



**NOTICE OF A SPECIAL MEETING OF
THE BRENHAM CITY COUNCIL
AND
WASHINGTON COUNTY COMMISSIONERS
TO BE HELD IN A JOINT SESSION ON
THURSDAY, DECEMBER 13, 2012 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 – Mayor Tate**
- 3. Discussion and Overview of Interlocal Agreements Between the City of Brenham and Washington County and the Work Performed by the Joint City-County ILA Task Force**
Page 1 - 4
- 4. a. Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Control Services and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**
b. Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Control Services and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)

Page 5 - 13

5. a. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Shelter Services and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Shelter Services and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 14 - 21

6. a. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County Related to the Operation of and Improvements to Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County Related to the Operation of and Improvements to Linda Anderson Park and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 22 - 30

7. a. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 31 - 38

8. a. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 39 - 46

9. a. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Health Inspection Services and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Health Inspection Services and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 47 - 59

10. a. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County to Share Costs Related to the Brazos Valley Wide Area Communications System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County to Share Costs Related to the Brazos Valley Wide Area Communications System (BVWACS) and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 60 - 69

11. a. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Fire Protection and Fire Rescue Services and Authorize the Mayor to Execute Any Necessary Documentation (City Action Item Only)**

b. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Fire Protection and Fire Rescue Services and Authorize the County Judge to Execute Any Necessary Documentation (County Action Item Only)**

Page 70 - 88

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 13, 2012 agenda of items to be considered by the City of Brenham City Council and the Washington County Commissioners Court was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on December 10, 2012 at **11:30 AM**.

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 and the Commissioners Court was removed by me from the City Hall bulletin board on the _____ day of _____, 2012 at _____ AM PM.

Signature

Title



AGENDA ITEM 3

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discussion and Overview of Interlocal Agreements Between the City of Brenham and Washington County and the Work Performed by the Joint City-County ILA Task Force			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor and City Council

Cc: County Judge and Commissioners Court

From: Terry K. Roberts, City Manager

Subject: **City-County Joint Meeting 2012 – ILA Overview**

Date: December 7, 2012

Introduction:

The City and County have entered into a number of interlocal agreements (ILAs) in which we share services or where the City provides service to county citizens for a specific level of compensation. A number of those agreements were enacted in December 2010 for one year with a one year extension option. Those agreements need some type of action before the end of the year.

As was done in 2010, the Mayor and Judge appointed a City and County Task Force to study the expiring interlocal agreements to prepare for a joint meeting to act upon them. Representing the City in the discussions were Mayor Tate, Councilmember Ebel and Councilmember Herring. Representing the County were Judge Brieden and Commissioner Hanath.

The Task Force met four times since June to review a number of those agreements in hopes of reaching a consensus for funding for 2013 and beyond. The results were mixed. Progress was made on some, others have yet to be discussed and no consensus was reached on one major agreement – the fire and rescue ILA.

Workload Goal: Completed Review of Three ILAs:

The purpose of this memorandum is to provide you background on the work of the ILA Task Force's review of the various interlocal agreements. Early on in the process, it became obvious we were not going to complete the review of all agreements set to expire at the end of the year.

The Task Force agreed to focus on three agreements and carryover the others into 2013 in hopes of completing the entire review prior to the beginning of the budget work for both entities in late spring/early summer next year. The consensus was to focus on public safety agreements first.

Within the public safety umbrella, the three ILAs reviewed were:

- Brenham Fire Department fire and rescue in rural Washington County
- BVWACS radio system operational costs
- Food handling inspections by the City's code enforcement officer.

The Joint Task Force has recommendations on two of the three ILAs that were reviewed but stalemated on the fire and rescue agreement. The City and County negotiators were unable to reach a consensus on what was fair and equitable to both sides. It is clear the City and County see things differently on who should pay for what and in what amount.

The goal was to bring a Task Force recommendation for the three to the joint meeting of the City Council and Commissioners Court and carry five over for one year. The agreements not yet reviewed by the Task Force are:

- Animal Control Services
- Animal Shelter Services
- Linda Anderson Park
- Library Services
- Jail Services & 9-1-1 Emergency Communications

These agreements have not yet been reviewed in 2012. Some are more intertwined than others. Parks and library funding are contributions to these operations since county citizens available themselves of these services. Animal control and animal shelter are related but somewhat independent of one another. The jail for dispatch ILA, for example, is a more complex barter agreement that involves analysis of both operations.

Conclusion:

Both City and County officials have spoken of the desire to work together and avoid duplication of service but when both sides have differing opinions on what is fair and equitable, it makes for a difficult process to reach an agreement.

I hope this memorandum is helpful in providing you insight into what has transpired in our Task Force ILA discussions. This will be your first opportunity to participate in the ILA discussions since December 2010. I recognize this material is lengthy but there was much to cover.

If you have any questions, please do not hesitate to contact me.



AGENDA ITEM 4

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Control Services and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Control Services; and (3) ILA currently in effect until December 31, 2012.			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Animal Control Services
Date: December 7, 2012

This is one of the agreements not yet reviewed by the joint ILA Task Force. Because it has not been discussed, the current agreement is presented for a one year extension. The plan of the Task Force is to bring a recommendation for 2014 funding to both governing bodies prior to the start of budget work in June of 2013.

The current agreement states that the City will deliver animal control/enforcement services to the County whenever the County (Sheriff's office) requests such services.

The County is billed \$65.00 per animal control service call and \$175.00 for each animal control call related to an animal bite case. In consideration of the County's \$45,600 annual contribution to the city's animal shelter, the County is not billed for the first three (3) animal control calls per month.

The primary animal control services provided to Washington County have been injured animals, assisting with animals in a vehicle when the driver is placed under arrest, assisting with animal seizure warrants (i.e. animal cruelty), and handling bite cases.

The County usually does not call the Animal Control personnel out for county calls after hours unless it is an emergency.

STATE OF TEXAS)
)
COUNTY OF WASHINGTON)

ADDENDUM TO AND MODIFICATION OF:

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BRENHAM
AND WASHINGTON COUNTY FOR ANIMAL CONTROL SERVICES**

This Addendum to and Modification of the “Interlocal Agreement Between the City of Brenham and Washington County for Animal Control Services” (the “Agreement”), said Agreement having an effective date of January 1, 2011, is made by and between the City of Brenham, Texas (“City”) and Washington County, Texas (“County”), in consideration of the mutual undertakings and obligations expressed herein and the Agreement, as an addendum to and modification of the Agreement executed between the parties.

Section 5.0 of the Agreement is modified to read as follows:

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until December 31, 2013.

This Addendum and Modification shall prevail over any provision or term contained in the initial Agreement having an effective date of January 1, 2011, and any other agreement between the City and County, to the extent said instruments may be inconsistent with the terms of this Addendum and Modification.

This Addendum and Modification is agreed to and accepted by both parties to the Agreement, and shall be effective as of the 1st day of January, 2013.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
County Judge

ATTEST:

Jeana Bellinger
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR ANIMAL CONTROL SERVICES**

WHEREAS, this Interlocal Agreement is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as “City”, and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “County”;

WHEREAS, the County does not have personnel on its staff experienced in animal control;

WHEREAS, the County has a need, from time to time, for the services of experienced animal control personnel; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Animal Control Services

a) The City agrees to the following:

1. To provide animal control services upon request from the Washington County Sherriff, or his/her designee. These services shall include, but not be limited to, handling animal bite cases, caring for injured animals, assisting with animals in a vehicle when the driver is placed under arrest, and/or assisting with animal seizure warrants, and shall be performed at the request and under the direction of the Washington County Sheriff or his/her designee; and
2. To provide, at no charge, three (3) animal control service calls each calendar month.

b) The County agrees to the following:

1. To pay to the City the amount of Sixty-Five and No/100 Dollars (\$65.00) per animal control service call (calls not involving animal bite cases), beginning on the fourth (4) call and for each subsequent call, for animal control service call to which the City responds during each calendar month; and
2. To pay to the City the amount of One Hundred Seventy-Five and No/100 Dollars (\$175.00) for each animal control service call related to an animal bite case.

2.0 Purpose

The purpose of this Agreement is to allow the City to provide animal control services to the County.

3.0 Breach

The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 ("Initial Term"). This Agreement shall automatically renew for one (1) subsequent one (1) year period ("Renewal Term"), unless either Party terminates this Agreement by giving notice in the manner provided herein to the other Party at least sixty (60) days prior to the end of the Initial Term. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 12.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

An itemized listing of charges incurred by the County under this Agreement shall be invoiced by the City to the County each month, and payment thereof shall be due and payable within thirty (30) days of the receipt of such invoice.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Funding

The County shall pay for services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respects to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

14.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

15.0 Attorney's Fees

If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

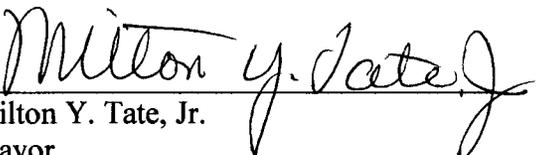
16.0 Indemnification

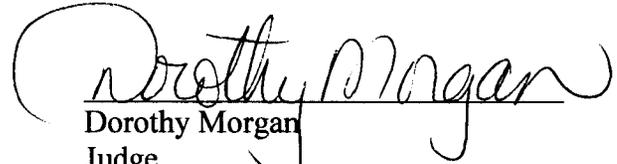
The County shall indemnify and save and hold harmless the City and its officers, agents, employees and volunteers from and against any and all liability, claims, demands, damages, losses, and expenses, including, but not limited to court costs and reasonable attorney's fees incurred by the City, and including, without limitation, damages for bodily and personal injury, death and property damage, resulting from the negligent acts, omissions or willful misconduct of the County and/or City, or their officers, agents, employees or volunteers in the execution, operation, or performance of this Agreement.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

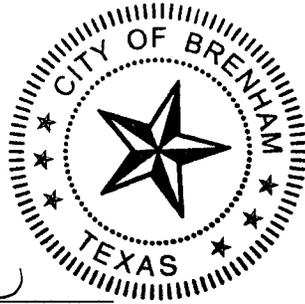
CITY OF BRENHAM

WASHINGTON COUNTY

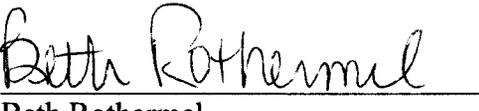

Milton Y. Tate, Jr.
Mayor


Dorothy Morgan
Judge

ATTEST:




Jeara Bellinger, TRMC
City Secretary


Beth Rothermel
County Clerk



AGENDA ITEM 5

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Shelter Services and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Animal Shelter Services; and (3) ILA currently in effect until December 31, 2012.			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Animal Shelter Services
Date: December 7, 2012

This is one of the agreements not yet reviewed by the joint ILA Task Force. Because it has not been discussed, the current agreement is presented for a one year extension. The plan of the Task Force is to bring a recommendation for 2014 funding to both governing bodies prior to the start of budget work in June of 2013.

The current agreement states that the City will provide animal sheltering services to all County residents and County law enforcement officials, when needed. The City, however, is not required to accept an animal for sheltering if the City does not have the adequate space to properly house the animal.

The County's pays \$3,800 per month (\$45,600 annually) for animal sheltering services provided by the City.

STATE OF TEXAS)
)
COUNTY OF WASHINGTON)

ADDENDUM TO AND MODIFICATION OF:

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BRENHAM
AND WASHINGTON COUNTY FOR ANIMAL SHELTER SERVICES**

This Addendum to and Modification of the “Interlocal Agreement Between the City of Brenham and Washington County for Animal Shelter Services” (the “Agreement”), said Agreement having an effective date of January 1, 2011, is made by and between the City of Brenham, Texas (“City”) and Washington County, Texas (“County”), in consideration of the mutual undertakings and obligations expressed herein and the Agreement, as an addendum to and modification of the Agreement executed between the parties.

Section 5.0 of the Agreement is modified to read as follows:

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until December 31, 2013.

This Addendum and Modification shall prevail over any provision or term contained in the initial Agreement having an effective date of January 1, 2011, and any other agreement between the City and County, to the extent said instruments may be inconsistent with the terms of this Addendum and Modification.

This Addendum and Modification is agreed to and accepted by both parties to the Agreement, and shall be effective as of the 1st day of January, 2013.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
County Judge

ATTEST:

Jeana Bellinger
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR ANIMAL SHELTER SERVICES**

WHEREAS, this Interlocal Agreement is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as “City”, and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “County”;

WHEREAS, the County does not have personnel on its staff experienced in the sheltering of animals;

WHEREAS, the County does not have a facility to shelter such animals;

WHEREAS, the County has the need from time to time for the services of an animal shelter and experienced shelter personnel; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Animal Shelter Services

- a) The City agrees to provide animal sheltering services to all County residents and County law enforcement officials, when needed, in accordance with the animal shelter policies and applicable regulations of the City. The City shall not be required to accept an animal for sheltering in the event the City does not have adequate space at its shelter to properly house the animal.
- b) The County agrees to pay to the City the amount of Three Thousand Eight Hundred and No/100 Dollars (\$3,800.00) each month for animal sheltering services provided by the City.

2.0 Purpose

The purpose of this Agreement is to allow the City to provide animal sheltering services to all County residents and County law enforcement officials, when needed.

3.0 Breach

The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law.

This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 ("Initial Term"). This Agreement shall automatically renew for one (1) subsequent one (1) year period ("Renewal Term"), unless either Party terminates this Agreement by giving notice in the manner provided herein to the other Party at least sixty (60) days prior to the end of the Initial Term. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 11.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

Payments to the City under this Agreement shall be due and payable on or before the last day of each month.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Funding

The County shall pay for animal sheltering services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

14.0 Gender

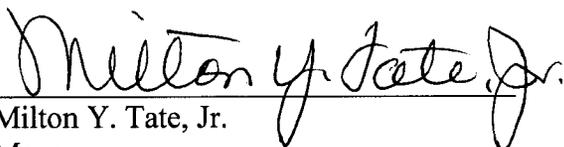
Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

15.0 Attorney's Fees

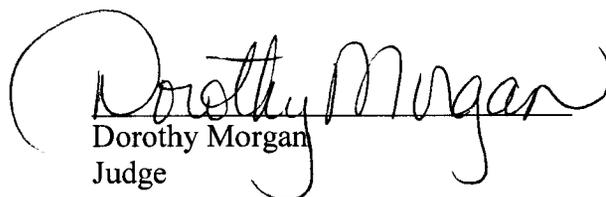
If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

CITY OF BRENHAM

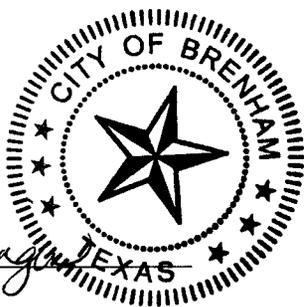

Milton Y. Tate, Jr.
Mayor

WASHINGTON COUNTY


Dorothy Morgan
Judge

ATTEST:


Jeana Bellinger, TRMC
City Secretary




Beth Rothermel
County Clerk



AGENDA ITEM 6

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	
<input type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING	
<input checked="" type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING	
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION	
	<input type="checkbox"/> WORK SESSION		
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County Related to the Operation of and Improvements to Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Linda Anderson Park; and (3) ILA currently in effect until December 31, 2012.			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Linda Anderson Park
Date: December 7, 2012

This is one of the agreements not yet reviewed by the joint ILA Task Force. Because it has not been discussed, the current agreement is presented for a one year extension. The plan of the Task Force is to bring a recommendation for 2014 funding to both governing bodies prior to the start of budget work in June of 2013.

In 2001, the Council approved Resolution No. R-11-001 authorizing an exchange of the County's half-interest in Linda Anderson Park (which was deeded to them in 1980) for termination of the City's remaining interest in the old PD building

The current agreement states that the County will pay the City \$35,000 a year for maintenance and operation of Linda Anderson Park. The agreement also states that all requests for capital improvements to the Park be submitted to the City Council during the City's annual budget process. If the improvement is approved by the City Council, it shall be submitted to the County Commissioners for their approval during the County's annual budget process.

Once a capital improvement project is approved by both governing bodies, the cost of such improvement will be shared equally (50% each).

STATE OF TEXAS)
)
COUNTY OF WASHINGTON)

ADDENDUM TO AND MODIFICATION OF:

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BRENHAM
AND WASHINGTON COUNTY FOR LINDA ANDERSON PARK**

This Addendum to and Modification of the “Interlocal Agreement Between the City of Brenham and Washington County for Linda Anderson Park” (the “Agreement”), said Agreement having an effective date of January 1, 2011, is made by and between the City of Brenham, Texas (“City”) and Washington County, Texas (“County”), in consideration of the mutual undertakings and obligations expressed herein and the Agreement, as an addendum to and modification of the Agreement executed between the parties.

Section 5.0 of the Agreement is modified to read as follows:

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until December 31, 2013.

This Addendum and Modification shall prevail over any provision or term contained in the initial Agreement having an effective date of January 1, 2011, and any other agreement between the City and County, to the extent said instruments may be inconsistent with the terms of this Addendum and Modification.

This Addendum and Modification is agreed to and accepted by both parties to the Agreement, and shall be effective as of the 1st day of January, 2013.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
County Judge

ATTEST:

Jeana Bellinger
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR LINDA ANDERSON PARK**

WHEREAS, this Interlocal Agreement is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as "City", and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as "County";

WHEREAS, the City and County are authorized to enter into this Agreement in all respects by Texas Government Code, Chapter 791;

WHEREAS, on August 21, 1979 the City paid \$45,652.00 for one (1) tract of land totaling 11.413 acres, as more fully described in Volume 380, Page 710 in the Deed Records of Washington County, Texas, for the development of Linda Anderson Park, hereinafter referred to as the "Park";

WHEREAS, on January 9, 1980 the City paid \$54,105.00 for three (3) tracts of land totaling 10.821 acres, as more fully described in Volume 387, Page 172, in the Deed Records of Washington County, Texas, for further development of the Park;

WHEREAS, on July 23, 1980 the County paid to the City \$49,878.50, exactly one-half of the total land costs, for the development of the Park;

WHEREAS, on July 29, 1980 the City deeded to the County an undivided one-half (1/2) interest in the Park, as recorded in Volume 397, Page 516, in the Deed Records of Washington County, Texas;

WHEREAS, the City and County have determined that sharing equally in the costs makes the asset more economically feasible and creates an opportunity to provide better facilities;

WHEREAS, on February 20, 1981 the City and County agreed to split all maintenance and operating costs associated with the Park on an equal (50/50) basis in return for the City deeding to the County an undivided one-half (1/2) interest in the Park;

WHEREAS, the City and County desire to enter into this Agreement in order to promote clarity and ease of understanding;

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Linda Anderson Park

- a) The County agrees to pay the City Thirty-Five Thousand and No/100 Dollars (\$35,000.00) each year for the maintenance and operation of the Park.
- b) Requests for capital improvements to the Park shall be submitted to the City Council for approval during the City's annual budget process. If approved by City Council, the request shall be submitted to the County Commissioners for approval during their annual budget process. If the capital improvements are approved by both governing bodies, all capital improvement costs shall be shared equally (50% each) between the Parties hereto.

2.0 Purpose

The purpose of this Agreement is to provide for the operation, maintenance and capital improvements for the Park which directly benefit the residents of both the City and the County.

3.0 Breach

The failure of either Party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either Party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 (“Initial Term”). This Agreement shall automatically renew for one (1) subsequent one (1) year period (“Renewal Term”), unless either Party terminates this Agreement by giving notice in the manner provided herein to the other Party at least sixty (60) days prior to the end of the Initial Term. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 12.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

Payments to the City under this Agreement, for the previous calendar year, shall be due and payable on or before March 31st of the following year. This Section 7.0 shall survive termination of this Agreement.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices sent are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Funding

The County shall pay for services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respects to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

14.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

15.0 Attorney's Fees

If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

CITY OF BRENHAM

WASHINGTON COUNTY

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

Dorothy Morgan
Dorothy Morgan
Judge

ATTEST:



Jana Bellinger
Jana Bellinger, TRMC
City Secretary

Beth Rothermel
Beth Rothermel
County Clerk



AGENDA ITEM 7

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library; and (3) ILA currently in effect until December 31, 2012.			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Library Services
Date: December 7, 2012

This is one of the agreements not yet reviewed by the joint ILA Task Force. Because it has not been discussed, the current agreement is presented for a one year extension. The plan of the Task Force is to bring a recommendation for 2014 funding to both governing bodies prior to the start of budget work in June of 2013.

The current agreement states that the City will staff, operate and maintain the Nancy Carol Roberts Memorial Library and the County will pay the City \$2,500 a month (\$30,000 annually) for the purchase of additional reading materials.

The current agreement also states that all requests for capital improvements to the Library be submitted to the City Council during the City's annual budget process. If the improvement request is approved by the City Council, it shall be submitted to the County Commissioners for their approval during the County's annual budget process.

If the capital improvement is approved by both governing bodies, the cost of such improvement will be shared equally (50% each).

STATE OF TEXAS)
)
COUNTY OF WASHINGTON)

ADDENDUM TO AND MODIFICATION OF:

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BRENHAM
AND WASHINGTON COUNTY FOR LIBRARY SERVICES AT THE
NANCY CAROL ROBERTS MEMORIAL LIBRARY**

This Addendum to and Modification of the “Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library” (the “Agreement”), said Agreement having an effective date of January 1, 2011, is made by and between the City of Brenham, Texas (“City”) and Washington County, Texas (“County”), in consideration of the mutual undertakings and obligations expressed herein and the Agreement, as an addendum to and modification of the Agreement executed between the parties.

Section 5.0 of the Agreement is modified to read as follows:

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until December 31, 2013.

This Addendum and Modification shall prevail over any provision or term contained in the initial Agreement having an effective date of January 1, 2011, and any other agreement between the City and County, to the extent said instruments may be inconsistent with the terms of this Addendum and Modification.

This Addendum and Modification is agreed to and accepted by both parties to the Agreement, and shall be effective as of the 1st day of January, 2013.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
County Judge

ATTEST:

Jeana Bellinger
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR LIBRARY SERVICES AT THE
NANCY CAROL ROBERTS MEMORIAL LIBRARY**

WHEREAS, Washington County, Texas, a political subdivision of the State of Texas has the authority, under Section 323.011 of the Local Government Code of the Texas Constitution to appropriate funds to an established library by agreement detailing the services to be rendered for the funds;

WHEREAS, the City of Brenham, hereafter referred to as "City" and Washington County, hereafter referred to as "County" are cooperating to provide library services to all City and County residents;

WHEREAS, the City and the County obtain certain economies of scale by combining programs and having an experienced provider of services;

WHEREAS, the City and the County have each determined that it would be mutually advantageous for the administration of library services to enter into Agreement to promote clarity and ease of understanding;

WHEREAS, the City and the County are authorized to enter into this Agreement in all respects;

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Library Services

- a) The City agrees to staff, operate, and maintain the Nancy Carol Roberts Memorial Library, hereafter referred to as "Library", for the benefit of all City and County residents; and
- b) The County agrees to pay the City Two Thousand Five Hundred and No/100 Dollars (\$2,500.00) each month (\$30,000.00 annually) for library services. These funds shall be used to supplement City funds for the purchase of additional reading materials.
- c) Requests for capital improvements related to the Library shall be submitted to the City Council for approval during the City's annual budget process. Once approved by City Council, the request shall be submitted to the County Commissioners for approval during their annual budget process. If the capital improvements are approved by both governing bodies, all capital improvement costs shall be shared equally (50% each) between the Parties.

2.0 Purpose

The purpose of this Agreement is to provide library services to all City and County residents.

3.0 Breach

The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 ("Initial Term"). This Agreement shall automatically renew for one (1) subsequent one (1) year period ("Renewal Term"). Either Party may terminate this Agreement by giving notice in the manner provided herein to the other Party at least one hundred eighty (180) days prior to the date of termination. Notice shall be provided pursuant to the terms set forth in Section 9.0. Ownership of all property acquired and improvements made under this Agreement shall be retained by the City of Brenham.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 12.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

Payments to the City under this Agreement shall be due and payable on or before the last day of each month. However, notwithstanding the prior sentence, payments for capital improvements approved by the Parties as provided herein shall be made in the manner and at the time as agreed to by the Parties to this Agreement.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either Party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other parties.

10.0 Funding

The County shall pay for Library services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

14.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

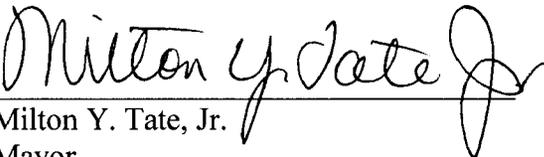
15.0 Attorney's Fees

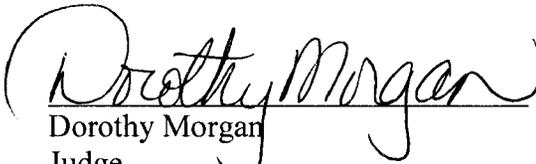
If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

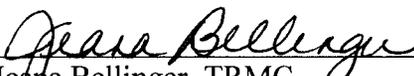
CITY OF BRENHAM

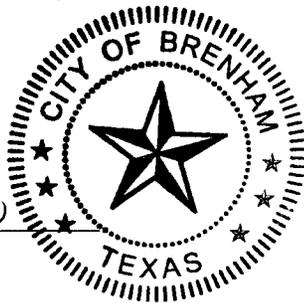
WASHINGTON COUNTY


Milton Y. Tate, Jr.
Mayor


Dorothy Morgan
Judge

ATTEST:


Jeana Bellinger, TRMC
City Secretary




Beth Rothermel
County Clerk



AGENDA ITEM 8

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Addendum to and Modification of an Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services; and (3) ILA currently in effect until December 31, 2012.			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council

From: Terry K. Roberts

Subject: Interlocal Agreement with County for Jail Services and 9-1-1 Emergency
Communication Services

Date: December 7, 2012

This is one of the agreements not yet reviewed by the joint ILA Task Force. Because it has not been discussed, the current agreement is presented for a one year extension. The plan of the Task Force is to bring a recommendation for 2014 funding to both governing bodies prior to the start of budget work in June of 2013.

The current agreement states that the City will provide all emergency and non-emergency communication services (related to the County's law enforcement and emergency medical service functions) to the County and the County will provide all jail services to the City.

STATE OF TEXAS)
)
COUNTY OF WASHINGTON)

ADDENDUM TO AND MODIFICATION OF:

**INTERLOCAL AGREEMENT BETWEEN THE CITY OF BRENHAM
AND WASHINGTON COUNTY FOR JAIL SERVICES AND
9-1-1 EMERGENCY COMMUNICATION SERVICES**

This Addendum to and Modification of the “Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services” (the “Agreement”), said Agreement having an effective date of January 1, 2011, is made by and between the City of Brenham, Texas (“City”) and Washington County, Texas (“County”), in consideration of the mutual undertakings and obligations expressed herein and the Agreement, as an addendum to and modification of the Agreement executed between the parties.

Section 5.0 of the Agreement is modified to read as follows:

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until December 31, 2013.

This Addendum and Modification shall prevail over any provision or term contained in the initial Agreement having an effective date of January 1, 2011, and any other agreement between the City and County, to the extent said instruments may be inconsistent with the terms of this Addendum and Modification.

This Addendum and Modification is agreed to and accepted by both parties to the Agreement, and shall be effective as of the 1st day of January, 2013.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
County Judge

ATTEST:

Jeana Bellinger
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR JAIL SERVICES AND
9-1-1 EMERGENCY COMMUNICATION SERVICES**

WHEREAS, this Interlocal Agreement is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as “City”, and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “County”;

WHEREAS, the City and the County obtain certain economies of scale by exchanging jail services for 9-1-1 communication services;

WHEREAS, the City and County have each determined that it would be mutually advantageous to have this Agreement to promote clarity and ease of understanding;

WHEREAS, the City and the County are authorized to enter into this Agreement in all respects;

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Jail Services and 9-1-1 Communication Services

- a) The City agrees to provide all emergency and non-emergency communication services (related to the County’s law enforcement and emergency medical service functions) to the County.
- b) The County agrees to provide all jail services for the City.

2.0 Purpose

The purpose of this Agreement is to provide for the exchange of jail services for 9-1-1 communication services to directly benefit the residents of the City and the County.

3.0 Breach

The failure of either Party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 ("Initial Term"). This Agreement shall automatically renew for one (1) subsequent one (1) year period ("Renewal Term"), unless either Party terminates this Agreement by giving notice in the manner provided herein to the other Party at least sixty (60) days prior to the end of the Initial Term. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 11.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

There shall be no monetary payment by either party for the services outlined in this Agreement; the mutual covenants herein and the services exchanged pursuant to this Agreement shall constitute the consideration for this Agreement.

8.0 Texas Law to Apply

This Agreement shall be construed under an in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices sent are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

11.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respects to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

12.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

13.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

14.0 Attorney's Fees

If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

CITY OF BRENHAM

WASHINGTON COUNTY

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

Dorothy Morgan
Dorothy Morgan
Judge

ATTEST:



Jeana Bellinger
Jeana Bellinger, TRMC
City Secretary

Beth Rothermel
Beth Rothermel
County Clerk



AGENDA ITEM 9

DATE OF MEETING: December 13, 2012	DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input checked="" type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Health Inspection Services and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: See separate memo from Terry Roberts.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Memo from Terry Roberts; (2) Washington County/Burton Health Inspection Data provided by Health Inspector, David Doelitsch; (3) Interlocal Agreement between the City of Brenham and Washington County for Health Inspection Services until March 31, 2013; and (4) ILA currently in effect until December 31, 2012		
FUNDING SOURCE (Where Applicable): As outlined in the agreement.		
RECOMMENDED ACTION:		
APPROVALS: Milton Y. Tate, Jr.		



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Health Inspection Services
Date: December 7, 2012

In this agreement, the County has contracted with the City to perform food handling establishment inspections in the rural areas of Washington County. Essentially, the County had a need for a service to be provided and the City agreed to provide that service for a price.

The County's funding has been adequate to cover staff cost and the City felt it was being paid for services rendered at a fair and equitable level. The funding formula was for the County to pay 20% of the health inspector's personnel costs and the associated line items for that work. The funding was roughly \$12,000 per year.

Although adequately funded, the City proposed to end this ILA so that our health inspector could spend 100% of his time on city business. With the added workload of coordinating the group home inspection program and his other volume of City work, the City advised the County in September that we needed our staff member full time and planned to end this particular agreement.

The County decided to assign the work to their Environmental Department but needed time to get their staff trained to do the work. We pledged to provide assistance in the form of advice, our forms and the opportunity to ride along on our inspections if they wanted our assistance.

The County felt they could not accomplish the training by December 31st and asked the City to extend the current arrangement for 90 days. The City Task Force members agreed to support a 90 day extension request. The County said that if they aren't ready by March 31st, they may come back and ask for more time.

Washington County / Burton Health Inspection Data

Washington County

- Thirty-six food service establishments are permitted (inspected two times per year)
- Six mobile food vendors have been permitted and inspected in the past year
- Three festivals (Bluebonnet, Texas Independence Day, & Scarecrow) include temporary food booths (ranging from 1-30 booths) that are permitted and inspected during the respective festival each year
- Two child care facilities are inspected one time each year
- Three foster/adoptive homes have been inspected in the past year

Burton

- Eight food service establishments are permitted (inspected two times per year)
- One festival (Cotton Gin Festival) includes temporary food booths (number varies) that are permitted and inspected during the festival
- One child care facility is inspected one time each year

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR HEALTH INSPECTION SERVICES**

WHEREAS, this Interlocal Agreement, hereinafter referred to as “Agreement,” is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as “City”, and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “County”;

WHEREAS, the City and County each hereby find that it would be mutually advantageous to provide for health inspection services in the manner established in this Agreement;

WHEREAS, the City and County have negotiated this Interlocal Agreement in order to promote clarity and ease of understanding;

WHEREAS, the City and County have considered several cost allocation and payment options during the negotiation of this Agreement and desire to allocate costs in the most precise way that is economically feasible;

WHEREAS, the City and County are authorized to enter into this Agreement in all respects by Texas Government Code, Chapter 791; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Health Inspection Services

- a) The City agrees to:
1. Allow the City’s designated Health Inspector to be available to the County as its duly appointed Health Inspector;
 2. To supply said Health Inspector with certain equipment and support services to include: a vehicle, a computer with the necessary software, cellular telephone, office space, specialized training, and various educational materials as needed; and
 3. To provide to the County Judge copies of all inspections performed during the term of this Agreement by the Health Inspector in the County.

b) The County agrees to:

1. Reimburse the City for five percent (5%) of the total annual salary and benefit costs of said Health Inspector;
2. Reimburse the City for any and all out-of-pocket expenses related to health inspections performed in the County; and
3. Pay the City for actual mileage to and from locations in the County requiring health inspections. The mileage rate to be charged shall be the standard rate as allowed by the Internal Revenue Service.

2.0 Purpose

The purpose of this Agreement is to provide health inspection services in the County.

3.0 Breach

The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of thirty (30) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within thirty (30) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the thirty (30) day period, (ii) the breaching Party diligently pursues the cure thereafter until it is fully cured, and (iii) the breaching Party has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated in writing by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2013, and shall remain in effect until March 31, 2013. Either Party may terminate this Agreement at any time, without cause, by giving notice in the manner provided herein to the other Party at least thirty (30) days prior to the intended date of termination. Notice shall be provided pursuant to the terms set forth in Section 8.0.

6.0 Payment

An itemized listing of charges incurred and payments due to the City under this Agreement shall be invoiced by the City to the County as soon as practicable after the termination of this Agreement as provided herein. Payment shall be made to the City by the County within thirty (30) days of the County's receipt of such invoice.

7.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas. Exclusive venue for any claim, cause of action, lawsuit, or other legal proceeding arising out of this Agreement shall be in Washington County, Texas.

8.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices sent are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

9.0 Funding

The County shall pay for services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

10.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

11.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties with respect to the subject matter hereof which are not embodied herein and that no other agreements, statements, or promises with respect to the subject matter hereof not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

12.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns. Neither this Agreement nor any duties or obligations under it shall be assignable by either Party without the prior written acknowledgment and authorization of both Parties to this Agreement.

13.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

14.0 Attorney's Fees

If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 2012.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

John Brieden
Judge

ATTEST:

Jeana Bellinger, TRMC
City Secretary

Beth Rothermel
County Clerk

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR HEALTH INSPECTION SERVICES**

WHEREAS, this Interlocal Agreement is entered into by and between the following parties: the City of Brenham, a Home-Rule Municipality located in Washington County, Texas, hereinafter referred to as “City”, and Washington County, Texas, a political subdivision of the State of Texas, hereinafter referred to as “County”;

WHEREAS, the City and County each hereby find that it would be mutually advantageous to provide for health inspection services in the manner established in this Agreement;

WHEREAS, the City and County have negotiated this Interlocal Agreement in order to promote clarity and ease of understanding;

WHEREAS, the City and County have considered several cost allocation and payment options during the negotiation of this Agreement and desire to allocate costs in the most precise way that is economically feasible;

WHEREAS, the City and County are authorized to enter into this Agreement in all respects by Texas Government Code, Chapter 791; and

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Health Inspection Services

- a) The City agrees to:
 - 1. Allow the City’s designated Health Inspector to be available to the County as its duly appointed Health Inspector;
 - 2. To supply said Health Inspector with certain equipment and support services to include: a vehicle, a computer with the necessary software, cellular telephone, office space, specialized training, and various educational materials as needed; and
 - 3. To provide to the County Judge, every six (6) months, copies of all inspections performed by the Health Inspector in the County.

b) The County agrees to:

1. Reimburse the City for twenty percent (20%) of the total annual salary and benefit costs of said Health Inspector;
2. Reimburse the City for any and all out-of-pocket expenses related to health inspections performed in the County; and
3. Pay the City for actual mileage to and from locations in the County requiring health inspections. The mileage rate to be charged shall be the standard rate as allowed by the Internal Revenue Service.

2.0 Purpose

The purpose of this Agreement is to provide health inspection services in the County.

3.0 Breach

The failure of either party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party's discretion if such breach continues for a period of sixty (60) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within sixty (60) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the sixty (60) day period, (ii) diligently pursues the cure thereafter until it is fully cured, and has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective beginning January 1, 2011, and shall remain in effect until December 31, 2011 ("Initial Term"). This Agreement shall automatically renew for one (1) subsequent one (1) year period ("Renewal Term"), unless either Party terminates this Agreement by giving notice in the manner provided herein to the other Party at least sixty (60) days prior to the end of the Initial Term. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Periodic Review

The Parties shall meet at least once every two (2) years after the effective date of this Agreement (or more frequently as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 11.0 of this Agreement.

The failure of the Parties to periodically review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

An itemized listing of charges incurred and payments due to the City under this Agreement shall be invoiced by the City to the County as soon as practicable after the end of the City's fiscal year, the last day of the City's fiscal year being September 30. Payment shall be made to the City by the County within thirty (30) days of the County's receipt of such invoice.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices sent are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Funding

The County shall pay for services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respects to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties which are not embodied herein and that no other agreements, statement, or promise not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective legal representatives, successors and assigns where permitted by this Agreement.

14.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

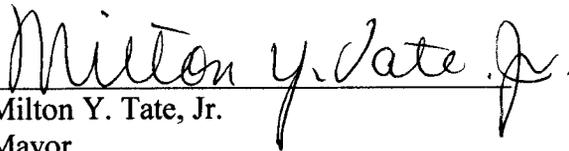
15.0 Attorney's Fees

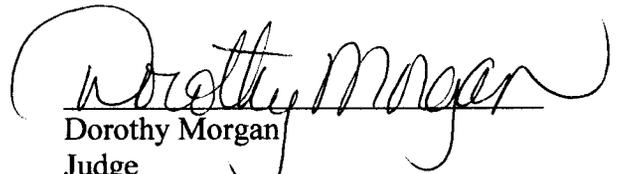
If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the 16th day of December, 2010.

CITY OF BRENHAM

WASHINGTON COUNTY

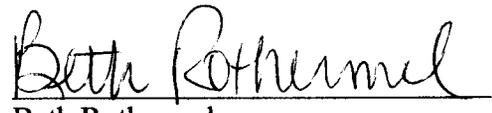

Milton Y. Tate, Jr.
Mayor


Dorothy Morgan
Judge

ATTEST:


Jeana Bellinger, TRMC
City Secretary




Beth Rothermel
County Clerk



AGENDA ITEM 10

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Costs Related to the Brazos Valley Wide Area Communication System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; and (2) Interlocal Agreement between the City of Brenham and Washington County for Costs Related to the Brazos Valley Wide Area Communications System (BVWACS)			
FUNDING SOURCE (Where Applicable): As outlined in the current agreement.			
RECOMMENDED ACTION			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for BVWACS
Date: December 7, 2012

BVWACS is the acronym for the Brazos Valley Wide Area Communications System. It is the upgraded radio communications system for the Brazos Valley region operated by the governmental entities in this region. The system consists of six (6) entities including: Brenham, Washington County, Bryan, College Station, Brazos County and Texas A&M University. The entities operate under a governing board of representatives of the six governmental agencies and an administrative operating board consisting of staff from the six agencies. The federal government mandated a new radio system because of the events of 9/11.

The original six-party agreement established a method of paying for the operating costs associated with the system. The funding allocation was based on the number of radios each agency owns. However, from the outset, Washington County felt it would be a fairer method of funding to base our costs on a 50/50 arrangement.

To ensure full participation, the City agreed to a sub agreement to the six-party agreement and executed a Brenham-Washington County ILA to reflect our agreement to share BVWACS expenses equally. The actual number of radios between our two agencies is 38% city and 62% county. If funding were based on radio count, the City's funding would be decreased by approximately \$20,000.

As we began our talks with the County in June, the City initially proposed to continue the current 50/50 agreement for one more year and then end it in favor of the radio count formula used in the six-party agreement which is more the industry standard.

The County felt the 50/50 arrangement was still a fair approach and preferred not to revert to the six-party agreement formula. They felt a more fair and equitable gauge of funding the program should be on radio utilization. City utilization in terms of the number of incidents recorded by the Communications Center was slightly higher for the City and the amount of actual radio traffic, based on partial BVWACS data, indicated close to a 50/50 utilization.

After much discussion, the City-County Task Force members agreed to recommend a 56% county/44% city allocation essentially splitting the difference between 50/50 utilization and 62/38 radio count.

An ILA is included in your agenda packet that makes that change. The current agreement is actually on a different schedule than most of our other interlocal agreements so the new agreement does not take effect until October 1, 2013.

THE STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

**INTERLOCAL AGREEMENT TO SHARE
COSTS RELATED TO THE BRAZOS VALLEY
WIDE AREA COMMUNICATIONS SYSTEM (BVWACS)**

THIS INTERLOCAL AGREEMENT (“Agreement”) is made and entered into pursuant to the Interlocal Cooperation Act (Chapter 791, Texas Government Code) by and between Washington County (acting by and through the Hon. John Brieden, County Judge) (“County”) and the City of Brenham, Texas (acting by and through the Hon. Milton Y. Tate, Jr., Mayor) (“City”) (hereinafter County and City are collectively referred to as the “Parties,” or the “Cooperating Parties”).

RECITALS

WHEREAS, the City and County are BVWACS Parties (defined in Article II below) and participate in the Brazos Valley Wide Area Communications System as further described in Article I herein (“BVWACS”); and

WHEREAS, pursuant to the BVWACS Interlocal Agreement between the BVWACS Parties, the City and County are responsible for funding a portion of the costs incurred each fiscal year for the construction, acquisition, implementation, operation and maintenance of the BVWACS, said amounts to be determined in accordance with the participation levels established by the BVWACS Interlocal Agreement; and

WHEREAS, in 2008, notwithstanding the respective participation levels individually attributable to the City and County pursuant to the BVWACS Interlocal Agreement, the City and County agreed to share in the total costs collectively attributable to both the City and the County, on a 50%/50% basis; and

WHEREAS, effective October 1, 2013, the City and County desire to cease sharing BVWACS costs on a 50%/50% basis, and further desire to revise the manner in which the Parties share the BVWACS costs such that the City shall pay 44% of the total costs collectively attributable to both the City and the County, and the County shall pay 56% of the total costs collectively attributable to both the City and the County, said percentage amounts being determined as outlined in Section 3.1 herein; and

NOW THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, and in accordance with the provisions of Chapter 791, Texas Government Code, the Cooperating Parties do hereby agree as follows:

ARTICLE I

BVWACS

Section 1.1 Description of BVWACS. Brazos Valley Wide Area Communications System (“BVWACS”) means the Regional Voice and Data Radio System serving the Brazos County and Washington County, Texas areas as further described in the BVWACS Interlocal Agreement, implemented by the BVWACS Parties for public safety and public service purposes in accordance with the terms therein and pursuant to the applicable law for such type of public communications system. “BVWACS Interlocal Agreement” refers to the “INTERLOCAL AGREEMENT FOR THE CONSTRUCTION, ACQUISITION, IMPLEMENTATION, OPERATION AND MAINTENANCE OF THE BRAZOS VALLEY WIDE AREA COMMUNICATIONS SYSTEM (BVWACS)” entered into by the BVWACS Parties described below in Article II.

ARTICLE II

BVWACS Parties

Section 2.1 BVWACS Parties. BVWACS Parties means the state political subdivisions that have entered into the BVWACS Interlocal Agreement for the construction, acquisition, implementation, operation and maintenance of the BVWACS, including Bryan, College Station, Brenham, Brazos County, Washington County, and Texas A & M University. Additional parties may be added from time to time pursuant to the terms of the BVWACS Interlocal Agreement.

ARTICLE III

Payment Obligations

Section 3.1 City and County Payments Obligations. The City and County acknowledge and understand that, pursuant to the BVWACS Interlocal Agreement, each BVWACS Party shall be responsible for funding and paying a portion of the costs incurred each fiscal year for the construction, acquisition, implementation, operation and maintenance of the BVWACS, said amounts to be determined in accordance with the participation levels established by the BVWACS Interlocal Agreement. The City and County agree, notwithstanding the respective participation levels individually attributable to the City and County pursuant to the BVWACS Interlocal Agreement, to share in the total costs collectively attributable to both the City and the County, on a 44%/56% basis; that is, the City shall pay forty-four percent (44%) of the total costs collectively attributable to both the City and the County, and the County shall pay fifty-six percent (56%) of the total costs collectively attributable to both the City and the County. The percentages of the BVWACS costs payable by the City and County as provided for herein are based on a

combination of: a) each Party's radio count expressed as a percentage of the total radio count attributable to the Parties to this Agreement; and b) the amount of each Party's radio usage compared to the total radio usage attributable to the Parties to this Agreement based on BVWACS data, and each Party's incident volume compared to the total incident volume attributable to the Parties to this Agreement based on the City's Communications Center records, said radio usage and incident volume percentages being combined and expressed as a blended percentage. The percentage figures attributable to each Party in Section 3.1(a) and 3.1(b) above were averaged to determine each Party's percentage share of the total costs collectively attributable to both the City and the County pursuant to this Agreement. Within twenty (20) days after the City's and County's receipt of the their respective quarterly assessment of BVWACS costs, the County shall pay to the City an amount equal to 56% of the collective quarterly assessment of BVWACS costs attributable to the City and the County. The City shall timely pay the collective quarterly assessment of BVWACS costs to the appropriate entity. The County's payment pursuant to the terms of this Agreement shall be in addition to and not in lieu of any other payments or contributions currently being made to the City by the County or pursuant to any future agreement between the City and the County.

ARTICLE IV

Reconciliation

Section 4.1. Reconciliation. The Parties agree that at the expiration of each fiscal year as defined by the BVWACS Interlocal Agreement, the City shall cause an accounting to be made of (i) all payments made by the County to the City pursuant to this Agreement, and (ii) the payments made by the City to the Managing Party pursuant to the BVWACS Interlocal Agreement. If such accounting determines that the total County payments over the term of the preceding fiscal year exceeds 56% of the costs of the collective annual assessments attributable to the City and the County, then the City shall pay to the County, from any available funds, an amount that would cause the total County payments over the term of the preceding fiscal year to equal 56% of the total amount the City paid to the Managing Party for the collective annual assessments attributable to the City and County. If such accounting determines that the County payments over the term of the preceding fiscal year is less than 56% of the costs of the collective annual assessments attributable to the City and the County, then the County shall pay to the City, from any available funds, an amount that would cause the total County payments over the term of the preceding fiscal year to equal 56% of the total amount the City paid to the Managing Party for the collective annual assessments attributable to the City and County.

ARTICLE V

Notice

Section 5.1 Notice. All notices required under this Agreement shall be in writing and delivered personally or sent by certified or registered US Mail, postage prepaid, addressed to such Party at the following respective addresses:

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

COUNTY: County Judge
Washington County Courthouse
100 E. Main St., Suite 104
Brenham, Texas 77833

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

ARTICLE VI

Miscellaneous

Section 6.1 Assignment. This agreement shall bind and inure to the benefit of the Cooperating Parties hereto, their successors and assigns. This Agreement may not be assigned by either Party without the express written consent of the other Party.

Section 6.2 Term and Termination. This Agreement shall be effective from October 1, 2013 until September 30, 2014. After that, this Agreement shall automatically renew for subsequent terms of twelve (12) months on October 1 of each subsequent year, unless either Party gives the other Party written notice of its intent to not renew the Agreement at least thirty (30) days prior to the end of the then current term.

Section 6.3 This Agreement shall terminate upon the earlier of the termination of either Party's participation in the BVWACS Interlocal Agreement, or termination in accordance with this Article. This Agreement may also be terminated by either Party upon a material breach of a term or provision of the Agreement and the failure of the breaching Party to cure (or commence activities to cure if the breach cannot be immediately cured) within thirty (30) days of written notice of the existence of the material breach from the Party not in breach. The obligation to reconcile payments pursuant to Article IV hereof shall survive termination of this Agreement.

Section 6.4 Attorneys Fees. If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

Section 6.5 Waiver of Immunity. No Party hereto has agreed to waive any defense, right, immunity, or other protection under law, including any statutory provision, by entering into this Agreement or otherwise participating in the BVWACS.

Section 6.6 Severability. If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices the other Party.

Section 6.7 Entire Agreement. This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire Agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement, except as otherwise referenced herein.

Section 6.8 Written Agreement. Unless otherwise specified, this Agreement may be amended only by written instrument approved by the Parties hereto.

Section 6.9 Applicable Laws. This Agreement is subject to the laws of the State of Texas, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Section 6.10 Captions. Captions contained in this Agreement are for reference only and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

Section 6.11 Non-Waiver. If either Party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either Party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

Section 6.12 Ambiguities. If any term of this Agreement is ambiguous, it shall not be construed for or against any Party on the basis that the Party did or did not write it.

Section 6.13 Parties in Interest. This Agreement does not bestow any rights upon any third party, but binds and benefits the City and the County only.

Section 6.14 Counterparts. Signatures hereby may be counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN TESTIMONY OF WHICH, this Agreement has been executed on behalf of the Parties hereto as follows:

- a: It has on the ____ day of _____, 20____ been executed on behalf of the County by the County Judge of Washington County, Texas, pursuant to an order of the Commissioners Court of Washington County authorizing such execution.
- b: It has on the ____ day of _____, 20____ been executed on behalf of the City by the Mayor of Brenham, Texas, pursuant to action of the City Council of the City of Brenham, Texas authorizing such execution.

WASHINGTON COUNTY, TEXAS

Hon. John Brieden, County Judge

STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by John Brieden, County Judge of Washington County, Texas.

[seal]

Notary Public, State of Texas
Printed Name:

CITY OF BRENHAM, TEXAS

Hon. Milton Y. Tate, Jr., Mayor

STATE OF TEXAS §
§
COUNTY OF WASHINGTON §

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by Milton Y. Tate, Jr., Mayor of the City of Brenham, Texas.

[seal]

Notary Public, State of Texas
Printed Name:



AGENDA ITEM 11

DATE OF MEETING: December 13, 2012		DATE SUBMITTED: December 7, 2012	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input checked="" type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input checked="" type="checkbox"/> REGULAR	
		<input type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and Washington County for Fire Protection and Fire Rescue Services and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: See separate memo from Terry Roberts.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: (1) Memo from Terry Roberts; and (2) Draft Interlocal Agreement between the City of Brenham and Washington County for Fire Protection and Fire Rescue Services			
FUNDING SOURCE (Where Applicable):			
RECOMMENDED ACTION:			
APPROVALS: Milton Y. Tate, Jr.			



To: Mayor & Council
From: Terry K. Roberts
Subject: Interlocal Agreement with County for Fire and Rescue Service
Date: December 7, 2012

The Fire and Rescue Service ILA proved to be the most difficult agreement to negotiate. The ILA Task Force concluded its fourth and final meeting of 2012 unable to reach an agreement on funding. The County did not agree to the City's proposed funding formula and the City could not support the funding level offered up by the County delegation.

In short, we have reached an impasse. Your agenda packet still includes a draft interlocal agreement for your consideration (Attachment A). It is a one-year agreement in which the City will continue fire and rescue service in the County but the funding amount is left blank since there is not a joint recommendation of the City-County ILA Task Force. If an agreement is not reached, an interim solution needs to be agreed upon.

As we will outline later in this memorandum, there needs to be some time for the City, County, and all emergency providers to plan for and implement a change in delivery of these emergency services if an agreement cannot be reached. If the City and County decide to change the way fire and rescue service is provided, it should be done in an orderly fashion.

The fire and rescue ILA impasse exists because of what both the City and County perceives to be fair and equitable funding. In the ILA Task Force meetings, the City and County each presented funding numbers for 2013 that are roughly \$60,000 apart. Each entity disagreed with the funding level recommended by the other. The City recommended a one-year funding amount of \$86,277 and the County countered with \$27,547. At the last joint task force meeting, the City asked if a compromise between the two proposals was possible and the County felt their proposal was their best offer.

City Fire and Rescue Proposed Funding and It's Formula:

The City's proposed funding is based on the operational costs contained in the Council approved budget. The County does not want to fund based on our costs. They also are unwilling to fund Brenham Fire Department at the level they fund the rural all volunteer departments.

The City offered two options to the County. Initially, we offered a multi-year fixed proposal phased in over three years. When the County wanted to only enter into a single year agreement, the proposal was adjusted to a single year.

The City proposed a funding formula very similar to what was proposed to the County two years ago. We tried to keep the formula simple so that it could be easily understood by the public.

The City's proposal asked the County to fund our direct labor costs when actually out on a county call plus 20% of the non-salary line items in the budget. The 20% allocation is directly based on the relationship of county calls to city calls. Salaries accounted for \$9,950 and the 20% non-personnel line item budget added \$76,327 making the City's funding request \$86,277 (see Exhibit A). That represents less than 6% of the City's Fire Department budget.

In the near future, the City needs to replace the rescue truck used county wide on rescue calls. It is one of two primary vehicles used in our county calls. Since the County has budgeted \$165,000 over the last two years to help volunteer departments purchase equipment, the City felt the County should help with the replacement cost of the rescue unit truck, which is heavily used in the County. We asked the County to participate in 20% of the lease purchase cost when it is replaced in 2014 at \$17,600 per year.

When combining the truck replacement number with the formula for direct labor plus 20% of the operating line items, the City's multi-year funding proposal was based on approximately \$104,000. Since the County funding currently stands at \$20,500, an increase to \$104,000 would be a substantial increase. The City Task Force members recommended to the County a three year phase in of the funding with the first year roughly \$48,000, second year roughly \$75,000 and full funding in 2015 of the \$103,877 (see Exhibit B).

We have also included in this agenda packet a copy of an analysis of county funding showing the BFD receives less funding per call than the all-volunteer departments (see Exhibit C).

County Rejects City Proposals:

The County rejected the multi-year funding proposal because the City sought help from the County with the cost of replacing the rescue truck. The County also wanted time to have another round of talks with the rural volunteer departments about taking over territory from the City.

The County doesn't want to base fire and rescue funding on a percentage of our budget because they fear future higher operating costs when a substation is added. They also rejected the 20% share of line items because they say our budget will not decrease by 20% if the City no longer makes County calls.

The biggest savings and benefit to the County in either City proposal is not including in the City's funding formula a cost for our standby time for staff readiness 24/7. The easiest way to show the County's benefit of having our full time staff available 24/7 for their calls and not pay for it is to look at the true cost of personnel for fire and rescue runs.

The average personnel cost per run for BFD is \$1,869. The City's formula for direct labor cost for fire and rescue calls is \$85. That means the County is only paying for about 5% of the total labor cost per run. They are not being asked to pay for the 95% of our personnel costs that is attributed to our standby or readiness.

Again, the County's view is that since you need those staff members for your readiness, you don't need to factor that cost in for us. The County and its citizens greatly benefit by having 24/7 staff for immediate response to wrecks countywide, for primary fire service in the areas surrounding Brenham and in automatic mutual aid to adjoining departments.

Probably the single biggest reason the County is unwilling to fund the City at anything approaching the City's funding proposal formula is their belief that the City should help support EMS operations.

EMS An Issue:

Based on discussions in the Task Force meetings, the County wants to factor into the fire and rescue funding discussions the fact that the County operates EMS in the City without city government support. The County has operated EMS since sometime in the mid 1970's when local funeral homes ceased to operate the service. The County feels the City should either help financially with the operating deficit of EMS or exchange "the City's EMS responsibility" for city fire and rescue protection in the County.

The County believes they are already providing the City a significant benefit by operating the EMS service in Brenham. The County acknowledges that 40%+ of the county property taxes come from Brenham citizens and businesses but the County believes the City taxpayers owes more since 80% of EMS runs are made in the City, according to the County. Given those statistics, the County believes it is only fair for the City to be responsible for 40% more of the operating deficit of the EMS operation or \$160,000.

The City's proposed funding formula for fire and rescue service did not take into account any impact of EMS. Fire and rescue service to the rural areas is very similar to the City making restaurant inspections or animal control calls in the rural areas of the County. The County desires a service to be performed for their citizens and, in some cases they contract with the City to provide those services to their citizens. EMS is a county-wide service supported by patient charges and county taxes paid by citizens and businesses in Brenham and Washington County.

The County Fire and Rescue Proposal:

The City sought a financial proposal for fire service from the County for more than two years based on some rationale. The County's counteroffer to the City's two options was to increase their funding from \$20,500 in 2011 to \$27,547 for 2013.

Unlike the \$20,500 figure, the County Judge did outline a basis for the funding in an email prior to the last Task Force meeting. A copy of the proposal is provided as Exhibit D.

The components of the County's proposal are as follows:

<i>Direct labor (previously agreed to by Task Force)</i>	<i>\$ 9,950</i>
<i>Mileage @ 20 miles per call X twice the IRS mileage rate</i>	<i>\$ 2,597</i>
<i>Amount of the last increase in County funding</i>	<i>\$ 15,000</i>
Total:	\$ 27,547

The Council Task Force members previously agreed to the direct labor formula but having a mileage formula calculation at only twice the IRS rate for firefighting equipment compared with a passenger vehicle they felt was unrealistically light. The \$15,000 component of the County formula, representing over half of their funding formula, was simply based on prior funding. In summary, the City Task Force members thought \$27,547 was unacceptably low and they could not recommend it to the full City Council.

Modifying The Fire and Rescue ILA May Be Needed For Transition:

As mentioned previously in this memo, if the Council and Commissioners Court are unable to agree to a funding agreement for 2013, we will need the Council and Commissioners Court to consider approving an agreement that gives everyone sufficient time to evaluate whether the current arrangement needs to be ended. The length of the evaluation period should be no less than six months in length but you want to consider extending it longer.

The County would need some time to work with the volunteer fire departments to determine how to divide up the territory Brenham is responsible for under the current interlocal agreement. They will also need to evaluate how to provide rescue service countywide.

The City's Communications Department (9-1-1 emergency dispatch) will need time to reprogram the data base of rural addresses based on the redrawn fire division boundaries.

A change from the way service is now being provided is very significant and the public needs time to understand the nature of the change and be able to respond to it. Members of the City and County governing bodies have been made aware of the possible change in fire and rescue service but the general public has not.

The most impacted citizens will be those currently in the Brenham Fire Division 5 which is a 24 square mile area surrounding Brenham. It includes several large estates, other homes and barns as well as two significant residential subdivisions: Gun and Rod Estates and Country Place Northwest. This Division currently receives immediate fire suppression response by BFD and, because of round the clock staffing, has an immediate response. A copy of the Division 5 map is included with this memo as Exhibit E.

During discussions between County officials and all volunteer rural fire departments at a recent meeting there was an initial misunderstanding about the City's one-mile extra territorial jurisdiction (ETJ). The City clarified that the City is not responsible for fire service in the ETJ, unless by agreement with the County.

Automatic vs. Traditional Mutual Aid:

Division 5 is not the only territory with immediate BFD response that would be significantly impacted by a change in service. Under our current policies and practices, BFD and all the volunteer departments have a protocol for automatic mutual aid. That means on any structure fire or major grass fire, the closest adjacent department to an incident responds immediately without being called later after the original department arrives at the scene. The size of Brenham's automatic mutual aid response territory is significantly larger than the Division 5 territory.

Automatic mutual aid means if we are the closest adjacent department we will respond immediately. Because of our readiness with our \$1 million fire department payroll, the immediate response can be invaluable. Within the past 30 days, BFD responded to a structure fire in a neighboring department's territory. Because of readiness, we responded, arrived and began applying water to the burning house before the responsible department left the station with equipment. It was not that they were any less capable or interested; it was simply that we were available immediately.

If only an interim agreement with the County is reached, the governing bodies will need to work through the details of how mutual aid will be handled after the interim agreement expires.

Brenham Fire Rescue Is Countywide Now:

Another impact of an unresolved interlocal agreement involves rescue. The fire rescue service for all of Washington County is handled in a completely different way. Brenham Fire Department is the primary provider of rescue service and responds immediately countywide. Washington County rural areas are roughly 48 times larger in land area than Brenham. The responsibility for rescue countywide is a significant responsibility.

Some volunteer departments have expressed an interest in assisting Washington County EMS in handling rescue calls in the County. However, others are not interested in taking on that new responsibility. At wreck scenes it is very typical for the fire service to handle the Jaws of Life extrication responsibilities while the EMS crews handle the patient care. The Task Force members did not discuss how the County would handle the rescue responsibility if a new agreement is not worked out. The County may prefer their EMS personnel to primarily handle rescue in Washington County, outside of Brenham.

In Conclusion:

If the two governing bodies can reach a consensus on an agreement for services and funding for 2013, you can consider the one-year agreement included with this memo (Attachment A) and insert the agreed upon funding amount for 2013 in Section 7.0.

If an acceptable funding amount for both parties is not reached, the agreement included with this memo (Attachment A) can be approved by amending Section 7.0 with a funding amount for the transition period and amending Section 5.0 to represent the agreed upon transition period. The transition period should allow enough time to inform the public of the upcoming changes and to give all emergency service providers time to work through the changes that will need to happen without a continuation of services.

EXHIBIT A
FUNDING FORMULA BREAKDOWN

CALL INFORMATION	Regular Calls	Cancelled In Route
Total number of calls for 2011	586	588
Total number of calls to City addresses in 2011	462	462
Total number of calls to County addresses in 2011	82	35
PERSONNEL COSTS		
Average length of a call	2 hours	1 hour
Average, hourly, labor cost	\$25	\$25
Average number of staff needed per call	2	2
Hourly personnel costs per call	\$100.00	\$50.00
TOTAL PERSONNEL COST	\$8,200	\$1,750
OPERATING COSTS		
FY2009-10 Fire Department Operating Budget	\$381,636	\$381,636
20% of TOTAL OPERATING COST	\$76,327	\$76,327
EQUIPMENT/VEHICLE COSTS		
FY14-15 Fire Department Debt Service - Fire Rescue Truck	\$750,000	\$750,000
20% pro-rata share	\$150,000	\$150,000
Pro-rata share over 10 years + Interest	\$17,600	\$17,600
COST OF FIRE RESCUE TRUCK	\$0	\$0

FUNDING FOR 2012	Revised Calculation
Total personnel	\$9,950
Total operating costs	\$76,327
Total vehicle/equipment costs (Fire Rescue Truck)	\$0
TOTAL FUNDING FOR CY2013	\$86,277

**EXHIBIT B
FUNDING FORMULA BREAKDOWN**

CALL INFORMATION	Regular Calls	Cancelled In Route
Total number of calls for 2011	586	588
Total number of calls to City addresses in 2011	462	462
Total number of calls to County addresses in 2011	82	35
PERSONNEL COSTS		
Average length of a call	2 hours	1 hour
Average, hourly, labor cost	\$25	\$25
Average number of staff needed per call	2	2
Hourly personnel costs per call	\$100.00	\$50.00
TOTAL PERSONNEL COST	\$8,200	\$1,750
OPERATING COSTS		
FY2009-10 Fire Department Operating Budget	\$381,636	\$381,636
20% of TOTAL OPERATING COST	\$76,327	\$76,327
EQUIPMENT/VEHICLE COSTS		
FY14-15 Fire Department Debt Service - Fire Rescue Truck	\$750,000	\$750,000
20% pro-rata share	\$150,000	\$150,000
Pro-rata share over 10 years + Interest	\$17,600	\$17,600
COST OF FIRE RESCUE TRUCK	\$17,600	\$17,600

FUNDING FOR 2012	Revised Calculation
Total personnel	\$9,950
Total operating costs	\$76,327
Total vehicle/equipment costs (Fire Rescue Truck)	\$17,600
TOTAL FUNDING FOR CY2013	\$103,877

<i>Phased-In Funding Over 3 Years</i>	
<i>2012</i>	<i>\$20,500</i>
<i>2013</i>	<i>\$48,292</i>
<i>2014</i>	<i>\$76,084</i>
<i>2015</i>	<i>\$103,877</i>

**EXHIBIT C
FUNDING BREAKDOWN OF CALLS PER DEPARTMENT**

ORI #	Entity	2008	2009	2010	2011	2012
		Calls For Service				as of 11-20-12
XG501	Brenham FD	409	404	446	586	531
XG303	Burton VFD	60	47	55	82	64
XG502	Berlin VFD	34	36	35	72	48
XG304	Chappell Hill VFD	69	66	59	103	76
XG305	Gay Hill VFD	40	40	36	54	31
XG403	Latium VFD	24	14	14	27	16
XG106	Meyersville VFD	67	47	41	97	49
XG308	Prairie Hill VFD	39	37	39	72	33
XG401	Rocky Creek VFD	20	18	13	46	25
XG509	Salem Fire Department	58	42	41	57	39
XG310	Washington VFD	48	48	43	76	33
A.	Total County VFD Calls	459	395	376	686	414
B.	County VFD Budget	\$161,500.00	\$174,500.00	\$200,500.00	\$215,500.00	\$218,000.00
C.	County Payment to the City	(\$5,500.00)	(\$5,500.00)	(\$5,500.00)	(\$20,500.00)	-\$20,500.00
		\$156,000.00	\$169,000.00	\$195,000.00	\$195,000.00	\$197,500.00
D.	County VFD Cost per Call	\$339.87	\$427.85	\$518.62	\$284.26	\$477.05
	Calls Brenham made in County					
	Division 5	53	37	39	43	36
	Division 6	28	47	45	74	54
E.	Total Calls BFD made in County	81	84	84	117	90
F.	Average Cost County pays City per Call	\$67.90	\$65.48	\$65.48	\$175.21	\$227.28
G.	Average Cost County pays per call to VFD	\$339.87	\$427.85	\$518.62	\$284.26	\$477.05
H.	If County paid same Amount to BFD as To VFD Dept.	\$27,529.41	\$35,939.24	\$43,563.83	\$33,258.02	\$42,934.78
I.	City Labor Cost for County Calls	\$8,100.00	\$8,400.00	\$8,400.00	\$11,700.00	\$9,000.00
J.	City Payment if funded equally to VFD Funding plus labor	\$35,629.41	\$44,339.24	\$51,963.83	\$44,958.02	\$51,934.78
**	County VFD Funding for Trucks for Six Departments		(This is not figured into the cost per call)		\$165,000.00	

EXHIBIT D

Fire Department Proposal

117 calls made—82 calls were completed and 35 were cancelled prior to half way

Cost is 2 firemen at \$25 per hour. The 82 calls is for 2 hours and the 35 are for 1 hour

82 X 2 hours X \$25 per hour X 2 firemen =	\$8,200
35 X 1 hours X \$25 per hour X 2 firemen =	\$1,750
Total	\$9,950

On the 117 calls we do not have mileage so we assume an average of 20 miles round trip knowing some are longer and some are shorter. Since the fire trucks are not regular vehicles double the IRS rate of 55.5 cents per mile is \$1.11 per mile.\

117 X 20 =	2340 miles
X \$1.11 per mile	
Total	\$2,597

The same lump sum now paid of \$15,000 (the \$5,500 was for fuel and truck wear and tear)

Grand Total \$27,547

Exhibit E

DIVISION 6

AIRPORT

DIVISION 5

DIVISION 3

DIVISION 2

DIVISION 1

DIVISION 4

1 inch = 5,732 feet



FIRE DIVISION

 DIVISION 1  DIVISION 2  DIVISION 3  DIVISION 4  DIVISION 5  DIVISION 6

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF BRENHAM AND WASHINGTON COUNTY
FOR FIRE PROTECTION AND FIRE RESCUE SERVICES**

WHEREAS, the City of Brenham, hereafter referred to as “City” and Washington County, hereafter referred to as “County” are cooperating to provide fire protection and fire rescue service to the Washington County area pursuant to Texas Government Code, Chapter 791;

WHEREAS, the City and the County obtain certain economies of scale by combining programs and having an experienced provider of services;

WHEREAS, the City and the County have each determined that it would be mutually advantageous for the administration of fire protection and fire rescue service to have this Interlocal Agreement, hereafter referred to as “Agreement,” to promote clarity and ease of understanding;

WHEREAS, the City and the County are authorized to enter into this Agreement in all respects;

NOW, THEREFORE, in consideration of the mutual covenants expressed in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the City and the County agree as follows:

1.0 Fire Protection and Fire Rescue Services

- a) The City agrees to staff, operate and maintain a Fire Station for the benefit of all City and County residents as outlined in this Agreement.
- b) The City agrees to provide fire protection service within the City and in Division 5 as shown on the Brenham Fire Divisions Coverage Map, attached hereto and incorporated herein as “Exhibit A”.
- c) The City agrees to provide fire rescue service within the City and in all of the unincorporated areas of the County.
- d) The County agrees to pay for fire protection and fire rescue services in the County, as outlined in Section 7.0 of this Agreement.

2.0 Purpose

The purpose of this Agreement is to outline fire protection within Division 5 as shown on “Exhibit A” and fire rescue service within the City and in all of the unincorporated areas of the County.

3.0 Breach

The failure of either Party to comply with the terms and conditions of this Agreement shall constitute a breach of this Agreement. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Agreement in any manner provided by law. This Agreement may be terminated at the non-breaching Party’s discretion if such breach continues for a period of thirty (30) days after written notification of such breach and of the intention of the non-breaching Party to declare this Agreement terminated, provided, however, if the breach is not capable of being fully cured within thirty (30) days, the breaching Party shall be allowed the needed additional time to cure the breach if (i) the breaching Party begins the cure within the thirty (30) day period, (ii) the breaching Party diligently pursues the cure thereafter until it is fully cured, and (iii) the breaching Party has been given advance written approval to proceed by the non-breaching Party. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not substantially cured the breach within the time period referenced above, this Agreement may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

4.0 Waiver

The waiver by either party of a breach of this Agreement shall not constitute a continuing waiver of such breach or of a subsequent breach of the same or a different provision, unless so stipulated in writing by the Party not in breach of this Agreement.

5.0 Term, Renewal

This Agreement shall be effective from January 1, 2013 until December 31, 2013 unless either Party gives the other Party written notice at least ninety (90) days in advance of its intent to terminate this Agreement. Notice shall be provided pursuant to the terms set forth in Section 9.0.

6.0 Review

Authorized representatives of the Parties shall meet at least six (6) months prior to the termination date of this Agreement (or sooner as deemed appropriate by the Parties) for the purpose of reviewing this Agreement to determine whether changed conditions necessitate revision of any of the terms of this Agreement and/or whether the funding structure is equitable for all Parties. Each Party may designate representatives to participate in the review process. As a result of this review process, the representatives may recommend changes to this Agreement for consideration by their respective governing bodies. This Agreement may be amended upon the mutual agreement of the Parties as provided in Section 12.0 of this Agreement.

The failure of the Parties to review this Agreement as provided in this Section shall not affect the validity of this Agreement, or any other provision herein.

7.0 Payment

The payment in the amount of _____ dollars (\$ _____) by the County to the City for fire protection and rescue services, as provided herein, shall be due and payable on or before January 31, 2013.

8.0 Texas Law to Apply

This Agreement shall be construed under and in accordance with the laws of the State of Texas and all obligations of the parties created hereunder are performable in Washington County, Texas. Exclusive venue for any claim, cause of action, lawsuit, or other legal proceeding arising out of this Agreement shall be in Washington County, Texas.

9.0 Notice

All notices sent pursuant to this Agreement shall be in writing and may be hand delivered, or sent by registered or certified mail, postage prepaid, return receipt requested. Notices sent pursuant to this Agreement shall be delivered or sent to the City Manager at the following address:

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

Notices sent pursuant to this Agreement shall be delivered or sent to the County Judge at the following address:

County Judge
Washington County Courthouse
100 East Main Street, Suite 104
Brenham, Texas 77833

When notices sent are hand-delivered, notice shall be deemed effective upon delivery. When notices are mailed by registered or certified mail, notice shall be deemed effective three (3) days after deposit in a U.S. mail box or at a U.S. post office. Either party may change its address for notice under this Agreement by providing a notice of the change in compliance with this paragraph to all other Parties.

10.0 Funding

The County shall pay for fire protection and rescue services rendered by the City, pursuant to this Agreement, from current revenue funds or any other lawfully available source.

11.0 Legal Construction; Headings

If any one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. The document and paragraph headings contained in this Agreement are for convenience only and do not enlarge or limit the scope or meaning of the document, paragraphs or the terms and conditions of this Agreement.

12.0 Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the Parties with respect to said matter. Each Party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party or anyone acting on behalf of any parties with respect to the subject matter hereof which are not embodied herein and that no other agreements, statements, or promises with respect to the subject matter hereof not contained in this Agreement shall be valid or binding.

No modification concerning this instrument shall be of any force or effect, excepting a subsequent amendment in writing signed by the Parties. No official, representative, agent or employee of the City, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the City Council of the City of Brenham, Texas. No official, representative, agent or employee of the County, has any authority to modify this Agreement except pursuant to express written authority to do so granted by the Commissioners Court of Washington County, Texas.

13.0 Parties Bound

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors and assigns. Neither this Agreement nor any duties or obligations under it shall be assignable by either Party without the prior written acknowledgment and authorization of both Parties to this Agreement.

14.0 Gender

Words of gender used in this Agreement shall be held and construed to include any other gender or words in the singular number shall be held to include the plural and vice versa unless this Agreement requires otherwise.

15.0 Attorney's Fees

If any action is brought to enforce, construe or determine the validity of any term or provision of this Agreement (whether at the trial court level or any appeal therefrom), the prevailing Party shall be entitled to reasonable attorney's fees and costs of the action.

IN WITNESS WHEREOF, City and County have hereby entered into this Agreement on this the _____ day of _____, 20_____.

CITY OF BRENHAM

WASHINGTON COUNTY

Milton Y. Tate, Jr.
Mayor

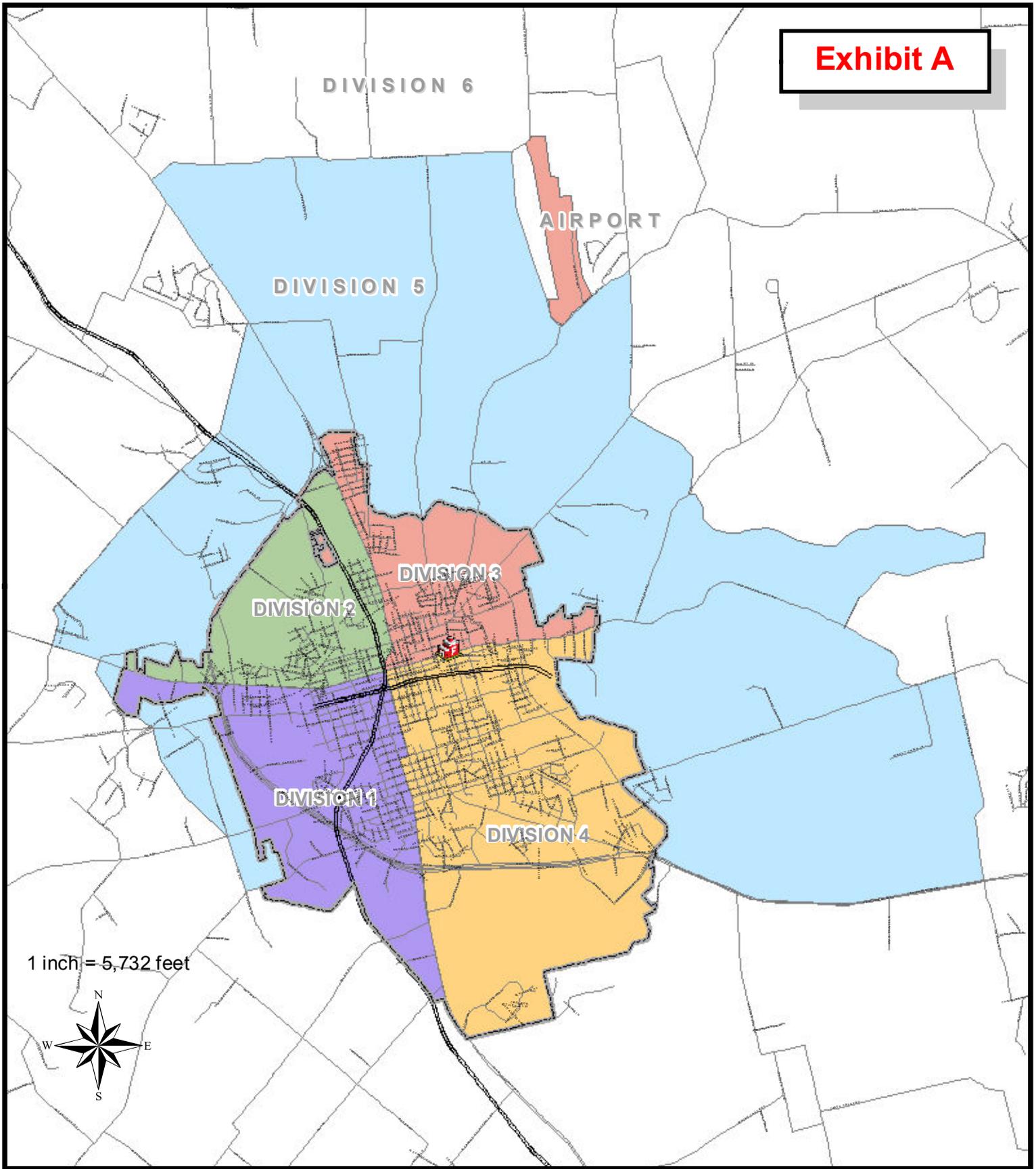
John Brieden
Judge

ATTEST:

Jeana Bellinger, TRMC
City Secretary

Beth Rothermel
County Clerk

Exhibit A



FIRE DIVISION

