleys and/or thorough fares without the prior written approval of the CITY. CITY reserves the right to specify to DILLO DISPOSAL SERVICE, LLC the exact location and time period allowed for placement of any roll-off container(s) it places for service in CITY.

DILLO DISPOSAL SERVICE, LLC agrees and acknowledges that it shall be liable for any and all damages it causes to any public street, alley and/or thorough fare, and associated improvements and DILLO DISPOSAL SERVICE, LLC will pay CITY's entire construction costs and other expenses associated with repairing and/or replacing the damaged public street, alley and/or through fare, and associated improvements.

SECTION 9. CONTAINER MAINTENANCE

DILLO DISPOSAL SERVICE, LLC agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

SECTION 10.
COMPLAINTS REGARDING SERVICE/SPILLAGE

DILLO DISPOSAL SERVICE, LLC shall receive and directly respond to any complaints pertaining to service from their roll-off containers and/or compactor customers located within CITY. However, any such complaints received by CITY shall be forwarded to DILLO DISPOSAL SERVICE, LLC within twenty four (24) hours of their receipt by CITY. DILLO DISPOSAL SERVICE, LLC shall respond to all complaints within twenty four (24) hours of receiving notice of such complaint from CITY and shall report to CITY as to the action taken. Failure by DILLO DISPOSAL SERVICE, LLC to respond and report to CITY on action taken within this twenty four (24) hour period may subject DILLO DISPOSAL SERVICE, LLC to a \$25.00 per incident charge from CITY payable with the next payment due to CITY under Section 6 of this Agreement.

DILLO DISPOSAL SERVICE, LLC agrees that during transport all vehicles used by DILLO DISPOSAL SERVICE, LLC in the removal of solid waste shall be properly covered to prevent spillage, blowing, or scattering of refuse onto public streets or properties adjacent thereto. All equipment necessary for the performance of this Agreement shall be in good condition and repair. A standby vehicle shall always be available. DILLO DISPOSAL SERVICE, LLC vehicles shall at all times be clearly marked with DILLO DISPOSAL SERVICE, LLC name in letters not less than three (3) inches in height.

SECTION 11.
OBEISANCE OF LAWS

DILLO DISPOSAL SERVICE, LLC agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, and CITY. All collections made hereunder shall be made by DILLO DISPOSAL SERVICE, LLC without unnecessary noise, disturbance, or commotion.

SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY

It is understood by and between the parties that this Agreement executed by and between the parties on the ____ day of _____, 20____, constitutes the only agreement between the parties. It is further understood and agreed that there are no other agreements between these parties with regard to the disposal of commercial, industrial or residential solid waste in the CITY using roll-off containers/compactors and that this Agreement does not authorize DILLO DISPOSAL SERVICE, LLC to utilize the streets, alleys or public ways to dispose of commercial, industrial, or residential solid waste other than demolition and construction debris. Both parties agree and understand that nothing in this Agreement conveys to DILLO DISPOSAL SERVICE, LLC an exclusive franchise for the services described in this Agreement and that this Agreement is non-exclusive.

SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED

Nothing herein shall create or be construed to convey any title to CITY of any solid waste collected pursuant to the provisions of this agreement.

SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT

A. Termination of Service. In the event that DILLO DISPOSAL SERVICE, LLC terminates service to any customer with the CITY limits for cause, DILLO DISPOSAL SERVICE, LLC must notify the CITY through certified mail within forty-eight (48) hours of termination and state the cause of such termination.

B. Excessive Interruption in Service. If the interruption in service continues for a period of seventy-two (72) hours or more, then it may constitute Failure to Perform under this Agreement and CITY may invoke the provisions of Section 15 of this Agreement (FAILURE TO PERFORM).

SECTION 15.
FAILURE TO PERFORM

It is expressly understood and agreed by the parties that if at any time DILLO DISPOSAL SERVICE, LLC shall fail to perform any of the terms, covenants, or conditions herein set forth, CITY may after a hearing as described herein, revoke and cancel the Agreement by and between the parties and said Agreement shall be null and void. Upon the determination by the staff of CITY that a hearing should be held before the City Council, CITY shall mail notice of the hearing to DILLO DISPOSAL SERVICE, LLC, at the address designated herein or at such address as may be designated from time to time, by registered or certified mail. The notice shall specify the time and place of the hearing and shall include the allegations being asserted for the revocation of this Agreement. The hearing shall be conducted in public before the City Council and DILLO DISPOSAL SERVICE, LLC shall be allowed to present evidence and given an opportunity to answer all reasons for the termination set forth in the notice. In the event that the Council determines that the allegations set forth are true as set forth in the notice it may by majority vote cancel this Agreement between the parties at no penalty to the CITY.

SECTION 16.
INDEMNIFICATION

In the event CITY is damaged due to the act, omission, mistake, fault or default of DILLO DISPOSAL SERVICE, LLC, then DILLO DISPOSAL SERVICE, LLC shall indemnify and hold CITY harmless for such damage.

DILLO DISPOSAL SERVICE, LLC is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

DILLO DISPOSAL SERVICE, LLC shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by DILLO DISPOSAL SERVICE, LLC, its agents, employees, and representatives.

DILLO DISPOSAL SERVICE, LLC agrees to and shall indemnify and hold harmless CITY, its officers, agents and employees, from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person, or for damage to any property, arising out of or in connection with the work done by DILLO DISPOSAL SERVICE, LLC under this Agreement, regardless of whether such injuries, death or damages are caused in whole or in part by the negligence, including but not limited to the contractual comparative negligence, concurrent negligence or gross negligence, of CITY.

SECTION 17. INSURANCE

DILLO DISPOSAL SERVICE, LLC shall procure and maintain at its sole cost and expense for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by DILLO DISPOSAL SERVICE, LLC, its agents, representatives, volunteers, employees or subcontractors.

DILLO DISPOSAL SERVICE, LLC insurance coverage shall be primary insurance with respect to the CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees or volunteers shall be considered in excess of the DILLO DISPOSAL SERVICE, LLC insurance and shall not contribute to it.

DILLO DISPOSAL SERVICE, LLC shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

Certificates of Insurance and endorsements shall be furnished to CITY and approved by CITY before work commences.

A. STANDARD INSURANCE POLICIES REQUIRED

1. Commercial General Liability Policy
2. Automobile Liability Policy
3. Worker's Compensation Policy

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

1. General Liability and Automobile Liability insurance shall be written by a carrier with a better rating in accordance with the current Best Key Rating Guide.
2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
4. Claims Made Policies will not be accepted.
5. The CITY, its officials, employees and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees or volunteers.
6. A Waiver of Subrogation in favor of the CITY with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.
7. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
8. Upon request, certified copies of all insurance policies shall be furnished to the CITY.

C. COMMERCIAL GENERAL LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.
2. No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.

D. AUTOMOBILE LIABILITY

1. Minimum Combined Single Limit of \$1,000,000 per occurrence for Bodily Injury and Property Damage.

E. WORKERS' COMPENSATION

1. Employer's Liability limits of \$500,000/\$500,000/ \$500,000 are required.

F. CERTIFICATES OF INSURANCE

1. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent, and shall contain provisions representing and warranting the following:
 - a. The company is licensed and admitted to do business in the State of Texas.
 - b. The insurance set forth by the insurance company are underwritten on forms which have been approved by the Texas Department of Insurance or ISO.
 - c. Sets forth all endorsements as required above and insurance coverage's as previously set forth herein.
 - d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the CITY.
 - e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

SECTION 18. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by DILLO DISPOSAL SERVICE, LLC without the specific prior written approval of the City Council. Any assignment by DILLO DISPOSAL SERVICE, LLC without prior written approval of the City Council shall be null and void.

SECTION 19. SAFETY

DILLO DISPOSAL SERVICE, LLC shall perform the collection in accordance with applicable laws, codes, ordinances and regulations of the United States, State of Texas, Washington County, and CITY and in compliance with OSHA and other laws as they apply to its employees. It is the intent of the parties that the safety precautions are a part of the collection techniques for which DILLO DISPOSAL SERVICE, LLC is solely responsible. In the carrying on of the work herein provided for, DILLO DISPOSAL SERVICE, LLC shall use all proper skill and care, and DILLO DISPOSAL SERVICE, LLC shall exercise all due and proper precautions to prevent injury to any property, person or persons. DILLO DISPOSAL SERVICE, LLC assumes responsibility and liability and hereby agrees to indemnify the CITY from any liability caused by DILLO DISPOSAL SERVICE, LLC failure to comply with applicable federal, state or local laws and regulations, touching upon the maintenance of a safe and protected working environment, and the safe use and operation of machinery and equipment in that working environment.

SECTION 20.
AD VALOREM TAXES

DILLO DISPOSAL SERVICE, LLC agrees to render all personal property utilized in its solid waste operation services to Washington County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

SECTION 21.
NOTICES

All notices required under the terms of this Agreement to be given by either party to the other shall be in writing, and unless otherwise specified in writing by the respective parties, shall be sent to the parties at the addresses following:

City of Brenham
P.O. Box 1059
Brenham, Texas 77834
ATTN: City Secretary

ATTN: _____

All notices shall be deemed to have been properly served only if sent by certified mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designate by written notice to the other party.

SECTION 22.
AMENDMENTS

It is hereby understood and agreed by the parties to this Agreement that no alternation or variation to the terms of this Agreement shall be made unless made in writing, approved by both parties, and attached to this Agreement to become a part hereof.

SECTION 23.
SEVERABILITY

If any section, sentence, clause or paragraph of this Agreement is for any reason held to be invalid or illegal, such invalidity shall not affect the remaining portions of the Agreement.

SECTION 24.
TERM OF AGREEMENT

The term of this Agreement shall be effective beginning on the ____ day of _____, 20____, being the date of acceptance by DILLO DISPOSAL SERVICE, LLC and shall terminate on September 30, 20__.

Thereafter, this Agreement shall automatically renew annually for a subsequent one (1) year terms beginning on October 1 and terminating on the following September 30 unless either party gives written notice of non-renewal by certified mail no later than sixty (60) days prior to the then current termination date. Further, either party may terminate this Agreement without cause at any time by providing the other party with sixty (60) days written notice of termination by certified mail. This section is not intended, nor shall this section be construed, to limit or prohibit a party's ability to terminate this Agreement as otherwise provided in this Agreement.

SECTION 25.
ACCEPTANCE OF AGREEMENT

That DILLO DISPOSAL SERVICE, LLC shall have sixty (60) days from and after the final passage and approval of this Ordinance to file its written acceptance thereof with the City Secretary, and upon such acceptance being filed, this Ordinance shall take effect and be in force from and after the date of its acceptance, and shall effectuate and make binding the agreement provided by the terms hereof.

SECTION 26.
AUTHORIZATION TO EXECUTE

The parties signing this Agreement shall provide adequate proof of their authority to execute this Agreement. This Agreement shall inure to the benefit and is binding upon the parties hereto and their respective successors or assigns but shall not be assignable by either party without the written consent of the other party.

SECTION 27.
PUBLIC MEETING

It is hereby found and determined that the meeting(s) at which this Ordinance was considered were open to the public, as required by Chapter 551, Texas Government Code, and that advance public notice of time, place, and purpose of said meetings was given in accordance with law.

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

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

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC, CMC
City Secretary



Regular City Council
AGENDA ITEM 5.

Agenda Item: Public Hearing, Discussion and Possibly Act Upon an Ordinance on Its First Reading Amending the Official Zoning Map of the City of Brenham to Change the Zoning District from an Industrial District (I) to a Commercial, Research and Technology District (B-2) on the Following:

- a. Approximately 0.849 Acres of Land Located Adjacent to 1303 Prairie Lea Street and 1305 Prairie Lea Street, Being Further Described as Part of Lot No. 2 of Continental Ribbon and Carbon Company Subdivision Out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas; and
- b. Approximately 4.236 Acres of Land Addressed as 1303 Prairie Lea Street, Being Further Described as Part of Lot No. 2, of the Continental Ribbon and Carbon Company Subdivision Out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-027)

Meeting Type: Regular Meeting-August 06, 2020

Department: Development Services

Staff Contact: Shauna Laauwe, AICP Project Planner

Classification: Public Hearing

SUMMARY STATEMENT:

The subject tracts are two adjacent vacant properties, a 4.236 acre tract to the north, addressed as 1303 Prairie Lea Street and to the south, a 0.849 acre portion of the vacant tract that is generally located between 1303 and 1305 Prairie Lea Street. The approximate 5.08 combined acres are currently zoned I, Industrial District. While no development is currently planned, the applicants, Michael Benestante and Nathan Winkelmann, are requesting the tracts be rezoned to B-2, Commercial, Research and Technology District portion to allow for more compatible and less intense commercial uses and the possibility of multifamily development.

The Industrial District is intended to provide the placement of any lawful light or heavy industrial use that is in strict compliance with the District performance standards and allows any use permitted in the various commercial districts, excluding structures to be used as dwelling units. Whereas, the requested B-2 District is a mixed use commercial district established to preserve and to protect appropriate locations for existing light industry, multiple-family residential, retail, office and commercial uses, while also designed to include new high-tech commercial uses that will benefit from direct access

and/or proximity to highway routes. Thus, rezoning the subject properties to B-2 would be considered a downzoning. Rezoning to B-2 would allow the applicants more flexibility of development in terms of lot size and width, in addition to the potential of multifamily residential or retirement villages.

Adjacent and to the north of the subject 4.236 acre tract is zoned B-2, with the adjacent property developed as Silver Sage Assisted Living Facility and further north as Brenham Fitness, and a storage center. In addition, properties located in the general vicinity further to the west and southeast, are also zoned B-2, Commercial Research and Technology District. To the east, across the railroad tracks, is a large R-1, Residential Single-Family District that is developed as single-family homes and compatible uses that stretches to the South Day Street commercial corridor. To the west, across Prairie Lea Street, is also zoned R-1 and is developed as the Louanna Estates subdivision. The adjacent properties to the south and across US Highway 290 are zoned Industrial. The adjacent Industrial properties are developed as a car wash to the southwest, directly south is Nathan's BBQ with a convenience store, and to the southeast is Rob's Fun Center that sells off-road vehicles. The proposed rezoning request would allow the approximate 4.236 acre and 0.85 acre tracts of land to be developed in keeping with the development pattern in the general vicinity and with uses that are more compatible to nearby residential properties.

The Future Land Use Map, part of the 2040 Comprehensive Plan adopted on September 19, 2019, indicates that the subject properties are suitable for commercial use. The Comprehensive Plan includes land use policies to help guide land use decisions. Specifically, the Plan recommends that the City consider permitting commercial and retail uses primarily along portions of major roadway corridors such as, US Hwy 290 that is classified as a TxDOT principal arterial and Prairie Lea Street that is classified a city arterial. The Comprehensive Plan finds that regional level commercial is appropriate along major roadways, including freeways, arterials, and some collectors if compatible with the surrounding development. If the requested zone change were approved, the subject tracts would allow for the development of the permitted uses found in the B-2 District and B-1, Local Business and Residential Mixed Use District, that includes multifamily residential on sites of two (2) acres or more, light industry uses, retail, office, and commercial uses to include high-tech commercial uses. The proposed request is aligned with the goals and land use policies established in the Comprehensive Plan.

If the rezoning is approved, any proposed development of the property will undergo a planning permit process to ensure that all zoning, building, and fire codes are met.

On Monday, July 27, 2020, after conducting a Public Hearing, the Planning and Zoning Commission **voted unanimously to recommend approval** of the rezoning request as presented.

ATTACHMENTS:

- | |
|---|
| (1) Ordinance for First Reading
(2) Staff Report |
|---|

RECOMMENDED ACTION:

Approve an Ordinance on its first reading amending the Official Zoning Map of the City of Brenham, to change the Zoning District from an Industrial District (I) to a Commercial, Research and Technology District (B-2) on approximately 0.849 acres of land located adjacent to 1303 Prairie Lea Street and 1305 Prairie Lea Street, being further described as Part of Lot No. 2 of Continental Ribbon and Carbon Company Subdivision out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas; and approximately 4.236 acres of land addressed as 1303 Prairie Lea Street, being further described as Part of Lot No. 2, of the Continental Ribbon and Carbon Company Subdivision out of the P. H. Coe Survey, A-31, in Brenham, Washington County, Texas (Case No. P-20-027).

ORDINANCE NO. _____

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 INDUSTRIAL DISTRICT (I) TO A COMMERCIAL, RESEARCH AND TECHNOLOGY DISTRICT (B-2) ON TWO TRACTS OF LAND, BEING A 4.236 ACRE TRACT OF PROPERTY ADDRESSED AS 1303 PRAIRIE LEA STREET AND A 0.849 ACRE PORTION OF THE ADJACENT TRACT GENERALLY LOCATED SOUTH AND ADJACENT TO 1303 AND 1305 PRAIRIE LEA STREET, BEING FURTHER DESCRIBED AS PART OF LOT 2 OF THE CONTINENTAL RIBBON AND CARBON COMPANY SUBDIVISION OUT OF THE P.H. COE SURVEY, A-31 IN BRENHAM, WASHINGTON COUNTY, TEXAS.

WHEREAS, the owner(s) of two tracts of land, being a 4.236 acre tract of property addressed as 1303 Prairie Lea Street and a 0.849 acre portion of the adjacent tract, generally located south and adjacent to 1303 and 1305 Prairie Lea Street, and being further described as part of Lot 2 of the Continental Ribbon and Carbon Company Subdivision out of the P.H. Coe Survey, A-31, 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 and 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 27, 2020; 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 an Industrial District (I) to a Commercial, Research and Technology District (B-2) on two tracts of land, being a 4.236 acre tract of property addressed as 1303 Prairie Lea Street and a 0.849 acre portion of the adjacent tract, generally located south and adjacent to 1303 and 1305 Prairie Lea Street, and being further described as part of Lot 2 of the Continental Ribbon and Carbon Company Subdivision out of the P.H. Coe Survey, A-31, in Brenham, Washington County, Texas, in Brenham, Washington County, Texas, said area of land being further described and depicted in Exhibit "A" and Exhibit "B" 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 ____ day of _____ 2020.

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

ATTEST:

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC, CMC
City Secretary

Exhibit "A"

Metes and Bounds of 4.236 acre tract

EXHIBIT "A"

Prairie Lea Investments, LLC.
4.236 Acres

Phillip Coe Survey
Abstract No.31

STATE OF TEXAS §

COUNTY OF WASHINGTON §

A METES & BOUNDS description of a certain 4.236 acre tract situated in the Phillip Coe Survey, Abstract No. 31 in Washington County, Texas, being a portion of a called 6.224 acre tract conveyed by Special Warranty Deed with Vendor's Lien to John Keijura recorded in Volume 1195, Page 517 of the Official Records of Washington County, being the same 6.224 acre tract know as Lot 2 of the Continental Ribbon and Carbon Company Subdivision as recorded in Plat File No. 292B of the Plat Records of Washington County; said 4.236 acre tract being more particularly described as follows with all bearings based on the Texas Coordinate System of 1983, Central Zone;

BEGINNING at a found 1/2-inch Iron rod in the occupied southeast right-of-way of Farm-to-Market Highway 389 (F.M. 389), marking the most northerly corner of the herein described 4.236 acre tract being common with the southwest corner of a called 3.280 acre tract conveyed by Special Warranty Deed to Michael S. Benestante recorded in Volume 1200, Page 459 of the Official Records of Washington County, from which a found 1/2-inch iron rod bears North 34°30'01" East, 429.43 feet;

THENCE South 55°34'38" East, departing said southeast right-of-way of F.M. 389, passing at 365.14 feet a set 5/8-inch iron rod (with cap stamped "Jones & Carter") in the G.C. & S.F. Railway Company west right-of-way recorded in Book 44, Page 52 of the Deed Records of Washington County, continuing in all a total distance of 388.88 feet to a found 1/2-inch iron rod marking the most northerly east corner of the herein described 4.236 acre tract being common with the south corner of said 3.280 acre tract and being in the occupied west line of the G.C. & S.F. Railway Company right-of-way;

THENCE South 15°32'13" West, along said occupied west line of the G.C. & S.F. Railway Company right-of-way, 47.57 feet to a point-for-corner from which a found 1/2-inch iron rod bears South 74°06'28" East, 4.53 feet;

THENCE continuing along said occupied west line of the G.C. & S.F. Railway Company right-of-way the following three (3) courses and distances:

1. South 14°39'26" West, 102.90 feet to a found 1/2-inch iron rod;
2. South 13°04'20" West, 101.42 feet to a found 1/2-inch iron rod;

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Exhibit "A"
Metes and Bounds of 0.849 acre Tract

LAMPE SURVEYING, INC
PROFESSIONAL LAND SURVEYORS
Texas Licensed Surveying Firm No. 10040700
P. O. Box 2037 - 1408 West Main Street
Brenham, Texas 77833
(979) 836-6677

3432-20

THE STATE OF TEXAS

SURVEYOR'S DESCRIPTION

NATHAN C. WINKELMANN

COUNTY OF WASHINGTON

0.849 ACRE

All that certain tract or parcel of land, lying and being situated in the City of Brenham, Washington County, Texas in the P. H. Coe Survey, A-31, being part of the same land described as 1.150 acres and part of Lot No. 2 of Continental Ribbon and Carbon Company Subdivision (Plat Cabinet File Slide 292B) in a deed from John Kerjura, et ux to Nathan C. Winkelmann, dated November 14, 2012, recorded in Volume 1418, Page 455, Official Records of Washington County, Texas (1418/455, O.R.W.C., Tx.), and being more fully described by metes and bounds as follows, to-wit:

BEGINNING at a 1/2" iron rod found with "2835" cap for the east corner hereof and of said original tract, being on the southeast line of said Lot No. 2, common with the northwest line of Lot No. 1 of Continental Ribbon and Carbon Company Subdivision, said Lot No. 1 being described in a deed to Robert Hodde, et ux (1349/817, O.R.W.C., Tx.);

THENCE along common lines of said Lot No. 2 and Lot No. 1, as follows:
South 58 degrees 04 minutes 42 seconds West, 160.93 feet to a 5/8" iron rod found; and
South 03 degrees 42 minutes 09 seconds West, 75.88 feet to a 1/2" iron rod set on the east line of said original tract, common with the west line of said Lot No. 1, for the south corner hereof;

THENCE through said original tract, North 52 degrees 12 minutes 28 seconds West, at 74.48 feet pass an interior corner of said original tract, being the east corner of a Nathan C. Winkelmann tract called 1.130 acres (925/720, O.R.W.C., Tx.), and continuing for a total distance of 167.54 feet to a 1/2" iron rod set on the northeast line of said Winkelmann tract called 1.130 acres, being the south corner of the residue of a D Bar B Sausage & Meats, LLC tract (372/65, O.R.W.C., Tx.);

THENCE along the common lines of said original tract and said residue of D Bar B Sausage & Meats, LLC tract, as follows:

North 55 degrees 26 minutes 03 seconds East, 198.86 feet to a 1/2" iron rod found with "2183" cap; and
North 34 degrees 24 minutes 17 seconds West, 164.73 feet to the north corner of said residue of D Bar B Sausage & Meats, LLC tract, being the upper west corner hereof and of said original tract, being in a curve of the southeast margin of F. M. Highway 389 (Prairie Lea Street), a 1/2" iron rod found with "2183" cap bears South 34 degrees 24 minutes 17 seconds East, 0.88 feet;

THENCE along a counterclockwise curve of the southeast margin of F. M. Highway 389, having a radius of 1004.93 feet, an arc length of 60.67 feet and a chord of North 47 degrees 45 minutes 54 seconds East, 60.66 feet to the north corner hereof and of said original tract, common with a Prairie Lea Investments, LLC tract called 4.236 acres (1542/716, O.R.W.C., Tx.), a found 1/2" iron rod with "2183" cap bears South 34 degrees 22 minutes 50 seconds East, 0.90 feet;

THENCE along the northeast line hereof and of said original tract, being the southwest line of said Prairie Lea Investments, LLC tract, South 34 degrees 22 minutes 50 seconds East, 280.34 feet to the PLACE OF BEGINNING and containing 0.849 Acre of land, more or less.

Prepared in conjunction with a separate survey plat.

Iron rods set are fitted with plastic cap stamped Lampe Surveying.

Bearings are based on the Texas Coordinate System of 1983-Central Zone, as obtained by GPS observations.

I, Donald W. Lampe, Registered Professional Land Surveyor No. 1732 of the State of Texas, do hereby certify that this description accurately represents the results of an on the ground survey made under my direction.

Dated this the 26th day of June, 2020.



Donald W. Lampe
R.P.L.S. No. 1732
Lampe Surveying, Inc

3432-20
3432Wink0.849Ac

Exhibit "B"

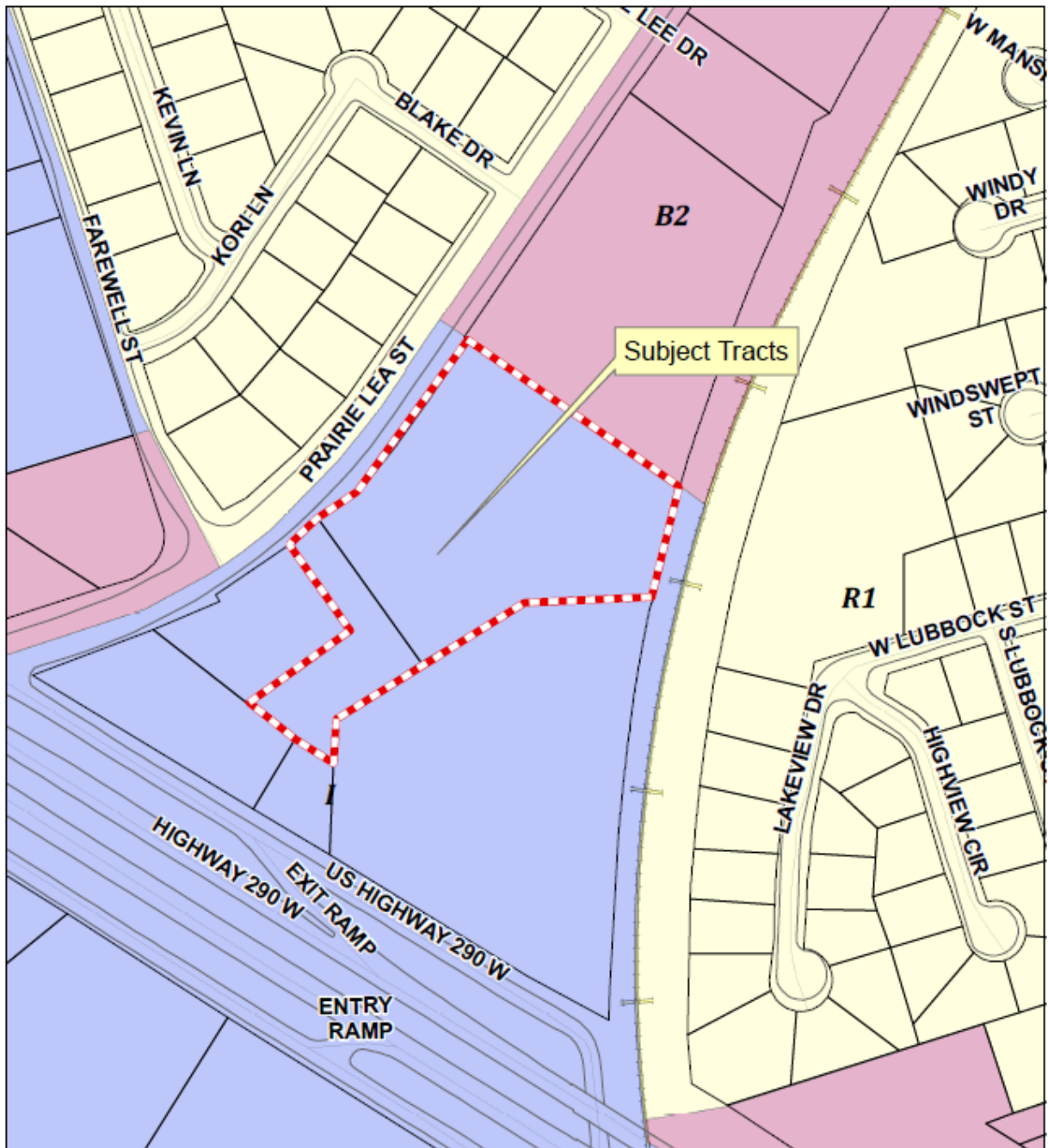


Exhibit "B"

1 inch = 210 feet





CASE NUMBER P-20-027
ZONE CHANGE REQUEST – 1303 Prairie Lea Street

STAFF CONTACT:	Shauna Laauwe, AICP, Project Planner
OWNERS/APPLICANTS:	Nathan Winkelmann and Michael S. Benestante (Prairie Lea Investments, LLC)
ADDRESS/LOCATION:	1303 Prairie Lea Street and the property adjacent to 1303 & 1305 Prairie Lea Street (Exhibit A)
LEGAL DESCRIPTION:	Part of Lot No. 2 of the Continental Ribbon and Carbon Company Subdivision out of the P.H. Coe Survey, A-31
LOT AREA:	Approximately 4.236 acres and 0.849 acres, respectfully.
ZONING DISTRICT/USE:	I, Industrial District / Vacant land (Exhibit B)
FUTURE LAND USE:	Commercial
REQUEST:	A request to change the zoning classification from Industrial District (I) to Commercial Research and Technology Use District (B-2) (Exhibit C)

BACKGROUND:

The subject tract consists of two properties, a 4.236-acre vacant property addressed as 1303 Prairie Lea Street and a 0.849-acre portion of the vacant property located to the south and adjacent to 1303 & 1305 Prairie Lea Street. The subject tracts are currently zoned as I, Industrial District. The property owners/applicants, Nathan Winkelmann and Michael Benestante, wish to expand the types of uses that may be permitted for future commercial development. The applicants have requested that the approximate 5.08 combined acres currently zoned I, Industrial District be rezoned to B-2, Commercial Research and Technology District.

ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

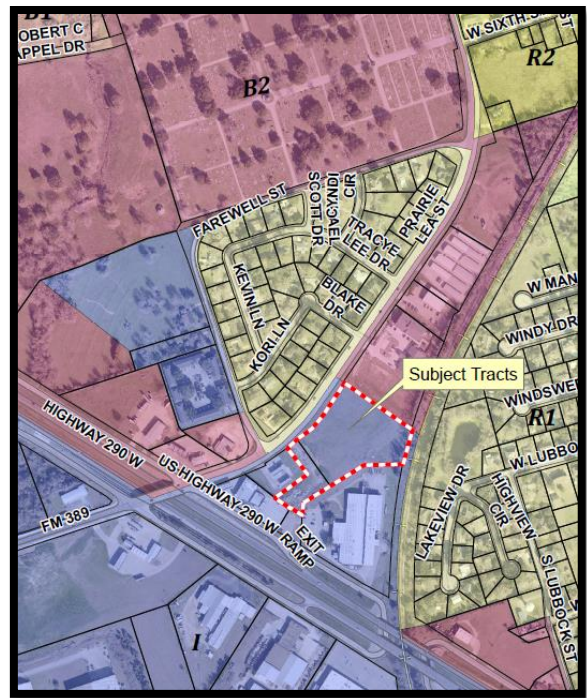
The purpose of zoning policies is to provide guidelines for considering future amendments to the zoning ordinance (Part 1, Section 4 of Appendix A – “Zoning” of the Brenham Code of Ordinances). They are as follows:

- (1) The city's zoning should recognize and seek to preserve the small-town attributes that make Brenham a special place for its citizens to live, work and play. *Please refer to Map 1 on the following page for a visual of the current zoning described herein.*

The subject property abuts Prairie Lea Street to the west and is generally located north of Highway 290 West and south of Blake Drive. The subject tracts are comprised of a 4.236-acre vacant property addressed as 1303 Prairie Lea Street and a 0.849-acre, “L” shaped portion of the adjacent vacant lot

to the southwest. The properties are currently zoned I, Industrial District. While no current development is planned, rezoning the properties to B-2 would allow for a broader range of residential and commercial uses than the existing Industrial classification. The B-2 District is established as a mixed use commercial district to preserve and to protect appropriate locations for existing light industry, multiple-family residential, retail, office and commercial uses, while also designed to include new high-tech commercial uses that will benefit from direct access and/or proximity to highway routes. The abutting properties to the north are zoned B-2 and developed as Silver Sage Assisted Living Facility, Brenham Fitness, and a storage center. In addition, properties located in the general vicinity further to the west and southeast, are zoned B-2, Commercial Research and Technology District. To the east, across the railroad tracks, is a large R-1, Residential Single-Family District that is developed as single-family homes and compatible uses that stretches to the South Day Street commercial corridor. To the west, across Prairie Lea Street, is also zoned R-1 and is developed as the Louanna Estates subdivision. The adjacent properties to the south and across US Highway 290 are zoned Industrial. The adjacent Industrial properties are developed as a car wash to the southwest, directly south is Nathan's BBQ with a convenience store, and to the southeast is Rob's Fun Center that sells off-road vehicles. Allowing the proposed rezoning request would allow the approximate 4.236-acre and 0.85-acre tracts of land to be developed in keeping with the development pattern in the general vicinity and with uses that are more compatible to nearby residential properties.

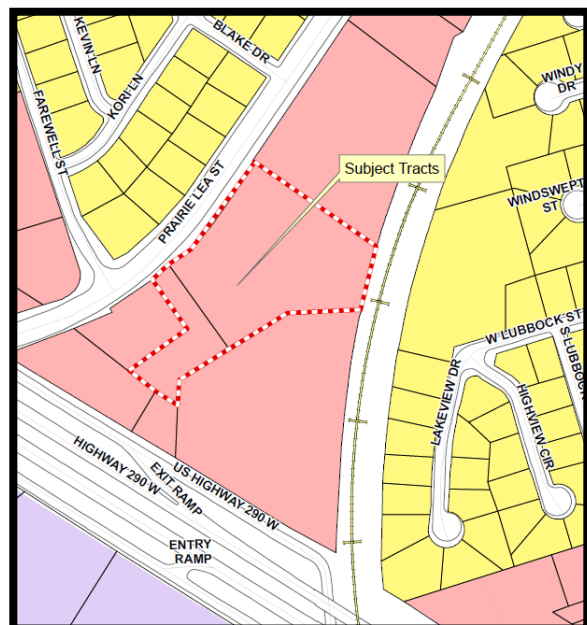
Map 1 - Zoning Map



- (2) The city's zoning should be guided by the future land use plan and other applicable guidelines found in the Comprehensive Plan.

As shown in Map 2, the future land use map portion of the Historic Past, Bold Future: Plan 2040 Comprehensive Plan suggests the subject tracts may be appropriate for future commercial use. The Comprehensive Plan includes land use policies to help guide land use decisions. Specifically, the Plan recommends that the City consider permitting commercial and retail uses primarily along portions of major roadway corridors such as, US Hwy 290 that is classified as a TxDOT principal arterial and Prairie Lea Street that is classified a city arterial. As arterials, these highly traveled roadways within the community offer high visibility and accessibility. Additionally, the Comprehensive Plan finds that regional level commercial is appropriate along major roadways, including freeways, arterials, and some collectors if compatible with the surrounding development. If the requested zone change were

Map 2 - Future Land Use Map



approved, the subject tracts would allow for the development of the permitted uses found in the B-1, Local Business and Residential Mixed Use District, multifamily residential on sites of two (2) acres or more, light industry uses, retail, office, and commercial uses to include high-tech commercial uses. Staff finds that the proposed request is aligned with the goals and land use policies established in the Comprehensive Plan.

- (3) The city's zoning should be designed to facilitate the more efficient use of existing and future city services and utility systems in accordance with the Comprehensive Plan.

The subject properties are currently undeveloped vacant land with existing sewer services located along the right-of-way for Prairie Lea Street. An 8" water line is also located along the right-of-way for Prairie Lea street but stops at the adjacent property lines and would need to be extended to serve any future development on the subject tracts.

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

The proposed zone change, if approved, will be reflected on the City of Brenham zoning map available for citizen viewing on the City of Brenham homepage.

- (5) The city's zoning process should be fair and equitable, giving all citizens adequate information and opportunity to be heard prior to adoption of zoning amendments.

Property owners within 200 feet of the project site were mailed notifications of this request on July 16, 2020. The Notice of Public Hearing was published in the *Brenham Banner* on July 16, 2020. Any public comments submitted to staff will be provided in the Planning & Zoning Commission and City Council packets or during the public hearing.

- (6) The city's zoning should insure that adequate open space is preserved as residential and commercial development and redevelopment occur.

If approved, the property will be required to adhere to minimum building setbacks and maximum impervious coverage requirements for property zoned B-2, Commercial Research and Technology. In addition, depending on the type of use that is developed, buffer yard requirements may also be warranted. Staff finds that the requirements will ensure that adequate open spaces is preserved on the subject property.

- (7) The city's zoning should insure Brenham's attractiveness for the future location of business and housing by preserving an attractive and safe community environment in order to enhance the quality of life for all of its residents.

Staff finds that the requested zoning and associated land uses are appropriate for this location given adjacent zoning designations, existing development in the vicinity, and conformance with the City's adopted future land use map.

- (8) The city's zoning ordinance should preserve neighborhood culture by retaining and promoting land uses consistent with the community's plan for the development and/or redevelopment of its neighborhoods.

Rezoning the approximate 4.24-acre and 0.85-acre tracts of land to B-2 will allow the subject property to develop in accordance with property in the immediate vicinity. Beginning north and

adjacent of the 4.24-acre tract, is a ribbon of B-2 zoned properties. The abutting property to the north is developed as Silver Sage Assisted Living Facility, with additional B-2 properties continuing to the north and developed as Brenham Fitness Center and Excess Storage Center, respectfully. The property adjacent to the southwest of the 0.85 acre tract is zoned I, Industrial and developed as a car wash, while the property to the southeast of both tracts is also zoned Industrial and developed as Rob's Fun Center, a recreational vehicle dealer. Property immediately to the west, across Prairie Lea Street is zoned R-1 and developed with single-family dwellings.

The proposed B-2 zoning would allow for less intense commercial and manufacturing businesses that are more suited for nearby residential than the existing industrial zoning. Depending on the type of development, minimum buffer yard requirements between the properties and adjacent industrial uses may be mandatory. Buffer yard requirements are established to preserve existing neighborhoods and ensure adjacent property develops in a manner compatible to nearby land uses.

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

Staff finds that rezoning the property will protect and not adversely affect adjacent existing and future residential neighborhoods due to the City's adopted development standards including requirements related to buffer yards, screening, setbacks, drainage, and landscaping. Currently, no residential properties abut the subject tracts. In addition, the requested B-2 zoning would be more compatible to residential neighborhoods in the vicinity than the current Industrial classification.

- (10) The city's zoning should assist in stabilizing property values by limiting or prohibiting the development of incompatible land uses or uses of land or structures that negatively impact adjoining properties.

Staff is unable to determine any destabilizing effects on the neighboring properties should this rezoning request be approved. The proposed B-2 zoning for the subject property is aligned with the adjacent properties surrounding this tract.

- (11) The city's zoning should make adequate provisions for a range of commercial uses in existing and future locations that are best suited to serve neighborhood, community and regional markets.

If approved, the proposed rezoning will allow construction of a mixture of land uses, including high-tech commercial, multiple-family, retail, office, and commercial uses. The range of commercial uses allowed in the B-2 District is broader, but less intense, than the existing Industrial District zoning designation. The less intense commercial uses will be better suited for the developed neighborhoods and multifamily that are within proximity of the subject tracts. Vacant, B-2 commercial property is in the general vicinity of the subject tracts to the west and north. Staff believes that the proposed zoning change, if approved, will not negatively affect vacant land classified for commercial uses.

- (12) The city's zoning should give reasonable accommodation to legally existing incompatible uses, but it should be fashioned in such a way that over time, problem areas will experience orderly change through redevelopment that gradually replaces the nonconforming uses.

The subject tracts are currently undeveloped vacant land with no legally existing nonconforming uses.

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

Staff finds that the proposed rezoning change will allow for the orderly growth and development in the general vicinity and throughout the city. Furthermore, the proposed rezoning is in accordance with the City's adopted Future Land Use Map and Comprehensive Plan.

STAFF RECOMMENDATION:

Based on the evidence and findings above, Staff recommends **approving** the proposed rezoning of the 4.236-acre tract generally located at 1303 Prairie Lea Street and a 0.849-acre portion of the vacant property located to the south and adjacent to 1303 & 1305 Prairie Lea Street to the Commercial Research and Technology zoning use district (B-2) for the subject tracts.

EXHIBITS:

- A. Aerial Map
- B. Zoning Map
- C. Future Land Use Map
- D. Cover Letter
- E. Site photos

EXHIBIT "A"
AERIAL MAP

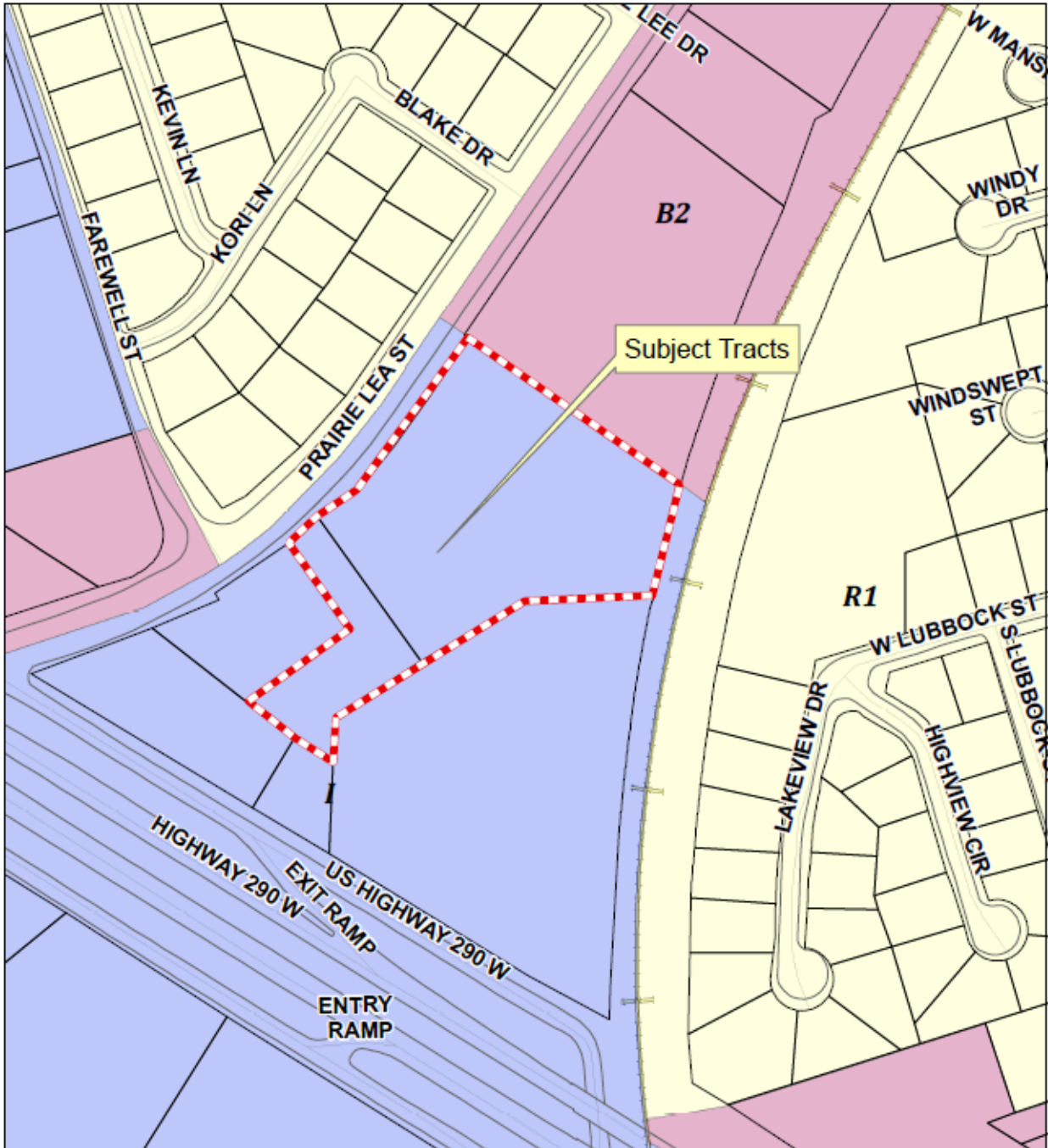


Aerial Map
Rezoning Request

1 inch = 210 feet



EXHIBIT "B"
ZONING MAP

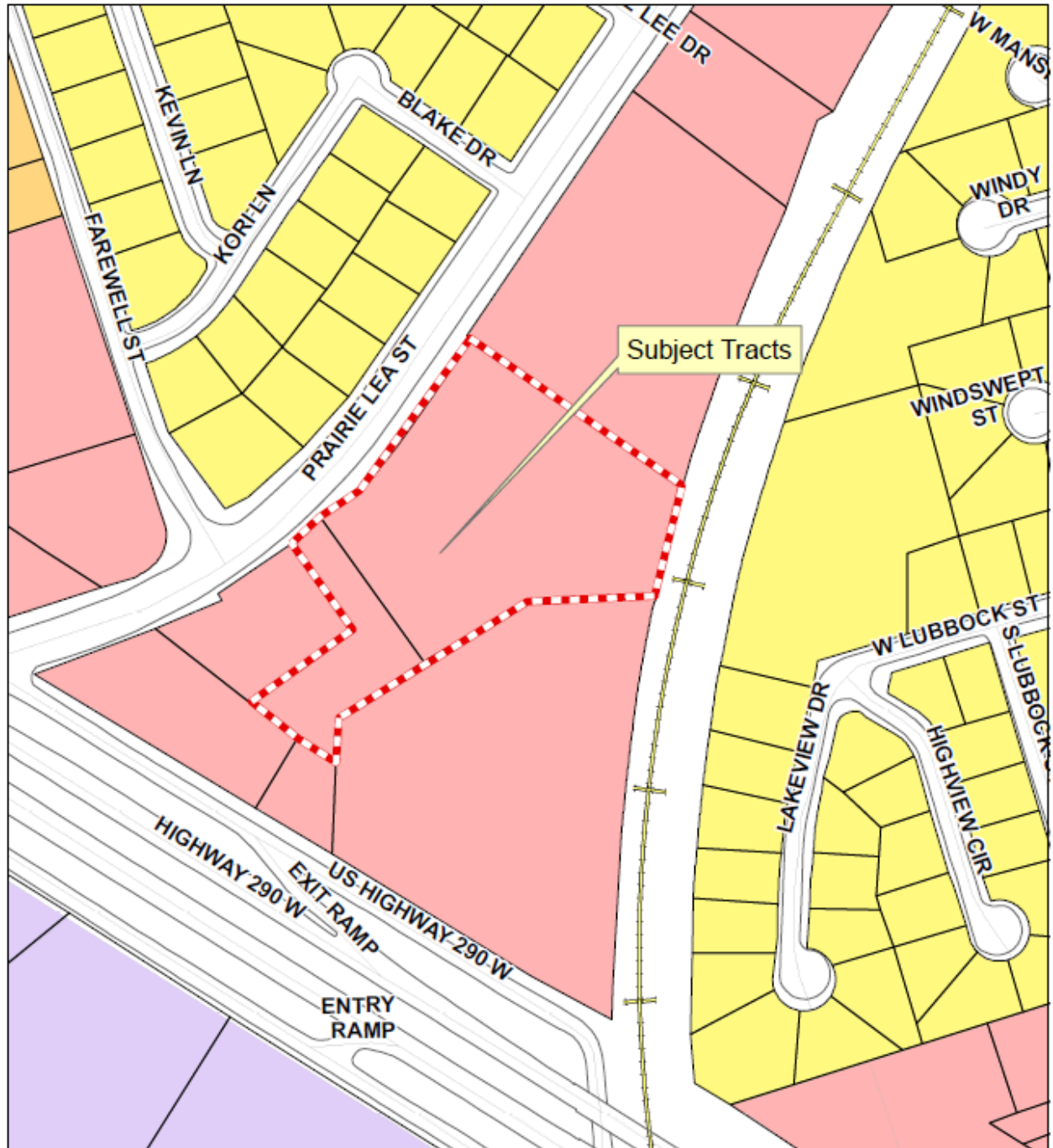


Rezoning Request
I, Industrial to B2, Commercial Research & Tech.

1 inch = 210 feet



EXHIBIT "C"
FUTURE LAND USE MAP



Future Land Use Map

Future Land Use Plan

FLU_FINAL

-  Single Family Residential
-  Multi-Family Residential
-  Commercial
-  Industrial



1 inch = 210 feet

EXHIBIT "D"
ZONE CHANGE COVER LETTER

**Buccaneer Food Store
1309 Prairie Lea
Brenham, Tx. 77833
Nathan Winkelman**

To: Planning and Zoning Commission

The property in question, the 1.150 acres owned by Nathan Winkelmann is presently zoned for Industrial use. Please except my request for the zoning change to a B-2 as the future plans for the property and its use will fall more within the guidelines for the City of Brenham requirements and other joining properties. I appreciate your consideration for the rezoning request as business owner in the City of Brenham for the past 40 years.

Respectfully Submitted,



EXHIBIT "E"
SITE PHOTOS



From Farewell St. to the west, across Prairie Lea. Large vacant lot is the 4.24-acre tract, while gravel area is the Prairie Lea portion of the 0.85-acre tract. Silver Sage to the north.



Prairie Lea Street, looking south. Car wash adjacent to 0.85-acre tract and Nathan's BBQ and convenience store further south. Rob's Fun Center is the structure to the



Prairie Lea Street, looking north. Louanna residential subdivision to the west and Silver Sage Assisted Living Facility to the north.



Prairie Lea Street, looking west. Multi-Family residential located in (I) District, Guadalajara Restaurant on corner of Prairie Lea St and Farewell St zoned B-2.



Regular City Council
AGENDA ITEM 6.

Agenda Item: Submission of, Discussion and Possible Action Regarding the No-New-Revenue Tax Rate, Voter-Approval Tax Rate and Proposed Tax Rate of \$0.5040 per \$100 Valuation for the 2020 Tax Year, and Take Record Vote on Proposed Tax Rate and Meeting Dates for Final Adoption of Tax Rate by City Council

Meeting Type: Regular Meeting-August 06, 2020

Department: Finance

Staff Contact: Carolyn D. Miller

Classification:

SUMMARY STATEMENT:

See attached memo from Assistant City Manager-Chief Financial Officer.

ATTACHMENTS:

(1) Proposed Tax Rate Memo from ACM-CFO

RECOMMENDED ACTION:

If approved, motion should be made as follows '*I move that a property tax rate of \$0.5040 per \$100 valuation be considered by the governing body on the agendas of the September 3, 2020 and September 17, 2020 Brenham City Council meetings*'.



MEMORANDUM

To: Mayor, Council and City Manager

From: Carolyn D. Miller
Assistant City Manager - Chief Financial Officer

Subject: Proposed Property Tax Rate for FY2020-21

Date: July 31, 2020

Developing an annual budget and adopting a property tax rate to support that budget must be accomplished in compliance with property tax code, local government code, and City Charter. Following these legislative guidelines ensures that the public is informed of any increases. In 2019, the Texas Legislature passed Senate Bill 2, also known as the *Texas Property Tax Reform and Transparency Act of 2019*.

At its most fundamental level, S.B. 2 reforms the system of property taxation in three primary ways: (1) lowering the tax rate a taxing unit can adopt without voter approval and requiring a mandatory election to go above the lowered rate; (2) making numerous changes to the procedures by which a city adopts a tax rate; and (3) making several changes to the property tax appraisal process.

When does S.B. 2 go into effect?

A vast majority of the bill, including the new tax rate calculations, took effect on January 1, 2020.

What terminology was changed?

“Effective Tax Rate” is now “No-New-Revenue Tax Rate”

- Prior to S.B. 2, the term “effective tax rate” referred to the benchmark tax rate needed to raise the same amount of M&O property taxes on existing property.

“Rollback Tax Rate” was changed to “Voter-Approval Tax Rate”

- Pre S.B. 2, a city’s rollback rate was the rate necessary to raise precisely 8% more M&O tax revenue as the year before.
- S.B. 2 lowers the multiplier used in the rate calculation from 8% to 3.5%.
- S.B. 2 requires a city to hold an automatic election if it adopts a rate exceeding the 3.5% Voter-Approval Tax Rate.

What changes were made to how a city provides notice of its tax rate every year?

Prior to the passage of S.B. 2, most cities provided notice of their property tax rates pursuant to LGC Section 140.010. That statute was repealed by S.B. 2 and replaced with a few different mechanisms for providing notice of the city's tax rate:

- By August 7th, or as soon thereafter as practicable, the city must post a notice on the city's website in the form prescribed by the comptroller.
- New notice provisions for the Public Hearing on the tax rate are required depending on the tax rate proposed by the city.
- No Public Hearing is required if the proposed tax rate does not exceed the lower of the No-New-Revenue Tax Rate or the Voter-Approval Tax Rate; however, a new notice provision for the Meeting to vote on the tax rate is required.
- Requires a table to be included at the end of the notice for the Public Hearing on the tax rate that compares the taxes imposed on the average residence homestead in the city last year to the taxes proposed to be imposed on the average residence homestead this year.

City of Brenham Proposed Tax Rate for FY2020-21

On July 16th, a Council Budget Workshop was held to review and discuss the proposed FY2020-21 budget. Based on the priorities presented at this workshop, it was discussed to maintain the current maintenance & operations (M&O) property tax rate of \$0.3200 per \$100 valuation, and to lower the interest and sinking (I&S) rate by approximately 1 cent from \$.1940 to \$.1840 per \$100 valuation.

The City is proposing to adopt a total tax rate (M&O and I&S) of \$.5040 for FY2020-21. Because the proposed tax rate does not exceed the lower of the No-New-Revenue Tax Rate or the Voter-Approval Tax Rate, a public hearing is not required.

Proposed Property Tax Rate

	<u>M&O</u>	<u>I&S</u>	<u>Total</u>
Current FY19-20	\$ 0.3200	\$ 0.1940	\$ 0.5140
Proposed Tax Rate FY20-21	\$ 0.3200	\$ 0.1840	\$ 0.5040
Proposed (Decrease)	\$ -	\$ (0.0100)	\$ (0.0100)

Senate Bill 2 Comparison

Proposed Tax Rate FY20-21	\$ 0.3200	\$ 0.1840	\$ 0.5040
No-New-Revenue Rate			\$ 0.5493
Voter-Approval Rate			\$ 0.6085

Tax Freeze for Residential Homestead Property Owners Over 65 and Disabled Persons

In June of 2019, Council approved an Ordinance providing for a tax freeze for persons over 65 years of age and disabled persons. For FY2020-21, the number of homesteads with this freeze is noted below:

- Over 65 – 1,440 accounts with an appraised value of \$224,863,283
- Disabled Persons – 62 accounts with an appraised value of \$7,102,849

These accounts will have their "tax bill" frozen from this point forward, or until the property is sold. The appraised value continues to increase (or decrease), but the amount due for property taxes cannot increase but can decrease.

We have prepared a comparison chart showing the average homestead taxable value for 2019 versus 2020, and the total change in taxes.

Comparison Table	Tax Year		Change	
	2019	2020	Dollar	Percent
Total Tax Rate (per \$100 of value)	\$0.5140	\$0.5040	(\$0.0100)	(1.95%)
Average Homestead Taxable Value	\$175,980	\$178,009		1.15%
Tax on Average Homestead	\$904.54	\$897.16	(\$7.38)	Less than 1%
Total Tax Levy on all Properties	\$7,476,707	\$7,631,448		

Council Action

Although not required by Tax Code, we recommend that Council take a RECORD vote to place an item to adopt the proposed property tax rate on agendas of future meetings. The motion for the vote should be made as follows:

***“I move that a property tax rate of \$0.5040 per \$100 valuation be considered by the governing body on the agendas of the September 3, 2020 and September 17, 2020 Brenham City Council meetings.*”**



Regular City Council
AGENDA ITEM 7.

Agenda Item: Discuss and Possibly Act Upon the Termination of the Contract Between the City of Brenham and Southern Flyer, Inc. for Fixed Base Operator at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Airport

Staff Contact: Donald Reese / Kim Hodde

Classification: Regular

SUMMARY STATEMENT:

The original Fixed Base Operator (FBO) contract with Southern Flyer, Inc. was for a term of five (5) years beginning in 2000 with an option for up to a ten (10) year extension. The original contract has been extended such that the current term is scheduled to expire on August 31, 2025. City staff received a 60-day notice from Southern Flyer, Inc. on June 24, 2020 of their desire to cease being an FBO at the Brenham Municipal Airport. City staff have worked with Southern Flyer, Inc. (Jack and Janet Hess) and the City Attorney's office regarding the attached cancellation agreement and inventory list. City staff appreciates the tremendous impact that Southern Flyer, Inc. has made at the Brenham Municipal Airport over the last twenty years.

ATTACHMENTS:

- (1) Cancellation agreement
- (2) Schedule of items at Airport

RECOMMENDED ACTION:

Approve Termination of the Contract Between the City of Brenham and Southern Flyer, Inc. for Fixed Base Operator at the Brenham Municipal Airport Effective August 31, 2020 and Authorize the Mayor to Execute Any Necessary Documentation.

CANCELLATION AGREEMENT

This Cancellation Agreement entered into to be effective on the ____ day of _____, 2020 between the CITY OF BRENHAM, TEXAS, referred to herein as “CITY,” and SOUTHERN FLYER, INC., referred to herein as “SOUTHERN FLYER” (the CITY and SOUTHERN FLYER also being referred to herein individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, CITY and SOUTHERN FLYER entered into a “Contract for Fixed Base Operator at the Brenham Municipal Airport” (referred to herein as “FBO Agreement”) effective September 1, 2000, as amended and extended such that the current term is scheduled to expire on August 31, 2025; and

WHEREAS, CITY and SOUTHERN FLYER mutually desire to cancel and terminate the FBO Agreement;

NOW THEREFORE, for and in consideration of the mutual obligations and terms stated herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by both parties hereto, the CITY and SOUTHERN FLYER agree as follows:

1. Effective as of August 31, 2020 the FBO Agreement shall hereby be cancelled in its entirety, and both the CITY and SOUTHERN FLYER shall be fully released and discharged from any and all obligations, benefits and requirements provided for in the FBO Agreement as of the effective date of this Cancellation Agreement.
2. SOUTHERN FLYER shall have all of its personal property removed from the CITY-owned facilities at the Brenham Municipal Airport on or before September 30, 2020. A list of SOUTHERN FLYER’S personal property to be removed from the City-owned facilities is detailed on Attachment “A.” A list of CITY’s personal property that will remain at the CITY-owned facilities is also detailed on Attachment “A.” The Parties acknowledge and agree that the personal property assigned to either SOUTHERN FLYER or the CITY on Attachment “A” is owned by the Party to which the personal property is assigned.
3. CITY and SOUTHERN FLYER each hereby voluntarily waive all rights to any action, notice, benefit and other performance as may be required of the other party as provided for in the FBO Agreement.
4. Except as otherwise set forth in this Cancellation Agreement, and without any further action of the Parties, the Parties hereby unconditionally release and forever discharge one another and their subsidiaries or affiliated entities, subdivisions, affiliated subdivisions, officials, directors, officers, employees, agents, attorneys, insurers, and representatives, and any and all predecessors, successors or assigns thereof, from any and all potential claims, demands, obligations, judgments, orders, agreements, losses, damages, attorney’s fees, expenses, liabilities or causes of action of any kind, whether known or unknown, arising out of or relating to the FBO Agreement, and neither Party shall bring any claim in any court, before any alternative dispute resolution forum, or with any administrative agency relating to the same.
5. The Parties acknowledge and agree that the City is subject to the Texas Public Information Act and other laws governing the public’s access to public records. In the event a copy of this Cancellation Agreement is requested to be disclosed or accessed thereunder, the City is required to comply with such applicable law(s) governing the public’s access to records in the possession of the City. The Parties further agree not to disparage the other with respect to the matters that are subject of this Cancellation Agreement.
6. The terms of this Cancellation Agreement are contractual and not mere recitals, and each Party has relied

on its own belief, judgment, and knowledge as to the nature and extent of its own claims and rights and not on any representation or statement with regard thereto made by or on behalf of any of the other Party.

7. Each Party represents that it has all power and authority necessary to enter into and perform this Cancellation Agreement, and that it has had the opportunity to consult and be represented by counsel of its choice in entering into this Cancellation Agreement.
8. This Cancellation Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and no other agreement, understanding, or representation of or by the Parties relating to the subject matter hereof made at any time prior to or contemporaneously with the signing of this Cancellation Agreement shall be effective for any purpose except as set forth herein. This Cancellation Agreement shall be governed by the laws of the State of Texas, without regards to its rules on conflicts of law. Exclusive venue for any claim, dispute, lawsuit or other legal proceeding arising out of the FBO Agreement or this Cancellation Agreement shall be in Washington County, Texas.
9. This Cancellation Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Cancellation Agreement in the year and day first above written.

CITY OF BRENHAM, TEXAS:

Milton Y. Tate, Jr., Mayor

SOUTHERN FLYER, INC.:

Jack Hess
Title:

Janet Hess
Title:

Attachment "A"
Schedule of Items At Brenham Municipal Airport Terminal Building

Items to Remain with City of Brenham	Items to be Removed By Southern Flyer
Lobby: Leather Couch 2 Recliners Coffee Table Matching End Table & Sofa Table 2 Elephant Print Chairs Round End Table 2 Straight Back Chairs Small Elephant Tusk Table with Drawers Airport of the Year Picture Shadow Box Fly Fish Picture Over Water Fountains Wall Mount Magazine Rack 2 Pedestal Mounted Hand Sanitizer Stations 2 Rugs - Brenham A Flavor of It's Own Rose Trellis Orchid Yellow Cat Tail	Lobby: Vending Machines Airplane Wreath B-17 Picture / Poodle Girls Texas Raiders Picture of Future Pilots - Joshua & Amy Hendricks Pilot Get Away Picture Glider Picture Old Shaky Picture from Delbert Burgess Brenham 11R from Kenneth Rolling Cart by Window Christmas TV Set Artificial Flowers Umbrella Stand at Front Door Mission Style Lamp on Couch End Table Painters Easel Picture Collage of Opening Day Yellow Artificial Roses in Pot 2 Sunflower Arrangements Vacuum Cleaner
Pilot's Lounge / Sleep Room / Flight Planning Room: Sectional Couch 2 Wing Back Chairs Bistro Table & 2 Stools 3 Piece Wooden TV Cabinet Side Table (Looks Like Luggage) 2 Lazy Boy Recliners (In Sleep Room) Area Rug Picture Above Lazy Boys VOR Framed Chart Whether Weather Print Zulu Clock 24 Hour Clock AWOS Equipment AJ Jet Picture Wall Clock B-17 Picture	Pilot's Lounge / Sleep Room / Flight Planning Room: TattleTale Alarm System / Detectors Placed Throughout Building Airplane Coffee Table Refrigerator (In FBO area) Kerug Coffee Maker and Accessories TV DVD Player / All Items in Cabinets All Aviation Decorations Computer Speakers Bulletin Board Everything in Cabinets Except City Books Complaint Department Plaque Sinclair Metal Sign
FBO Office: Unicom Radio 1 Fire Extinguisher Phone System 2 Metal File Cabinets Slat Board in Shop	FBO Office: Everything Except What is Shown as Staying with the City
City Owned Fuel System: All Tanks, Pumps, Hoses, Nozzles, and Other Appurtenances	City Owned Fuel System: Credit Card Reader (Purchased and Installed by Southern Flyer)
Additional Items: All Keys Associated with Airport Property or Operations Including, but not limited to: Gate Keys Fuel System Keys (Sump, Breaker Box, etc.) Generator Key Terminal Building Keys (2 Sets) Hangars Keys including Keys for Bathrooms Fire Alarm Keys Wind Sock Key Any Other Miscellaneous Keys	Additional Items: Not Applicable



Regular City Council
AGENDA ITEM 8.

Agenda Item: Discuss and Possibly Act Upon the Purchase and Installation of Precision Approach Path Indicator (PAPI) Lights at the Brenham Municipal Airport and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Airport

Staff Contact: Donald Reese / Kim Hodde

Classification: Regular

SUMMARY STATEMENT:

On March 7, 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act authorized nearly \$10 billion to eligible airports to prevent, prepare for, and respond to coronavirus impacts, including support for continuing airport operations. Airports in the National Plan of Integrated Airport Systems (NPIAS) are eligible.

The City of Brenham was approved for \$69,000 of Group 4 CARES Act Funding. This funding can be used for day-to-day expenses, lighting, maintenance, or any other purpose for which airport revenues may lawfully be used. Once the funds have been spent, the City will submit the documentation necessary to receive reimbursement.

B-C Company recently replaced the Runway End Identifier Lights (REILs), which were funded with Routine Airport Maintenance Programs (RAMP) funds and submitted the attached quote for replacement of the PAPI's at a total cost of \$69,450.58. The cost of the replacement includes all equipment and materials, upgrading to LEDs, and installation. This expenditure is exempt from the bidding requirements of Texas Local Gov't Code § 252.021 because it is necessary to preserve or protect the public health or safety of the municipality's residents in accordance with Section 252.022(a)(2) of the Texas Local Gov't Code.

PAPI light systems primarily assist pilots by providing visual glide slope guidance in non-precision approach environment. These systems have an effective visual range of at least 3 miles during the day and up to 20 miles at night. Light combinations indicate when slightly high, significantly high, slightly low and significantly low. The existing PAPI systems have outlived their useful life. Approach lighting is a vital safety feature for pilots; therefore, staff would like to utilize the CARES Act funding to replace the existing PAPI systems with LED PAPI system.

ATTACHMENTS:

(1) Quote - B-C Company, Inc.

RECOMMENDED ACTION:

Approve the purchase and installation of the Precision Approach Path Indicator (PAPI) lights at the Brenham Municipal Airport from B-C Company, Inc. in to preserve the public health and safety of the City's residents, as authorized by Section 252.022(a)(2) of the Texas Local Government Code, said purchase shall not exceed \$70,000.00 and authorize the Mayor to execute any necessary documentation.

B-C COMPANY, INC.

**P. O. BOX 136729
FT. WORTH, TEXAS 76136
PHONE (817) 236-6000 FAX (817) 236-3000
EMAIL: annb@b-ccompany.net**

July 30, 2020

Brenham Municipal Airport
City of Brenham
P.O. Box 136729
Brenham, TX 77834

Attention: Kim Hodde

Reference: Replace PAPI's with LED

Proposals

1. North PAPI 2-box system with new voltage powered LED PAPI with baffles
Total Lump Sum \$ 24,281.90
2. South PAPI 4-box system with new voltage powered LED PAPI with baffles
Total Lump Sum \$ 45,168.68

Respectfully submitted,

Ann Bartholomew

Ann Bartholomew
Vice President

Payment Terms: net due 30 days from receipt, 1 ½% interest there after
Proposal are valid for 120 days and may require updating of material pricing.



Regular City Council
AGENDA ITEM 9.

Agenda Item: Discuss and Possibly Act Upon an Ordinance on Its First Reading Providing for No Parking Zones in Certain Designated Areas Along W. Second St., Green St., High St., and W. Fifth St. in the City of Brenham

Meeting Type: Regular Meeting-August 06, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Regular

SUMMARY STATEMENT:

SUMMARY: With recent improvements and additions of infrastructure around the Blinn Campus, Blinn has been working on adopting a parking plan to better address on-campus parking. Blinn has reached out to the City of Brenham to ask about establishing “No Parking” areas on four (4) local roadways that all front Blinn College property. After reviewing these areas and discussing with Development Services we see no objection to working with Blinn to align with their parking plan but also open up these roadways for emergency personnel and improving these areas for pedestrians/students. Therefore, staff suggest establishing “No Parking” on the following streets.

W. Second St: No parking is recommended on the north side of W. Second St beginning at Prairie Lea St and ending at High St. No parking is also recommended on the north side of W. Second St extending 255’ feet east to the property line of 806 W. Second St as well as on the south side of W. Second St from High St. to Green St the entire distance.

Green St: No parking is recommended on the east side of Green St beginning at W. Third St and ending at College Avenue.

W. Fifth St: No parking is recommended beginning at High St eastward approximately 210’ ending at the shared property line of 811 W. Fifth St and 805 W. Fifth St.

High St: No parking is recommended on High St beginning at W. Fifth St southward extending 215’ on the east side of W. Fifth with the shared property line of 811 W. Fifth St and 1107 High St. No parking is also recommended on the west side of High St extending 285’ with the shared property line of 911 W. Fifth St and 1108 High St.

These “No Parking” areas will coordinate with Blinn’s Parking Plan and help keep students dedicated to specific parking lots. It will also help emergency vehicles maneuver better in these areas along with adding protection for pedestrians/students by not blocking roadways and improving visibility.

As we have seen in the past, Brenham PD along with Blinn PD will coordinate to enforce these new “No Parking” areas if approved. City staff will erect sign and paint curbs as necessary to reflect the described areas for enforcement purposes once the Second reading is established.

ATTACHMENTS:

- | |
|---|
| (1) Blinn College Request for "No Parking"
(2) Proposed "No Parking" |
|---|

RECOMMENDED ACTION:

Approve an Ordinance on its first reading providing for No Parking Zones in certain designated areas along W. Second St., Green St., High St., and W. Fifth St. and authorize the Mayor to execute any necessary documentation.

July 14, 2020

Dane Rau, Director of Public Works
City of Brenham
200 W. Vulcan St.
Brenham, TX 77833

Re: Request for “No Parking” along City streets adjacent to the Brenham Campus

Mr. Rau,

The Blinn College District is currently working though the implementation of an on-campus parking plan to address our current and future parking needs on the Brenham campus. As part of this process the Administration has looked at parking congestion along City streets adjacent to the Brenham campus. Blinn requests that the City of Brenham consider designation these streets as No Parking and provide appropriate no parking signage.

The areas of concern are as follows:

- The South side of 2nd St. between Prairie Lea St. and High St.
- The North and South sides of 2nd St. between High St. and Green St.
- The East side of Green St. between 3rd St. and College Ave.
- The South side of 5th St. from High St. to 805 W. 5th St.
- The West side of High St. from 5th St. to 1108 High St.
- The East side of Hight St. from 5th St. to 1107 High St.

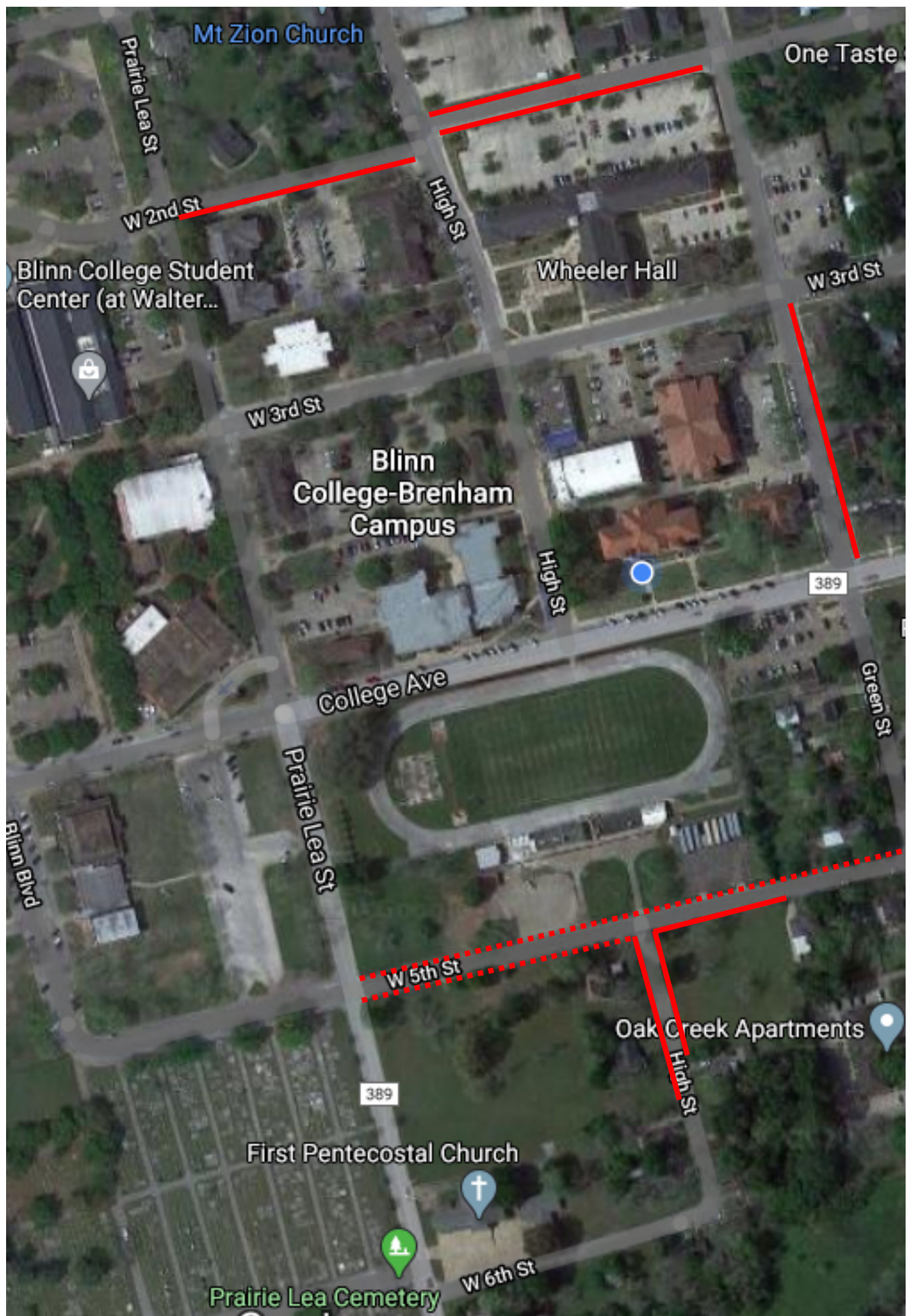
Blinn also request that the City consider replacing, and increasing existing no parking signage along the North side of 5th St. from Prairie Lea St. to Green St., and the South side of 5th St. from Prairie Lea St. to High St.

A map of these areas is included for reference. Solid lines indicate new No Parking areas with dashed lines indicating existing No Parking areas where replacing and increasing signage is requested.

Best Regards,



Mark Feldhake, Project Director
Blinn College District





Proposed No Parking

— No Parking Blinn

1 inch = 206 feet





Regular City Council
AGENDA ITEM 10.

Agenda Item: Discuss and Possibly Act Upon a Professional Services Agreement Between the City of Brenham and Strand Associates, Inc. for Engineering Services Related to the Atlow Elevated Storage Tank Rehabilitation Project and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Regular

SUMMARY STATEMENT:

The Atlow Elevated Storage Tank, located on S. Lubbock Street, is in need of maintenance work. This work may include minor repairs, surface preparation and coating of the entire interior and exterior 300,000-gallon storage tank, above ground piping and valves, and appurtenances with specified coating system. Once all work has been completed, the tower will be disinfected, filled, and tested prior to being put back in service. Please note that the actual scope of work for the construction phase of this project will not be known until the initial inspection of the water tower has been completed and submitted to the engineer for review.

Services to be provided by Strand Associates include, but are not limited to, Topographic Survey and Planning, Design Services, Bidding-Related Services, and Construction-Related Services. Additional services to be provided include performing construction observation during construction determining for the City that the completed project will, in general, conform to the Contract Documents. Strand will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions, or for the contractor's failure to perform the construction work in accordance with the Contract Documents. Total cost for actual services performed under the Scope of Services is not to exceed \$59,100. Scope of Services is 730 calendar days beginning from execution date of the Agreement and ending upon completion of construction.

The Atlow Tower was constructed in 1962. Maintenance was last performed in 2003 which included minor structural repairs and repainting of the interior and exterior of the tank. Staff is recommending that Council approve the Professional Services Agreement for Engineering Services with Strand Associates, Inc.

ATTACHMENTS:

(1) Professional Services Agreement

RECOMMENDED ACTION:

Approve a Professional Services Agreement for engineering services between the City of Brenham and Strand Associates, Inc. in the amount of \$59,100.00 related to the Atlow Elevated Storage Tank Rehabilitation and authorize the Mayor to execute any necessary documentation.

**PROFESSIONAL SERVICES AGREEMENT
FOR
ENGINEERING SERVICES
RELATED TO
CITY OF BRENHAM
PROJECT NO. 63C-14C
ATLOW ELEVATED STORAGE TANK REHABILITATION**

**THE STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §**

THIS AGREEMENT made on the _____ day of _____, 20____, entered into, and executed by and between the City of Brenham, Texas (the "City"), a municipal corporation of the State of Texas, and Strand Associates, Inc.® ("Engineer").

WITNESSETH:

WHEREAS, the City desires to perform interior and exterior rehabilitation of the 300,000-gallon pedesphere storage tank located on South Lubbock Street, as further described in Part A of Attachment "A" (the "Project"); and

WHEREAS, the services of a professional engineering firm are necessary to provide land surveying, project planning, project design, and preparation of construction documents, and

WHEREAS, the Engineer represents that it is fully capable and qualified to provide professional engineering services to the City;

NOW, THEREFORE, the City and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I
SCOPE OF AGREEMENT**

Engineer agrees to perform certain professional engineering services as defined in Attachment "A" attached hereto and made a part hereof for all purposes, hereinafter sometimes referred to as "Scope of Services," and for having rendered such services, the City agrees to pay Engineer compensation as stated in Section VII.

**SECTION II
CHARACTER AND EXTENT OF SERVICES**

Engineer shall do all things necessary to render the engineering services and perform the Scope of Services with the professional skill and care ordinarily provided by

competent engineers practicing in the same or similar locality and under the same or similar circumstances and professional license. It is expressly understood and agreed that Engineer is an Independent Contractor in the performance of the services agreed to herein. It is further understood and agreed that Engineer shall not have the authority to obligate or bind the City, or make representations or commitments on behalf of the City or its officers or employees without the express prior written approval of the City. The City shall be under no obligation to pay for services rendered not identified in Attachment "A" without prior written authorization from the City.

SECTION III OWNERSHIP OF WORK PRODUCT

Engineer agrees that the City shall have the right to use all exhibits, maps, reports, analyses and other documents prepared or compiled by Engineer pursuant to this Agreement. The City shall be the absolute and unqualified owner of all studies, exhibits, maps, reports, analyses, determinations, recommendations, computer files, and other documents prepared or acquired pursuant to this Agreement with the same force and effect as if the City had prepared or acquired the same. The City's use of any work product prepared by the Engineer for purposes other than for the intended project shall be at the City's sole risk and without liability to the Engineer.

SECTION IV TIME FOR PERFORMANCE

The time for performance of the Scope of Services is 730 calendar days beginning from the execution date of this Agreement. Upon written request of Engineer, the City Manager may grant time extensions to the extent of any delays caused by the City or other agencies with which the services must be coordinated and over which Engineer has no control.

SECTION V COMPLIANCE AND STANDARDS

Engineer agrees to perform the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the applicable profession to comply with all applicable state, federal, and local laws, ordinances, rules, and regulations relating to the services to be performed hereunder and Engineer's performance.

SECTION VI INDEMNIFICATION

To the fullest extent permitted by Texas Local Government Code Section 271.904, Engineer shall and does hereby agree to indemnify, hold harmless and defend the City, its officers, agents, and employees against liability for damage caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to

pay a subcontractor or supplier committed by the Engineer, the Engineer's agent, consultant under contract, or another entity over which the Engineer exercises control.

SECTION VII ENGINEER'S COMPENSATION

For and in consideration of the services rendered by Engineer pursuant to this Agreement, the City shall pay Engineer only for the actual services performed under the Scope of Services, on the basis set forth in Attachment "A," up to an amount not to exceed \$59,100, as identified in Attachment "A."

SECTION VIII TERMINATION

The City may terminate this Agreement at any time by giving written notice to Engineer. Upon receipt of such notice, Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to promptly cancel all existing orders and contracts insofar as such orders or contracts are chargeable to the Agreement. As soon as practicable after receipt of notice of termination, Engineer shall submit a sworn statement, showing in detail the services performed under this Agreement to the date of termination. The City shall then pay Engineer for such services performed under this Agreement as those services bear to the total services called for under this Agreement, less such payments on account of the charges as have been previously made. Copies of all completed or partially completed designs, maps, studies, documents and other work product prepared under this Agreement shall be delivered to the City when and if this Agreement is terminated.

SECTION IX ADDRESSES, NOTICES AND COMMUNICATIONS

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to Engineer at the following address:

Strand Associates, Inc.®
1906 Niebuhr Street
Brenham, TX 77833
Attn: Kelly M. Hajek, P.E.

All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, to the City at the following address:

City of Brenham
P.O. Box 1059
Brenham, TX 77834
Attn: City Manager

SECTION X LIMIT OF APPROPRIATION

Prior to the execution of this Agreement, Engineer has been advised by the City and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this Agreement, that the City shall have available only those sums as expressly provided for under this Agreement to discharge any and all liabilities which may be incurred by the City and that the total compensation that Engineer may become entitled to hereunder and the total sum that the City shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances, or interpretations hereof exceed the amounts as provided for in this Agreement.

SECTION XI SUCCESSORS AND ASSIGNS

The City and Engineer bind themselves and their successors and assigns to the other party of this Agreement and to the successors and assigns of such other party, in respect to all covenants of this Agreement. Engineer shall not assign, sublet, or transfer its interest in this Agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the City or any public body which may be a party hereto.

SECTION XII MODIFICATIONS

This instrument, including Attachment "A," contains the entire Agreement between the parties relating to the rights herein granted and the obligations herein assumed. To the extent there is a conflict between the provisions of this Agreement and the provisions of Attachment "A," this Agreement shall control. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent modification in writing signed by both parties hereto.

SECTION XIII ADDITIONAL SERVICES OF ENGINEER

If authorized in writing by the City Manager, Engineer shall furnish, or obtain from others, Additional Services that may be required because of significant changes in the scope, extent or character of the portions of the Project designed or specified by the Engineer, as defined in Attachment "A." These Additional Services, plus reimbursable expenses, will be paid for by the City on the basis set forth in Attachment "A," up to the amount authorized in writing by the City Manager.

SECTION XIV CONFLICTS OF INTEREST

Pursuant to the requirements of the Chapter 176 of the Texas Local Government Code, Engineer shall fully complete and file with the City Secretary a Conflict of Interest Questionnaire.

SECTION XV PAYMENT TO ENGINEER FOR SERVICES AND REIMBURSABLE EXPENSES

Invoices for Basic and Additional Services and reimbursable expenses will be prepared in accordance with Engineer's standard invoicing practices and will be submitted to the City by Engineer at least monthly. Invoices are due and payable thirty (30) days after receipt by the City. Non-payment within forty-five (45) days of receipt of invoice by the City, may at Engineers option, result in suspension of services upon five (5) days written notice to the City. Upon receipt of payment in full Engineer will resume services without liability to City for such suspension.

SECTION XVI INSURANCE

Engineer shall procure and maintain insurance in accordance with the terms and conditions set forth in Attachment "B," for protection from workers' compensation claims, claims for damages because of bodily injury, including personal injury, sickness or disease or death, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and claims of errors and omissions.

SECTION XVII MISCELLANEOUS PROVISIONS

A. This Agreement is subject to the provisions of the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. The approval or payment of any invoice shall not be considered to be evidence of performance by Engineer or of the receipt of or acceptance by the City of the services covered by such invoice.

B. Venue for any legal actions arising out of this Agreement shall lie exclusively in the federal and state courts of Washington County, Texas.

C. This Agreement is for sole benefit of the City and Engineer, and no provision of this Agreement shall be interpreted to grant or convey to any other person any benefits or rights.

D. Engineer further covenants and agrees that it does not and will not knowingly employ an undocumented worker. An "undocumented worker" shall mean an individual who, at the time of employment, is not (a) lawfully admitted for permanent residence to the United States, or (b) authorized by law to be employed in that manner in the United States.

IN WITNESS WHEREOF, the City of Brenham has lawfully caused this Agreement to be executed by the Mayor of said City and attested by the City Secretary and Strand Associates, Inc.[®], acting by and through its duly authorized officer/representative, does now sign, execute, and deliver this instrument.

EXECUTED on this _____ day of _____, 20____.

ENGINEER:

STRAND ASSOCIATES, INC.[®]

 2/20/2020
Joseph M. Bunker Date
Corporate Secretary

ATTEST:

CITY OF BRENHAM, TEXAS

Jeana Bellinger
City Secretary

Date

Milton Y. Tate Jr.
Mayor

Date

ATTACHMENT "A"

PART A--SCOPE OF SERVICES

CITY OF BRENHAM
PROJECT NO. 63C-14C
ATLOW ELEVATED STORAGE TANK REHABILITATION

Description of Project

Provide survey and planning, design, bidding-related, and construction-related services for the interior and exterior rehabilitation of the 300,000-gallon pedisphere storage tank located on South Lubbock Street.

A. Topographic Survey and Planning

1. Prepare for and attend one kickoff meeting with City.
2. Contract with a National Association of Corrosion Engineers (NACE)-certified personnel to perform a predesign observation of interior and exterior and prepare a report listing deficiencies.
3. Perform topographical survey of the existing elevated storage tank (EST) site and prepare a site plan showing the tank location and any aboveground piping to be painted.
4. Prepare an estimate of quantities and opinion of probable construction cost for the rehabilitation based on the predesign observation described under item 2.

B. Design Services

1. Prepare draft Bidding Documents using the City's standard Contract Documents, technical specifications, and engineering drawings.
2. Submit draft Bidding Documents to City for review.
3. Prepare prebid opinion of probable construction cost and submit to City.
4. Attend one meeting with City to review the draft Bidding Documents, incorporate review comments as appropriate, and submit two copies of the final Bidding Documents to City.
5. Submit technical specifications to the Texas Commission on Environmental Quality for review and approval.

C. Bidding-Related Services

1. Submit Advertisement to Bid to City's chosen newspaper for publishing. City shall pay for publishing directly.
2. Distribute Bidding Documents electronically through CivCast, available at www.strand.com and www.civcastusa.com.
3. Prepare addenda and answer questions during bidding.
4. Attend bid opening, tabulate and analyze bid results, and assist City in the award of the Construction Contract.
5. Prepare three sets of Contract Documents for signature.

D. Construction-Related Services

Provide contract administration services including attendance at the preconstruction conference, review of contractor's shop drawing submittals, review of contractor's periodic pay requests, attendance at construction progress meeting, periodic site visits, and participation in project closeout. Engineer's review of Payment Requests from contractor will not impose responsibility to determine that title to any of the work has passed to City free and clear of any liens, claims, or other encumbrances. Any such service will be provided through an amendment to this Agreement.

E. Additional Services

Contract with NACE-certified personnel to perform construction observation during construction. In furnishing observation services, Engineer's efforts will be directed toward determining for City that the completed project will, in general, conform to the Contract Documents; but Engineer will not supervise, direct, or have control over the contractor's work and will not be responsible for the contractor's construction means, methods, techniques, sequences, procedures, or health and safety precautions or programs, or for the contractor's failure to perform the construction work in accordance with the Contract Documents.

F. Services Not Provided

1. Hazmat soil testing/evaluation
2. Wetland delineation
3. Flood studies
4. Archeological
5. Land/easement procurement
6. Design revisions after approval
7. Services related to buried waste and contamination

8. Construction staking
9. Geotechnical services for design and construction materials testing

G. City's Responsibilities

1. Drain the EST.
2. Provide any prior EST condition reports.
3. Coordinate removal and replacement of any antennae on the elevated tank.
Engineer will not enter into any contracts nor indemnify any cellular service provider for work on the elevated tank.

SCHEDULE OF CHARGES

Compensation for engineering services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

Engineering Services Classification	Hourly Billing Rates*
Principal Engineer	\$295
Senior Associate	\$260
Senior Project Manager	\$235
Project Manager	\$180
Senior Project Engineer/Senior Project Representative	\$160
Project Engineer	\$140
Graduate Engineer	\$125
Senior Engineering Technicians	\$125
Engineering Technician	\$110
Junior Engineering Technician	\$ 70
Project Representative	\$110
Senior Computer-Aided Design and Drafting (CADD) Operator	\$100
CADD Operator	\$ 70
Administrative	\$ 85

* Updated annually on July 1

Compensation for surveying services shall be on an hourly basis at the rates set forth below which are subject to change annually on July 1.

Surveying Services Classification	Hourly Billing Rates*
Registered Professional Land Surveyor	\$ 230
Surveying Technician	\$ 105
Three-Man Field Party	\$ 225
Two-Man Field Party	\$ 165
One-Man Field Party	\$ 105
Laser Scanner (Half Day)	\$1,000
Laser Scanner (Full Day)	\$1,600
Global Positioning System (GPS) Equipment (Half Day)	\$ 185
GPS Equipment (Full Day)	\$ 290
Robotic Total Station (Half Day)	\$ 135
Robotic Total Station (Full Day)	\$ 220

* Updated annually on July 1

Subcontract costs shall be billed at invoice cost plus 10 percent for handling.

ATTACHMENT "B"

INSURANCE

CITY OF BRENHAM

PROJECT NO. 63C-14C

ATLOW ELEVATED STORAGE TANK REHABILITATION



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/23/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ansay & Associates, LLC. MSN 2901 W. Beltline Hwy. Suite 202 Madison WI 53713	CONTACT NAME: Susan Simoneau		
	PHONE (A/C, No, Ext): 800-643-6133	FAX (A/C, No): 608-831-4777	
	E-MAIL ADDRESS: sue.simoneau@ansay.com		
INSURED Strand Associates, Inc. 910 W. Wingra Drive Madison WI 53715	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : CNA Insurance Companies		35289
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
INSURER F :			

COVERAGES**CERTIFICATE NUMBER:** 1577173575**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Bklt. Contractua ☒ XCU cov. Incl. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC			5099170076	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 900,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS			5099170062	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			5099170059	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☐ N/A		N/A	WC595126844	1/1/2020	1/1/2021	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Professional Liability Full Prior Acts			AEH113974097	7/11/2019	7/11/2020	Each Claim 2,000,000 Aggregate 2,000,000 Full Prior Acts

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, If more space is required)

PROJECT: Allow Elevated Storage Tank Rehabilitation

Project #: 3900.250

CERTIFICATE HOLDER**CANCELLATION**

City of Brenham
Attn: City Manager
PO Box 1059
Brenham TX 77834

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Regular City Council
AGENDA ITEM 11.

Agenda Item: Discuss and Possibly Act Upon the Award of RFQ No. 20-006 Related to Engineering/Architectural/Surveying Services for the Community Development Block Grant Disaster Recovery Mitigation (CDBG-MIT) Projects and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Public Works

Staff Contact: Dane Rau

Classification: Regular

SUMMARY STATEMENT:

Staff requested proposals from qualified professional engineering/architectural/surveying service provider(s) to assist the City in its application(s) for and implementation of proposed Community Development Block Grant Disaster Recovery-Mitigation (CDBG-MIT) Program project(s), if funded by the Texas General Land Office (GLO). The City received responses from five (5) firms.

A selection committee made up of five members including Council member Andrew Ebel, Assistant City Manager Donald Reese, Director of Public Works Dane Rau, City Secretary – Director of Administrative Services Jeana Bellinger, and Crystal Locke reviewed and rated the five proposals received. Proposals were rated based on experience, work performance, and capacity of perform. After evaluating, the committee unanimously selected Strand Associates. The Statement of Qualifications (SOQ) provided by Strand Associates demonstrated their ability to provide the City with superlative engineering, architectural, and surveying services for drainage related projects. Strand Associates offers a highly qualified and available team to assist the City in completing these projects along with the following features:

- First-hand knowledge of the Brenham area site conditions obtained through decades of service to the City which provides essential value to this project
- Record proven performance with application, plan development, design, and construction-phase services for similar projects
- Extensive application, design, and contract administration experience on many federally funded projects (including GLO)

Staff recommends awarding RFQ No. 20-006 to Strand Associates. This RFQ will not have any expenditures tied to it unless the grant is successfully awarded. If the grant is awarded engineering fees will be refunded through the grant process.

ATTACHMENTS:

None

RECOMMENDED ACTION:

Award RFQ No. 20-006 to Strand Associates Inc. for Engineering/Architectural/Surveying Services related to the Community Development Block Grant Disaster Recovery Mitigation (CDBG-MIT) Program and authorize the Mayor to execute any necessary documentation.



Regular City Council
AGENDA ITEM 12.

Agenda Item: Discuss and Possibly Act Upon Award of RFP No. 20-004 Related to Lease of Telecommunications Space on City-Owned Water Towers and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Public Utilities

Staff Contact: Donald Reese

Classification: Regular

SUMMARY STATEMENT:

On May 19, 2020, RFP No.20-004 was issued requesting proposals from qualified telecommunications companies for the placement and maintenance of wireless broadband communications equipment on City-owned water towers located at various locations throughout Brenham. Zochnet was the only responding company.

The term of this License shall be for five (5) years with the right to extend this License for one (1) additional term of three (3) years ('Renewal Term'). This License will automatically be renewed for one (1) successive Renewal Term unless Licensee notifies City of Licensee's intention not to renew at least thirty (30) days prior to expiration of the Initial Term.

Licensee agrees to pay the City the sum of \$200.00 per month per tower for the exclusive right to install and maintain equipment on the City's elevated storage tanks. The Elevated Water Storage Tanks included in this agreement consist of the Jefferies St. Tower and the Church St. Tower. In addition to the lease amount, Licensee will provide in-kind services for the term of the contract for a total annual investment of \$17,284.00. Those in-kind services include:

- A high-speed hot spot in the downtown area of Brenham, which will be fed from six mesh units mounted on downtown light poles and two 1.5-megabyte connections to the backbone located on the Jefferies St. Tower.
- Twelve high-speed connections at the City's outdoor recreation areas such as parks and sports fields. Sites to be determined at a later date.
- Three high-speed connections at locations to be determined by the City in the future.
- Provide certified climbers to the City as needed for minor repairs and maintenance work associated with both elevated storage tanks. Not to exceed eight trips per calendar year.

This agreement has been reviewed by both Zochnet and the City attorney; therefore, staff recommends approving the agreement with Zochnet.

ATTACHMENTS:

- | |
|---|
| (1) Communications Facility License
(2) RFP Overview
(3) Certificate of Insurance |
|---|

RECOMMENDED ACTION:

Award Bid No. 20-004 to Unified Communications, Inc. d/b/a Zochnet and approve a Communications Facility Lease between the City of Brenham and Zochnet and authorize the Mayor to execute any necessary documentation.
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COMMUNICATIONS FACILITY LICENSE

THE STATE OF TEXAS §

COUNTY OF WASHINGTON §

This exclusive License for Communications Facilities ("Agreement") is made by and between the City of Brenham, a Texas home-rule municipal corporation (hereinafter referred to as the "CITY") and Unified Communications, Inc., d/b/a Zochnet a Texas corporation (hereinafter referred to as "LICENSEE"), for the use of certain premises according to the following terms and conditions. For purposes of this Agreement, the term "exclusive" as used in this Agreement shall only apply to wireless broadband services and does not prohibit the City from granting licenses or other rights to different entities for other services including but not limited to radio, cellular and similar services.

WHEREAS, LICENSEE desires to obtain a license to use certain premises for constructing, installing, maintaining, and operating a Communications Facility, including the installation of networking equipment for the purpose of broadcasting wireless internet access and incidental uses (collectively the "Communications Facility"); and

WHEREAS, CITY desires to provide LICENSEE with a license to use certain premises for constructing, installing, maintaining, and operating a Communications Facility; and

WHEREAS, CITY owns the premises described below and desires to allow **LICENSEE** to enter and utilize designated areas of the premises.

NOW, THEREFORE, for the consideration and on the terms and conditions hereinafter set forth, the parties agree as follows:

Article 1. Location

1.01 CITY hereby grants to LICENSEE, for LICENSEE's exclusive use, a license to use the elevated storage tanks located at 201 Jeffries St. (Jefferies St. Tower), and 208 Houston St. (Church St. Tower) in Brenham, Texas ("the Premises"). The Premises shall be used for constructing, installing, maintaining, and operating a Communications Facility on said elevated storage tanks, including the installation of networking equipment, including fiber optic cable, for the purpose of broadcasting wireless Internet access and incidental uses (hereinafter the "Communications Facility"). The CITY also grants to LICENSEE non-exclusive use of the real property on which the elevated storage tanks are situated for the sole purpose of ingress and egress to the elevated storage tanks.

Article 2. Equipment

2.01 CITY agrees to allow installation of LICENSEE's equipment and/or improvements only to the extent as described and illustrated in Exhibit "A", a copy of which is attached hereto and incorporated herein (hereinafter referred to as "Site Plan"). LICENSEE's use shall be exclusive and shall be for the purpose of the construction, installation, operation, and maintenance of its Communications Facility, for broadcasting of wireless Internet access and uses incidental thereto.

Article 3. Term

3.01 The term of this license shall be five (5) years, commencing on the ____ day of _____, 20__ (the "Commencement Date") and terminating at midnight on the ____ day _____, 20__ ("Initial term").

3.02 Unless otherwise terminated pursuant to Article 4 of this License Agreement, LICENSEE shall have the right to extend this LICENSE for one (1) additional term of three (3) years (the "Renewal Term") on the same terms and conditions as set forth in this LICENSE agreement except that the fees payable hereunder shall be as specified in Article 7. This LICENSE shall automatically be renewed for one (1) successive Renewal Term unless LICENSEE notifies CITY of LICENSEE'S intention not to renew the LICENSE at least thirty (30) days prior to the expiration of the Initial Term. If this License Agreement is terminated pursuant to Article 4, then the LICENSEE'S right to renewal of this Agreement as provided in this paragraph shall be void and of no effect.

Article 4. Termination

4.01 *Event of Default.* CITY shall have the right to terminate this Agreement and the license granted herein upon the occurrence of anyone or more of the following "Events of Default":

- a. in the event LICENSEE fails in the performance of any other covenant or condition of this Agreement and does not cure such other default within thirty (30) days after written notice from CITY specifying the default complained of;
- b. in the event LICENSEE is adjudicated as bankrupt or makes any assignment for the benefit of creditors;
- c. in the event LICENSEE becomes insolvent or LICENSEE reasonably believes itself to be insolvent; or
- d. in the event LICENSEE terminates or suspends its business or ceases to operate its Communications Facility for a period of seven (7) or more days;

4.02 *Termination for Cause.* Upon the occurrence of any Event of Default, CITY shall have the right, at its option, in addition to and not exclusive of any other remedies CITY may have by operation of law or in accordance with this

Agreement, without any further demand or notice, to eject all persons and equipment and removable items from the Premises, and declare this Agreement at an end, in which event LICENSEE shall immediately pay CITY a sum of money sufficient to compensate CITY for all damages caused by LICENSEE's failure to perform its obligations under this Agreement, including attorney's fees to enforce the terms and conditions of this Agreement.

4.03 Termination for Convenience of Either Party. The CITY and LICENSEE shall have the right to terminate this Agreement by giving ninety (90) days written notice to other party with the understanding that all use of the Premises by LICENSEE shall cease upon the date specified on such notice. Costs of removal of the Communications Facility and other improvements shall be borne by LICENSEE.

4.04 LICENSEE's Right to Terminate. In addition to other rights to terminate granted to LICENSEE under the Agreement, LICENSEE shall have the right to terminate this Agreement:

- a. Upon a default of any covenant or term hereof by City, which default is not cured within thirty (30) days of receipt of written notice of default (without, however, limiting any other right available to the parties pursuant to other provisions hereof); provided, in the event a default cannot be cured in thirty (30) days, but if City commences efforts to cure the default within such period, LICENSEE shall no longer be entitled to declare a default; or
- b. Upon ninety (90) days written notice, if LICENSEE determines that technical problems or radio interference problems from other sources, or from other transmitting facilities, which problems cannot reasonably be corrected, preclude LICENSEE from using the Premises for its intended purpose (In the event of termination by LICENSEE under this Article 4.04(b), LICENSEE will not be entitled to any refund of Rental Fees paid to the CITY).

4.05 Removal of Communication Facility by LICENSEE. Upon termination of this Agreement for any reason, LICENSEE shall remove its Communication Facility and any other improvements from the Premises within thirty (30) days of the date of the termination, and shall repair any damage to the Premises caused by LICENSEE's use of the Premises, the Communications Facility or other improvements, all at LICENSEE's sole cost and expense. If the Communications Facility or any other improvement is not removed by the end of the said thirty (30) day period, it shall automatically become the property of the CITY.

Article 5. CITY's Right of Entry Onto Premises: Maintenance of the Premises

5.01 CITY, its officials, employees, agents, and CITY's contractors may enter upon the Premises for any purpose, including performing repairs and

maintenance work to the Premises. In the event the City or any other licensee undertakes any construction, repair, or maintenance work on the Premises, CITY agrees to provide LICENSEE with reasonable notice prior to commencing such work and LICENSEE shall take reasonable measures at LICENSEE's cost to protect its Communications Facility from any damages which may occur during the construction, repair, or maintenance work process.

Article 6. Use of Premises; Alterations and Modifications; Relocation

6.01 The use of the Premises by LICENSEE in conjunction with the terms of this Agreement is for the construction, installation, operation, and maintenance of networking equipment in strict compliance with this Agreement and the Site Plan attached hereto as Exhibit "A". The LICENSEE may not sublet to or license others to use the Premises or LICENSEE's facilities, including but not limited to equipment, lines, or frequencies without the prior written consent of CITY. Any such attempt by LICENSEE shall be without effect and may at CITY's sole option result in the termination of this Agreement.

6.02 LICENSEE may update, supplement, maintain, repair, or replace LICENSEE's equipment located upon the Premises from time to time as necessary to facilitate its intended use of the Premises in accordance with this Agreement. LICENSEE shall keep the CITY informed as to the equipment installed on the Premises by providing to the CITY an accurate listing of equipment upon execution of this Agreement and upon request of the CITY from time to time throughout the life of this Agreement and all renewals thereof.

6.03 LICENSEE shall not make any alterations, modifications or improvements to the Premises or perform any painting on the Premises without the prior written approval of the CITY.

6.04 All equipment installed by the LICENSEE shall be properly grounded.

Article 7. Terms and Conditions

7.01 CITY agrees to grant to LICENSEE a license for the exclusive use of the Premises for the construction, installation, maintenance, and operation of a Communications Facility on the Premises for the purpose of broadcasting wireless internet access and incidental uses. The CITY also grants to LICENSEE non-exclusive use of the real property on which the elevated storage tanks are situated for the sole purpose of ingress and egress to the elevated storage tanks.

7.02 LICENSEE agrees to provide and maintain the CITY with broadband service, as outlined below. The services serve as the consideration offered by LICENSEE and replaces any monetary payment that would normally be made in exchange for the license to use the Premises. The services will commence on the effective date of this Agreement and will end on the date of termination. LICENSEE agrees to provide the following:

- a. Free high-speed hot spot to the downtown area of Brenham, which will be fed from six (6) mesh units mounted on light poles and two (2) 1.5-megabyte connections to the backbone located at Jeffries Tower.

Three (3) high speed connections at locations to be determined by the CITY in the future.

Twelve (12) high speed connections at the CITY'S outdoor recreation areas such as parks and sports fields.

- b. Provide certified climbers to the CITY as needed for minor repairs and maintenance work associated with both elevated storage tanks located on the Premises. Not to exceed eight (8) trips per calendar year.

7.03 LICENSEE agrees to pay the CITY the sum of \$200.00 per month for the exclusive right to install and maintain equipment on the CITY'S elevated storage tanks. This sum shall be paid for each elevated storage tank that the LICENSEE has equipment on.

Article 8. Access

8.01 LICENSEE shall have the non-exclusive right to access the aforementioned Premises at any time. CITY shall provide LICENSEE with CITY contact names and phone numbers to call, if necessary, to access its Communications Facility. LICENSEE shall be responsible for locking the gate, if any exists, to the Premises when leaving.

Article 9. Damages to Property

9.01 LICENSEE shall promptly notify CITY of any and all damages resulting from, arising out of, or caused to the Premises and CITY property surrounding the Premises, including but not limited to structural damages, electrical damages, damages to fencing, irrigation systems or landscaping by LICENSEE's operations, by LICENSEE, its officers, agents, contractors, employees and invitees. LICENSEE shall be solely responsible for the costs and the repair of all such damages and such repairs and/or replacements shall be completed in a timely manner acceptable to CITY.

Article 10. Electrical Interference

10.01 Prior to installation of any improvements on the Premises, LICENSEE shall conduct bandwidth testing of its equipment, other licensees' systems, if any, and CITY equipment to check bandwidth conflict between CITY's monitoring control system and other communications equipment and systems, any other licensees' systems, and LICENSEE's system. If such conflict occurs, LICENSEE shall take all steps necessary to resolve the conflict to the satisfaction of CITY. If the conflict cannot be remedied to the satisfaction of

CITY, CITY may terminate this Agreement upon thirty (30) days written notice to LICENSEE.

10.02 LICENSEE shall not cause electrical interference to CITY or to any other approved facility that is using the Premises at any time prior to, during or after installation or operation of LICENSEE's equipment. Moreover, LICENSEE's use must not in any way adversely affect or interfere with CITY's signal operation or its communication system. Should such interference occur, LICENSEE will promptly take all steps necessary to correct such interference within three (3) days written notice of the problem and, if such interference cannot be eliminated within ten (10) days of such notice, LICENSEE shall suspend operations (transmissions) at the site while the interference problems are studied and a means to eliminate the problem is found. Any such method for correction of an interference problem must be acceptable to CITY. If the interference cannot be eliminated or corrected to the satisfaction of CITY, LICENSEE will cease its operations, remove all equipment from the Premises, and this Agreement shall be terminated.

10.02 CITY will not grant a license to any other party for the use of Premises without including in that license a provision stating that the party's use will not cause electrical interference to CITY or to LICENSEE on said Premises. Furthermore, license agreements with third parties will state that prior to installation of improvements, such third parties shall be required to conduct band width testing of its equipment, CITY equipment, and the equipment of any LICENSEE. LICENSEE shall have the right to terminate this Agreement upon ten (10) days written notice to CITY if another user of the Premises causes significant interference with LICENSEE's operations, and such interference is not corrected within ten (10) days following the notice to such third-party user causing the interference. In the event that LICENSEE experiences interference caused by a third-party licensee, LICENSEE agrees that it shall seek recourse solely from such third-party. No compensation shall be due from CITY for damages, including but not limited to, lost or anticipated profits.

10.03 LICENSEE shall have the sole burden of, and be responsible for all costs associated with, alleging, and proving that another user of the Premises is causing significant interference, as well as for otherwise enforcing LICENSEE's rights under this Agreement. CITY shall not be responsible for the costs associated with the resolution of any dispute between users of the Premises, or enforcement of any of LICENSEE's rights under this Agreement.

Article 11. Utility Cost

11.01 The City will provide LICENSEE with one (1) standard 110v electrical hookup located at or near the base of each tower, and the CITY will also provide electric service to the LICENSEE'S Communications Facility, all at no cost to the LICENSEE. The LICENSEE shall be responsible for all work, labor and materials as may be necessary to extend electric service from the standard 110v electrical

hookup provided by the CITY to the LICENSEE'S Communications Facility installed on each tower.

Article 12. Taxes

12.01 LICENSEE agrees to pay any personal property taxes assessed for the equipment placed on the Premises. LICENSEE further agrees to pay any taxes imposed on the real property and/or improvements to the Premises that are directly related to the Communications Facility. LICENSEE will not be responsible for any other ad valorem property taxes assessed on the Premises.

Article 13. Liability and Indemnification

13.01 LICENSEE SHALL AT ALL TIMES COMPLY WITH ALL LAWS AND ORDINANCES AND ALL RULES AND REGULATIONS OF MUNICIPAL, STATE AND FEDERAL GOVERNMENT AUTHORITIES RELATING TO THE INSTALLATION, MAINTENANCE, HEIGHT, LOCATION, USE, OPERATION, AND REMOVAL OF THE FACILITIES AUTHORIZED HEREIN. LICENSEE SHALL FULLY INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, OF AND FROM ALL CLAIMS, DEMANDS, AND CAUSES OF ACTIONS OF EVERY KIND AND CHARACTER, INCLUDING THE COST OF DEFENSE THEREOF, FOR ANY INJURY TO, INCLUDING DEATH OF, PERSONS AND ANY LOSSES FOR DAMAGES TO PROPERTY CAUSED BY OR ALLEGED TO BE CAUSED, ARISING OUT OF, OR ALLEGED TO ARISE OUT OF, EITHER DIRECTLY OR INDIRECTLY OR IN CONNECTION WITH THIS AGREEMENT OR THE ACTIVITIES TO BE PERFORMED HEREUNDER, WHETHER OR NOT SAID CLAIMS, DEMANDS, CAUSES OF ACTIONS ARE CAUSED BY THE SOLE NEGLIGENCE OF THE CITY, ITS EMPLOYEES, AGENTS, OR SERVANTS, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND A PARTY TO THIS AGREEMENT, OR WHETHER IT WAS CAUSED BY CONCURRENT NEGLIGENCE OF THE CITY AND SOME OTHER THIRD PARTY.

13.02 LICENSEE REPRESENTS AND WARRANTS THAT ITS USE OF THE PREMISES HEREIN WILL NOT GENERATE ANY HAZARDOUS SUBSTANCE, AND IT WILL NOT STORE OR DISPOSE ON THE PREMISES NOR TRANSPORT TO OR OVER THE PREMISES ANY HAZARDOUS SUBSTANCE. LICENSEE FURTHER AGREES TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY, ITS EMPLOYEES, AGENTS, AND SERVANTS, FROM AND AGAINST ANY DAMAGE, LOSS, OR EXPENSE OR LIABILITY RESULTING FROM THE GENERATING, RELEASING, STORAGE OR DISPOSAL OF SUCH HAZARDOUS SUBSTANCES BY LICENSEE, ITS EMPLOYEES, AGENTS, CONTRACTORS, OR SERVANTS,

INCLUDING ALL ATTORNEY FEES, COSTS AND PENALTIES INCURRED AS A RESULT THEREOF.

13.03 "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws regulations or rules may be amended from

time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death, or disease.

Article 14. Insurance

14.01 Insurance. LICENSEE shall keep in full force and effect during the terms of this Agreement insurance in the following types and minimum amounts:

TYPE	AMOUNT
Worker's Compensation or the equivalent if approved by the City	Statutorily required or as agreed by City
Employer's Liability	\$1,000,000.00
Comprehensive General Liability Including Contractual Liability, Premises/Operations, Personal Injury Liability	Combined Single Limit \$1,000,000.00 per occurrence \$1,000,000.00 aggregate
Comprehensive Automobile Liability, Including Owned, Non-owned, and Hired Car Coverage	Bodily Injury: \$250,000.00 per person \$500,000.00 aggregate Property Damage: \$500,000.00 per occurrence \$500,000.00 aggregate

14.02 All insurance policies shall be subject to the examination and approval of CITY for their adequacy as to form and content, form of protection, and insurance company. LICENSEE shall furnish copies of the policies or certificates of insurance to CITY plainly and clearly evidencing the terms of such insurance prior to LICENSEE commencing activities under this Agreement, and thereafter new certificates or policies prior to the expiration date of any prior certificate or policy.

14.03 LICENSEE understands that it is its sole responsibility to provide this necessary information and that failure to timely comply with the requirements of this article shall be a cause for termination of this Agreement.

14.04 LICENSEE shall maintain said insurance with insurance underwriters authorized to do business in the State of Texas satisfactory to CITY. All policies required by this article shall also contain the following provisions:

- a. City of Brenham, Texas named as an additional insured.
- b. Policy terms shall provide that such insurance shall not be canceled or materially changed without a minimum of thirty (30) days advance notice in writing to the City of Brenham Texas.

Article 15. Condition of Premises

15.01 LICENSEE shall maintain the Premises in compliance with all applicable statutes, ordinances, regulations, and rules required for LICENSEE's use of the Premises. Upon expiration, cancellation, or termination of this Agreement, LICENSEE will have the duty to remove its Communications Facility from the Premises at LICENSEE's cost and expense. Title to all such Facilities remaining after the expiration of thirty (30) days from the date of expiration, cancellation, or termination of this Agreement belong to CITY. However, upon vacation of this site, LICENSEE shall surrender the Premises in substantially the same condition as received, except for ordinary wear and tear, as determined by CITY. If, as determined by CITY, the Premises are not surrendered in satisfactory condition, the LICENSEE shall be liable to CITY for an amount representing the actual cost to restore the Premises to substantially the same condition as received, reasonable wear and tear excepted.

15.02 LICENSEE shall have sole responsibility for the maintenance, repair, and security of its Facilities, and shall keep same in good repair and condition during the Initial Term and all renewals of this Agreement.

15.03 LICENSEE shall keep the Premises free of debris and anything reasonably determined to be of a dangerous, noxious, or offensive nature or which would create a hazard or undue vibration, heat, noise, or interference.

15.04 In the event CITY or any other licensee undertakes painting, construction, repairs, improvements, or other alterations on the Premises, LICENSEE shall take reasonable measures at LICENSEE's cost to protect all of LICENSEE's Facilities during the painting, construction, repair, improvement, or alteration process. CITY shall notify LICENSEE of any painting, construction, repairs, improvements, or alterations on the Premises as a result of the CITY's activities at least three (3) days in advance if such activities will affect LICENSEE's Communications Facility. CITY shall not be responsible for any damages or costs incurred by LICENSEE due to the actions or omissions of any third-party licensees upon the Premises. In the event LICENSEE undertakes painting, construction, repairs, improvements, or other alterations on the Premises, LICENSEE must obtain the written approval from the CITY prior to beginning such work in accordance with Article 6.03 and shall provide three (3) business days written notice to CITY and all other licensees upon

the Premises prior to undertaking such painting, construction, repairs, improvements, or other alterations.

15.05 By taking possession of the Premises, LICENSEE accepts the Premises in the condition existing as of the Effective Date. CITY makes no representation or warranty with respect to the condition of the Premises except as stated herein and CITY shall not be liable for any latent or patent defect in the Premises.

15.06 CITY represents that to the best of CITY's knowledge, the Premises have never been used for treatment, storage, or disposal of any solid or liquid waste which is classified as toxic or hazardous under any federal, state or local law or regulation in effect as of the Effective Date, and the Premises has not been contaminated by any such toxic or hazardous substance.

Article 16. Notice

16.01 All notices to the parties shall be in writing and shall be sent by certified or registered mail, or hand delivered, to the respective representatives for the parties as designated below and shall be deemed given when received at the address of the parties set forth below, or when received in person if hand delivered:

CITY:
City of Brenham
Attention: City Manager
P.O. Box 1059 Brenham,
Texas 77834-1059

LICENSEE:
Unified Communications, Inc.
Attn: Robert Zoch
424 S Main Street
Giddings, TX 78942

Article 17. Marking and Lighting Requirements

17.01 LICENSEE acknowledges that it shall be responsible for compliance with all tower or building marker and lighting requirements which may be required by the Federal Aviation Administration or the Federal Communication Commission in conjunction with LICENSEE's installation and maintenance of improvements under this Agreement, as well as any expenses, fees or fines associated with compliance or non-compliance, due to LICENSEE's installation or maintenance of improvements under this Agreement, and if the LICENSEE does not cure the conditions of non-compliance within the time frame allowed by the citing agency, CITY may terminate this Agreement upon seven (7) days written notice.

Article 18. Site Plan

18.01 The Site Plan (attached as Exhibit "A") must be approved by the CITY prior to the installation of the Communications Facility as authorized by this Agreement. The Site Plan shall describe and illustrate the location of the equipment, fixtures, antennas, cables, wiring and other structures to be installed, maintained, and operated under this Agreement. The Site Plan shall include a scale drawing and inventory analysis of the proposed installations, as well as an elevation of the Premises with the proposed installations. Performance under this Agreement shall be in strict compliance with the Site Plan. If LICENSEE's installation, maintenance, operation of equipment, fixtures, antennas, cables, wiring or other structures fail to comply with the approved Site Plan, as may be amended from time to time, at any time, as determined by CITY, then CITY shall have the right to terminate this Agreement as set forth in Article 4.02. Any and all proposed modifications to LICENSEE's Site Plan must be approved in writing by CITY before LICENSEE

may make any changes to its Site Plan as originally approved by CITY. Approval of such modifications is within the discretion of CITY. When making its determination, CITY may consider comments from neighboring property owners.

Article 19. Installation of CITY's Communications System

19.01 LICENSEE acknowledges and agrees that the CITY shall have the right to install such equipment and make such improvements to the Communications Facility and Premises as is necessary for the installation, operation, repair, and maintenance of a communication system, including facilities necessary for the transmission, reception, and operation of a communications system and uses incidental thereto, provided that said communications system shall not interfere with LICENSEE's right to use the Premises and Communications Facility as provided in this Agreement. No additional consideration, other than that which is provided for in this Agreement, shall be paid to LICENSEE by CITY upon CITY's election to exercise the rights granted in this Article 19.

Article 20. Miscellaneous

20.01 *Compliance with Laws.* LICENSEE's Communications Facility and associated operations and all CITY-approved modifications to the Premises must at all times comply with the terms of this Agreement, all applicable federal, state, and local laws and ordinances and all amendments thereto.

20.02 *Entire Agreement.* This Agreement, together with all Exhibits attached hereto and incorporated herein constitute the entire agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

20.03 Capacity. Both LICENSEE and CITY represent that they have full capacity and authority to grant all rights and assume all obligations they have granted and assumed under this Agreement.

20.04 Governing Law. The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas, without regard to conflicts of law provisions, and exclusive venue for any claim, dispute, lawsuit or other action concerning this Agreement shall be in Washington County, Texas.

20.05 Amendment. This Agreement may only be amended by the mutual written agreement signed by the parties hereto.

20.06 Legal Construction; Severability. In the event that anyone or more of the provisions contained in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or enforceability shall not affect the other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

20.07 Non-waiver. No right or remedy granted herein or reserved to the parties is exclusive of any right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every right or remedy given hereunder. No covenant or conditions of this Agreement may be waived without consent of the parties. It is further agreed that one (1) or more instances of forbearance by CITY in the exercise of its rights herein shall in no way constitute a waiver thereof.

20.08 Successors and Assigns. CITY and LICENSEE each bind themselves, their successors, executors, administrators and assigns to the other party to this Agreement. Neither CITY nor LICENSEE will assign, sublet, subcontract, or transfer any interest in this Agreement without the written consent of the other party. No assignment, delegation of duties or subcontract under this Agreement will be effective without the written consent of CITY; provided, however, that without such consent LICENSEE may assign this Agreement to any corporation with which LICENSEE may merge or consolidate. LICENSEE shall not assign, sublet, subcontract, transfer or allow the use of any interest in the Premises or any use of LICENSEE's facilities, including but not limited to equipment, lines or frequencies, on the Premises without the prior written consent of CITY. CITY's consent may be conditioned upon LICENSEE successfully obtaining contracts from such third parties wherein those parties agree to directly compensate CITY for all benefits incurred by the use of the Premises.

20.09 Applicable Laws. This Agreement is entered into subject to the ordinances of CITY as they may be amended from time to time, and is subject to and is to be construed, governed, and enforced under all applicable federal and state laws. LICENSEE shall make any and all reports required in accordance with federal, state, or local law, including but not limited to proper reporting to the Internal Revenue Service as required in accordance with LICENSEE's income.

20.10 Subordination to Mortgage. Any mortgage now or subsequently placed upon any property of which the Premises are a part shall be deemed to be prior in time and senior to the rights of the LICENSEE under this Agreement. LICENSEE subordinates all of its interest in the Premises created by this Agreement to the lien of any such mortgage provided that LICENSEE's possession of the Premises shall not be disturbed so long as LICENSEE is not in default hereunder. LICENSEE shall, at CITY's request, execute any additional documents necessary to indicate this subordination provided that such mortgage shall not disturb possession of LICENSEE hereunder.

20.11 Contract Interpretation. Both parties have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

20.12 Exclusive license. LICENSEE understands and agrees that this Agreement is an exclusive license for wireless broadband services only and that the CITY has the right to grant other license agreements and other rights to third parties to use the Premises for purposes other than wireless broadband services. The exclusive right only refers to wireless broadband services and does not encompass other services such as radio or cellular services.

20.13 Tax Certification. LICENSEE hereby certifies that it is not delinquent in the payment of any taxes owed to the CITY and will pay any taxes owed to the CITY so that such taxes will not become delinquent. If the previous certification is determined to be false, such false certification shall constitute grounds for termination of the Agreement at the option of the CITY.

20.14 Offset of Other Debts Against City. LICENSEE agrees that the CITY is entitled to counterclaim and offset against any debt, claim, demand, or account owed by the CITY to LICENSEE pursuant to this Agreement, for any debt owed to the CITY. The CITY may withhold, from payment under this Agreement, an amount equal to the total amount of debts owed to the CITY by LICENSEE. The CITY may apply the amount withheld to the debts owed to the CITY by LICENSEE until said debts are paid in full.

20.15. Attorney's Fees. 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.

EXECUTED this the _____ day of _____, 2020.

CITY OF BRENHAM, TEXAS

HON. MILTON Y. TATE, JR., MAYOR

ATTEST:

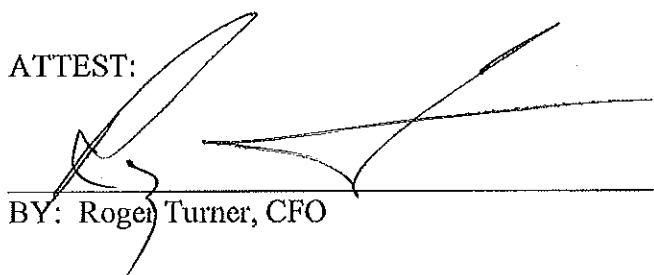
JEANA BELLINGER, CITY SECRETARY

UNIFIED COMMUNICATIONS, INC. a Texas Corporation



BY: ROBERT ZOCH, III, CEO

ATTEST:



BY: Roger Turner, CFO

EXHIBIT "A"

SITE PLAN

White

- 6 – Mikrotik 5.8ghz transmitter with 60deg sector
- 2 – Mimosa B24 Backhauls
- 2 – Netonix POE Switches
- 1 – Mikrotik HEX Core Router

Blue

- 4 – Cambium ePMP 3000 5.8ghz transmitters with 90deg 4x4 sectors
- 1 – Mikrotik 5.8ghz transmitter with 120deg sector
- 2 – Netonix POE Switches
- 1 – Mikrotik CCR1009 Core Router
- 2 – Mimosa B24 Backhauls

We plan on upgrading equipment on the White water tower some time soon to be able to provide higher speeds. I will let you know as equipment changes on the towers.



Lease of Telecommunication Space

20-004 RFP Overview

PROPOSERS	Zoch Net Tower 1 (Internet, Phone, COVID Phone Center)	Zoch Net Tower 2 (Internet, Phone, Wifi)
<i>With In-Kind Services</i>		
Price Per Month	\$ 200.00	\$ 200.00
Total Annual Lease	\$ 2,400.00	\$ 2,400.00
Cost/Value of In-Kind Services* (term of contract)	\$ 10,500.00	\$ 86,420.00
<i>Without In-Kind Services</i>		
Price Per Month	\$ 500	\$ 500.00
Total Annual Lease	\$ 6,000.00	\$6,000.00
Cost/Value of In-Kind Services	\$ 0	\$ 0

* In-Kind services will include (annual investment of \$17,284.00):

- Downtown Hotspot (\$200.00 per month/\$2,400.00 per year)
- 8 hours of certified climber (\$600.00 per year)
- 3 City facilities (\$230.85 per month/\$2,770.20 per year))
- Wifi in 12 City parks (\$959.50 per month/\$11,514.00 per year)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

07/28/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Siegel Insurance Agency 172 West Austin Street Giddings TX 78942-3294		CONTACT NAME: Kristina Matthijetz PHONE (A/C, No. Ext): (979) 542-3449 E-MAIL ADDRESS: kmatthijetz@siegins.com FAX (A/C, No): (979) 542-0469	
INSURED Unified Communications, Inc., DBA: Zochnet 5476 US Hwy 77 Lincoln TX 78948		INSURER(S) AFFORDING COVERAGE INSURER A: Chubb Insurance INSURER B: Utica Mutual Insurance Company INSURER C: Ohio Security Insurance Co INSURER D: INSURER E: INSURER F:	

COVERAGES**CERTIFICATE NUMBER:** 20/21 BA 19/20 All other**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:			D39361425	10/22/2019	10/22/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 4,000,000 GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ 4,000,000 Electronic Data Liability \$ 100,000
	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			5212037	01/31/2020	01/31/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ PIP-Basic \$ 2,500
	☒ UMBRELLA LIAB ☐ EXCESS LIAB DED: RETENTION \$			UMBD95124070	10/22/2019	10/22/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ PER STATUTE OTH-ER
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	XWS(20)59351322	10/15/2019	10/15/2020	E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability and Commercial Auto includes a BLANKET additional insured and waiver of subrogation status only when there is a written contract between the named insured and the certificate holder that requires such status.

CERTIFICATE HOLDER**CANCELLATION**

City of Brenham 200 W Vulcan Brenham TX 77833	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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Additional Named Insureds

Other Named Insureds

Unified Communications DBA Reville Broadband	C Corporation, Doing Business As
Zochnet	Corporation, Doing Business As

ADDITIONAL COVERAGES

Ref #	Description Underinsured motorist combined single limit	Coverage Code UNCSL	Form No.	Edition Date
Limit 1 1,000,000	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				

Ref #	Description Uninsured motorist combined single limit	Coverage Code UMCSL	Form No.	Edition Date
Limit 1 1,000,000	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				

Ref #	Description Waiver of Subrogation	Coverage Code WVSUB	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium \$16.00				

Ref #	Description Increased Limits Factor	Coverage Code INCLF	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium \$11.00				

Ref #	Description BAL TO MIN	Coverage Code BLMIN	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium \$113.00				

Ref #	Description Premium discount	Coverage Code PDIS	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium -\$143.00				

Ref #	Description	Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				

Ref #	Description	Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				

Ref #	Description	Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				

Ref #	Description	Coverage Code	Form No.	Edition Date
Limit 1	Limit 2	Limit 3	Deductible Amount	Deductible Type
Premium				



Regular City Council
AGENDA ITEM 13.

Agenda Item: Discuss and Possibly Act Upon Upcoming Community Events and Authorize the Mayor to Execute Any Necessary Documentation

Meeting Type: Regular Meeting-August 06, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

During the July 2, 2020 City Council meeting, the Council postponed the following community events due to an increase in COVID-19 cases and Governor Abbott's Executive Order GA-28:

- 2020 Summer Concert Series (Hot Nights, Cool Tunes) – July 11, 18, 25 & August 1
- 2020 Community Picnic – July 19
- Movies in the Park – July 16 and 30
- Summer Sip & Art Walk – August 8

At that time, staff advised that we would bring these events back at a later date to discuss possibly rescheduling them in the fall.

ATTACHMENTS:

- (1) Governor Abbott's Executive Order GA-28
- (2) Open Texas Checklist - 7/2/2020

RECOMMENDED ACTION:

No staff recommendation - for discussion by Mayor and City Council.



GOVERNOR GREG ABBOTT

June 26, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
8:45 AM 'CLOCK

JUN 26 2020

Secretary of State

The Honorable Ruth R. Hughes
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

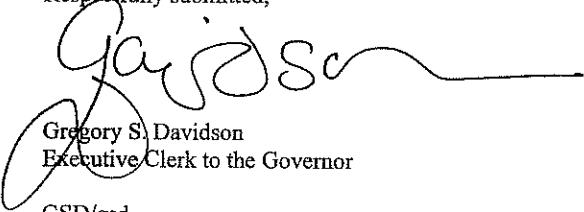
Dear Secretary Hughes:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

Executive Order No. GA-28 relating to the targeted response to the COVID-19
disaster as part of the reopening of Texas.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,


Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
June 26, 2020

EXECUTIVE ORDER GA 28

*Relating to the targeted response to the COVID-19 disaster
as part of the reopening of Texas.*

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, the Commissioner of the Texas Department of State Health Services (DSHS), Dr. John Hellerstedt, has determined that COVID-19 continues to represent a public health disaster within the meaning of Chapter 81 of the Texas Health and Safety Code; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, I issued Executive Order GA-08 on March 19, 2020, mandating certain social-distancing restrictions for Texans in accordance with guidelines promulgated by President Donald J. Trump and the Centers for Disease Control and Prevention (CDC); and

WHEREAS, I issued Executive Order GA-14 on March 31, 2020, expanding the social-distancing restrictions for Texans based on guidance from health experts and the President; and

WHEREAS, I subsequently issued Executive Orders GA-16, GA-18, GA-21, GA-23, and GA-26 from April through early June 2020, aiming to achieve the least restrictive means of combatting the threat to public health by continuing certain social-distancing restrictions, while implementing a safe, strategic plan to Open Texas; and

WHEREAS, as Texas reopens in the midst of COVID-19, increased spread is to be expected, and the key to controlling the spread and keeping Texas residents safe is for all Texans to consistently follow good hygiene and social-distancing practices, especially those set forth in the minimum standard health protocols from DSHS; and

WHEREAS, due to recent substantial increases in COVID-19 positive cases, and increases in the COVID-19 positivity rate and hospitalizations resulting from COVID-19, targeted and temporary adjustments to the reopening plan are needed to achieve the

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JUN 26 2020

least restrictive means for reducing the growing spread of COVID-19 and the resulting imminent threat to public health, and to avoid a need for more extreme measures; and

WHEREAS, everyone must act safely, and to that end, this executive order and prior executive orders provide that all persons should follow the health protocols from DSHS, which whenever achieved will mean compliance with the minimum standards for safely reopening, but which should not be used to fault those who act in good faith but can only substantially comply with the standards in light of scarce resources and other extenuating COVID-19 circumstances; and

WHEREAS, the "governor is responsible for meeting ... the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and the legislature has given the governor broad authority to fulfill that responsibility; and

WHEREAS, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed \$1,000, and may be subject to regulatory enforcement;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, and in accordance with guidance from DSHS Commissioner Dr. Hellerstedt and other medical advisors, the Governor's Strike Force to Open Texas, the White House, and the CDC, do hereby order the following on a statewide basis effective at noon on June 26, 2020:

Every business establishment in Texas shall operate at no more than 50 percent of the total listed occupancy of the establishment; provided, however, that:

1. There is no occupancy limit for the following:
 - a. any services listed by the U.S. Department of Homeland Security's Cybersecurity and Infrastructure Security Agency (CISA) in its Guidance on the Essential Critical Infrastructure Workforce, Version 3.1 or any subsequent version;
 - b. religious services, including those conducted in churches, congregations, and houses of worship;
 - c. local government operations, including county and municipal governmental operations relating to licensing (including marriage licenses), permitting, recordation, and document-filing services, as determined by the local government;
 - d. child-care services;
 - e. youth camps, including but not limited to those defined as such under Chapter 141 of the Texas Health and Safety Code, and including all summer camps and other daytime and overnight camps for youths; and
 - f. recreational sports programs for youths and adults;
2. Except as provided below by paragraph number 5, this 50 percent occupancy limit does not apply to outdoor areas, events, or establishments, except that the following outdoor areas or outdoor venues shall operate at no more than 50 percent of the normal operating limits as determined by the owner:
 - a. professional, collegiate, or similar sporting events;
 - b. swimming pools;
 - c. water parks;
 - d. museums and libraries;
 - e. zoos, aquariums, natural caverns, and similar facilities; and

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JUN 26 2020

- f. rodeos and equestrian events;
- 3. This 50 percent occupancy limit does not apply to the following establishments that operate with at least six feet of social distancing between work stations:
 - a. cosmetology salons, hair salons, barber shops, nail salons/shops, and other establishments where licensed cosmetologists or barbers practice their trade;
 - b. massage establishments and other facilities where licensed massage therapists or other persons licensed or otherwise authorized to practice under Chapter 455 of the Texas Occupations Code practice their trade; and
 - c. other personal-care and beauty services such as tanning salons, tattoo studios, piercing studios, hair removal services, and hair loss treatment and growth services;
- 4. Amusement parks shall operate at no more than 50 percent of the normal operating limits as determined by the owner;
- 5. For any outdoor gathering in excess of 100 people, other than those set forth above in paragraph numbers 1, 2, or 4, the gathering is prohibited unless the mayor of the city in which the gathering is held, or the county judge in the case of a gathering in an unincorporated area, approves of the gathering, and such approval can be made subject to certain conditions or restrictions not inconsistent with this executive order;
- 6. For dine-in services by restaurants that have less than 51 percent of their gross receipts from the sale of alcoholic beverages, the occupancy limit shall remain at 75 percent until 12:01 a.m. on June 29, 2020, at which time such restaurants may only operate at up to 50 percent of the total listed occupancy of the restaurant, subject to paragraph number 9 below;
- 7. People shall not visit bars or similar establishments that hold a permit from the Texas Alcoholic Beverage Commission (TABC) and are not restaurants as defined above in paragraph number 6; provided, however, that the use by such bars or similar establishments of drive-thru, pickup, or delivery options for food and drinks is allowed to the extent authorized by TABC;
- 8. People shall not use commercial rafting or tubing services, including rental of rafts or tubes and transportation of people for the purpose of rafting or tubing;
- 9. For any business establishment that is subject to a 50 percent "total listed occupancy" limit or "normal operating limit," and that is in a county that has filed with DSHS, and is in compliance with, the requisite attestation form promulgated by DSHS regarding minimal cases of COVID-19, the business establishment may operate at up to 75 percent of the total listed occupancy or normal operating limit of the establishment;
- 10. For purposes of this executive order, facilities with retractable roofs are considered indoor facilities, whether the roof is opened or closed;
- 11. Staff members are not included in determining operating levels, except for manufacturing services and office workers;
- 12. Except as provided in this executive order or in the minimum standard health protocols recommended by DSHS, found at www.dshs.texas.gov/coronavirus, people should not be in groups larger than ten and should maintain six feet of social distancing from those not in their group;
- 13. People over the age of 65 are strongly encouraged to stay at home as much as possible; to maintain appropriate distance from any member of the household who has been out of the residence in the previous 14 days; and, if leaving the

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- home, to implement social distancing and to practice good hygiene, environmental cleanliness, and sanitation;
14. In providing or obtaining services, every person (including individuals, businesses, and other legal entities) should use good-faith efforts and available resources to follow the minimum standard health protocols recommended by DSHS;
 15. Nothing in this executive order or the DSHS minimum standards precludes requiring a customer to follow additional hygiene measures when obtaining services. Individuals are encouraged to wear appropriate face coverings, but no jurisdiction can impose a civil or criminal penalty for failure to wear a face covering;
 16. People shall not visit nursing homes, state supported living centers, assisted living facilities, or long-term care facilities unless as determined through guidance from the Texas Health and Human Services Commission (HHSC). Nursing homes, state supported living centers, assisted living facilities, and long-term care facilities should follow infection control policies and practices set forth by HHSC, including minimizing the movement of staff between facilities whenever possible; and
 17. For the remainder of the 2019-2020 school year, public schools may resume operations for the summer as provided by, and under the minimum standard health protocols found in, guidance issued by the Texas Education Agency (TEA). Private schools and institutions of higher education are encouraged to establish similar standards. Notwithstanding anything herein to the contrary, schools may conduct graduation ceremonies consistent with the minimum standard health protocols found in guidance issued by TEA.

Notwithstanding anything herein to the contrary, the governor may by proclamation add to the list of establishments or venues that people shall not visit.

This executive order shall supersede any conflicting order issued by local officials in response to the COVID-19 disaster, but only to the extent that such a local order restricts services allowed by this executive order, allows gatherings prohibited by this executive order, or expands the list or scope of services as set forth in this executive order. Pursuant to Section 418.016(a) of the Texas Government Code, I hereby suspend Sections 418.1015(b) and 418.108 of the Texas Government Code, Chapter 81, Subchapter E of the Texas Health and Safety Code, and any other relevant statutes, to the extent necessary to ensure that local officials do not impose restrictions in response to the COVID-19 disaster that are inconsistent with this executive order, provided that local officials may enforce this executive order as well as local restrictions that are consistent with this executive order.

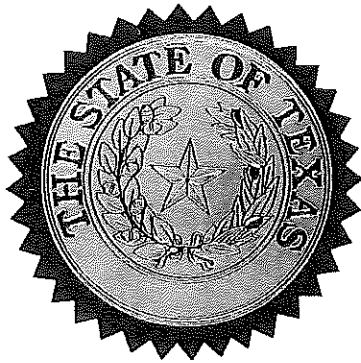
All existing state executive orders relating to COVID-19 are amended to eliminate confinement in jail as an available penalty for violating the executive orders. To the extent any order issued by local officials in response to the COVID-19 disaster would allow confinement in jail as an available penalty for violating a COVID-19-related order, that order allowing confinement in jail is superseded, and I hereby suspend all relevant laws to the extent necessary to ensure that local officials do not confine people in jail for violating any executive order or local order issued in response to the COVID-19 disaster.

This executive order supersedes Executive Order GA-26, but does not supersede Executive Orders GA-10, GA-13, GA-17, GA-19, GA-24, GA-25, or GA-27. This

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JUN 26 2020

executive order shall remain in effect and in full force unless it is modified, amended, rescinded, or superseded by the governor. This executive order may also be amended by proclamation of the governor.



Given under my hand this the 26th
day of June, 2020.

A handwritten signature of Greg Abbott in black ink.

GREG ABBOTT
Governor

ATTESTED BY:

A handwritten signature of Ruth R. Hughes in black ink.

RUTH R. HUGHES
Secretary of State

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SECRETARY OF STATE
8:45AM O'CLOCK

JUN 26 2020

MINIMUM STANDARD HEALTH PROTOCOLS



☒ CHECKLIST FOR OUTDOOR EVENTS

Page 1 of 2

Outdoor events, such as July 4 celebrations and other large outdoor gatherings with estimated attendance of 10 or more, are permissible to hold in Texas. The county judge or the mayor, as appropriate, in coordination with the local public health authority, must give approval to such an outdoor gathering or event prior to it being held.

All individuals must wear a face covering (over the nose and mouth) wherever it is not feasible to maintain six feet of social distancing from another individual not in the same household or, for those engaging in physical activities outdoors, wherever the individual is not able to maintain a safe physical distance from others not in the same household.

The following are the minimum recommended health protocols for all outdoor events in Texas. These minimum health protocols are not a limit on the health protocols that individuals may adopt. Individuals are encouraged to adopt additional protocols consistent with their specific needs and circumstances to help protect the health and safety of all Texans.

The virus that causes COVID-19 can be spread to others by infected persons who have few or no symptoms. Even if an infected person is only mildly ill, the people they spread it to may become seriously ill or even die, especially if that person is 65 or older with pre-existing health conditions that place them at higher risk. Because of the hidden nature of this threat, everyone should rigorously follow the practices specified in these protocols, all of which facilitate a safe and measured reopening of Texas. The virus that causes COVID-19 is still circulating in our communities. We should continue to observe practices that protect everyone, including those who are most vulnerable.

Please note, public health guidance cannot anticipate every unique situation. Individuals should stay informed and take actions based on common sense and wise judgment that will protect health and support economic revitalization.

Health protocols for individuals:

- ☐ **Individuals aged 65 or older are at a higher risk of COVID-19. To the extent possible, avoid contact within 6 feet with individuals aged 65 and older. Individuals aged 65 and older should stay at home as much as possible. Large gatherings, even those held outside, pose a significant risk to this population.**
- ☐ Individuals may not be in a group larger than 10 individuals (including those within the individual's household). Within these groups, individuals should, to the extent possible, minimize in-person contact with others not in the individual's household. Minimizing in-person contact includes maintaining 6 feet of separation from individuals. When maintaining 6 feet of separation is not feasible, other methods should be utilized to slow the spread of COVID-19, such as washing or sanitizing hand frequently, and avoiding sharing utensils or other common objects.
- ☐ **Individuals should maintain 6 feet of separation from others outside the individual's group. A group is defined as no more than 10 persons including the members of the household and those persons who traveled together to the event.**
- ☐ Self-screen before going to an outdoor event for any of the following new or worsening signs or symptoms of possible COVID-19:

☐ Cough	☐ Sore throat
☐ Shortness of breath or difficulty breathing	☐ Loss of taste or smell
☐ Chills	☐ Diarrhea
☐ Repeated shaking with chills	☐ Feeling feverish or a measured temperature greater than or equal to 100.0 degrees Fahrenheit
☐ Muscle pain	☐ Known close contact with a person who is lab confirmed to have COVID-19
☐ Headache	

MINIMUM STANDARD HEALTH PROTOCOLS



OUTDOOR EVENTS: Page 2 of 2

- ☐ Wash or disinfect hands after any interaction with employees, other individuals, or items at the outdoor event.
- ☐ Clean and sanitize any items before and after use.

Local approval factors:

- ☐ Local approval for large outdoor gatherings (those with an estimated attendance exceeding 10 individuals) is appropriate in this instance because a statewide standard is unable to take into account the various factors needed to ensure such a gathering in varied locations is safe and will minimize the spread of COVID-19. Further, business parity is not an issue at large outdoor events.
- ☐ In evaluating large gatherings (those with an estimated attendance exceeding 10 individuals), the county judge or the mayor, as applicable, should consider the following factors:
 - ☐ The overall number of projected attendees;
 - ☐ The likelihood of individuals over the age of 65 attending;
 - ☐ The density of the forum and the ability to ensure social distancing of 6 feet between individuals; and
 - ☐ The level of transmission in the county.
- ☐ Gatherings of less than 10 individuals may proceed consistent with all the health protocols above without approval of the county judge, local health authority, or mayor, as applicable.



Regular City Council
AGENDA ITEM 14.

Agenda Item: Discussion and Update on the City of Brenham's COVID-19 (Coronavirus) Response and Recovery Efforts

Meeting Type: Regular Meeting-August 06, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Regular

SUMMARY STATEMENT:

City Manager James Fisher will provide the City Council with an update on the City's COVID-19 response and recovery efforts.

ATTACHMENTS:

None

RECOMMENDED ACTION:

No action needed - discussion and update only.



Regular City Council
AGENDA ITEM 16.

Agenda Item: Section 551.071 - Texas Government Code - Consultation with Attorney - Consultation with City Attorney Regarding Pending Litigation: T. Hyde v. Washington County Sheriff's Department and Brenham Police Department, Cause No. 37404; 21st Judicial District, Washington County, Texas

Meeting Type: Regular Meeting-August 06, 2020

Department: Administration

Staff Contact: James Fisher

Classification: Executive Session

SUMMARY STATEMENT:

To be discussed in Executive Session.

ATTACHMENTS:

None

RECOMMENDED ACTION:

None.