



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

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Weldon Williams**
- 3. Proclamation  
Blinn Jr. College Volleyball Team**
- 4. Citizens Comments**

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**CONSENT AGENDA**

**5. Statutory Consent Agenda**

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

- 5-a. Minutes from the November 3, 2011 and November 17, 2011 Council Meetings**

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- 5-b. Ordinance No. O-11-025 on its Second Reading Providing for Updated Service Credit and an Increase in Retirement Annuities in the Texas Municipal Retirement System**

**Page 22-23**

**WORK SESSION**

- 6. Discussion and Update on Municipal Court Collections by Perdue, Brandon, Fielder, Collins & Mott**
- 7. Discussion and Update on the Tax Phase-In Compliance Review Committee**

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**8. Discussion and Update on Advisory Board Policies and Practices**

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**REGULAR AGENDA**

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

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

**Page 45-48**

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

**Page 49-56**

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

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**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.

**13. Administrative/Elected Officials Report**

**Adjourn**

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

***CERTIFICATION***

I certify that a copy of the December 1, 2011 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on November 28, 2011 at \_\_\_\_\_ Am Pm.

\_\_\_\_\_  
Jeana Bellinger, TRMC  
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 \_\_\_\_\_, 2011 at \_\_\_\_\_ Am Pm.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

# ***PROCLAMATION***

**WHEREAS**, The Blinn Buccaneer Volleyball team has, for the second time in four years, won the National Junior College Athletic Association's National Championship; and

**WHEREAS**, The No. 1 ranked Bucs completed a perfect 38-0 season, with a three game to one victory over No. 3 Western Wyoming; and

**WHEREAS**, Shelby Dickson was named the tournament's Most Valuable Player and both Jacki Gerig and Preslie Alexander were named to the All-Tournament Team; and

**WHEREAS**, Buccaneer Coach David Rehr was inducted into the NJCAA Sports Hall of Fame prior to the tournament; and

**WHEREAS**, It is right and just for the City Council and the residents of Brenham to join together to recognize and applaud all the members of the Blinn College Volleyball Team, Coach David Rehr, Blinn College Administration, Faculty and Staff for their dedication, commitment and heart;

**NOW, THEREFORE** I, Milton Y. Tate Jr., Mayor of the City of Brenham, Texas do Hereby Proclaim Thursday, Dec. 1, 2011 as

## **Blinn College Volleyball Team Day**

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

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Milton Y. Tate Jr., Mayor

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on November 3, 2011 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

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

### Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Chief Financial Officer Carolyn Miller, Stacy Hardy, Debbie Gaffey, Christi Korth, Adam Griffin, Florence Bentke, Darlene Konieczny, B.J. Plumb, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Public Works Director Doug Baker, Leslie Kelm, Allen Jacobs, Public Utilities Director Lowell Ogle, Dane Bybee, Jamey Maurer, Lin Hartstack, Casey Redman, Janie Mehrens, and Susan Nienstedt

### Citizens present:

Wesley Brinkmeyer, Bill Betts, Charles Moser, James Rothermel, Mike McArthur, Delbert Boeker, Jennifer Hermann, Jason Kiemsteadt, Mary Barnes-Tilley, C.H. Harvey, and Marshall Harrell III

### Media Present:

Allison Smith, Brenham Banner Press; Frank Wagner, KWHI

- 1. Mayor Tate Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – City Attorney Cary Bovey**

### **3. Service Recognitions**

Service recognitions were presented to the following employees:

|                 |                 |          |
|-----------------|-----------------|----------|
| Jeana Bellinger | Administration  | 5 Years  |
| Stacy Hardy     | Finance         | 5 Years  |
| Kevin Post      | Water Treatment | 5 Years  |
| Florence Bentke | Finance         | 15 Years |

### **4. Proclamations**

- Mayor Tate read a proclamation declaring November 2011 as American Indian Heritage Month.
- Mayor Tate read a proclamation declaring November 2011 as Pancreatic Cancer Awareness Month.
- Mayor Tate read a proclamation declaring November 15, 2011 as Hermann Family Day. The proclamation was received by Jennifer Hermann

### **5. Citizens Comments**

Citizen James Rothermel addressed Council about the problems with Suddenlink. Mr. Rothermel asked Council to please contact Suddenlink to see if there was anything that can be done about the poor service they are providing the citizens of Brenham.

Citizen Mike McArthur addressed Council about a neighbor that has broken out the curb of a city street to allow cars to park on both sides of the house. Mr. McArthur stated that he had visited with several city staff members in the past about this being a violation of the city's code but nothing has been done to correct the problem. Mr. McArthur provided photos of the area to the City Secretary.

Citizen C. H. Harvey addressed Council about his concerns related to the operation and maintenance of new city facilities. Mr. Harvey stated that the City cannot continue to buy things and then expect the taxpayers to pay the O&M costs with a tax increase.

## **CONSENT AGENDA**

### **6. Statutory Consent Agenda**

#### **6-a. Minutes from the October 20, 2011 Council Meeting**

#### **6-b. Second Reading of Ordinance No. O-11-018 Providing for Taxation of Goods-in-Transit that are Otherwise Exempted from Taxation by Texas Tax Code Section 11.253**

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve statutory consent agenda Item 4-a minutes from the October 20, 2011 council meeting and statutory consent agenda item 4-b second reading of Ordinance No. O-11-018 providing for taxation of goods-in-transit that are otherwise exempted from taxation by Texas Tax Code Section 11.253

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

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

## **REGULAR AGENDA**

- 7. Discuss and Possibly Act Upon Ordinance No. O-11-019 on its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Change Property Currently Zoned as R-1, Single-Family Residential District to B-1, Local Business/Residential Mixed Use District Located At or Near the 1600 Block of Longhofer Street (Vacant Lot) with a Legal Description Being Altman’s Subdivision, Lot 4, 0.254 Acres to Construct a Professional Office on this Property**

Allen Jacobs presented this item to Council. As directed by City Council at the October 20, 2011 meeting additional language indicating that only the construction of a professional office building would be allowed at this location was added to Ordinance No. O-11-019.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve Ordinance No. O-11-019 on its second reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas; amending the official zoning map to change property currently zoned as R-1, Single-Family Residential District to B-1, Local Business/Residential Mixed Use District located at or near the 1600 Block of Longhofer Street (Vacant Lot) with a legal description being Altman’s Subdivision, Lot 4, 0.254 Acres to construct a professional office building on this property

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

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

**8. Discuss and Possibly Act Upon Ordinance No. O-11-020 on its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas; Amending the Official Zoning Map to Allow a Specific Use Permit at 1404 North Park Street (Legal Description Being O’Malley Subdivision, Section 1, Lot 1-B), for the Operation of a Full Service Car Wash, Car Detail, and Lube Center**

Allen Jacobs presented this item to Council. As directed by City Council at the October 20, 2011 meeting additional language clarifying the hours of operation was added to Ordinance No. O-11-020.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve Ordinance No. O-11-020 on its second reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas; amending the official zoning map to allow a specific use permit at 1404 North Park Street (Legal Description Being O’Malley Subdivision, Section 1, Lot 1-B), for the operation of a Full Service Car Wash, Car Detail, and Lube Center

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

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

**9. Discuss and Possibly Act Upon Ordinance No. O-11-021 on its Second Reading Amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to Provide for Sexually Oriented Businesses as Specific Uses in I – Industrial Districts, in Accordance with the Specific Use Permit Approval Process and Chapter 16, Brenham Code of Ordinances Regulating Occupational Licenses and Business Regulations**

Allen Jacobs presented this item to Council. He advised that there were no changes between first reading and second reading of the Ordinance.

The City Attorney, Cay Bovey, advised Council of four (4) questions raised by the members of the Sexually Oriented Businesses Task Force at their last meeting on October 19, 2011. Mr. Bovey provided the following answers:

1. **Can the Fireman’s Training Center be considered a protected class? While it is a privately owned facility, they rent it out for BISD functions, non-profit fund raisers, weddings, etc.?** The Fireman’s Training Center is a protected location due to there being a Texas Alcoholic Beverage Commission license issued for the premises.
2. **Can the City purchase land and require all SOBs to locate in that specific area of the city?** The Texas Constitution places limitations on a city’s expenditure of public funds by stating that City funds can be spent only to carry out municipal purposes. Therefore, the City cannot expend its public funds to acquire property to require SOB businesses to locate there.
3. **What if a property owner in the industrial zoned area is talking with a potential buyer about selling a portion of his property to build a hotel? At what point can that property be included in the protected class?** Having discussions with a potential buyer to develop a hotel on the site would not cause the property to be included in the protected class related to hotels. The City would take the position that if a building permit has been obtained for the construction of a hotel on the site, and construction of the hotel has started, the site would fall within the list of protected locations.
4. **What if a property owner is considering opening a child care facility at his current business location?** At what point can that property be included in the protected class? Evidence that the site has been licensed/registered as a child care facility by the appropriate agency of the State of Texas would be sufficient evidence for the site to be determined to be a child care facility.

A motion was made by Councilmember Goss and seconded by Councilmember Herring to approve Ordinance No. O-11-021 on its second reading amending Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham, Texas to provide for Sexually Oriented Businesses as Specific Uses in I – Industrial Districts, in accordance with the specific use permit approval process and Chapter 16, Brenham Code of Ordinances Regulating Occupational Licenses and Business Regulations

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

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

**10. Discuss and Possibly Act Upon Ordinance No. O-11-022 on its Second Reading Amending Chapter 16, Occupational Licenses and Business Regulation, of the City of Brenham’s Code of Ordinances to Provide for the Regulation of Sexually Oriented Businesses within the City Limits**

City Secretary Jeana Bellinger presented this item to Council. She advised that the only change from first reading were the section numbers. She stated that she did not realize the numbering was out of order at first reading.

A motion was made by Councilmember Williams and seconded by Councilmember Goss to approve Ordinance No. O-11-022 on its second reading amending Chapter 16, Occupational Licenses and Business Regulation, of the City of Brenham’s Code of Ordinances to provide for the regulation of sexually oriented businesses within the City Limits.

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

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

**11. Discuss and Possibly Act Upon Resolution No. R-11-020 Reauthorizing an Investment Policy for the City of Brenham**

Chief Financial Officer Carolyn Miller presented this item to Council. She advised that the Public Funds Investment Act requires that a local government adopt a written investment policy and reauthorize the policy annually. She stated that the only change to the policy this year is reflected in the Internal Controls Section requiring the Chief Financial Officer to monitor the city’s credit rating on all authorized investments.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to approve Resolution No. R-11-020 reauthorizing an Investment Policy for the City of Brenham.

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

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

**12. Discuss and Possibly Act Upon an Ordinance on its First Reading Amending the FY2010-11 Adopted Budget**

Carolyn Miller presented this item to Council and outlined, in detail, all of the amendments to the FY2010-11 adopted budget. She advised that the proposed Ordinance would be the second and final amendment to the FY2010-11 budget. She said the General Fund revenues were being increased for GovDeals online auction funds, increase in Court Traffic fines and insurance proceeds. She also stated that expenditures were being reduced by \$50,000 due to the Downtown Master Plan, which was deferred until FY2011-12.

Ms. Miller also stated that there were other amendment items are for BCDC activity, the AMR smart meter project and year-end budget realignment (clean-up), as well as the Worker's Comp Fund transfer to the Medical Self-Insurance Fund to ensure a balanced fund.

A motion was made by Councilmember Herring and seconded by Councilmember Herring to approve an ordinance on its first reading amending the FY2010-11 adopted budget.

**13. Discuss and Possibly Act Upon Resolution No. R-11-021 Authorizing Execution of an Agreement with TxDOT for the Temporary Closure of State Right of Way in Connection with the 2011 Christmas Stroll to be Held on Friday, December 2, 2011**

Public Works Director Doug Baker presented this item. He advised Council that this is the same street closure agreement that is done every year for the Christmas Stroll.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve Resolution No. R-11-021 authorizing execution of an agreement with TxDOT for the temporary closure of State Right of Way in connection with the 2011 Christmas Stroll to be held on Friday, December 2, 2011.

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

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

**14. Discuss and Possibly Act Upon Final Payment to Glasco & Co. Landscaping, Inc. for Work at Toubin Park and Authorize the Mayor to Execute any Necessary Documentation**

Assistant City Manager Kyle Dannhaus presented this item. He advised Council that all of the work at Toubin Park has been completed and he is recommending final payment to Glasco & Co. in the amount of \$32,461.95

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring to approve final payment to Glasco & Co. Landscaping, Inc. in the amount of \$32,461.95 for work at Toubin Park and authorize the mayor to execute any necessary documentation.

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

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

**15. Discuss and Possibly Act Upon Bid No. 11-017 for Hohlt Park Restrooms Located Near the Dr. Bobbie M. Dietrich Memorial Amphitheater and Authorize the Mayor to Execute any Necessary Documentation**

Kyle Dannhaus presented this item to Council. He advised that on September 8, 2011 the Purchasing Department opened bids for the restrooms located in Hohlt Park near the Dr. Bobbie M. Dietrich Memorial Amphitheater. He stated that twelve (12) bidders requested packets and eleven (11) returned bids.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to approve Bid No. 11-017 for the Hohlt Park restrooms located near the Dr. Bobbie M. Dietrich Memorial Amphitheater and award bids to the following contractors:

- LaBu, Inc. for Foundation work in the amount of \$14,000
- Mark Buck for the Roofing System in the amount of \$15,076.64
- R.W. Pfeffer Masonry for the Block/Rock work in the amount of \$49,945
- American Drain & Plumbing for Plumbing work in the amount of \$17,800
- David Herman Electric for Electrical work in the amount of \$5,205
- Mike Pohl for Mechanical work in the amount of \$5,750

Mr. C.H. Harvey addressed Council. He expressed his concern that the city does not include operation and maintenance costs in any of their budgets. Mr. Harvey stated he was glad that the city obtained donations to fund construction of the restrooms but that there were no funds donated to help with the annual O&M of the facility.

Councilman Goss asked whether or not the restrooms could be relocated a little further away from the amphitheater so that the overall look of the facility would not be diminished by having restroom facilities so close. Mr. Dannhaus stated that he would look into that but that it may be a problem due to the flood plain running through that area.

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

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

**16. Discuss and Possibly Act Upon Recommendation for Self-Insured Medical Funding Rates for Calendar Year 2012 for the Group Health Plan Effective January 1, 2012 and Authorize the Mayor to Execute any Necessary Documentation**

Janie Mehrens presented this item to Council. She advised that during the FY2011 budget process a 10% funding increase for group health plan contributions was included in the budget based on medical trending and claims information available at the time. Because of the continuing rising cost of general medical services and for our group, of large claims, the Self-Insured Medical Fund will show a negative fund balance for the fiscal year. It is anticipated that a transfer of over \$115,000 from the Workers' Compensation Fund will need to be made in order to balance the medical fund.

Although the actual costs for stop loss coverage and anticipated claims costs will not be final until December, it is necessary to approve the funding rates at this council meeting so the rates will be available to employees to make their decisions for dependent coverage during open enrollment which begins November 15, 2011 and the rates would go into effect January 1, 2012.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve a recommendation, as presented, for self-insured medical funding rates for calendar year 2012 for the Group Health Plan effective January 1, 2012 and authorize the mayor to execute any necessary documentation.

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

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

**17. Discuss and Possibly Act Upon the 2012 Holiday Schedule**

Janie Mehrens presented this item to Council. She advised that it contained the same number of total holidays as in past years and one (1) floating holiday for employees.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve the 2012 Holiday schedule.

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

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

**18. Discuss and Possibly Act Upon Ratification of a BVWACS/BVCOG Contract Amendment with Motorola Solutions, Inc. for Additional Infrastructure Equipment and Services and Authorize the Mayor to Execute any Necessary Documentation**

Fire Chief Ricky Boeker presented this item. He advised Council that the governing board of the Brazos Valley Wide Area Communication System (BVWACS) has approved an amendment to their contract with Motorola Solutions, Inc. for additional equipment and services to upgrade and enhance their system.

Mr. Boeker advised that no additional funding from the participating entities is required because unspent budgeted funds each year have been kept in the BVWAC capital fund in the event system upgrades are needed.

A motion was made by Councilmember Goss and seconded by Mayor Pro Tem Nix to approve the ratification of a BVWACS/BVCOG contract amendment with Motorola Solutions, Inc. for additional infrastructure equipment and services and authorize the mayor to execute any necessary documentation.

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

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

Council adjourned into Executive Session at 2:11 p.m.

### **EXECUTIVE SESSION**

- 19. Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discussion Regarding Potential New Park Land**
- 20. Texas Government Code Section 551.072 – Deliberation Regarding Real Property – Discuss and Consider the Acquisition of Property for the Handley Street Extension Segment of the U.S. Hwy 290 Project**

Executive Session adjourned at 3:55 p.m.

### **RE-OPEN REGULAR AGENDA**

- 21. Discuss and Possibly Act Upon Resolution No. R-11-022 Determining the Public Need and Necessity for the Acquisition of Certain Real Property for the Public Uses of Construction, Widening, Improvements, Use, Repair, and Maintenance of Street Improvements as Part of the Handley Street Extension Segment of the U.S. Hwy 290 Project, Authorizing the City Manager to Agree on Amounts to be Paid to the Property Owner(s) as Compensation for Said Property, and Authorizing the City Attorney to Institute Condemnation Proceedings, (Use of Eminent Domain), If Necessary, to Acquire Said Property situated in the City of Brenham, Washington County, Texas out of the Isaac Lee Survey A-77 Owned by J.R. Enterprises**

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring that the City of Brenham authorize the use of the power of eminent domain to acquire a 0.0575 acre parcel of land situated in the City of Brenham, Washington County, Texas out of the Isaac Lee Survey A-77, and owned by J.R. Enterprises, for the public uses of construction, widening, improvement, use, repair, and maintenance of street improvements as part of the Handley Street Extension segment of the U.S. Hwy 290 Project, by the adoption of Resolution No. R-11-022.

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

|                                 |                |
|---------------------------------|----------------|
| Mayor Milton Y. Tate, Jr.       | Yes            |
| <b>Mayor Pro Tem Gloria Nix</b> | <b>Abstain</b> |
| Councilmember Andrew Ebel       | Yes            |
| Councilmember Keith Herring     | Yes            |
| Councilmember Weldon Williams   | Yes            |
| Councilmember Danny Goss        | Yes            |

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

City Manager Terry Roberts Reported on the following:

- Toubin Park grand opening on Tuesday, November 8<sup>th</sup>
- Herman Furniture Anniversary Celebration on November 15<sup>th</sup>
- Advised Council that Highway 290 will be converted to the frontage roads within the next couple of weeks

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC  
City Secretary

## **Brenham City Council Minutes**

A regular meeting of the Brenham City Council was held on November 17, 2011 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

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

### Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Chief Financial Officer Carolyn Miller, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Public Works Director Doug Baker, Public Utilities Director Lowell Ogle, Kim Hodde, Janie Mehrens, Adam Griffin, and Rhonda Kuehn

### Citizens present:

Seneca McAdams, Lu Hollander, Mary Barnes-Tilley, Jason Kiemsteadt, Garry Kimball

### Media Present:

Allison Smith, Brenham Banner Press; Frank Wagner, KWHI

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

There were no citizen comments.

## CONSENT AGENDA

### 4. Statutory Consent Agenda

#### 4-a. Second Reading of Ordinance No. O-11-023 Amending the FY2010-11 Adopted Budget

A motion was made by Keith Herring and seconded by Gloria Nix to approve statutory consent agenda 4-a. Second Reading of Ordinance No. O-11-023 amending the FY2010-11 adopted budget.

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

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

## WORK SESSION

### 5. Presentation of the 4th Quarter Report by the Washington County Convention and Visitors Bureau

Seneca McAdams presented an overview of the 4<sup>th</sup> Quarter activities of the Washington County Convention and Visitor's Bureau and Lu Hollander discussed the various advertising done by the WCCVB.

## REGULAR AGENDA

### 6. Discuss and Possibly Act Upon Ordinance No. O-11-024 of the City of Brenham, Texas Authorizing the Issuance and Sale of City of Brenham, Texas, Limited Tax Notes, Series 2011, In the Aggregate Principal Amount of \$1,200,000; Awarding the Sale of Said Notes; Levying a Tax in Payment Thereof; Prescribing the Form of Said Notes; and Enacting Other Provisions Relating Thereto

Gary Kimball from Specialized Public Finance distributed tabulation of bids received for the issuance of Limited Tax Notes, Series 2011 in the aggregate amount of 1,200,000 to fund street repairs. 1.75% was budgeted; however, they were able to beat that amount by 4 basis points and secure a 1.71% rate. This is a seven year fully amortized debt schedule. Seven (7) bids were received. Due to the amount and length of the financing, they were able to issue a Limited Bank Placement rather than a full-blown underwriting which resulted in a savings of approximately \$15,000.

A motion was made by Danny Goss and seconded by seconded by Keith Herring to approve Ordinance No. O-11-024 of the City of Brenham Texas authorizing the issuance and sale of City of Brenham, Texas, Limited Tax Notes, Series 2011, in the aggregate principal amount of \$1,200,000; awarding the sale of said notes; levying a tax in payment thereof; prescribing the form of said notes; and enacting other provisions relating thereto

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

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

**7. Discuss and Possibly Act Upon an Election Services Contract Between the City of Brenham and Washington County Related to Election Responsibilities for the January 21, 2012 Special Election and Authorize the Mayor to Execute any Necessary Documentation**

City Secretary Jeana Bellinger presented the Election Services Contract with the County that we approve each year. She pointed out there were a couple of minor wording changes as well as a change on page 2 requiring the election judges to deliver the ballot boxes to the Washington County Courthouse on election night. This is necessary since we will be using the AutoMark ballots and the central counting station machine that counts the ballots that is housed at the WC Courthouse. Ms. Bellinger explained that this contract was only for the Special Election to be held on January 21, 2012 and that if a run-off election was necessary a separate contract would be brought to City Council for consideration.

A motion was made by Gloria Nix and seconded by Andrew Ebel to approve the election services contract between the City of Brenham, Texas and Washington County, Texas for the January 21, 2012 Special Election subject to final review 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 Gloria Nix      | Yes |
| Councilmember Andrew Ebel     | Yes |
| Councilmember Keith Herring   | Yes |
| Councilmember Weldon Williams | Yes |
| Councilmember Danny Goss      | Yes |

**8. Discuss and Possibly Act Upon an Ordinance on its First Reading Providing for Updated Service Credit and an Increase in Retirement Annuities in the Texas Municipal Retirement System**

Janie Mehrens stated that on an annual basis, the City Council has approved an ordinance providing for updated service credits and increase in retirement annuities of 70% of the CPA as provided through the Texas Municipal Retirement System. Due to the fund restructuring earlier this year, our rate went down from 9.33% to 6.12 %. With the addition of the updated service credits and annuity increase, our rate will increase to 6.46% effective January 1, 2012. 2012 Budgeted funds will accommodate this increase.

A motion was made by Weldon Williams and seconded by Gloria Nix to approve an ordinance on its first reading providing for updated service credit and an increase in retirement annuities in the Texas Municipal Retirement System.

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

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

**9. Discuss and Possibly Act Upon Resolution No. R-11-023 for the Election of Members to the Board of Directors of the Washington County Appraisal District**

City Manager Terry Roberts stated that as a taxing entity, the City of Brenham is allotted 571 votes in the Election of Members to the Board of Directors for the Washington County Appraisal District. He stated that these votes can be cast for one candidate or distributed among any of the candidates. Mr. Roberts stated that our votes have been divided up as equally as possible among the following nominated candidates:

|                  |           |
|------------------|-----------|
| Charles Gaskamp  | 114 votes |
| Delton Koerth    | 114 votes |
| Joel Romo        | 114 votes |
| John Schaer      | 114 votes |
| Johanna Fatheree | 115 votes |

A motion was made by Keith Herring and seconded by Weldon Williams to approve Resolution R-11-023 for the election of members to the Board of Directors of the Washington County Appraisal District.

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

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

## 10. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Retirement party for Ray Wilkinson - November 30, 2011 at 2:00 pm at the Brenham Police Department
- Pledged donations to cover the Amphitheater restroom project have been received
- Railroad Quiet Zone – currently working on the Vulcan Street closing
- Highway 290 project is on schedule for 33 month completion. Very soon, the on-ramp by Sealy Mattress will be closed and traffic will be diverted to Longwood by the Police Department.
- The HOT Board approved installation of temporary signage for Hotels on Hwy 290 within the next few weeks.
- Stringer overpass

Chief Financial Officer Carolyn Miller reported on the following:

- Rhonda Kuehn has recently been appointed to the TML Board. She is currently VP of the Texas Court Clerk Association and has received the Excellence Award.

Public Utilities Director Lowell Ogle reported on the following:

- Work is being done on the Wastewater Plant driveway

The meeting was adjourned.

---

Milton Y. Tate, Jr.  
Mayor

---

Jeana Bellinger, TRMC  
City Secretary



TMRS-USC/CPI

**TEXAS MUNICIPAL RETIREMENT SYSTEM**

**AN ORDINANCE AUTHORIZING AND ALLOWING, UNDER THE ACT GOVERNING THE TEXAS MUNICIPAL RETIREMENT SYSTEM, "UPDATED SERVICE CREDITS" IN SAID SYSTEM FOR SERVICE PERFORMED BY QUALIFYING MEMBERS OF SUCH SYSTEM WHO PRESENTLY ARE MEMBERS OF THE CITY OF BRENHAM; PROVIDING FOR INCREASED PRIOR AND CURRENT SERVICE ANNUITIES FOR RETIREES AND BENEFICIARIES OF DECEASED RETIREES OF THE CITY; AND ESTABLISHING AN EFFECTIVE DATE FOR SUCH ACTIONS.**

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

**Section 1. Authorization of Updated Service Credits.**

(a) On the terms and conditions set out in Sections 853.401 through 853.403 of Subtitle G of Title 8, Government Code, as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who has current service credit or prior service credit in the System in force and effect on the 1st day of January of the calendar year preceding such allowance, by reason of service in the employment of the City, and on such date had at least 36 months of credited service with the System, shall be and is hereby allowed "Updated Service Credit" (as that term is defined in subsection (d) of Section 853.402 of said title) in an amount that is **100%** of the "base Updated Service Credit" of the member (calculated as provided in subsection (c) of Section 853.402 of said title). The Updated Service Credit hereby allowed shall replace any Updated Service Credit, prior service credit, special prior service credit, or antecedent service credit previously authorized for part of the same service.

(b) In accordance with the provisions of subsection (d) of Section 853.401 of said title, the deposits required to be made to the System by employees of the several participating departments on account of current service shall be calculated from and after the date aforesaid on the full amount of such person's earnings as an employee of the City.

**Section 2. Increase in Retirement Annuities.**

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

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

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

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

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

**Effective Date.** Subject to approval by the Board of Trustees of the System, this ordinance shall be and become effective on the **1st day of January 2012**.

Passed and approved on its first reading this the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

Passed and approved on its second reading this the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Jeana Bellinger, City Secretary

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



**AGENDA ITEM 6**

|   |  |  |  |
|---|--|--|--|
| <b>DATE OF MEETING:</b> December 1, 2011  |  | <b>DATE SUBMITTED:</b> November 22, 2011         |  |
| <b>DEPT. OF ORIGIN:</b> Municipal Court   |  | <b>SUBMITTED BY:</b> Rhonda Kuehn                |  |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                           | <b>ORDINANCE:</b>                                |  |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING          | <input type="checkbox"/> 1 <sup>ST</sup> READING |  |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT                 | <input type="checkbox"/> 2 <sup>ND</sup> READING |  |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input type="checkbox"/> REGULAR                 | <input type="checkbox"/> RESOLUTION              |  |
|   | <input checked="" type="checkbox"/> WORK SESSION |  |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Update on Municipal Court Collections by Perdue, Brandon, Fielder, Collins & Mott  |  |  |  |
| <b>SUMMARY STATEMENT:</b> A report will be given on the status of collection services since implementation of the contract on June 1, 2011 with Perdue, Brandon, Fielder, Collins & Mott. Doug Calame and Wanda Kelly will be at the Council meeting to present the report. |  |  |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>   |  |  |  |
| <b>A. PROS:</b>   |  |  |  |
| <b>B. CONS:</b>   |  |  |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>   |  |  |  |
| <b>ATTACHMENTS:</b> A hard copy of the report will be presented to Council at meeting time.   |  |  |  |
| <b>FUNDING SOURCE (Where Applicable):</b>   |  |  |  |
| <b>RECOMMENDED ACTION:</b>  |  |  |  |
| <b>APPROVALS:</b> Carolyn Miller  |  |  |  |



**AGENDA ITEM 7**

|   |  |  |
|---|--|--|
| <b>DATE OF MEETING:</b> December 1, 2011  |  | <b>DATE SUBMITTED:</b> 11-23-11                  |
| <b>DEPT. OF ORIGIN:</b> Administration  |  | <b>SUBMITTED BY:</b> Kim Hodde                   |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                           | <b>ORDINANCE:</b>                                |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING          | <input type="checkbox"/> 1 <sup>ST</sup> READING |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT                 | <input type="checkbox"/> 2 <sup>ND</sup> READING |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input type="checkbox"/> REGULAR                 | <input type="checkbox"/> RESOLUTION              |
|   | <input checked="" type="checkbox"/> WORK SESSION |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Update on the Tax Phase-In Compliance Review Committee |  |  |
| <b>SUMMARY STATEMENT:</b> See attached memo from Clint Kolby.   |  |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>                                       |  |  |
| A. PROS:  |  |  |
| B. CONS:  |  |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>   |  |  |
| <b>ATTACHMENTS:</b> Memo from EDF   |  |  |
| <b>FUNDING SOURCE (Where Applicable):</b>   |  |  |
| <b>RECOMMENDED ACTION:</b> N/A  |  |  |
| <b>APPROVALS:</b> Terry Roberts   |  |  |



## MEMO

### *2011 Board of Directors*

*William Krueger, Chair*  
*Jones & Carter*

*Barbara Maurer, Vice Chair*  
*Chase*

*Vance Hamilton, Secretary*  
*Bluebonnet Electric Cooperative*

*Billy Holle, Treasurer*  
*Seidel Schroeder & Company*

*Paul Kruse, Past Chair*  
*Blue Bell Creameries*

*David Bockhorn*  
*Bank of Brenham*

*Cory Flencher*  
*Citizens State Bank*

*Steven Haley*  
*Moorman Tate Moorman*

*Urquhart & Haley*

*Jon Hill*  
*Appel Ford Mercury*

*Stephen Miller*  
*Brenham Wholesale Grocery Co.*

*G. Mike Shoup*  
*Antique Rose Emporium*

*Brett Smith*  
*Lee Anderson Company*

*Arlen Thielemann*  
*Thielemann Construction Co.*

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

*Gary Weiss*  
*Germania Insurance*

*David Yeager*  
*DLY Services*

### **STAFF**

*Page Michel*  
*President & CEO*

*Clint Kolby*  
*Project Manager*

**To:** Mayor and City Council  
**Date:** November 22, 2011  
**Re:** Annual Tax Phase-In Compliance Review Committee Report

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

Only one company, Advanced Data Storage (ADS), was eligible to be reviewed by the Committee for compliance this year under the 2009-10 Tax Phase-In Policy. ADS received the tax phase-in incentive in 2010 for locating their new facility in the Brenham Business Center. Their tax phase-in period will start in 2011 and end in 2017.

The Tax Phase-In Compliance Review Committee met on November 8 to review the tax phase-in incentive agreement that was approved for Advanced Data Storage (ADS) in 2010. The Committee received a signed affidavit and verified employment and payroll records from ADS showing that they have created/retained at least 12 employees at an average base salary of \$30,000 including benefits and added \$4.2 million in new value to the property tax roll.

If you have any questions, please feel free to contact the Economic Development Foundation office at 979-836-8927 or [edf@brenhamtexas.com](mailto:edf@brenhamtexas.com).



**AGENDA ITEM 8**

|   |  |  |
|---|--|--|
| <b>DATE OF MEETING:</b> December 1, 2011  |  | <b>DATE SUBMITTED:</b> 11-23-11                  |
| <b>DEPT. OF ORIGIN:</b> Administration  |  | <b>SUBMITTED BY:</b> Terry Roberts               |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                           | <b>ORDINANCE:</b>                                |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING          | <input type="checkbox"/> 1 <sup>ST</sup> READING |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT                 | <input type="checkbox"/> 2 <sup>ND</sup> READING |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input type="checkbox"/> REGULAR                 | <input type="checkbox"/> RESOLUTION              |
|   | <input checked="" type="checkbox"/> WORK SESSION |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discussion and Update on Advisory Board Policies and Practices  |  |  |
| <b>SUMMARY STATEMENT:</b> See attached memo.  |  |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>                                 |  |  |
| A. PROS:  |  |  |
| B. CONS:  |  |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>                                   |  |  |
| <b>ATTACHMENTS:</b> (1) Memo from Terry Roberts; and (2) 2005 Advisory Board Appointment Policy |  |  |
| <b>FUNDING SOURCE (Where Applicable):</b>   |  |  |
| <b>RECOMMENDED ACTION:</b> N/A  |  |  |
| <b>APPROVALS:</b> Terry Roberts   |  |  |



To: Mayor and City Council

From: Terry K. Roberts, City Manager

Subject: **Board Appointments Policy Discussion**

Date: November 28, 2011

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At your last Council meeting I distributed a memo around the Council dais concerning board appointments. The City Council adopted a policy in 2005 dealing with board appointments. One element of that policy enacted term limits.

The 2005 term limitation policy did not have an immediate impact. In fact, the impact is going to be felt now. The 2005 policy restricted all board appointments to three full terms. Most boards are two year terms so the greatest impact was going to be felt this year.

As we indicated on November 17<sup>th</sup>, without some modification to our existing policy, several boards will have a complete turnover in the next 14 months due to mandatory term limits. Even if term limits is something we want to consider in a new policy, the practical impact of how it is written now is not good. Without a suspension of the term limit policy until further study is done, the changeover in boards will be too drastic.

Prior to even considering board appointments at your December 15<sup>th</sup> meeting, we are asking that you consider a temporary suspension of board appointments and the current term limitation policy while a more detailed review of our appointment process is undertaken. The study should not take that long to complete and we can bring back a proposed set of guidelines in the first quarter of 2012.

The policy adopted in 2005 was by simple motion and impacted some board policies that were enacted by ordinance. We recommend this short moratorium be enacted by ordinance. We have an agenda item on the work session to discuss the need for further study of the 2005 board appointments policy. We also have an action item to enact an ordinance that would temporarily suspend the annual appointment process; the term limits provision; and allow current board members whose terms would normally expire on December 31, 2011 to continue serving while the subject is being studied.

In analyzing our boards, all are important for the work of the City but some boards are more specialized where it is helpful to have a good background of service. Some boards are in place because of State law requirements. They include the Planning and Zoning Commission, Board of Adjustments and the Brenham Community Development Corporation.

Some boards have specialization requirements so it is important that a portion of those board members have backgrounds in those specialties. Those boards include the Airport Advisory Board and the Hotel Occupancy Tax Board.

Having an attendance requirement for all boards is probably a good thing whether the board member is a newcomer or a veteran of the board. However, we probably should look at each board separately as to whether term limits should be routinely applied.

Lastly, as we work through Council's policy direction on boards, it is our belief that we should incorporate those changes into the various ordinances or resolutions that created the boards in the first place.

The effect of the ordinance being considered is to keep those individuals in place who would otherwise be term limited off until we have a chance to re-examine the policy. Some board members may wish to not serve in the New Year and in that case, we will ask Council to appoint a replacement at the December 15<sup>th</sup> meeting.

I discussed this situation last week with Mayor Tate and City Secretary Bellinger and concluded that the 2005 policy may negatively affect many of our boards by having wholesale changes made in such a short period of time.

## ADVISORY BOARD APPOINTMENTS

In keeping with the principles of effective governance in appointing members to Advisory Boards and Commissions, the City Council will:

1. Make the process open to all citizens.
2. Seek to appoint the best person available for the particular position.
3. Respect the need for diverse community opinions.
4. Establish a three-term (*omit two-year term*) limit for an individual to serve consecutive positions on the same Board or Commission.
5. Require attendance at meetings – A member who, except in the case of illness or extenuating circumstances as determined by the Commission or Board, misses three (3) consecutive meetings or misses one-third (1/3) of all regular meetings in a twelve-month period must be removed from such Commission or Board by the City Council. In the case of a member who continues to be absent beyond these specified time periods, as a result of prolonged illness or prolonged extenuating circumstances, without reasonable expectation of returning to Commission or Board duties in a timely manner, the City Council must remove and replace that member.

### PROCESS OF APPOINTMENT:

At least 60 days prior to an appointment being made, the staff will notify City Council of approaching vacancies on Boards and Commissions. The staff will also send an inquiry to the affected Board members, requesting suggestions for nominees to that Board. Persons whose terms are expiring but who have not yet served three (3) consecutive terms will receive an application form from the staff and will be contacted by the staff to inquire whether they would like to apply for reappointment. Persons suggested by City Council members, by members of the Boards and Commissions, and by staff will be contacted by staff and provided an application form and information about when the City Council will meet to consider those applications for the appointment.

At least 30 days prior to the appointments being made, City Council will receive from staff the applications from those persons who are interested in serving on the Boards or Commissions. Interested individuals may have submitted applications directly to staff, directly to City Council members or through the City's website where the application form is available.

City Council may discuss the appointments in executive session during City Council meetings prior to making appointments, or may simply provide their input directly to the Mayor. The Mayor will select one individual to nominate for each position based upon Council input. In the event the Council chooses not to appoint the person nominated by the Mayor, the Mayor will submit a second name or list of names, all of which may be considered by the Council for appointment. A simple majority of the members present and voting is necessary for appointment.

## **ADVISORY BOARD MEMBERS’ CODE OF CONDUCT**

The City of Brenham Advisory Boards and Commissions provide critical input to both the Council and City staff; therefore, they play a key role in the integrity of governance. The council is responsible for the Boards’ responsibilities, discipline, and performance. Even so, the Board is responsible for its own development – both as a body and as individuals.

1. Board Members must represent unconflicted loyalty to the interests of the citizenry. This accountability supersedes any conflicting loyalty such as that to advocacy or interest groups and membership on other boards or staffs. This accountability supersedes the personal interest of any Board Member acting as an individual citizen of the City.
2. Board Members must avoid any appearance of conflict of interest with respect to their responsibility.
  - A. It is the desire of the City that Board members shall act and conduct themselves, both inside and outside the City’s service, so as to give no occasion for the distrust of their integrity, impartiality or of their devotion to the best interests of the City.
  - B. All members of commissions and boards appointed by the City Council shall comply with the provisions of the City’s Ethics Ordinance.
  - C. Board members will not condone any unethical or illegal activity. All members agree to uphold the intent of this policy and agree to govern their actions accordingly.
  - D. In the event of a violation, or a perceived violation, of the governance and/or ethics policies: One or more members of the Council may request that the Mayor select two Councilmembers to accompany him/her to meet with:

- a. the chair of the Advisory Board (or appropriate board member) and relevant staff to determine background information,
- b. and, if necessary, the Advisory Board member who has “violated” the policy.

If the Councilmember fails to mitigate the problem, then two Councilmembers may request an item to be placed on the City Council Agenda for additional discussion and action with the affected Advisory Board Member.

- 3. The power of the City’s Boards and Commissions is advisory – decision authority remains with the staff (means) and Council (ends).
  - A. The advisory capacity held by the Board is held collectively, not individually. Therefore, Board Members may not attempt to exercise individual authority over the City organization (staff).
  - B. Board Members’ interaction with the public, press or other entities must recognize that not only does the Board lack decision authority by serving in an advisory role, but also, the lack of authority in any individual Board Member to speak for the Board.
- 4. During Board Meetings, Board Members shall preserve order and decorum and shall, neither by conversation or otherwise, delay or interrupt the proceedings nor refuse to obey the orders of the presiding officer.
  - A. Each Board Member is responsible for being prepared to come and discuss the agenda.
  - B. No Board Member shall be permitted to indulge in personalities, use offensive language, arraign motives of members, charge deliberate misrepresentation or use language tending to hold a member of the board in contempt.
  - C. No member shall be excused from voting except on matters involving the consideration of his own official conduct, or where his personal interests are involved, and in these instances he shall abstain. Any member prohibited from voting by personal interest shall announce at the commencement of consideration of the matter and shall not enter into discussion or debate on any such matter and shall have previously filed an affidavit stating the conflict of interest. The member having briefly stated the reason for his request, the excuse from voting shall be made without debate.

- D. Any member who reasonably believes that his/her voting on a matter would create an appearance of impropriety shall be excused from voting. That member shall state publicly the reason(s) she/he believes voting would be improper.
- E. The Board will seek to be innovative, creative and take risks in resolving issues.



**AGENDA ITEM 9**

|   |   |  |  |
|---|---|--|--|
| <b>DATE OF MEETING:</b> December 1, 2011  |   | <b>DATE SUBMITTED:</b> November 22, 2011         |  |
| <b>DEPT. OF ORIGIN:</b> Municipal Court   |   | <b>SUBMITTED BY:</b> Rhonda Kuehn                |  |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                |  |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING     | <input type="checkbox"/> 1 <sup>ST</sup> READING |  |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING |  |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input checked="" type="checkbox"/> REGULAR | <input checked="" type="checkbox"/> RESOLUTION   |  |
|   | <input type="checkbox"/> WORK SESSION       |  |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Resolution No. R-11-024 Adopting Ethical and Training Standards for Juvenile Case Managers Employed by the City of Brenham.   |   |  |  |
| <b>SUMMARY STATEMENT:</b> Senate Bill 61, effective June 17, 2011, mandates the establishment of minimum training and educational standards for juvenile case managers, including case planning and management; juvenile law; courtroom proceedings and presentations; law enforcement proceedings; local programs and services; code of ethics and disciplinary procedures; and detecting and preventing abuse, exploitation, and neglect of children. Not later than December 1, 2011, the governing body of a governmental entity that employs a juvenile case manager under Article 45.056, Code of Criminal Procedure, is required to adopt minimum training and education standards for juvenile case managers. The adoption of this resolution and accompanying exhibits will allow the Municipal Court to continue utilizing a juvenile case manager and collecting the \$5.00 juvenile case manager fee. |   |  |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>   |   |  |  |
| <b>A. PROS:</b> The Municipal Court will be authorized to continue utilizing a juvenile case manager and collecting the \$5.00 juvenile case manager fee per charge.  |   |  |  |
| <b>B. CONS:</b> Over the past five years, the Municipal Court has collected on average \$23,000 annually in juvenile case manager fees. These fees are used to offset the salary of the juvenile case manager. If the recommended action is not taken, the Municipal Court could experience a revenue loss of roughly \$23,000.   |   |  |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>   |   |  |  |
| <b>ATTACHMENTS:</b> (1) Resolution No. R-11-024; (2) Exhibit "A" Code of Ethics for Juvenile Case Managers; (3) Exhibit "B" City of Brenham – Pre-Service and In-Service Standards; and (3) Exhibit "C" Specific Training Subjects for Juvenile Case Managers   |   |  |  |
| <b>FUNDING SOURCE (Where Applicable):</b>   |   |  |  |

**RECOMMENDED ACTION:** Adopt Resolution No. R-11-024 adopting ethical and training standards for Juvenile Case Managers employed by the City of Brenham.

**APPROVALS:** Carolyn Miller, Cary Bovey and Judge Julian Weisler

**RESOLUTION NO. R-11-024**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS ADOPTING ETHICAL AND TRAINING STANDARDS FOR JUVENILE CASE MANAGERS EMPLOYED BY THE CITY OF BRENHAM; PROVIDING FOR IMPLEMENTATION OF SAID STANDARDS, AND PROVIDING FOR PERIODIC REVIEW TO ENSURE IMPLEMENTATION OF THE REQUISITE STANDARDS.**

**WHEREAS**, the City has, pursuant to Code of Criminal Procedure 102.0174, authorized a juvenile case manager fund supported by additional costs assessed and collected in municipal court; and

**WHEREAS**, the City, pursuant to Code of Criminal Procedure 45.056, employs a juvenile case manager to provide services in cases involving juvenile offenders before the court; and

**WHEREAS**, the 82<sup>nd</sup> Texas Legislature enacted Senate Bill 61, which requires a governing body employing a juvenile case manager to adopt, by December 1, 2011, reasonable rules for juvenile case managers that provide for a code of ethics, educational pre-service and in-service training standards, and training in relevant substantive areas; and

**WHEREAS**, the City wishes to ensure that its juvenile case managers receive the requisite training and are held to high ethical standards;

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

1. The City hereby adopts the Code of Ethics for Juvenile Case Managers, attached hereto as Exhibit "A", as the ethical standard to which the City's juvenile case managers shall be held, in addition to all other applicable ordinances, resolutions, and policies of the City.
2. The City hereby adopts the Educational Pre-service and In-service Training Standards, attached hereto as Exhibit "B", as the appropriate educational standards for its juvenile case managers.
3. The City hereby requires that its juvenile case managers receive training in the role of the juvenile case manager, case planning and management, applicable procedural and substantive law, courtroom proceedings and presentation, services to at-risk youth, local programs for juveniles, and the detection and prevention of abuse, exploitation, and neglect of juveniles, as set forth in Exhibit "C".
4. The City hereby directs that the rules adopted herein be implemented by the appropriate personnel of the City.

5. The City hereby requires annual review of its juvenile case managers to ensure implementation of the rules adopted herein.
6. This Resolution shall take effect immediately upon its passage.

**PASSED AND APPROVED** this 1<sup>st</sup> day of December, 2011.

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Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC  
City Secretary

## EXHIBIT “A”

# CITY OF BRENHAM CODE OF ETHICS FOR JUVENILE CASE MANAGERS

### PREAMBLE

The goal of a juvenile case manager is to assist the Brenham Municipal Court in administering the Court’s juvenile docket and in supervising its court orders in juvenile cases. The mission of the juvenile case manager is to assist judges in providing juveniles the resources to shape their futures, connect with the community, and become law abiding citizens. When applying this Code of Ethics, keep foremost in mind that the City of Brenham is guided at all times by the values of integrity, excellence, compassion, and respect for the dignity of every person.

### STANDARDS

**Confidentiality.** A juvenile case manager shall not disclose to any unauthorized person any confidential information acquired in the course of employment. A juvenile case manager shall not violate the confidentiality of juvenile clients, unless it is to seek consultation services from within the case management program, school campus, or the juvenile has threatened to harm himself, herself or others, or to provide details of any criminal activity or enterprise to appropriate law enforcement or other authorized personnel.

**Conflicts of Interest.** A juvenile case manager shall be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. In order to maintain the community’s trust in the judicial system, a juvenile case manager should not solicit or accept improper gifts, gratuities, or loans, and should avoid engaging in business relationships that give rise to an appearance of impropriety.

**Competence.** A juvenile case manager shall endeavor at all times to perform official duties properly and with courtesy and diligence. A juvenile case manager shall fulfill his or her duty and represent himself or herself only within the boundaries of his/her education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.

**Respect for the Law.** A juvenile case manager shall abide by all federal, state, county, and municipal laws, guidelines, ordinances and rules. A juvenile case manager shall be familiar with the Texas Code of Judicial Conduct and the basic standards to which members of the judiciary are held.

**Abuse of Position.** A juvenile case manager shall not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself, herself, or any other person. A juvenile case manager shall always maintain an appropriate relationship with juveniles coming under the jurisdiction of the Court. A juvenile case manager shall not discriminate against any person on the basis of race, religion, age, sex, creed, disability, or national origin.

### ENFORCEMENT

Any alleged violation of applicable ethical standards shall be subject to investigation and discipline by the City’s designated non-judicial department, supervisor or other authorized personnel.

## **EXHIBIT “B”**

### **City of Brenham - Pre-Service and In-Service Standards**

#### **Recommendations for Applicants:**

Most Preferred: a four year degree in relevant social sciences field such as social work, psychology, sociology.

Optional Preferred: a four year degree in any discipline and minimum two year experience as a case manager.

Least recommended: A high school diploma/GED and five years relevant (or applicable) experience to be determined by the City.

#### **Recommendations for existing JCM:**

Existing juvenile case managers that lack suggested areas of training should begin obtaining said requirements through the “in-service” section via a time frame to be determined by the City.

#### **Definitions:**

Pre-service Training refers to those skills, training, or certifications possessed at the time of hire or prior to the commencement of the juvenile case manager’s full duties.

In-Service Training refers to additional skills, training, or certification hours obtained after commencement of juvenile case manager’s full duties.

#### **Pre-Service Training Requirements:**

**(Minimum of 24 hours of training on the following subjects prior to start of case work)**

- The role of the juvenile case manager
- Ethics
- Juvenile law & introduction to court procedure
- Fundamentals of case planning and management
- Interagency collaboration
- Risk assessment
- Juvenile mental health
- Child psychology
- Report writing

**In-Service Training Requirements:**

**(Minimum of 8 hours of training per year to include topics such as, but not limited to, the following)**

- Mental health
- Legal updates
- Recognizing and Reporting Abuse & Neglect
- Substance Abuse
- Special Topics
  - Juvenile Gangs
  - Family Violence
  - Bullying
  - Sex offenders
  - Juveniles with Learning, Psychological, and Physical Disabilities
- Upgrades in Documentation and Technology
- How to Be an Expert Witness

## EXHIBIT “C”

### Specific Training Subjects for Juvenile Case Managers

SB 61 passed in the Texas 82<sup>nd</sup> Legislative Session, established requirements for juvenile case managers employed by Texas municipal courts. These requirements include training in topics including those listed herein.

#### The Role of the Juvenile Case Manager

In Texas, municipal and justice courts come into contact with more children accused of violating the law than juvenile courts. Juvenile case managers are employed as a local strategic measure to help prevent children from becoming further involved in the justice system and to curb juvenile crime at the local level.

A juvenile case manager provides services in cases involving juvenile offenders before a court consistent with the court's statutory powers[1]. Juvenile case managers assist the court in administering the court's juvenile docket and in supervising its orders in juvenile cases.[2] Juvenile case managers timely report any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.[3]

While state law provides some parameters, the work performed by juvenile case managers is determined in light of local needs and circumstances. Accordingly, case managers may also perform intake duties on complaints filed, operate diversion programs, implement dispositional orders by providing supervision services, and initiate proceedings for enforcing those orders in the event of a violation.[4]

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[1] Article 45.056 (a) (1), Code of Criminal Procedure.

[2] Article 45.056 (c).

[3] Article 45.056 (f).

[4] Robert O. Dawson, *Texas Juvenile Law (7<sup>th</sup> Edition)* Texas Juvenile Probation Commission (2008) at 47.

#### Case Plans and Case Management

Case management is one of the strategies used by juvenile case managers to reduce juvenile crime and help prevent children from becoming further involved in the justice system.

The case manager coordinates with local service providers to assist families in obtaining counseling, human services, or other assistance. The case plan serves as a road map to keep all parties apprised of services that have been arranged and the status of service provision.

Case plans are typically developed during an intake meeting with the family. The information gathered during the meeting assists the case manager in identifying the family's needs, services they may be currently receiving, and additional services that are needed. The greater the family's involvement in the development of the plan, the greater their commitment to the activities and goals contained in the plan.

Once needs are identified and plans to address those needs are developed, the case manager is able to follow up with the family on a regular basis to determine progress and adjust the plan as needed. Moving from crisis management to case management reduces stress for all involved and allows for more effective service provision. This assists the case manager in meeting their goals of reducing juvenile crime and preventing children from becoming further involved in the juvenile justice system.

Advantages of a case plan for the case manager:

- Allows identification of strengths and needs;
- Allows better management of complex cases by breaking the various needs into smaller "pieces"
- Assists in identification of resources that best fit the child's needs; and
- Allows the opportunity to demonstrate that the child is responsible for their failure or success.

Advantages for the youth:

- Provides alternate solutions and strategies for avoiding risky behavior or situations;
- Opportunity to learn cause and effect, how his or her behavior created the given situation
- Provides a clear understanding of who is responsible for what in terms of accomplishing the goals described in the case plan; and
- Allows the child to "learn" how to deal with problems by setting and achieving short and long term goals.

Advantages for the parent/guardian:

- Increases consistency when dealing with problem situations or behavior;
- Provides understanding of the consequences of ineffective approaches and also positive consequences of effective goal setting;
- Allows the parent to "learn" how to deal with problems by setting and achieving short and long term goals; and
- Gives parent a clear understanding of what is expected of them and what they can expect from the case manager.

### **Applicable Procedural and Substantive Law**

Training in applicable procedural and substantive law should include, but should not be limited to:

- The structure of the Texas judicial system and the jurisdiction of the municipal court;
- The basic elements of the criminal justice system, the juvenile justice system, their differences, and their interactions;
- The role of the judge and the prosecutor;
- The rights of defendants;
- The elements and statutory foundations of fine-only misdemeanors often committed by juveniles;
- Procedures for summoning juveniles and their parents/guardians into court;
- Sanctions available to the court to address and remedy offenses committed by juveniles, including mandatory sanctions required for commission of certain alcoholic beverage and tobacco offenses; and
- Procedures involving juveniles who become adults and who have unadjudicated cases or who have not complied with court orders.

## **Courtroom Proceedings and Presentation**

Training in applicable courtroom proceedings and presentation should include, but should not be limited to:

- The role of the juvenile case manager;
- Code of Ethics applicable to court employees generally and to juvenile case managers in particular;
- Courtroom protocol (covers attire, order of events, talking to defendants, etc.) and;
- Defining and maintaining professional boundaries between the juvenile case manager, the juvenile, and the juvenile's parents/guardians.

## **Services to At-Risk Youth Under Subchapter D, Chapter 264, Family Code**

Section 264.302 provides that an "At-Risk Youth" or a parent of the youth may be referred to the Department of Protective and Regulatory Services (DPRS) by municipal courts in Texas as part of sentencing. Such services require that there be a contract for services with the DPRS within the county. If there is a contract for services, and the court orders that services be provided, then the DPRS "shall provide services for the child and the child's family." Municipal courts also have broad authority to make further orders for the best interest of the child and in order to obtain compliance of the court order.

Article 45.057 of the Texas Code of Criminal Procedure also grants municipal courts broad authority to make orders to increase the likelihood that children and their families will comply with court orders that are designed to lower recidivism and address the underlying behavior highlighted by the commission of the crime.

It is critical that courts have a method for creating a broad referral base in order to avail the court of the ability to increase compliance with the court's orders and the laws of the State of Texas.

The services available for the court to order include, crisis family intervention, emergency short-term residential care for children 10 years of age or older, family counseling, parenting skills training, youth coping skills training, advocacy training, and mentoring. (Sec. 264.302 (f)(1-7), Family Code)

Under Texas Code of Criminal Procedure, Art. 45.057, a court may enter orders addressing the concerns and issues presented by Section 264.302(f) but may also enter an order requiring that the child attend a special program the court determines to be in the best interest of the child. Where there are services which have been approved by the county, the court may enter an order that includes rehabilitation, counseling, self-esteem, and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring. (Art. 45.057(2), Code of Criminal Procedure).

The court may also enter orders requiring the parents to take classes, attend school classes and functions, and refrain from behavior provided the court makes specific findings of the need for the orders in order to insure compliance of the courts orders. See Art. 45.057(3), C.C.P. The court may order the parent to incur the costs of such programs not to exceed \$100 to pay for the costs of the program. See Art. 45.057(4), C.C.P.

## **Local Programs and Services for Juveniles and Methods to Access Those Programs and Services**

Community resource awareness is an essential component in accessing services for juveniles. Community resources encourage the healthy development of juveniles and families through direct

services. These community resource services aid in addressing the cause of delinquent behavior, re-enforce accountability, remove barriers, and reduce recidivism.

The local services may include:

- crisis family intervention;
- emergency short-term residential care for children 10 years of age or older ;
- family counseling;
- parenting skills training;
- youth coping skills training;
- advocacy training; and
- mentoring.

These may be accessed through court referrals, school referrals, community referrals, and/or through Texas 2-1-1.

### **Detecting and Preventing Abuse, Exploitation, and Neglect of Juveniles**

Article 45.056, Code of Criminal Procedure, was recently amended in regards to juvenile case managers. Section 2, Subsection f, states that the governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide training in detecting and preventing abuse, exploitation, and neglect of juveniles.

The following are those areas in which juvenile case manager (JCM) training is required. The JCM should know the Texas Family Code definition of abuse, exploitation and neglect of juveniles as they will have direct access to families and juveniles in their home, school, and community environments. These definitions can be found at [http://www.dfps.state.tx.us/contact\\_us/report\\_abuse.asp](http://www.dfps.state.tx.us/contact_us/report_abuse.asp).

As per the Family Code, all citizens of Texas are required to report the belief of abuse, neglect, or exploitation of a child. Any person suspecting abuse and not reporting it can be held liable for a misdemeanor or state jail felony. JCMs should have immediate knowledge of the procedure for reporting abuse, neglect, or exploitation as they may find evidence of such while investigating and preparing their reports to the court.

JCMs consult with judges regarding:

- the child's home environment;
- the child's developmental, psychological, and educational status;
- the child's previous interaction with the justice system; and
- any sanction that is available to the court that would be in the best interest of the child

(See Art.45.056(g), C.C.P., as amended by S.B. 209).

JCMs are to give priority to cases brought under Section 25.093 (failure to attend school) and 25.094 (parent contributing to non-attendance) of the Education Code. Juvenile offenders are likely to live in environments where there is potential for lack of supervision or neglect which may contribute to truancy. Therefore, JCMs must understand the complexity of how these environments are directly contributing to continued offending by the juvenile and/or parent and the likelihood of current and potential abuse, neglect, or exploitation.



**AGENDA ITEM 10**

|   |   |   |
|---|---|---|
| <b>DATE OF MEETING:</b> December 1, 2011  |   | <b>DATE SUBMITTED:</b> 11-23-11                             |
| <b>DEPT. OF ORIGIN:</b> Administration  |   | <b>SUBMITTED BY:</b> Jeana Bellinger                        |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>   |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING     | <input checked="" type="checkbox"/> 1 <sup>ST</sup> READING |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING            |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION                         |
|   | <input type="checkbox"/> WORK SESSION       |   |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on its First Reading Related to the Organizational Structure, Operations and Best Practices of City Boards and Commissions; Continuation of Service of Current Board and Commission Members During Said Review Period; Repeal of the Term Limits Applicable to City Boards and Commissions; and Related Matters          |   |   |
| <b>SUMMARY STATEMENT:</b> In order to allow staff ample time to review the organizational structure and best practice for each board, staff is recommending that this ordinance be approved by the Council. Once this ordinance is in place, staff will begin reviewing each board/commission and bring back to council recommendations specific to each board and its overall duties and/or goals. |   |   |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>   |   |   |
| <b>A. PROS:</b> Allow staff an opportunity to review each board/commission and determine proper organizational structure, operations and best practices that work best for each based on its overall duties and/or goals.   |   |   |
| <b>B. CONS:</b> Continuity and knowledge of all city boards and commissions being removed within the next year.   |   |   |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>   |   |   |
| <b>ATTACHMENTS:</b> (1) Draft of ordinance related to the organizational structure, operations, and best practices of City Boards and Commissions   |   |   |
| <b>FUNDING SOURCE (Where Applicable):</b> N/A   |   |   |
| <b>RECOMMENDED ACTION:</b> Approve an Ordinance on its first reading related to the organizational structure, operations and best practices of City Boards and Commissions  |   |   |
| <b>APPROVALS:</b> Terry Roberts   |   |   |

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 1.**  
**FINDINGS**

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

**SECTION 2.**  
**REVIEW AND RECOMMENDATIONS**

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

**SECTION 3.**  
**CONTINUATION OF SERVICE OF APPOINTEES**

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

**SECTION 4.**  
**REPEAL OF TERM LIMITS**

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

**SECTION 5.**  
**SAVINGS CLAUSE**

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

**SECTION 6.**  
**SEVERABILITY**

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

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

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

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

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

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

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

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

**ATTEST:**

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



**AGENDA ITEM 11**

|   |   |  |  |
|---|---|--|--|
| <b>DATE OF MEETING:</b> 12/1/2011   |   | <b>DATE SUBMITTED:</b> 11/23/2011                |  |
| <b>DEPT. OF ORIGIN:</b> Public Utilities  |   | <b>SUBMITTED BY:</b> Dane Rau                    |  |
| <b>MEETING TYPE:</b>  | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                |  |
| <input checked="" type="checkbox"/> REGULAR   | <input type="checkbox"/> PUBLIC HEARING     | <input type="checkbox"/> 1 <sup>ST</sup> READING |  |
| <input type="checkbox"/> SPECIAL  | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING |  |
| <input type="checkbox"/> EXECUTIVE SESSION  | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION              |  |
|   | <input type="checkbox"/> WORK SESSION       |  |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon a Request to Extend Utilities Outside the City Limits to 4030 Highway 36 South and Authorize the Mayor to Execute Any Necessary Documentation.  |   |  |  |
| <p><b>SUMMARY STATEMENT:</b> The City of Brenham has received a request to extend utilities to a future development site located at 4030 HWY 36 South. Currently this particular property is not inside city limits but does abut the city limit line that takes in the state right-of- way on the west side of 36 South. The request received was for the extension of water and sewer to serve this development. Currently development plans call for the addition of a hair salon, a restaurant and several rental spaces totaling 26,600 square feet. The owners of this tract have looked at options such as a private well and a septic system. Due to the layout of the septic system and the multiple connections to the well it would be in their best interest to be served by city utilities. It was explained to the owner that a portion of the utility extensions would be at their costs. At that time the owners agreed that they would help in the funding of the extension. They also have expressed interest in annexation of their property if the City of Brenham so chooses and therefore will not oppose annexation.</p> <p>Over the last several months the City of Brenham along with Bleyl and Associates has been looking at the feasibility of servicing this tract with water and sewer. Currently our closest water line stops just south of Morris' Mobile Home Park located at 3700 HWY 36 S. At that point it crosses over to supply water to the Brenham State Supported Living Center. Our nearest sewer main is located on the east side of 36 South and stops at the Brenham State Supported Living Center property line. Extensions to the requested property are feasible and cost estimates have been determined. Since the requested property is in a low area compared to the receiving manhole, a pump station will be needed in order to service this tract with sewer. Cost estimates for water which includes a 1600 ft. extension of a 6" water main to the requested tract is estimated at \$26,125.00. The estimate for the sewer extension and pump station is estimated at \$29,487.50. Total cost for these utility extensions to the requested tract is estimated between \$55,000 and \$60,000. The extensions, along with the pump station, will be done in-house by both the water and sewer department. A contractor will be hired to perform the bores for this project. This was included in the total cost.</p> |   |  |  |

The owner has agreed to pay for \$28,000 of these extensions in order to be served by utilities. This is the portion in which they would have spent on a well and a septic system for this development. Staff feels like this is an equitable agreement which will eventually benefit both sides. Even though this tract is not within city limits it gives us the opportunity to extend several utilities southward along HWY 36 South for future development. All extensions were sized for future needs along with the pump station.

Attached are several maps. The first map shows the current city limits in relation to the requested property along with each utility. The second map shows the water service area along HWY 36 South and the third map shows the area that can be served by the proposed lift station.

Currently the City of Brenham has budgeted approximately \$50,000 for unplanned water line extensions and \$80,000 for unplanned sewer line extensions. Staff recommends that Council approve the utility extensions to 4030 HWY 36 South. Once this is approved, quotes will be received for materials and bores and an anticipated begin date will be in January of 2012.

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

**A. PROS:** Will allow the City of Brenham to extend utilities southward along HWY 36 South for future development. Also, a portion of the cost for this extension will be shared with developer.

**B. CONS:** Requires a lift station to serve this area and is currently outside city limits.

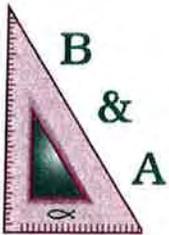
**ALTERNATIVES (In Suggested Order of Staff Preference):**

**ATTACHMENTS:** (1) Project Engineering & Management Report from Bleyl & Associates; (2) Current city limits map; (3) Current Water Service Area map; (4) Projected Sewer Service Area map; and (5) Development Layout map

**FUNDING SOURCE (Where Applicable):** 104-5-164-804.10 and 105-5-165-804.10

**RECOMMENDED ACTION** Approve a request to extend utilities outside the city limits to 4030 Highway 36 South and authorize the Mayor to execute any necessary documentation.

**APPROVALS:** Lowell Ogle Jr.



# Bleyl & Associates

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## Project Engineering & Management

1722 Broadmoor  
Suite 210  
Bryan, TX 77802

November 9, 2011

Dane Rau  
Assistant Director of Public Utilities  
P.O. Box 1059  
Brenham, Texas 77834-1059

Dear Dane:

I have completed our study of the sewer service area along SH 36 as first discussed on October 26, 2011. Our task was to define the sewer service area that could be served if a small lift station was constructed at the base of the hill on the Nichols property. Once this area was defined, I developed cost estimates for extending a 6" waterline from its current termination near the mobile home park at FM 109 to the Nichols property, and a Phase II of construction that would extend water to the edge of the sanitary sewer service area. Cost estimates for both the water and sewer improvements are included as Attachment A.

With the service area boundary defined, I used what I believe will be the ultimate land use to determine the wastewater generation rate for this area. The cost estimate presented with this letter includes the lift station construction, a 2 1/2" force main, and a tie in to the existing system.

### Nichols Tract

The Nichols property is approximately 2.7 acres in area. From our conversation with the owners, they propose building a hair salon (under construction), a restaurant, and a small strip center housing approximately 3 shops.

### Estimate Water Usage/Wastewater Generation

| Use          | Criteria  | Total                     |
|--------------|---|---------------------------|
| Hair Salon   | 15 gal/client and 40 clients/day                      | 600 GPD                   |
| Restaurant   | 18 gallons/patron and 200 patrons/day                 | 3,600 GPD                 |
| Retail       | 18 gal/day/employee and 3 shops each with 2 employees | 108 GPD                   |
| <b>TOTAL</b> |   | <b>4,308 GPD or 3 GPM</b> |

### Entire Service Area

| Ultimate Land Use         | Acreage           | Average Generation Rate | Total           |
|---------------------------|-------------------|-------------------------|-----------------|
| Nichols Tract             | 2.7               | see above               | 3 GPM           |
| Low Density Residential   | 31.1              | 0.5 GPM/acre            | 15.6 GPM        |
| Commercial                | 25.6              | 0.35 GPM/acre           | 9 GPM           |
| Single Family Residential | 12.7              | 0.7 GPM/acre            | 8.9 GPM         |
| <b>Totals</b>             | <b>72.1 acres</b> |                         | <b>36.5 GPM</b> |

State of Texas property on the east side of SH 36 has not been included in the service area boundary. The service area, existing tract information, and ultimate land use is shown fully on Exhibit A.

**Bryan**  
(979)-268-1125  
(979)-260-3849

**Austin**  
(512)-328-7878  
(512)-328-7884 Fax

**Conroe**  
(936)-5141-7833  
(936)-760-3833 Fax

### Lift Station and Force Main Recommendation

The TCEQ requires a lift station to be sized based on the anticipated peak flow. Although in older, poorly maintained systems, peaking factors can exceed 4 times the average flow, it is my opinion that a very conservative estimate for a newly constructed PVC line would be between 2.5Q and 3Q (91 GPM to 110 GPM) for the entire service area.

I contacted Hahn Equipment about a small grinder station for this application. The system shown in the attached cost estimate would come equipped with 2 – 2.7 HP 3 phase pumps, control panel, and 10' deep by 3.5' diameter fiberglass wetwell. As development occurs within the service area, larger pumps can be installed in this same wetwell.

Initially, the pumping capacity will be approximately 48 GPM. Installing larger pumps at a later date increases this capacity to 80 GPM through a 2 ½" force main.

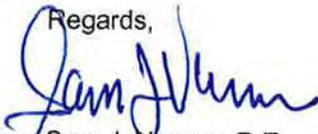
I first considered sizing the forcemain at 2", but in looking at the system curve, the friction loss dramatically increases with the installation of the larger pump while the pumping capacity is only increased by perhaps 10 GPM. The cost difference between the two diameters is negligible making the 2 ½" diameter pipe the logical choice.

A 48 GPM station will serve approximately 44% of the service area at our predicted wastewater generation rates. Installation of 80 GPM pumps serves 73% of the area (or 88% of the area assuming 2.5Q).

Obviously, this does not provide 100% service to the area; however, there is no real assurance as to when or how this service area will develop. Secondly, there is a substantial cost difference in purchasing and installing a self contained fiberglass grinder pump station versus constructing a precast concrete wetwell and conventional, submersible pumps. I estimate it will bring the lift station cost from \$32,000 to the \$85,000 - \$100,000 range. This would also affect the force main cost as the minimum size for conventional pumps is a 4" diameter pipe. Installing this proposed grinder system will allow immediate, and effective usage plus provide some margin for growth.

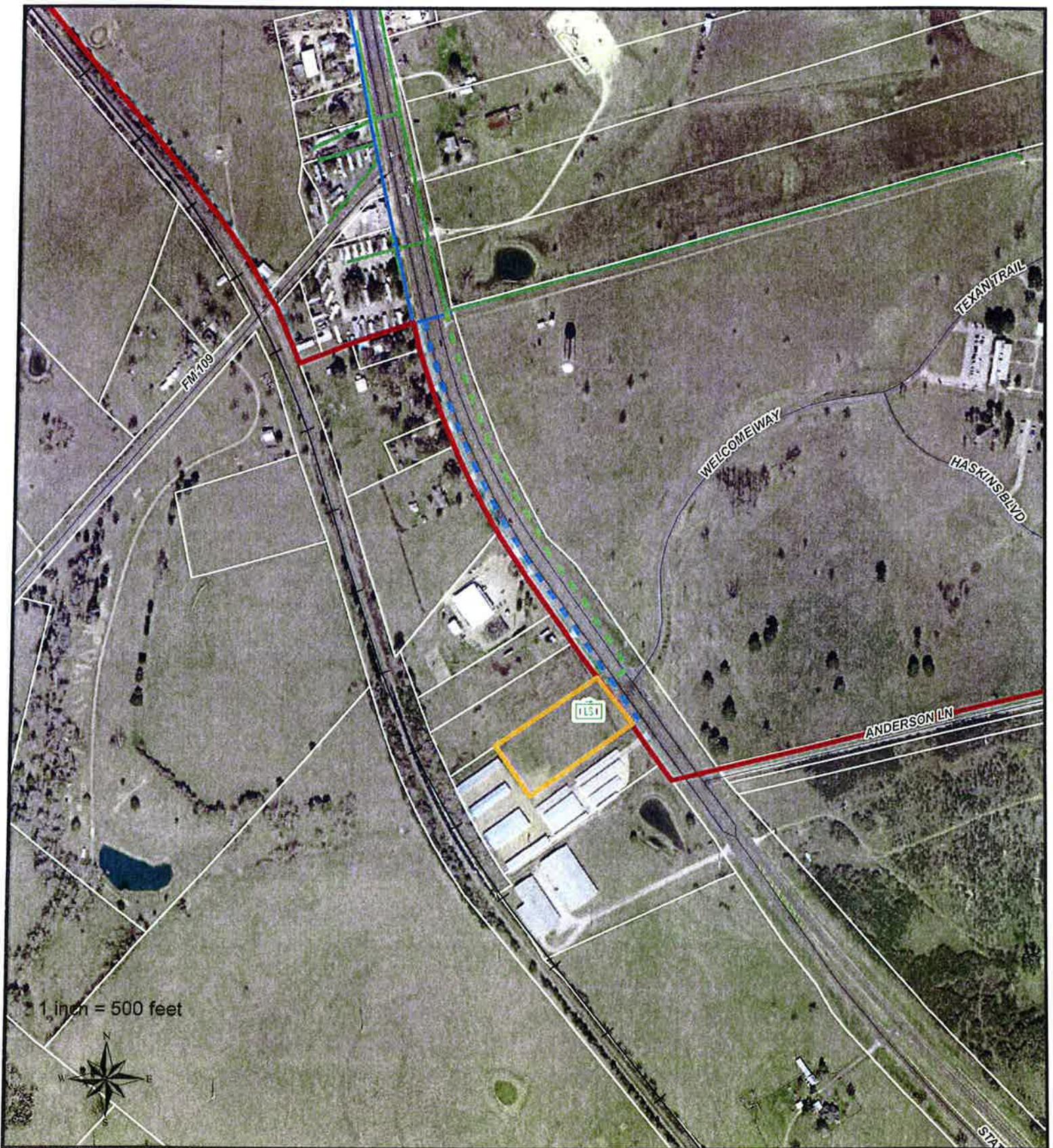
Bleyl & Associates sincerely appreciates the opportunity to assist the City in this study. Please do not hesitate to contact me with any questions, or with further assistance as this project moves forward.

Regards,



Sam J. Vernon, P.E.  
Regional Manager/Design Engineer

Attachments



**Map #1**

- |                                      |   |
|--------------------------------------|---|
| — Existing Water                     | — Proposed 2 1/2" Sanitary Sewer Force Main |
| - - - Proposed 6" Water Line Phase I | ▭ Tract 5                                   |
| — Existing Sewer                     | ▭ City Limits                               |

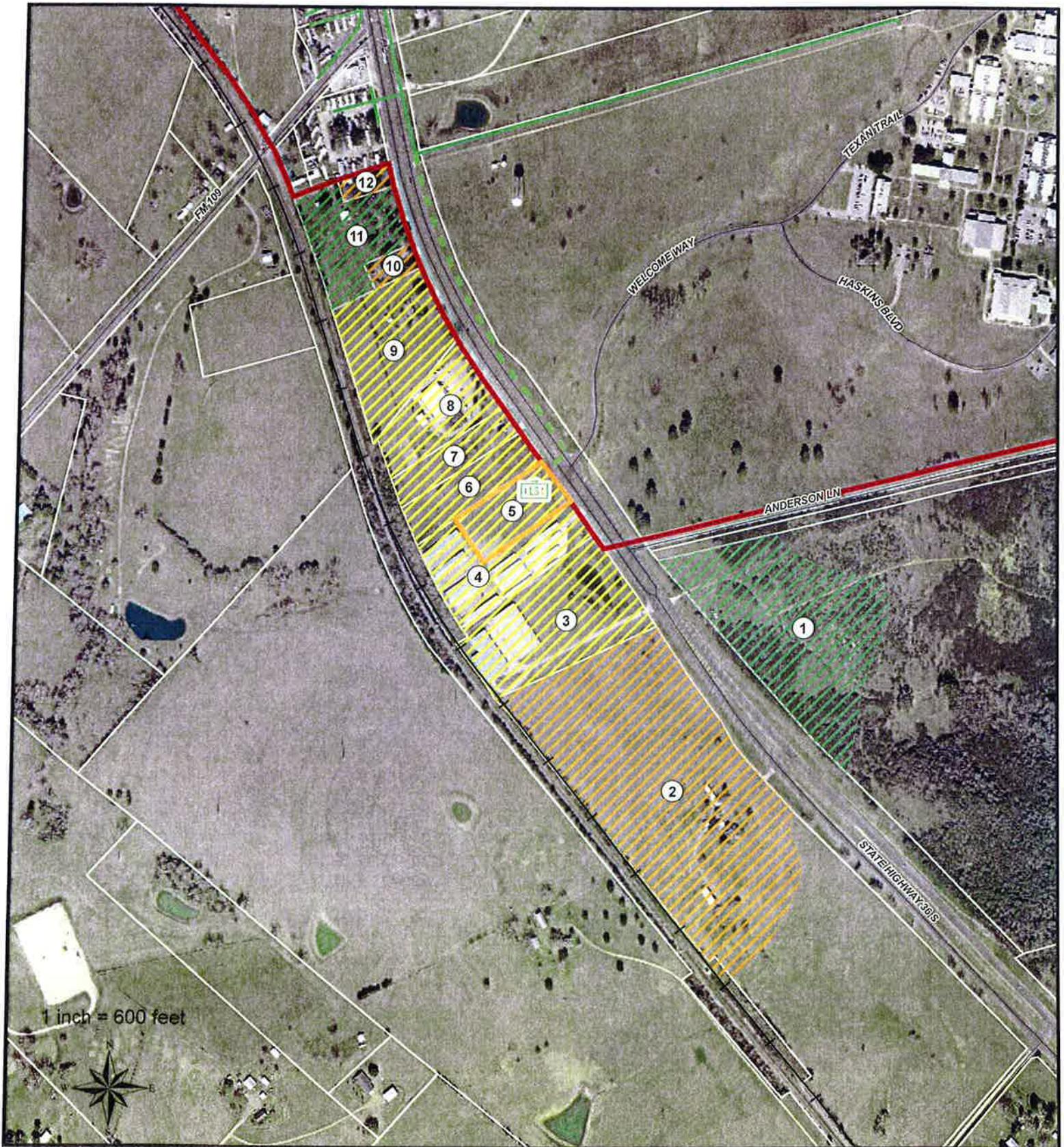


## Map #2

### CURRENT WATER SERVICE AREA

#### Legend

- Existing Water
- - - Proposed 6" Water Line Phase I
- Tract 5
- City Limits
- Brenham CCN



**Legend**

**Map #3**

**PROPOSED SEWER SERVICE AREA**

-  Existing Sewer
-  Proposed 2 1/2" Sanitary Sewer Force Main
-  Tract 5
-  City Limits
-  COMMERCIAL SERVICE AREA
-  LOW DENSITY SINGLE FAMILY RESIDENTIAL SERVICE AREA
-  SINGLE FAMILY RESIDENTIAL SERVICE AREA



**PROJECT SUMMARY:**

|            |                |                       |
|------------|----------------|-----------------------|
| Buildings: | Salon          | 2,000 sq. ft.         |
|            | Building 1     | 14,400 sq. ft.        |
|            | Building 2     | 10,200 sq. ft.        |
|            | <b>TOTAL =</b> | <b>26,600 sq. ft.</b> |

Parking: 116 spaces.

Lot 2A  
2.918 acres

Building 2  
170' x 60'  
10,200 sf

Lot 2C  
4.486 acres

Lot 2B  
2.663 acres

Electrical Easement

Building 1  
14,400 sf

Salon  
50' x 40'  
2,000 sf

Access, Utility & Drainage Easement

US 36

Lot 2C  
4.486 acres

AU&DE

AU&DE

Sheet:

**SP 1**

**Pleasant Hill Plaza**  
Jennifer & Douglas Nichols  
4030 Hwy 36 South  
Brenham, Texas

Brian Burke, P.E.  
Texas Engineering Firm F-374  
7891 FM 389  
Brenham, Texas 77833  
(979) 836-5258  
gabrfan@hotmail.com

Scale: 1" = 20'  
at full size  
Date: 11 Nov 2011  
Revs:



**AGENDA ITEM 12**

|  |   |  |
|--|---|--|
| <b>DATE OF MEETING:</b> December 1, 2011   |   | <b>DATE SUBMITTED:</b> November 21, 2011         |
| <b>DEPT. OF ORIGIN:</b> Fire / Emergency Management  |   | <b>SUBMITTED BY:</b> Ricky Boeker                |
| <b>MEETING TYPE:</b>   | <b>CLASSIFICATION:</b>                      | <b>ORDINANCE:</b>                                |
| <input checked="" type="checkbox"/> REGULAR  | <input type="checkbox"/> PUBLIC HEARING     | <input type="checkbox"/> 1 <sup>ST</sup> READING |
| <input type="checkbox"/> SPECIAL   | <input type="checkbox"/> CONSENT            | <input type="checkbox"/> 2 <sup>ND</sup> READING |
| <input type="checkbox"/> EXECUTIVE SESSION   | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION              |
|  | <input type="checkbox"/> WORK SESSION       |  |
| <b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act upon the Acceptance of a Grant in the Amount of \$13,500.00 from the Homeland Security Grant Program for the Purchase of a Solar Powered Message Board Trailer and Authorize the Mayor to Execute Any Necessary Documentation.  |   |  |
| <b>SUMMARY STATEMENT:</b> The project is a collaborative effort between the City and County Offices of Emergency Management and all Public Safety Departments (including Fire, Police, SO and EMS). All of these Departments will utilize this message board not only during hurricane evacuations but can be used during any major event in which important messages need to be relayed to the public. With this Grant there are no matching funds that are needed and we expect to be able to complete the project with Grant funds. |   |  |
| <b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>  |   |  |
| <b>A. PROS:</b> Message Boards can easily be set up to notify the public during local emergencies and do come pre-programmed with some messages.   |   |  |
| <b>B. CONS:</b>  |   |  |
| <b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>  |   |  |
| <b>ATTACHMENTS:</b> (1) 2011 Sub-Recipient Award Agreement; and (2) Brochure from American Sign Company  |   |  |
| <b>FUNDING SOURCE (Where Applicable):</b> Grant Proceeds- no local match needed  |   |  |
| <b>RECOMMENDED ACTION:</b> Acceptance of a grant in the amount of \$13,500 from the Homeland Security Grant Program for the purchase of a solar powered message board trailer and authorize the Mayor to execute any necessary documentation.  |   |  |
| <b>APPROVALS:</b> Terry K. Roberts   |   |  |



# Texas Department of Public Safety

## 2011 Sub-Recipient Award for City of Brenham

|                                     |                                  |
|-------------------------------------|----------------------------------|
| <b>1. General Award Information</b> | <b>Reference/Encumbrance No:</b> |
|-------------------------------------|----------------------------------|

|   |                                     |  |
|---|-------------------------------------|--|
| <b>Date of Award: November 17, 2011</b> | <b>Prepared By: Gabbart, Steven</b> | <b>3. SAA Award Number: 11-SR 10156-01</b> |
|---|-------------------------------------|--|

|  |                                     |
|--|-------------------------------------|
| <b>4. Sub-Recipient Name and Address</b> | <b>5. Federal Grant Information</b> |
|--|-------------------------------------|

|  |   |
|--|---|
| Mayor Milton Y. Tate<br>City of Brenham<br>P.O. Box 1059<br>Brenham, TX 77834-1059 | <b>Federal Grant Title:</b> Homeland Security Grant Program (HSGP)<br>State Homeland Security Program(SHSP) |
|  | <b>Federal Grant Award Number:</b> EMW-2011-SS-00019  |
|  | <b>Federal Granting Agency:</b> Department of Homeland Security FEMA<br>Grant Programs Directorate          |
|  | <b>Date Federal Grant Awarded to TxDPS:</b> October 7, 2011   |
| <b>CFDA:</b> 97.067  |   |

|   |
|---|
| <b>6. Award Amount and Grant Breakdowns</b> |
|---|

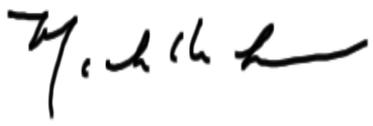
|                                       |   |                     |
|---------------------------------------|---|---------------------|
| <b>SHSP</b><br><br><b>\$13,500.00</b> | <b>Grant Period:</b>  |                     |
|                                       | From:<br>Sep 1, 2011  | To:<br>Aug 31, 2013 |
|                                       | <b>(The SAA must receive all invoices by the end of grant period)</b> |                     |

**7. Statutory Authority for Grant:** The Department of Defense and Full-Year Continuing Appropriations Act 2011 (Public Law 112-10), and Section 2003 of the Homeland Security Act of 2002, as amended by section 101 of the Implementing Recommendations of the 9/11 Commission Act, 6 U.S.C. 604.

**8. Method of Payment:** Primary method is reimbursement.

**9. Debarment/Suspension Certification:** The Sub-Recipient certifies that the sub-recipient and its contractors/vendors are not debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department or agency and do not appear in the Excluded Parties List System at <http://www.epls.gov/epls/search.do>

|                             |
|-----------------------------|
| <b>10. Agency Approvals</b> |
|-----------------------------|

|  |   |
|--|---|
| <b>Approving TxDPS Official:</b><br>Machel Pharr<br>Deputy Assistant Director<br>Texas Homeland Security<br>State Administrative Agency<br>Texas Department of Public Safety | <b>Signature of TxDPS Official:</b><br> |
|--|---|

|                                     |
|-------------------------------------|
| <b>11. Sub-Recipient Acceptance</b> |
|-------------------------------------|

**I have read, understood and agree to this Sub-Recipient Agreement and the attached Terms and Conditions.**

|   |   |
|---|---|
| <b>Print name and title of Authorized Sub-Recipient official:</b> | <b>Signature of Sub-Recipient Official:</b> |
|   |   |

|   |                     |                      |
|---|---------------------|----------------------|
| <b>Enter Employer Identification Number (EIN) or Federal Tax Identification Number:</b> | <b>DUNS Number:</b> | <b>Date Signed :</b> |
|   |                     |                      |

**DUE DATE: January 5, 2012 Signed award and Direct Deposit Form must be returned to TxDPS on or before the due date.**

# 2011 TERMS AND CONDITIONS

## **Instructions:**

The Sub-recipient must:

1. Fill in the information and sign the Sub-Recipient Award,
2. Certify they have read and understand the Terms and Conditions by initialing the bottom of each page.
3. Fill in the information located on Page 4.
4. Certify to the statements provided in Exhibits A, B, C and D located at the back of this document by filling in contact information and signing all exhibits.
5. Return all documents to the DPS/THSSAA on or before the date provided in the transmittal letter and/or in the agreement.

## **Parties to Sub-recipient Agreement**

This Sub-recipient Agreement (includes the Sub-recipient Award and the Terms and Conditions) is made and entered into by and between the Department of Public Safety / Texas Homeland Security State Administrative Agency, an agency of the State of Texas, hereinafter referred to as "DPS/THSSAA," and the funds recipient, hereinafter referred to as the "Sub-recipient." Furthermore, DPS/THSSAA and the Sub-recipient are collectively hereinafter referred to as the "Parties." The Sub-recipient Agreement is only an offer until the Sub-recipient returns the signed copy of the 2011 Sub-recipient Agreement on or before the date provided in the transmittal letter and/or in the Sub-recipient Agreement Award.

Sub-recipient may not assign or transfer any interest in this Sub-recipient Agreement without the express, prior written consent of the DPS/THSSAA.

## **Overview and Performance Standards**

**All allocations and use of funds under this grant must be in accordance with the FY 2011 Grant Program Guidance for the Federal Grant Title specified on the Sub-recipient Agreement Award.** All award Sub-recipients are required to have read, understood and accepted the FY 2011 Grant Program Guidance as binding.

**Standard of Performance.** The Sub-recipient shall perform all activities and projects entered into the DPS/THSSAA web-based grants management system which were approved by the THSSAA. The Sub-recipient shall perform all activities in accordance with all terms, provisions and requirements set forth in this Sub-recipient agreement, Terms and Conditions and the following Exhibits located at the end of this document:

1. Assurance – Non-Construction Programs, hereinafter referred to as "**Exhibit A**"
2. Assurance – Construction Programs, hereinafter referred to as "**Exhibit B**"
3. Certification, hereinafter referred to as "**Exhibit C**"
4. Assurance – From UGMS §\_\_\_.14 hereinafter referred to as "**Exhibit D**"

**Failure to Perform.** In the event the Sub-recipient fails to implement the project(s) entered into the DPS/THSSAA web-based grants management system, or comply with any of this Sub-recipient agreement's provisions, in addition to the remedies specified in this Sub-recipient agreement, the Sub-recipient is liable to DPS/THSSAA for an amount not to exceed the award amount of this Sub-recipient agreement and may be barred from applying for or receiving additional DHS/FEMA grant program funds or any other federal program funds administered by DPS/THSSAA until repayment to DPS/THSSAA is made and any other compliance or audit finding is satisfactorily resolved. Failure to timely implement projects may reduce future funding in additional DHS/FEMA grant programs administered by the DPS/THSSAA.

## **DPS/THSSAA Obligations**

**Measure of Liability.** DPS/THSSAA shall not be liable to the Sub-recipient for any costs incurred by the Sub-recipient that are not allowable costs.

**Sub-recipient Agreement Funds Defined and Limit of Liability.** The term "Sub-recipient agreement funds" as used in this Sub-recipient agreement means funds provided by DPS/THSSAA under the DHS/FEMA grant programs. The term "Sub-recipient's funds" or match funds as used in this Sub-recipient agreement means funds provided by the Sub-recipient.

Notwithstanding any other provision of this Sub-recipient agreement, the total of all payments and other obligations incurred by DPS/THSSAA under this Sub-recipient agreement shall not exceed the Total Award Amount listed on the Sub-recipient Award.

Sub-recipient shall contribute the match funds listed on the Sub-recipient Award.

**Excess Payments.** The Sub-recipient shall refund to DPS/THSSAA any sum of Sub-recipient agreement funds that has been paid to the Sub-recipient by DPS/THSSAA or that DPS/THSSAA determines has resulted in overpayment to the Sub-recipient or that DPS/THSSAA determines has not been spent by the Sub-recipient in accordance with this Sub-recipient agreement. No refund payment(s) may be made from local, state or federal grant funds unless repayment with grant funds is specifically permitted by statute or regulation. The Sub-recipient shall make such refund to DPS/THSSAA within thirty (30) days after DPS/THSSAA requests such refund.

Initial \_\_\_\_\_ Date **59** \_\_\_\_\_

## **Suspension**

In the event the Sub-recipient fails to comply with any of this Sub-recipient Agreement's terms, DPS/THSSAA may, upon written notification to the Sub-recipient, suspend this Sub-recipient agreement in whole or in part, withhold payments to the Sub-recipient and prohibit the Sub-recipient from incurring additional obligations of Sub-recipient agreement funds.

## **Termination**

**DPS/THSSAA's Right to Terminate.** DPS/THSSAA shall have the right to terminate this Sub-recipient agreement, in whole or in part, at any time before the end of the Performance Period, whenever DPS/THSSAA determines that the Sub-recipient has failed to comply with any of this Sub-recipient Agreement's terms. DPS/THSSAA shall notify the Sub-recipient in writing prior to the thirtieth (30th) day preceding the termination of such determination and include:

1. the reasons for such termination;
2. the effective date of such termination; and
3. in the case of partial termination, the portion of the Sub-recipient agreement to be terminated.

Appeal may be made to the Deputy Director of Homeland Security, Department of Public Safety.

## **Enforcement**

In taking an enforcement action, the awarding agency will provide the sub-recipient an opportunity for such hearing, appeal, or other administrative proceeding to which the sub-recipient is entitled under any statute or regulation applicable to the action involved.

## **Conflict of Interest**

No employee, officer or agent of the sub-recipient shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

## **Monitoring**

Sub-recipients will be monitored periodically by federal, state or local entities, both programmatically and financially, to ensure that project goals, objectives, performance requirement, timelines, milestone completion, budget, and other related program criteria are being met.

DPS/THSSAA or its authorized representative reserves the right to perform periodic desk/office-based and/or on-site monitoring of the Sub-recipient's compliance with this Sub-recipient agreement's terms and conditions and of the adequacy and timeliness of the Sub-recipient's performance pursuant to this Sub-recipient agreement. After each monitoring visit, DPS/THSSAA shall provide the Sub-recipient with a written report of the monitor's findings. If the monitoring report notes deficiencies in the Sub-recipient's performance under this Sub-recipient agreement's terms, the monitoring report shall include requirements for the timely correction of such deficiencies by the Sub-recipient. Failure by the Sub-recipient to take action specified in the monitoring report may be cause for this Sub-recipient agreement's suspension or termination pursuant to the Suspension and/or Termination Section.

## **Audit**

**Audit of Federal and State Funds.** The Sub-recipient shall arrange for the performance of an annual financial and compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement as required by the Single Audit Act (OMB Circular A – 133; 44 C.F.R. 13.26). The Sub-recipient will also comply, as applicable, with Texas Government Code, Chapter 783, 1 TAC 5.141.et. seq. and the Uniform Grant Management Standards (UGMS), State Uniform Administrative Requirements for Grants and Cooperative Agreements.

**Right to Audit.** The Sub-recipient shall give the United States Department of Homeland Security (DHS), the Comptroller General of the United States, the Texas State Auditor, DPS/THSSAA, or any of their duly authorized representatives, access to and the right to conduct a financial or compliance audit of Sub-recipient agreement funds received and performances rendered under this Sub-recipient agreement. The Sub-recipient agrees to permit DPS/THSSAA or its authorized representative to audit the Sub-recipient's records. The sub-recipient shall provide any documents, materials or information necessary to facilitate such audit.

**Sub-recipient's Liability for Disallowed Costs.** The Sub-recipient understands and agrees that it shall be liable to DPS/THSSAA for any costs disallowed pursuant to financial and compliance audit(s) of Sub-recipient agreement funds. The Sub-recipient further understands and agrees that reimbursement to DPS/THSSAA of such disallowed costs shall be paid by the Sub-recipient from funds that were not provided or otherwise made available to the Sub-recipient pursuant to this Sub-recipient agreement or any other federal contract.

**Sub-recipient's Facilitation of Audit.** The Sub-recipient shall take such action to facilitate the performance of such audit(s) conducted pursuant to this Section as DPS/THSSAA may require of the Sub-recipient. The Sub-recipient shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Sub-recipient and the requirement to cooperate is included in any subcontract it awards.

## **Other Requirements**

A. During the performance period of this grant, Sub-recipient government jurisdictions must maintain an Emergency Management Plan at the Intermediate Level of planning preparedness or higher, as prescribed by the Texas Division of Emergency Management (TDEM). This may be accomplished by a jurisdiction maintaining its own emergency management plan or participating in an inter-jurisdictional emergency management program that meets the required standards. If TDEM identifies deficiencies in the Sub-recipient government jurisdiction's plan, Sub-recipient will correct deficiencies within 60 days of receiving notice of such deficiencies from TDEM.

Initial \_\_\_\_\_ Date **60** \_\_\_\_\_

B. Projects identified in the DPS/THSSAA web-based grant management system must identify and relate to the goals and objectives indicated by the applicable approved project investments for the period of performance of the grant. Sub-recipient will submit its project plans, narrative and budget to DPS/THSSAA and FEMA (if required) for approval prior to expending or requesting advances of any funds for this award. During the performance period of this grant, Sub-recipient agrees that it will participate in a legally-adopted county and/or regional mutual aid agreement.

C. During the performance period, the Sub-recipient must be a registered user of the Texas Regional Response Network (TRRN) (or other response asset inventory management system specified by DPS/THSSAA) and must identify all major resources such as vehicles and trailers, equipment costing \$5,000 or more, and specialized teams/response units equipped and/or trained using grant funds (i.e. hazardous material, decontamination, search and rescue, etc.). This registration is to ensure jurisdictions or organizations are prepared to make grant funded resources available to other jurisdictions through mutual aid.

D. Sub-recipients must submit Fiscal Year 2010 Indirect Cost Allocation Plan signed by Cognizant Agency. "Cognizant agency" means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under 2 CFR Part 225 on behalf of all Federal agencies. OMB publishes a listing of cognizant agencies. Plan should be forwarded to the DPS/THSSAA.

E. Regional Planning Commissions/Council of Governments (COGs) will follow guidelines listed in the DPS/THSSAA FY2011 COG Statement of Work.

F. Sub-recipient acknowledges that FEMA National Preparedness Directorate reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for government purposes: (1) the copyright in any work developed under an award or sub-award; and (2) any rights of copyright to which a recipient or Sub-recipient purchases ownership with Federal support. The sub-recipient agrees to consult with DPS/THSSAA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

**Closing the Grant**

A. The Sub-recipient must have expended all grant funds and submitted expenditure reimbursement requests and any invoices by the end of the performance period listed on the sub-recipient agreement.

B. DPS/THSSAA will close a sub-award after receiving Sub-recipient's final performance report indicating that all approved work has been completed and all funds have been disbursed, completing a review to confirm the accuracy of the reported information, and reconciling actual costs to award modifications and payments. If the close out review and reconciliation indicates that the Sub-recipient is owed additional funds, DPS/THSSAA will send the final payment automatically to the Sub-recipient. If the Sub-recipient did not use all the funds received, DPS/THSSAA will issue a Grant Adjustment Notice (GAN) to recover the unused funds. Sub-recipient will return the funds to the DPS/THSSAA within 30 days of receiving the GAN.

C. At the completion of the sub-recipient's performance period, DPS/THSSAA will de-obligate all uncommitted / unexpended funds.

**Restrictions, Disclaimers and Notices**

A. In cases where local funding is established by a COG or UASI governing board, the release of funds by DPS/THSSAA is contingent upon funding allocation approval by the governing board.

B. Notwithstanding any other agreement provisions, the parties hereto understand and agree that DPS/THSSAA's obligations under this agreement are contingent upon the receipt of adequate funds to meet DPS/THSSAA's liabilities hereunder, except as required by HSGP grant. DPS/THSSAA shall not be liable to the Sub-recipient for costs under this Agreement which exceed the amount specified in the Sub-recipient Award.

C. All notices or communication required or permitted to be given by either party hereunder shall be deemed sufficiently given if mailed by registered mail or certified mail, return receipt requested, or sent by overnight courier, such as Federal Express or Loan Star, to the other party at its respective address set forth below or to a Point of Contact listed for the sub-recipient in the DPS/THSSAA Grants Management System.

| DPS/THSSAA Contact Information   |  | Sub-Recipient Contact Information<br><i>(Please Fill-In Contact Information below)</i> |
|--|--|--|
| Deputy Assistant Director,<br>Texas Homeland Security State Admin. Agency<br>Texas Department of Public Safety<br>P.O. Box 4087<br>Austin, TX 78773-0220 |  | Name:<br>Title:<br>Agency:<br>Address:   |

**Uniform Administrative Requirements, Cost Principals and Audit Requirements**

Except as specifically modified by law or this Sub-recipient agreement's provisions, the Sub-recipient shall administer the award through compliance with the most recent version of all applicable Laws and Regulations. A non-exclusive list is provided below.

**A. Administrative Requirements**

1. 44 C.F.R. Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;
2. 2 C.F.R. Part 215, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (OMB Circular A-110).
3. 44 CFR Part 10, Environmental Considerations

## **B. Cost Principles**

1. 2 C.F.R. Part 225, Cost Principles for State, Local and Indian Tribal Governments (OMB Circular A-87)
2. 2 C.F.R. Part 220, Cost Principles for Education Institutions (OMB Circular A-21)
3. 2 C.F.R. Part 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122)
4. 48 CFR 31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations

## **C. Audit Requirements –OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.**

## **D. Grant Guidance**

The sub-recipient agrees that all allocations and use of funds under this grant will be in accordance with the applicable FY2011 Grant Program Guidance and application kit and supplemental resources, e.g., for Homeland Security Grant Program currently available at [http://www.fema.gov/txt/government/grant/2011/fy11\\_hsgp\\_kit.txt](http://www.fema.gov/txt/government/grant/2011/fy11_hsgp_kit.txt); for Regional Catastrophic Preparedness Grant Program, [http://www.fema.gov/txt/government/grant/2011/fy11\\_rcpgp\\_kit.txt](http://www.fema.gov/txt/government/grant/2011/fy11_rcpgp_kit.txt); for Emergency Operations Center Grant Program [http://www.fema.gov/txt/government/grant/2011/fy11\\_eoc\\_kit.txt](http://www.fema.gov/txt/government/grant/2011/fy11_eoc_kit.txt); and Nonprofit Security Grant Program, [http://www.fema.gov/txt/government/grant/2011/fy11\\_nsgp\\_kit.txt](http://www.fema.gov/txt/government/grant/2011/fy11_nsgp_kit.txt).

### **Lobbying Prohibited**

Sub-Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly in support of the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval of FEMA.

### **Environmental Review**

The Sub-recipient, as soon as possible upon receiving their grant award, must provide information to DPS/THSSAA to assist with the legally-required environmental planning and historic preservation (EHP) review and to ensure compliance with applicable EHP laws and Executive Orders (EO) currently using the FEMA EHP Screening Form OMB Number 1660-0115/FEMA Form 024-0-01 and submitting it, with all supporting documentation, to DPS/THSSAA for review. These EHP requirements include but are not limited to National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, EO 11988 – Floodplain Management, EO 11990 – Protection of Wetlands, and EO 12898 – Environmental Justice. The recipient must comply with all Federal, State, and local EHP requirements and obtain applicable permits and clearances. See FEMA Information Bulletin 329.

Recipient shall not undertake any written activity from the project that would result in ground disturbance, facility modification, or purchase and use of sonar equipment without the prior approval of FEMA. These include but are not limited to communications towers, physical security enhancements involving ground disturbance, new construction, and modifications to buildings that are 50 years old or older. Recipient must comply with all mitigation or treatment measures required for the project as the result of FEMA's EHP review. Any changes to an approved project description will require re-evaluation for compliance with EHP requirements before the project can proceed. If ground disturbing activities occur during project implementation, the recipient must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the recipient will immediately cease construction in that area and notify FEMA and the appropriate State Historical Preservation Office. Initiation of these activities prior to completion of FEMA's EHP review will result in a non-compliance finding and may not be eligible for grant funding.

### **Retention and Accessibility of Records**

**Retention of Records.** The Sub-recipient shall maintain fiscal records and supporting documentation for all expenditures of Sub-recipient agreement funds pursuant to the applicable OMB Circular, 44 CFR Section 13.42, UGMS § 42, and this Sub-recipient agreement. The Sub-recipient shall retain these records and any supporting documentation for a minimum of three (3) years from the later of the completion of this project's public objective, submission of the final expenditure report, any litigation, dispute, or audit. Records shall be retained for 3 years after any real estate or equipment final disposition. The DHS or DPS/THSSAA may direct the sub-recipient to retain documents or to transfer certain records to DHS custody when DHS determines that the records possess long term retention value.

**Access to Records.** The Sub-recipient shall give the United States Department of Homeland Security (DHS), the Comptroller General of the United States, the Texas State Auditor, DPS/THSSAA, or any of their duly authorized representatives, access to and the right to examine all books, accounts, records, reports, files, other papers, things or property belonging to or in use by the Sub-recipient pertaining to this Sub-recipient agreement including records concerning the past use of DHS/FEMA funds. Such rights to access shall continue as long as the records are retained by the Sub-recipient. The Sub-recipient agrees to maintain such records in an accessible location and to provide citizens reasonable access to such records consistent with the Texas Public Information Act, Texas Government Code Chapter 552.

**Inclusion in Subcontracts.** The Sub-recipient shall include the substance of the Retention of Records and Access to Records sections in all subcontracts.

**After Action Reporting.** The Sub-recipient shall complete, deliver to the appropriate source, and retain copies of all after-action and certificates of completion for all training and exercises paid for by this grant.

### **Legal Authority**

**Signatory Authority.** The Sub-recipient assures and guarantees that the Sub-recipient possesses the legal authority to enter into this Sub-recipient agreement, receive Sub-recipient agreement funds and to perform the services the Sub-recipient has obligated itself to perform pursuant to this Sub-recipient agreement.

**Authorized Representative.** The person or persons signing and executing this Sub-recipient agreement on the Sub-recipient's behalf do warrant and guarantee that he, she or they have been duly authorized by the Sub-recipient to execute this Sub-recipient agreement on the Sub-recipient's behalf and to validly and legally bind the Sub-recipient to all contractual terms, performances and provisions.

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Conflicts in Requirements. If conflict exists between federal, state, or local requirements, the sub-recipient shall comply with the strictest requirement.

### **Notice of Litigation and Claims**

The Sub-recipient shall give DPS/THSSAA immediate notice in writing of any action, including any proceeding before an administrative agency, filed against the Sub-recipient arising out of the performance under this Sub-recipient agreement.

Except as otherwise directed by DPS/THSSAA, the Sub-recipient shall furnish immediately to DPS/THSSAA copies of all documentation or pleadings received by the Sub-recipient with respect to such action or claim.

### **Non-Waiver of Defaults**

ANY FAILURE OF DPS/THSSAA, AT ANY TIME, TO ENFORCE OR REQUIRE THE STRICT KEEPING AND PERFORMANCE OF ANY PROVISION OF THIS AGREEMENT WILL NOT CONSTITUTE A WAIVER OF SUCH PROVISION, AND WILL NOT AFFECT OR IMPAIR SAME OR THE RIGHT OF DPS/THSSAA AT ANY TIME TO AVAIL ITSELF OF SAME. A WAIVER DOES NOT BECOME EFFECTIVE UNLESS DPS/THSSAA EXPRESSLY AGREES TO SUCH WAIVER IN WRITING. ANY PAYMENT BY DPS/THSSAA SHALL NOT CONSTITUTE A WAIVER OR OTHERWISE IMPAIR OR PREJUDICE ANY RIGHT, POWER, PRIVILEGE, OR REMEDY AVAILABLE TO DPS/THSSAA TO ENFORCE ITS RIGHTS, AS SUCH RIGHTS, POWERS, PRIVILEGES, AND REMEDIES ARE SPECIFICALLY PRESERVED.

### **Indemnity**

AS PERMITTED BY LAW, SUB-RECIPIENT SHALL INDEMNIFY, DEFEND AND HOLD DPS/THSSAA AND THE STATE OF TEXAS (INCLUDING ITS DIRECTORS, COMMISSIONERS, EMPLOYEES, AGENTS AND THEIR SUCCESSORS) ("INDEMNITEES") HARMLESS FROM AND AGAINST ANY OF THE FOLLOWING THAT ARISE OUT OF OR RESULT FROM SUB-RECIPIENT'S NEGLIGENCE (ANY AND ALL), FAULT, ACT, FAILURE TO ACT, OMISSION, BREACH OF THIS AGREEMENT OR VIOLATION OF ANY STATE OR FEDERAL LAW AND/OR REGULATION, AS WELL AS ANY VIOLATION OF ANY MATTER MADE THE BASIS OF A TREATY AND/OR CONVENTION AND/OR AGREEMENT BETWEEN THE UNITED STATES AND ANOTHER NATION: CLAIMS; LAWSUITS; DAMAGES; LIABILITIES; PENALTIES; TAXES; FINES; INTEREST; EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, INVESTIGATION COSTS AND ALL DIRECT OR INDIRECT COSTS OR EXPENSES INCURRED IN DEFENDING AGAINST ANY CLAIM, LAWSUIT, OR OTHER PROCEEDING, INCLUDING THOSE EXPENSES INCURRED IN ANY NEGOTIATION, SETTLEMENT, OR ALTERNATIVE DISPUTE RESOLUTION); ANY AND ALL DAMAGES, HOWEVER CHARACTERIZED, SUCH AS DIRECT, GENERAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS, LOSS OF USE, OR LOSS OF DATA) ARISING OUT OF OR IN CONNECTION WITH OR RELATED TO THIS AGREEMENT OR THE RIGHTS PROVIDED THEREIN.

IN ANY AND ALL CLAIMS AGAINST ANY OF THE INDEMNITEES BY ANY EMPLOYEE OF THE SUB-RECIPIENT OR ANY EMPLOYEE OF ITS SUBCONTRACTOR(S), THE INDEMNIFICATION OBLIGATION UNDER THIS AGREEMENT WILL NOT BE LIMITED IN ANY WAY BY THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR THE SUB-RECIPIENT OR ANY OF ITS SUBCONTRACTOR(S) UNDER WORKER'S DISABILITY COMPENSATION ACTS, DISABILITY BENEFITS ACTS, OR OTHER EMPLOYEE BENEFITS ACTS.

SUB-RECIPIENT SHALL COORDINATE ITS DEFENSE AND ANY SETTLEMENT WITH THE ATTORNEY GENERAL FOR THE STATE OF TEXAS AS REQUESTED BY THE DPS/THSSAA. IN ANY SETTLEMENT, SUB-RECIPIENT MUST NOT MAKE ANY ADMISSION OF LIABILITY ON THE PART OF ANY OF THE INDEMNITEES.

THIS SECTION SHALL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION, CONTRIBUTION OR RIGHT WHICH ANY OF THE INDEMNITEES HAVE BY LAW OR EQUITY.

THIS SECTION SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THIS AGREEMENT.

### **Changes and Amendments**

Modification. FEMA or the DPS/THSSAA may change the award document after an award has been made. Once notification has been made in writing, any subsequent request for funds indicates sub-recipient's acceptance of the changes to the award.

Written Amendment. Alterations, additions or deletions to this Sub-recipient agreement's terms, such as changes to period of performance and award amounts, will be made through Grant Adjustment Notices generated by the DPS/THSSAA web-based grants management system and executed by the Parties.

Authority to Amend. During the period of this Sub-recipient agreement's performance DPS/THSSAA and/or FEMA may issue policy directives that serve to establish, interpret or clarify this Sub-recipient agreement's performance requirements. Such policy directives shall be promulgated by DPS/THSSAA or FEMA in the form of Information Bulletins and Sub-recipient Manuals and shall have the effect of qualifying this Sub-recipient agreement's terms and shall be binding upon the Sub-recipient as if written in the Sub-recipient agreement.

Effect of Changes in Federal and State Laws. Any alterations, additions, or deletions to the Sub-recipient agreement's terms that are required by the changes in federal and state laws or regulations are automatically incorporated into this Sub-recipient agreement without written amendment to this Sub-recipient agreement and shall become effective on the date designated by such law or regulation. In the event FEMA or DPS/THSSAA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate sub-recipient acceptance of the changes to the award.

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## **Headings**

Headings and captions of this Sub-recipient agreement's sections and paragraphs are only for convenience and reference. These headings and captions shall not affect or modify this Sub-recipient agreement's terms or be used to interpret or assist in the construction of this Sub-recipient agreement.

## **Venue**

For purposes of litigation pursuant to this Sub-recipient agreement, venue shall lie in Travis County, Texas, and be governed by Texas Law.

## **Other General Conditions**

**DUNS Number.** Sub-recipient confirms its Data Universal Numbering Systems Number (DUNS) is the number listed on the Sub-recipient agreement award. Data Universal Numbering System (DUNS) number means the nine digit number established and assigned by Dun and Bradstreet, Inc., at 866/705-5711 or <http://fedgov.dnb.com/webform>.

**Central Contractor Registration and Universal Identifier Requirements.** Sub-recipient maintains that it has registered on [www.ccr.gov](http://www.ccr.gov), and entered DPS/THSSAA-required information. See SAA Information Bulletin. Sub-recipient will keep current, and then review and update the CCR information at least annually, at the beginning of September of each year. Sub-recipient will keep information current in Central Contractor Registration database until the later of when it submits this grant's final financial report or receives final grant award payment. Sub-recipient agrees that it will not make any subaward agreement or contract related to this award without first obtaining the vendor/subawardee's mandatory DUNS number. See section .210 of OMB Circular A-133, Audits of States, Local Governments, and Non-profit Organizations.

**Reporting Total Compensation of Sub-recipient Executives.** 2 CFR 170.320; see FEMA Information Bulletin 350; SAA Information Bulletin.

1. Applicability and what to report: Sub-recipient must report whether Sub-recipient received \$25 million or more in Federal procurement contracts or financial assistance subject to the Transparency Act per 2 CFR 170.320. Sub-recipient must report whether 80% or more of Sub-recipient's annual gross revenues were from Federal procurement contracts or Federal financial assistance. If Sub-recipient answers "yes" to both questions, Sub-recipient must report, along with Sub-recipient's DUNS number, the names and total compensation (see 17 CFR 229.402(c)(2)) for each of the Sub-recipient's five most highly compensated executives for the preceding completed fiscal year.

2. Where and when to report. Sub-recipient must report executive total compensation at [www.ccr.gov](http://www.ccr.gov). By signing this agreement Sub-recipient is certifying that, if required, Sub-recipient's jurisdiction has already registered, entered the required information, and agrees to keep information in the Central Contractor Registration database current, and update the information at least annually at the beginning of September for each year until the later of when the jurisdiction submits its final financial report or receives final payment. Sub-recipient agrees that it will not make any subaward agreement or contract without first obtaining the subawardee's mandatory DUNS number.

**Contract Provisions.** All contracts executed under this award will contain the contract provisions listed under 44 CFR 13.37(b), Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

**No Contracts with Debarred or Suspended Parties.** Prior to contracting with any vendor or subawardee, the Sub-recipient will determine whether the vendor/subawardee is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal department and agency and will confirm the vendor/subawardee does not appear in the Excluded Parties List System, currently at [www.epls.gov/search.do](http://www.epls.gov/search.do).

**Direct Deposit.** Since September 1, 2011, Sub-recipient has either forwarded or is currently forwarding to DPS an updated direct deposit form currently available at <http://www.window.state.tx.us/taxinfo/taxforms/74-176.pdf>. Sub-recipient may simultaneously sign up for the Advance Payment Notification email feature which provides state of Texas payees with a one-business-day advance notice that a direct deposit payment has been sent to their financial institution. After receiving an APN, payees may securely access their payment details online.

**Points of Contacts.** Within 30 days of any change, Sub-recipient will enter, confirm, and/or correct the chief elected official, program, and/or financial points of contact in the DPS/THSSAA grant management system.

**Publications.** All publications produced as a result of this funding, which are submitted for publication in any magazine, journal, or trade paper shall carry the following: "This material is based upon work supported by the U.S. Department of Homeland Security. The views and conclusions contained in this document are those of the authors and should not be interpreted as necessarily representing the official policies, either expressed or implied, of the U.S. Department of Homeland Security."

**Quarterly Performance Reports.** The sub-recipient will submit performance reports and progress reviews per DPS/THSSAA and/or FEMA's direction. Currently most reports are entered into the grants management system. For Homeland Security Grant Program, Emergency Operations Center Grant Program, Regional Catastrophic Preparedness Grant Program and Non-profit awards performance reports are currently due on each January 20, April 20, July 20 and October 20. The final report is to be filed the quarter after the end of Sub-recipients performance period. Failure to timely complete performance reports will result in the Sub-recipient being unable to request additional reimbursements/advances.

**Controlled Unclassified Information.** Some information and materials provided pursuant to or resulting from this Award may be export controlled, sensitive, for official use only or otherwise protected by law, executive order or regulation. The sub-recipient is responsible for compliance with all applicable laws and regulations.

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Security Requirements. Sub-recipients of this award shall use their own security procedures and protections to protect Sensitive Information received or distributed under this Award. The sub-recipient shall also establish procedures to provide reasonable assurance that no Sensitive Information will be developed or generated under this award. Such security procedures should include procedures (e.g., security check forms, type of background check/investigations performed (if necessary) and requirements for successful adjudication of the type of background check/investigations performed) to determine the suitability of sub-recipients' personnel requiring recurring access to government facilities or access to Sensitive Information provided under this award. A copy of the security procedures and any proposed Non-Disclosure Agreement for the sub-recipients' personnel shall be submitted to the DPS/THSSAA within two (2) weeks after signing this agreement. The sub-recipient will be notified of any concerns that may be identified once the security procedures are forwarded and reviewed by DHS.

Sensitive Information. Work under this award may involve access to Sensitive Information from the Federal Government. Therefore, the sub-recipient shall not disclose, orally or in writing, any Sensitive Information to any person unless authorized in writing by the DHS Grants Officer. Further, the sub-recipient shall ensure that Sensitive Information is protected in such a manner that it is safeguarded from public disclosure in compliance with local, state or Federal laws and with sub-recipient's security procedures. For those sub-recipient personnel authorized access to Sensitive Information, the sub-recipient must ensure that these persons receive training concerning the protection and disclosure of Sensitive Information both during and after the period of performance.

Public Dissemination of Sensitive Information. The sub-recipient will notify the DPS/THSSAA of any workshops, conferences, seminars or other public venues at least 100 days before presenting any potentially sensitive information regarding this project. No Sensitive Information may be presented by the sub-recipients' personnel without DPS/THSSAA and DHS Grants Officer's review and prior written approval.

Security Concerns/Violations. The sub-recipient shall inform the THSSAA's Deputy Assistant Director in writing within two (2) days of the sub-recipient being made aware of any security concerns with individuals having access to government facilities or Sensitive Information. In the event that Sensitive Information is divulged in violation of sub-recipient's security procedures, the sub-recipient will immediately notify the DPS/THSSAA Deputy Assistant Director and take appropriate law enforcement and legal action.

Site Visits. The DHS and/or DPS/THSSAA, through authorized representatives, has the right, at all reasonable times to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by the DHS on the premises of the sub-recipient, or a contractor under this Award, the sub-recipient shall provide and shall require its contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

Use of DHS, DPS, and DPS/THSSAA Seals and Non-Endorsement. The sub-recipient shall obtain the respective agency's prior written approval before using either agencies' seal. Funding of this Award does not equate to endorsement of use of funding agencies' seals.

## Prohibited Activities

### 1) Trafficking In Person and Commercial Sex Act Prohibition

- a) Provisions applicable to a sub-recipient that is a private entity.
  - i) A sub-recipient and/or the sub-recipient's employees, may not:
    - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
    - (2) Procure a commercial sex act during the period of time that the award is in effect; or
    - (3) Use forced labor in the performance of the award or sub-award under this award.
  - ii) DPS/THSSAA or FEMA may unilaterally terminate this award, without penalty, if the sub-recipient that is a private entity:
    - (1) Is determined to have violated a prohibition in paragraph 1a of this award term; or
    - (2) Has an employee who is determined by an agency official authorized to terminate the award to have violated a prohibition of this award term through conduct that is either:
      - (a) Associated with performance under this award; or
      - (b) Imputed to the sub-recipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government Debarment and Suspension (Non-procurement)," as implemented at 2 CFR Part 3000.
- b) Provisions applicable to a sub-recipient that is not a private entity.
  - i) THSSAA may unilaterally terminate this award, without penalty, if the sub-recipient:
    - (1) Is determined to have violated a prohibition in paragraph 1a of this award term; or
    - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a1 of this award term through conduct that is either:
      - (1) Associated with performance under this award; or
      - (2) Imputed to the sub-recipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government Debarment and Suspension (Non-procurement)," as implemented at 2 CFR Part 3000.
  - ii) THSSAA may unilaterally terminate this award, without penalty, if the sub-recipient:
    - (1) Is determined to have violated a prohibition in paragraph 1a of this award term; or
    - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a1 of this award term through conduct that is either:
      - (1) Associated with performance under this award; or
      - (2) Imputed to the sub-recipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government Debarment and Suspension (Non-procurement)," as implemented at 2 CFR Part 3000.
- c) Provisions applicable to any recipient:
  - i) A Sub-recipient must inform the DPS/THSSAA immediately of any information it received from any source alleging a violation of a prohibition in paragraph a1 of this award term.
  - ii) DPS/THSSAA's right to terminate unilaterally is described in 1b or 2 of this section:
    - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104 (g)), and
    - (2) Is in addition to all other remedies for noncompliance that are available to DPS/THSAA under this award.
  - iii) Sub-recipient must include the requirements of 1a of this award term in any sub-award the sub-recipient makes to a private entity.
- d) Definitions. For purposes of this award term:
  - i) "Employee" means either:
    - (1) An individual employed by a sub-recipient who is engaged in the performance of the project or program under this award; or
    - (2) Another person engaged in the performance of the project or program under this award and not compensated by Sub-recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - ii) "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt, bondage, or slavery.
  - iii) "Private entity" means:
    - (1) Any entity other than a State, local government, Indian Tribe, or foreign public entities, as those terms are defined in 2 CFR 175.25.
    - (2) Includes:
      - (a) A non-profit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian Tribe at 2 CFR 175.25(b).
      - (b) A for-profit organization
  - iv) "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meaning given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

### 2) Classified Security Condition

- a) "Classified national security information" as defined in Executive Order (EO) 12958, as amended, means information that has been determined pursuant to EO 12958 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form.
- b) No funding under this award shall be used to support a contract, sub-award, or other agreement for goods or services that will include access to classified national security information if the award recipient has not been approved for that access to such information
- c) Where an award recipient has been approved for and has access to classified national security information, no funding under this award shall be used to support a contract, sub-award, or other agreement for goods or services that will include access to classified national security information by the contractor, sub-awardee, or other entity without prior written approval from the DHS Office of Security, Industrial Security Branch Program (ISBP), or an appropriate official within the Federal department or agency with whom the classified effort will be performed.
- d) Such contracts, sub-awards, or other agreements shall be processed and administered in accordance with the DHS "Standard Operation Procedures, Classified Contracting by States and Local Entities," dated July 7, 2008: EO's 12829, 12959, 12968, as amended; the National Industrial Security Program Operating Manual (NISPOM); and /or other applicable implementing directives or instruction. All security requirement documents are currently located at: <http://www.dhs.gov/xopnbiz/grants/index.shtm>.
- e) Immediately upon determination by the award recipient that funding under this award will be used to support such a contract, sub-award, or other agreement, and prior to execution of any action to facilitate the acquisition of such a contract sub-award, or other agreement, the award recipient shall contact ISPB, or the appropriate Federal department or agency, for approval and processing instructions. DHS Office of Security ISPB contact information: Telephone: 202-447-5346, Email: D254AdministrativeSecujidhs.gov, Mail: Department of Homeland Security, Office of the Chief Security Officer, ATTN: ASD/Industrial Security Program Branch, Washington, DC. 20528

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**Operation Stonegarden (OPSG) Specific Condition**

The OPSG Sub-recipient is prohibited from obligating or expending Operation Stonegarden (OPSG) funds provided through this award until each unique, specific, or modified county level or equivalent Operational Order/Frag Operation Order with embedded estimated operational budget has been reviewed and approved through an official email notice issued by FEMA removing this special programmatic condition. The Operations Order approval process/structure is as follows: Operations Orders are submitted to (1) THE APPROPRIATE Customs and Border Productions (CBP) Border Patrol (BP) Sector Headquarters (HQ) upon approval by the Sector HQ, forwarded through the Border Patrol Enforcement Transfer System (BPets) system to (2) the OPSG Coordinator, CBP/BP Washington, DC and upon approval forwarded to (3) Federal Emergency Management Agency (FEMA), Grant Program Directorate (GPD), Grant Development and Administrative Division (GD&A). Notification of release of programmatic hold will be sent by FEMA via email to the Texas Homeland Security State Administrative Agency (THSSAA) with a copy to OPSG Coordinator at CBP/BP HQ, Washington DC.

**Emergency Operations Center Grant Program (EOCGP) Specific Condition**

The Sub-recipient is prohibited from obligating, expending or drawing down EOCGP funds provided through this award until the required budget and budget narrative are reviewed and approved by FEMA and an official notice has been issued from FEMA removing this special condition.

**Regional Catastrophic Preparedness Grant Program (RCPGP) Specific Condition**

The Sub-recipient is prohibited from obligating or expending RCPGP funds provided through this award until the required budget and budget narrative are approved by FEMA and this condition is rescinded. In addition, the Sub-recipient is prohibited from obligating or expending RCPGP funds provided through this award until DHS/FEMA has provided signed approval of the project narrative and project plans to the Sub-recipient.

**State Requirements for Grants**

Sub-recipient shall also comply with all other federal, state, and local laws and regulations applicable to this Sub-recipient agreement's activities and performances rendered by the Sub-recipient including but not limited to the laws and the regulations promulgated in Texas Government Code Chapter 783, Uniform Grant and Contract Management Code: State Administrative Agency Information Bulletins, currently available at [http://www.txdps.state.tx.us/director\\_staff/saa/information\\_bulletins.htm](http://www.txdps.state.tx.us/director_staff/saa/information_bulletins.htm), Texas Uniform Grants Management Standards (UGMS) currently at [governor.state.tx.us/files/state-grants/?UGMS062004.doc](http://governor.state.tx.us/files/state-grants/?UGMS062004.doc); and the State Administrative Agency Sub-recipient Manual, currently available at [http://www.txdps.state.tx.us/director\\_staff/saa/documents/subrecipientManual.pdf](http://www.txdps.state.tx.us/director_staff/saa/documents/subrecipientManual.pdf). Sub-recipient(s) must, in addition to the assurances and certifications, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of the award, and the approved application.

The Sub-recipient will follow Texas General Appropriations Act, Art. IX, section 4.05 which requires conforming with:

- a) Texas General Appropriations Act, Art. IX, Parts 2 and 3 of the General Appropriations Act, except there is no requirement for increased salaries for local government employees;
- b) Texas Government Code section 556.004, 556.005, and 556.006 including not using any money or vehicle to support the candidacy of any person for office; not influencing positively or negatively the payment, loan, or gift to a person or political organization for a political purpose; and not using grant funds to influence the passage or defeat of a legislative including not assisting with the funding of a Lobbyist, or using grant funds to pay dues to an organization with a registered Lobbyist;
- c) Texas Government Code section 2113.012 and 2113.101 including not using grant funds to compensate any employee who uses alcoholic beverages on active duty plus Sub-recipient may not use grant funds to purchase an alcoholic beverage and may not pay or reimburse any travel expense for an alcoholic beverage;
- d) Texas General Appropriations Act, Art. IX, section 6.13 requiring Sub-recipients to make every effort to attain key performance target levels associated with this grant award, including performance milestones, milestone time frames, and related performance reporting requirements; and
- e) General Appropriations Act, Art. IX, section 7.01, 7.02, and 7.03 and Texas Government Code § 2102.0091, including grants funds may only be expended if the Sub-recipient timely completes and files its reports.

***Please fill in the appropriate information and sign.***

Print Name of Authorized Official \_\_\_\_\_

Title \_\_\_\_\_

Sub-recipient Organization \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

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## EXHIBIT A

### ASSURANCES - NON-CONSTRUCTION PROGRAMS See Standard Form 424B

As the duly authorized representative of the sub-recipient, I certify that the sub-recipient:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this agreement.
2. Will give the Department of Homeland Security, the Department of Public Safety, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee- 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93- 205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, grant guidance, and policies governing this program.

***Please fill in the appropriate information and sign.***

Print Name of Authorized Official \_\_\_\_\_

Title \_\_\_\_\_

Sub-recipient Organization \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Official                      Date

Initial \_\_\_\_\_ Date \_\_\_\_\_

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## EXHIBIT B

### ASSURANCES - CONSTRUCTION PROGRAMS

As the duly authorized representative of the sub-recipient, I certify that the sub-recipient:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of project described in this agreement.
2. Will give the Department of Homeland Security, the Department of Public Safety, the Comptroller General of the United States and, if appropriate, the State, the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards of merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681 1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which agreement for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the agreement.
11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327- 333) regarding labor standards for federally-assisted construction sub-agreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91- 190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

Initial \_\_\_\_\_ Date \_\_\_\_\_ **70**



## Exhibit C

### Certifications

The undersigned, \_\_\_\_\_ (print), as the authorized official of \_\_\_\_\_ certifies the following to the best of his/her knowledge and belief.

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, of modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee or a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL Disclosure of Lobbying Activities, in accordance with its instructions.

C. The undersigned shall require that the language of this certification prohibiting lobbying be included in the award documents for all sub-awards at all tiers (including subcontract, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

D. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 C.F.R. Part 67, for prospective participants in primary covered transactions, as defined at 28 C.F.R. Part 67, Section 67.510. (Federal Certification). The Sub-recipient certifies that it and its principals and vendors:

1. Are not debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency; Sub-recipients can access debarment information by going to [www.epls.gov](http://www.epls.gov) and the State Debarred Vendor List

[www.window.state.tx.us/procurement/prog/vendor\\_performance/debarred](http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred).

2. Have not within a three-year period preceding this agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (D)(2) of this certification; and

4. Have not within a three-year period preceding this agreement had one or more public transactions (Federal, State, or local) terminated for cause or default; or

5. Where the sub-recipient is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this agreement. (Federal Certification)

E. The Sub-recipient certifies federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Sub-recipient may be required to supply documentation certifying that a reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

F. Sub-recipient must comply with 2 CFR Part 180 Subpart C as a condition of receiving grant funds, and sub-recipient must require such compliance in any sub-grants or contract at the next tier.

G. Drug-free Workplace Act, as amended, 41 U.S.C. §701 et seq. – Requires the recipient to publish a statement about its drug-free workplace program and give a copy of the statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out. Also, place(s) where work is being performed under the award (i.e., street address, city, state, and zip code) must be maintained on file. The recipient must notify the Grants Officer of any employee convicted of a violation of a criminal drug statute that occurs in the workplace. For additional information, see 44 CFR Part 17.

H. Sub-recipient agrees that it is not delinquent on any Federal debt.

I. Sub-recipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.

J. Sub-recipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.

***Please fill in the appropriate information and sign.***

Print Name of Authorized Official \_\_\_\_\_

Title \_\_\_\_\_

Sub-recipient Organization \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date \_\_\_\_\_

Initial \_\_\_\_\_ Date **73** \_\_\_\_\_

## EXHIBIT D

### State of Texas Assurances

As the duly authorized representative of the sub-recipient, I certify that the sub-recipient

1. Will comply with Texas Government Code, Chapter 573, by ensuring that no officer, employee, or member of the applicant's governing body or of the applicant's contractor shall vote or confirm the employment of any person related within the second degree of affinity or the third degree of consanguinity to any member of the governing body or to any other officer or employee authorized to employ or supervise such person. This prohibition shall not prohibit the employment of a person who shall have been continuously employed for a period of two years, or such other period stipulated by local law, prior to the election or appointment of the officer, employee, or governing body member related to such person in the prohibited degree.
2. Must insure that all information collected, assembled, or maintained by the applicant relative to a project will be available to the public during normal business hours in compliance with Texas Government Code, Chapter 552, unless otherwise expressly prohibited by law.
3. Must comply with Texas Government Code, Chapter 551, which requires all regular, special, or called meetings of governmental bodies to be open to the public, except as otherwise provided by law or specifically permitted in the Texas Constitution.
4. Must comply with Section 231.006, Texas Family Code, which prohibits payments to a person who is in arrears on child support payments.
5. Will not contract with or issue a license, certificate, or permit to the owner, operator, or administrator of a facility if the subgrantee is a health, human services, public safety, or law enforcement agency and the license, permit, or certificate has been revoked by another health and human services agency or public safety or law enforcement agency.
6. Must comply with all rules adopted by the Texas Commission on Law Enforcement Officer Standards and Education pursuant to Chapter 1701, Texas Occupations Code or must provide the grantor agency with a certification from the Texas Commission on Law Enforcement Officer Standards and Education that the agency is in the process of achieving compliance with such rules if the subgrantee is a law enforcement agency regulated by Texas Occupations Code, Chapter 1701.
7. Will follow all assurances. When incorporated into a grant award or contract, standard assurances contained in the application package become terms or conditions for receipt of grant funds. Administering state agencies and local subrecipients shall maintain an appropriate contract administration system to insure that all terms, conditions, and specifications are met. (See UGMS Section \_\_.36 for additional guidance on contract provisions).
8. Must comply with the Texas Family Code, Section 261.101, which requires reporting of all suspected cases of child abuse to local law enforcement authorities and to the Texas Department of Child Protective and Regulatory Services. Subgrantees shall also ensure that all program personnel are properly trained and aware of this requirement.
9. Will comply with all federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color, or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps and the Americans with Disabilities Act of 1990; (d) the Age Discrimination Act of 1974, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to the nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
10. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally assisted construction subagreements.
11. Will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Political Activity Act (5 U.S.C. §§7321-29), which limit the political activity of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act and the Intergovernmental Personnel Act of 1970, as applicable.
14. Will insure that the facilities under its ownership, lease, or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental Protection Agency's (EPA) list of Violating Facilities and that it will notify the Federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA (EO 11738).

Initial \_\_\_\_\_ Date **74** \_\_\_\_\_

15. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234. Section 102(a) requires the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition proposed for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards.

16. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

17. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

18. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

19. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

20. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

21. Will comply with Public Law 103-277, also known as the Pro-Children Act of 1994 (Act), which prohibits smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

22. Will comply with all federal tax laws and are solely responsible for filing all required state and federal tax forms.

23. Will comply with all applicable requirements of all other federal and state laws, executive orders, regulations, and policies governing this program.

24. Certifies that is and its principals are eligible to participate and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and it is not listed on a state or federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.

25. Must adopt and implement applicable provisions of the model HIV/AIDS work place guidelines of the Texas Department of Health as required by the Texas Health and Safety Code, Ann., Sec. 85.001, et seq.

**Please fill in the appropriate information and sign.**

Print Name of Authorized Official \_\_\_\_\_

Title \_\_\_\_\_

Sub-recipient Organization \_\_\_\_\_

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Date

Initial \_\_\_\_\_ Date **75** \_\_\_\_\_

# CMS-T331 Changeable Message Sign

## Character Matrix Sign - 3 Lines x 8 Characters



American Signal Company

Catalog No.: AMS30065206



The AMSIG **CMS-T331** has enhanced legibility, is cost effective, requires low maintenance, easy to operate, and is built to last. Our innovative Dynapoint™ Optical Technology in combination with proven ultra-bright, wide angle (30) degree amber LEDs provide enhanced visibility and legibility in both daylight and nighttime conditions.

The **CMS-T331** is a full size, three line x eight character, portable changeable message sign utilizing LED display technology. This unit is capable of optional remote operation and/or radar overspeed messaging

### FEATURES:

- Character Matrix
- 3 Lines x 8 Discrete Characters
- 2 Font Sizes: 4x7 , 5x7
- 18" characters
- SOLR™ Primary Power Charging
- 30 day nominal battery
- Onboard AC charger
- Weather tight control cabinet w/ backlit LCD handheld controller
- Sign raise/ lower with electric hydraulic lift w/ manual backup

### OPTIONS:

- Cellular (CDMA/1XRTT, GSM/GPRS)
- Landline or Ethernet (TCP/IP) Options
- Radar Overspeed Detection
- Queue Detection
- NTCIP Compliant/ Compatible
- Radar Data Logging with graphing capability
- ITMS Work Zone Compatible
- Graphic User Interface Software
- Highway Advisory Radio
- AIMSTAR™ Adjustable Solar Assembly

### *COST EFFECTIVE*

- SOLR™ primary power charging system
- Energy-Efficient
- Environmentally Sound

### *LOW MAINTENANCE*

- Minimal and simple maintenance
- Long life LEDs
- SOLR™ primary power supply
- Easily removeable trailer tongue and/ or hitch

### *BUILT TO LAST...*

- Designed to operate in inclement weather

### *EASY TO USE*

- User-friendly Interface
- Local and/or remote sign control
- Messages are easy to create and modify

American Signal Company  
2755 Bankers Industrial Drive  
Atlanta, GA 30360  
770-448-6650 • info@amsig.com  
www.amsig.com

\*\*\* specifications subject to change with technology



**PHYSICAL/MECHANICAL**

- Height (raised) 162" / 4.1m
- Height (storage) 109.3" / 2.8m
- Length 188.3" / 4.8m
- Trailer Width 79.5" / 2.0m
- Sign Case Height 79.5" / 2.0m
- Sign Case Width 137" / 3.48m
- Sign Raise/Lower electric-hydraulic w/ manual backup
- LED Operating Temp -22° to +165° F / -30° C - -73° C
- Electronics Temp. Rating -30° to +165° F / -34° C - 73° C

**ELECTRICAL / LED DISPLAY**

- Update Speed-Variable Timing .10 sec increments
- LED Color 590nm ITE Amber/ Yellow
- Character Size / Height 18" / 457mm
- LEDs Per Pixel 4 x 30° LEDs
- Matrix Type Discrete Characters
- Matrix Size 5 x 7 per character module

**CONTROL/OPERATION**

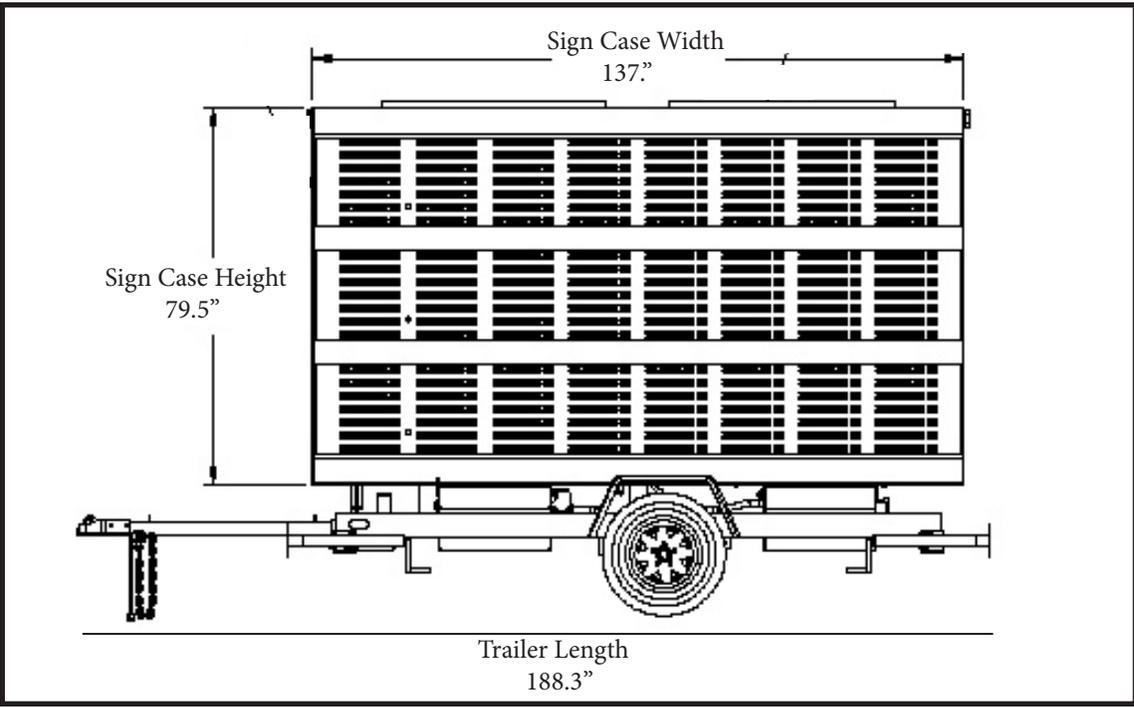
- Control Console Display Backlit LCD
- Pre-Programmed Messages 199
- User-Defined Messages 199
- Message Sequences 250

**SOLR™ PRIMARY POWER CHARGING OPTION**

- Battery Life 30 Day Standard Configuration
- Land Power On-board charger recharges battery pack.

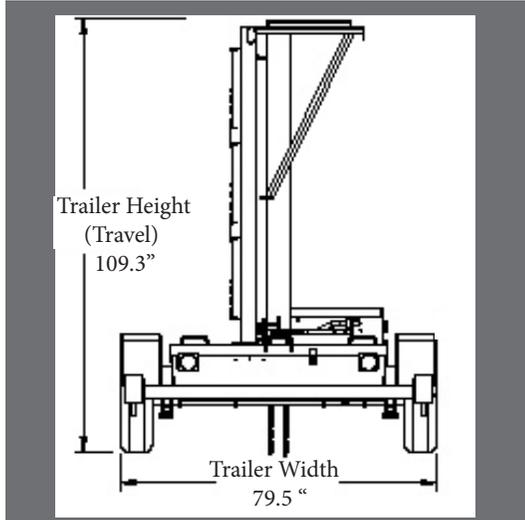
**DISPLAY**

- Our LED design provides outstanding legibility in all weather conditions, with wide angle visibility.
- 199 factory pre-programmed MUTCD Compliant Messages
- 199 user-defined messages permit infinite range for all applications
- Over 1200' of legibility



- OPTIONS:**
- Cellular (CDMA/1XRTT, GSM/GPRS)
  - Landline or Ethernet (TCP/IP) Options
  - Radar Overspeed Detection
  - Radar Data Logging w/ graphing capability
  - NTCIP Compliant/ Compatible
  - Queue Detection
  - ITMS Work Zone Compatible
  - Graphic User Interface Software
  - Highway Advisory Radio
  - AIMSTAR™ Adjustable Solar Assembly
  - Multiple Hitch Types

- ADDITIONAL FEATURES:**
- Weather tight control cabinet with back lit LCD handheld controller
  - Dynapoint® Optical Technology provides enhanced visibility and legibility in both day and night



- Enhanced Legibility and Visibility
- Superior Power Management
- Environmentally Friendly
- Wide-Angle Viewing
- Energy Efficient