



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY MARCH 21, 2013 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

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

CONSENT AGENDA

4. Statutory Consent Agenda

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

- 4-a. Minutes from the February 21, 2013 City Council meeting Page 1 - 11**

REGULAR AGENDA

- 5. Discuss and Possibly Act Upon Resolution No. R-13-004 Approving the Brenham Municipal Airport Hangar Project and Authorize the Mayor to Execute Any Necessary Documentation Page 12 - 14**
- 6. Discuss and Possibly Act Upon Ordinance No. O-13-004 on Its Second Reading to Repeal Ordinance O-07-009 and Grant a Non-Exclusive Franchise to Budget Roll-Off Service to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits Page 15 - 29**

7. **Discuss and Possibly Act Upon Ordinance No. O-13-005 on Its Second Reading to Repeal Ordinance O-09-008 and Grant a Non-Exclusive Franchise to Brazos Valley Recycling to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits** **Page 30 - 44**
8. **Discuss and Possibly Act Upon Ordinance No. O-13-006 on Its Second Reading to Grant a Non-Exclusive Franchise to Action Roll-Offs, Inc. to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits** **Page 45 - 59**
9. **Discuss and Possibly Act Upon an Interlocal Agreement Between the City of Brenham and the City of College Station for the Purchase of Radio Equipment for Use Related to the Brazos Valley Wide-Area Communication System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation** **Page 60 - 65**
10. **Discuss and Possibly Act Upon an Agreement Between City of Brenham and Texas Commercial Waste for Exclusive Small Commercial Container Service Within the City Limits and Authorize the Mayor to Execute Any Necessary Documentation** **Page 66 - 76**
11. **Discuss and Possibly Act Upon Bid No. 13-006 for the Sale of a Certain 0.3455 Acre Tract of Land, More or Less, Being the East Part of Lot 1-A and Part of Lot 1-B, Davidson Addition, City of Brenham, Washington County, Texas, and Authorize the Mayor to Execute Any Necessary Documentation** **Page 77 - 79**
12. **Discuss and Possibly Act Upon Bid No. 13-006 for the Sale of a Certain 0.912 Acre Tract of Land, More or Less, Being Reserve No. 3 in the L. D. Brown Subdivision, City of Brenham, Washington County, Texas, and Authorize the Mayor to Execute Any Necessary Documentation** **Page 80 - 82**

WORK SESSION

13. **Discussion and Presentation of the Adopted City of Brenham Design and Construction Standards and Standard Specifications Regarding Curb Standards** **Page 83 - 84**
14. **Presentation of the 2012 Annual Report by the Public Works Department** **Page 85**
15. **Presentation of the 2012 Annual Report by the Public Utilities Department** **Page 86**

EXECUTIVE SESSION

- 16. Section §551.074 – Personnel Matters – Discuss and Consider Compensation for Municipal Court Judges Julian Weisler and Robert Wright Page 87**
- 17. Section §551.074 – Personnel Matters – Discuss and Consider the Rescission of the Appointment of the Assistant City Attorney for City Prosecution in Municipal Court Page 88**

RE-OPEN REGULAR SESSION

- 18. Discuss and Possibly Take Action as a Result of Executive Session Regarding Compensation for Municipal Court Judges Julian Weisler and Robert Wright Page 89**
- 19. Discuss and Possibly Take Action as a Result of Executive Session Regarding the Rescission of the Appointment of and Cancellation of the Agreement with the Assistant City Attorney for City Prosecution in Municipal Court Page 90**

Administrative/Elected Officials Reports: Reports from City Officials or City staff regarding items of community interest, including expression of thanks, congratulations or condolences; information regarding holiday schedules; honorary or salutory recognitions of public officials, public employees or other citizens; reminders about upcoming events organized or sponsored by the City; information regarding social, ceremonial, or community events organized or sponsored by a non-City entity that is scheduled to be attended by City officials or employees; and announcements involving imminent threats to the public health and safety of people in the City that have arisen after the posting of the agenda.

20. Administrative/Elected Officials Report

Adjourn

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

CERTIFICATION

I certify that a copy of the March 21, 2013 agenda of items to be considered by the City of Brenham City Council was posted to the City Hall bulletin board at 200 W. Vulcan, Brenham, Texas on March 18, 2013 at ***11:00 A.M.***

Jeana Bellinger, TRMC

Jeana Bellinger, TRMC

City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2013 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on February 21, 2013 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

Mayor Milton Y. Tate, Jr.
Mayor Pro Tem Gloria Nix
Councilmember Mary E. Barnes-Tilley
Councilmember Andrew Ebel
Councilmember Danny Goss
Councilmember Keith Herring

Members absent:

Councilmember Weldon Williams, Jr.

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Jamie Maurer, Kaci Konieczny, Darlene Konieczny, Wende Ragonis, Fire Chief Ricky Boeker, Police Chief Rex Phelps, David Doelitsch, Development Services Director Julie Fulgham, Pat Draehn, Public Works Director Dane Rau, Leslie Kelm, Casey Redman, Public Utilities Director Lowell Ogle, Angela Hahn, Kyle Branham, Grant Lischka, Janie Mehrens, and Gary Jeter

Citizens present:

Casey Acker, Kim King, Terry Folsom, William Krueger, Paul Kendall, Judy Hyman, Lu Hollander, Clint Kolby, and Page Michel

Media Present:

Arthur Hahn, Brenham Banner Press; Frank Wagner, KWHI

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

3. Citizens Comments

There were no citizen comments.

CONSENT AGENDA

4. Statutory Consent Agenda

4-a. Minutes from the January 10, 2013, January 31, 2013, and February 7, 2013 City Council meetings Council Meeting

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Herring to approve the Statutory Consent Agenda Item 4-a. Minutes from the January 10, 2013, January 31, 2013, and February 7, 2013 City Council meetings.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

REGULAR AGENDA

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

Purchasing Services Manager Wende Ragonis presented this item. Ragonis stated that the team looked at costs on the aggregate for leased office automation equipment. Ragonis explained the project team worked with each department head and performed a needs assessment identifying each department’s office automation requirements. After needs were determined, Purchasing Services utilized the BuyBoard to select the supplier, Ricoh USA, Inc. Ragonis stated the proposed lease agreement reduces the copier fleet from the existing 24 machines to 15. These 15 copy machines have increased functionality including the ability to print, copy, scan and fax. The City can realize a leased equipment cost savings of approximately \$1,250.51 per month for leased office automation equipment. Ragonis stated the monthly lease payment would be \$3,971.44 for a term of 36 months.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve contract with Ricoh for leased office automation equipment and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

6. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 2, Administration, of the Code of Ordinances of the City of Brenham to Repeal Article V, Open Records and Records Management and Provide for a New Article V, Records Management and Public Information

City Secretary Jeana Bellinger and Records Coordinator Angela Hahn presented this item. Bellinger explained the changes in both the Public Information Act and Records Management Act necessitate amending the City's existing Ordinance. Staff intends to bring to Council a formal records management policy at the first meeting in March in accordance with the Ordinance. Bellinger stated public records and number of records are increasing, which brings forth the need to implement policies and procedures for staff on how to handle records and public records requests. Hahn further explained the provision in the law provides the right to charge for personnel hours spent fulfilling open records requests.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve an Ordinance on its first reading amending Chapter 2, Administration, of the Code of Ordinances of the City of Brenham to repeal Article V, Open Records and Records Management and provide for a new Article V, Records Management and Public Information.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

7. Discuss and Possibly Act Upon the Purchase of a 2013 International 7400 Chassis with a Debris Vacuum for the City of Brenham’s Wastewater Treatment Department from the Houston Galveston Area Council Cooperative and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented this item. Ogle stated during the budget process Council approved the purchase of a new Jet/Vacuum truck for the Wastewater Department. Ogle explained the truck will be used to clear sewer stoppages, routine maintenance of sewer lines, removing debris from manholes and cleaning lines prior to them being inspected by the City’s camera. Ogle stated this unit will replace a 1996 model that has begun to have many maintenance issues.

Ogle stated the unit was budgeted at \$302,000 and appears to be coming in at \$298,723, which will be purchased using the Houston Galveston Area Cooperative purchasing process and will be funded through a lease-purchase. Ogle stated the lease for funding will be brought to Council at a later date.

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Ebel to approve the purchase of a 2013 International 7400 Chassis with a Debris Vacuum for the City of Brenham’s Wastewater Treatment Department from the Houston Galveston Area Council Cooperative in the amount of \$298,723 and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

8. Discuss and Possibly Act Upon Bid No 13-004 for 2013 Mowing and Cleanup Services for Various City Departments and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau explained this year’s mowing and cleanup services were bid out due to the scope of work changing. The changes include the addition of Linda Anderson Park open area (#20), Hattie Mae Flowers Park (#18), Jerry Wilson Park (#21), Hasskarl Tennis Courts (#19), and the Hike and Bike Trail (#22).

Rau explained that staff has been shifting these services to a third party over the last couple of years which allows the Parks Department to spend more time on specialty items such as maintaining and making improvements to athletic fields and infrastructure in the Parks System. By making this move it will cut down on the Parks Department fleet when it comes to large mowers, fuel and staff.

Rau stated that last year the City awarded the bid in the amount of \$27,520; however, the new bid for 2013 will be \$59,860. Rau explained that after bid review, staff feels that Gene's Services offers the best overall value to the City.

A motion was made by Councilmember Barnes-Tilley and seconded by Mayor Pro Tem Nix to award Bid No. 13-004 to Gene's Services in the amount of \$59,860 as the best value for the City for the 2013 mowing and cleanup services contract and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

9. Discuss and Possibly Act Upon Bid No 13-005 for the Purchase of Refuse Bags for the Sanitation Department and Authorize the Mayor to Execute Necessary Documentation

Public Works Director Dane Rau presented this item. Rau stated opened bids for the purchase of 12,500 refuse bags. Rau explained these bags will be an inventory item and will not be dispensed until they are released from inventory. Currently these bags are passed out twice per year to our residential customers and are also sold at two locations.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to award Bid No. 13-005 to Central Poly, Inc. for 12,500 rolls of refuse bags (at \$7.10 a roll) for the Sanitation Department and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

10. Discuss and Possibly Act Upon the Purchase of a 2012 John Deere Cab Tractor with a 2012 Diamond Boom Mower for the City of Brenham’s Street Department from the Houston Galveston Area Council and the Buy Board Local Government Purchasing Cooperatives and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau stated the tractor will be bought through the HGAC purchasing cooperative and the boom mower will be bought off of the BuyBoard purchasing cooperative for a total amount of \$106,406.65. Rau explained this purchase is over the budgeted amount of \$90,000 that was proposed 8 months ago and that staff will be auctioning the old John Deere on Govdeals.com and based on recent history of similar units, he expects to receive around \$12,000 or more for the old tractor. Rau explained the remainder of the over budget difference approximately \$4,000-\$5,000 will be made up by savings within the department. Rau stated the unit is commonly used in the mowing of creeks, steep embankments, brush lines and drainage areas throughout the city.

A motion was made by Councilmember Herring and seconded by Councilmember Goss to approve the purchase of a 2012 John Deere Cab Tractor with a 2012 Diamond Boom Mower for the City of Brenham’s Street Department from the Houston Galveston Area Council and the Buy Board Local Government Purchasing Cooperatives in the amount of \$106,406.65 and authorize the Mayor to execute any necessary documentation.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

11. Discuss and Possibly Act Upon a Variance Request from Adolph Wehmeyer from Section 23-25(3), Subdivision Ordinance of the Code of Ordinances to Allow the Development of a New Mobile Home Park on Approximately 19.3 Acres Located on FM 389 and Situated Directly West of the Eight Star Corporation's Mobile Home Park (Formerly Known as Wehmeyer Mobile Home Park)

Development Services Director Julie Fulgham presented this item. Fulgham stated Mr. Wehmeyer has submitted a request for a variance from Section 25-23(3) of the Subdivision ordinance to vary from the requirement that a mobile home park has a minimum frontage of 200 feet to allow the development of a new mobile home park on Mr. Wehmeyer's land directly east of the former Wehmeyer Mobile Home Park, with only 131 feet of frontage.

William Krueger with Jones & Carter was present at the Council meeting on behalf of Adolph Wehmeyer. He stated that Mr. Wehmeyer is prepared to follow all regulations and rules outlined in the Ordinance regarding the building of the new mobile home park. Krueger explained that Mr. Wehmeyer wanted to make sure that Council would approve the new mobile home park variance before proceeding any further with plans and investing more money into the project. Krueger stated that he has asked the City to explain where the 200-400 feet regulations came from and no one seems to have an answer.

Citizen Paul Kendall addressed Council with concerns relating to the creation of another mobile home park near his property on FM 389. Kendall addressed the traffic flow on FM 389, the size of the variance being at 35% does not meet the requirements of the City's subdivision ordinance, and how property owners who own the required acreage could apply for a variance to compete with the non-conforming property.

Councilmember Goss indicated that he was not in favor of the variance because the City's Ordinance clearly states a frontage requirement and that Mr. Wehmeyer's variance does not meet the requirement. Goss reminded Council that the ordinance currently states minimum frontage of 200 feet and a maximum frontage of 400 feet.

Councilmember Barnes-Tilley asked Fulgham where the 200 feet requirement came from. Fulgham stated she was unable to find the answer to this question in her research.

Councilmember Goss stated that he would like to know where the 200-400 feet came from because once Council deviates from the Ordinance for one person; they will have to do the same for others in the future. Goss would like staff to research the Ordinance and try to determine how the 200-400 feet frontage distance was determined.

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to table Item 11 so that staff can provide Council with more information relating to this issue.

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

Mayor Milton Y. Tate, Jr.	Yes
Mayor Pro Tem Gloria Nix	Yes
Councilmember Mary E. Barnes-Tilley	Yes
Councilmember Andrew Ebel	Yes
Councilmember Danny Goss	Yes
Councilmember Keith Herring	Yes
Councilmember Weldon Williams	Absent

CLOSE REGULAR SESSION

WORK SESSION

12. Presentation of the First Quarter Report by the Washington County Convention and Visitors Bureau

Lu Hollander, with the Washington County Convention and Visitors Bureau, presented this report. She focused on the highlights featured in the *First Quarter Report – October – December 2012*, pointing out the visitor statistics, major tourism events, advertising placements, and editorial coverage.

Ms. Hollander stated the Visitor Center greeted 400 walk-ins in October, 564 walk-ins in November and 414 walk-ins in December. The Washington County Convention and Visitors Bureau mailed 1,749 visitor information in October, 1,346 in November and 1,236 in December. The website was viewed 18,900 times in October, 16,496 in November and 10,622 in December. and approximately 150,000 Visitor Guides were printed and distributed. The State of Texas Tourism Research Department estimated the overall “travel impact” through “total direct spending” in Washington County for 2010 was \$84.91 million.

Ms. Hollander presented advertisement and publication reports. She pointed out items of broadcast coverage and provided samples of publicity Washington County received in 2012.

There were no questions.

13. Presentation of the 2012 Annual Report by the Administration Department

City Manager Terry Roberts and Assistant City Manager Kyle Dannhaus presented the 2012 Annual Report for Administration. Roberts discussed the overview of the City Services and the major projects handled within Administration, including the U.S. Highway 290 Project. Roberts explained the relationship with City Council, the City Attorney's role for the City and the Interlocal Agreements with the County that are currently being reviewed and discussed in hopes of being completed and ready for Council's review in 6 months. Roberts also explained that with the reorganization, reassignments and staffing changes, the City Administration's Office includes the information technology department and emergency communications. Dannhaus highlighted the new employees, functions and accomplishments of the information technology department and Brenham emergency communications. Dannhaus recognized his staff and expressed his appreciation for their hard work.

There were no questions.

14. Presentation of the 2012 Annual Report by the Finance and Administrative Services Division

Chief Financial Officer Carolyn Miller presented this report. Miller stated that Recreation superintendent Jamie Maurer will be returning to discuss a Recreation Update at the April 4th Council meeting. Municipal Court Administrator Rhonda Kuehn will also present Municipal Court Statistics for 2012 at the April 4th Council meeting.

Miller reviewed the Blue Chip Stocks, Building Equity, Winning Market Strategies and Annual Stock Performance for the following departments: Purchasing Services, Accounting, Budget and Risk Management, Human Resources, Recreation and Aquatics, City Secretary, Municipal Court, and Nancy Carol Roberts Memorial Library. She explained that the City received, for a fourth consecutive year, the *Certificates of Achievement for Excellence in Financial Reporting* from the Government Finance Officers Association for the City's annual financial reports as well as the *Distinguished Budget Presentation Award* for the third consecutive year. Miller expressed her division's strive for leadership and accountability through performance in order to provide excellent service for the City's internal and external customers.

There were no questions.

15. Presentation of the 2012 Annual Report by the Development Services Department

Development Services Director Julie Fulgham presented this report. Fulgham reviewed the awards, accomplishments, training/certifications, and seminars that her departmental employees completed throughout the fiscal year. Fulgham explained the projects and plan review committee progress as well as discussed the parade/event permits and noise variances. Fulgham stated that the City Secretary's office will handle parade/event permits and noise variances in the upcoming year. Fulgham reviewed the accomplishments and projects for the following departments and boards: Building Permits and Inspection Division, Building Standards Commission, Planning Division, Board of Adjustments and Appeals, Planning and Zoning Commission, Mapping, Airport, Airport Advisory Board, Main Street Department.

There were no questions.

16. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Chamber of Commerce Forum is on February 22nd
- February 26, 2013 is Washington County Day at the Capital in Austin
- Al Gomez's retirement party will be held next Friday, March 1, 2013 at 3:00pm at the Brenham Police Department's Community Room.
- Westwood traffic light issue is currently being worked out with TXDOT.
- Utility Extension Committee has a meeting this afternoon.
- Preliminary Utility Cost Study has been received and there will be a possible workshop in the future.

City Engineer Grant Lischka reported on the following:

- The Overlay Project is ongoing around town.
- TXDOT is on call in regards to the issues with the Westwood light. They will be working on resolving the issue with a projected completion of another week.
- The Aviation Division met with TXDOT to go over the Hangar Project. TXDOT Airport Hangar Project will be listed as a Work Session Item on the March 7, 2013 Council meeting.

Public Works Director Dane Rau reported on the following:

- Land had been acquired behind the Recycling Center to expand the Recycling Center. The property was bought and closed yesterday.
- Work is still progressing at Linda Anderson and Hohlt Parks. The Parks Department employees have been working late to get the improvements completed before Opening Day of Little League on March 23rd.
- Next week, Staff and Parks Advisory Board will meet to discuss the maintenance cost of the fields, who uses the fields and how often, and seeking recommendations for the future.

Fire Chief Ricky Boeker report on the following:

- City of Brenham participated in the Memorial Service for the City of Bryan fire fighters killed last week in the line of duty.

Mayor Pro Tem asked about an update on Judge Wright.

- Angela Hahn stated that Judge Wright was at home and would be starting physical therapy soon, but she did not know any other information.

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 5

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Grant Lischka	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Resolution No. R-13-004 Approving the Brenham Municipal Airport Hangar Project and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: This Resolution is in support of the 10 unit T-hangar development, access taxiway and new electrical vault project that were discussed in work session at the last City Council meeting. The project was approved by TxDOT at an estimated cost of \$1,695,000 with the City of Brenham's share being approximately \$169,500.		
TxDOT would like to include this project in their FY 2013 Capital Improvement Program (CIP). The following paperwork is necessary to get this project included on the next transportation commission agenda (May) for approval of the project. This resolution is the first step in the process.		
<ol style="list-style-type: none"> 1. A resolution authorizing the Mayor or his designee to sign the necessary documents for the implementation of these improvements to the Brenham Municipal Airport. This authorization would include the following forms that have to be submitted as soon as City Council approval is obtained, as well as the participation agreement with TxDOT that will be prepared after the project receives approval from the Transportation Commission, and any other documents relating to this project. 2. Designation of Sponsor's Authorized Representative. 3. Certification of Project Funds. This forms assures TxDOT that the funds will be available and when, should the Commission approve funding for this project. 4. Attorney's Certification of Airport Property Interests. This is a form that has to be signed by the City Attorney certifying any and all property acquisitions for the airport since July 2000. 5. Copy of our most recent audited financial statement. 		
Once the Transportation Commission grants approval of the project, a Grant agreement will be sent to the City of Brenham for execution then TxDOT will begin the process.		

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS:

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Resolution No. R-13-004

FUNDING SOURCE \$16,604 available in the Airport Capital Improvement Fund; \$178,183 available from the General Fund 5 days of R&R (renovations and replacements).

RECOMMENDED ACTION: Approve Resolution No. R-13-004 approving the Brenham Municipal Airport Hangar project and authorize the Mayor to execute any necessary documentation

APPROVALS: Terry K. Roberts

RESOLUTION NO. R-13-004

WHEREAS, the City of Brenham intends to make certain improvements to the Brenham Municipal Airport; and

WHEREAS, the general description of the project is described as: construction of a 10-unit T-hangar development, various access taxiways and a new electrical vault; and

WHEREAS, the City of Brenham intends to request financial assistance from the Texas Department of Transportation for these improvements; and

WHEREAS, total project costs are estimated to be \$1,695,000.00, and the City of Brenham will be responsible for 10% of the total project costs currently estimated to be \$169,500.00: and

WHEREAS, the City of Brenham names the Texas Department of Transportation as its agent for the purposes of applying for, receiving and disbursing all funds for these improvements and for the administration of contracts necessary for the implementation of these improvements;

NOW, THEREFORE, BE IT RESOLVED, that the City of Brenham hereby directs Milton Y. Tate, Jr., Mayor, to execute on behalf of the City of Brenham, at the appropriate time, and with the appropriate authorizations of this governing body, all contracts and agreements with the Texas Department of Transportation, and such other parties as shall be necessary and appropriate for the implementation of the improvements to the Brenham Municipal Airport.

PASSED AND APPROVED this the ____ day of March, 2013.

Milton Y. Tate, Jr.
City of Brenham, Texas

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 6

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input checked="" 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 Ordinance No O-13-004 on Its Second Reading to Repeal Ordinance O-07-009 and Grant a Non-Exclusive Franchise to Budget Roll-Off Service to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: At the March 7, 2013 council meeting, I presented this Ordinance for 1 st reading. After discussing the Ordinance further with Council, it was decided that staff should be allowed to set the <u>exact location and specific time period</u> for any containers placed on city streets. In response to Council's direction, Section 8, Placement of Containers, was amended to include the appropriate wording. As a reminder, Budget Roll-Off Service has had a franchise to provide roll-off containers within the city limits since May, 2007. They average about \$1,573 a year in franchise taxes. This ordinance will get Budget Roll-Off Service on the same expiration date as all other sanitation franchise holders (October 1 thru September 30).		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) A redlined version of Section 8; and (2) Ordinance No. O-13-004.		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Ordinance No. O-13-004 on its second reading to repeal Ordinance O-07-009 and grant a non-exclusive franchise to Budget Roll-Off Service to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits		
APPROVALS: Terry K. Roberts		

SECTION 8.
PLACEMENT OF CONTAINERS

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

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

ORDINANCE NO. O-13-004

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

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

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

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

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to Budget Roll-Off Service, under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

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

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

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

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

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

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

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

Budget Roll-Off Service. Herein-after referred to as "BUDGET ROLL-OFF SERVICE". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

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

**SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE**

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

**SECTION 4.
DISPOSAL SITE TO BE USED**

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

**SECTION 5.
RATES TO BE CHARGED**

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

**SECTION 6.
PAYMENTS TO CITY**

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

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

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

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

SECTION 7. ACCESS TO RECORDS & REPORTING

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

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

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

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

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

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

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning BUDGET ROLL-OFF SERVICE that invoke Section 552.305.

SECTION 8. PLACEMENT OF CONTAINERS

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

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

SECTION 9. CONTAINER MAINTENANCE

BUDGET ROLL-OFF SERVICE_ agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

**SECTION 10.
COMPLAINTS REGARDING SERVICE/SPILLAGE**

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

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

**SECTION 11.
OBEISANCE OF LAWS**

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

**SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

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

**SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED**

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

**SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT**

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

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

**SECTION 15.
FAILURE TO PERFORM**

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

**SECTION 16.
INDEMNIFICATION**

In the event CITY is damaged due to the act, omission, mistake, fault or default of BUDGET ROLL-OFF SERVICE, then BUDGET ROLL-OFF SERVICE shall indemnify and hold CITY harmless for such damage.

BUDGET ROLL-OFF SERVICE is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

BUDGET ROLL-OFF SERVICE shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by BUDGET ROLL-OFF SERVICE, its agents, employees, and representatives.

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

SECTION 17. INSURANCE

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

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

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

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

A. STANDARD INSURANCE POLICIES REQUIRED

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

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

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

C. COMMERCIAL GENERAL LIABILITY

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

D. AUTOMOBILE LIABILITY

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

E. WORKERS' COMPENSATION

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

F. CERTIFICATES OF INSURANCE

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

SECTION 18. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by BUDGET ROLL-OFF SERVICE without the specific prior written approval of the City Council. Any assignment by BUDGET ROLL-OFF SERVICE without prior written approval of the City Council shall be null and void.

SECTION 19. SAFETY

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

**SECTION 20.
AD VALOREM TAXES**

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

**SECTION 21.
NOTICES**

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

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

Budget Roll-Off Service

ATTN: _____

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

**SECTION 22.
AMENDMENTS**

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

**SECTION 23.
SEVERABILITY**

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

**SECTION 24.
TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the ____ day of _____, 20____, being the date of acceptance by BUDGET ROLL-OFF SERVICE and shall terminate on September 30, 2014.

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

**SECTION 25.
ACCEPTANCE OF AGREEMENT**

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

**SECTION 26.
AUTHORIZATION TO EXECUTE**

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

**SECTION 27.
PUBLIC MEETING**

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

PASSED and APPROVED on its first reading this ____ day of _____, 2013.

PASSED and APPROVED on its second reading this ____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 7

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input checked="" 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 Ordinance No O-13-005 on Its Second Reading to Repeal Ordinance O-09-008 and Grant a Non-Exclusive Franchise to Brazos Valley Recycling to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: At the March 7, 2013 council meeting, I presented this Ordinance for 1 st reading. After discussing the Ordinance further with Council, it was decided that staff should be allowed to set the <u>exact location and specific time period</u> for any containers placed on city streets. In response to Council’s direction, Section 8, Placement of Containers, was amended to include the appropriate wording. As a reminder, Brazos Valley Recycling has had a franchise to provide roll-off containers within the city limits since May, 2009. They average about \$488 a year in franchise taxes. This ordinance will get Brazos Valley Recycling on the same expiration date as all other sanitation franchise holders (October 1 thru September 30).		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) A redlined version of Section 8; and (2) Ordinance No. O-13-005.		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Ordinance No. O-13-005 on its second reading to repeal Ordinance O-09-008 and grant a non-exclusive franchise to Brazos Valley Recycling to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits		
APPROVALS: Terry K. Roberts		

SECTION 8.
PLACEMENT OF CONTAINERS

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

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

ORDINANCE NO. O-13-005

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

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

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

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

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to BRAZOS VALLEY RECYCLING, under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

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

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

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

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

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

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

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

Brazos Valley Recycling. Herein-after referred to as "BRAZOS VALLEY RECYCLING". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

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

**SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE**

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

**SECTION 4.
DISPOSAL SITE TO BE USED**

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

**SECTION 5.
RATES TO BE CHARGED**

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

**SECTION 6.
PAYMENTS TO CITY**

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

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

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

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

SECTION 7. ACCESS TO RECORDS & REPORTING

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

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

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

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

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

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

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning BRAZOS VALLEY RECYCLING that invoke Section 552.305.

SECTION 8. PLACEMENT OF CONTAINERS

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

BRAZOS VALLEY RECYCLING agrees and acknowledges that it shall be liable for any and all damages it causes to any public street, alley and/or thoroughfare, and associated improvements and BRAZOS VALLEY RECYCLING will pay CITY's entire construction costs and other expenses associated with repairing and/or replacing the damaged public street, alley and/or thoroughfare, and associated improvements.

SECTION 9. CONTAINER MAINTENANCE

BRAZOS VALLEY RECYCLING_ agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

**SECTION 10.
COMPLAINTS REGARDING SERVICE/SPILLAGE**

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

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

**SECTION 11.
OBEISANCE OF LAWS**

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

**SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

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

**SECTION 13.
OWNERSHIP OF MATERIALS COLLECTED**

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

**SECTION 14.
INTERRUPTION OF SERVICE OR DEFAULT**

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

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

**SECTION 15.
FAILURE TO PERFORM**

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

**SECTION 16.
INDEMNIFICATION**

In the event CITY is damaged due to the act, omission, mistake, fault or default of BRAZOS VALLEY RECYCLING, then BRAZOS VALLEY RECYCLING shall indemnify and hold CITY harmless for such damage.

BRAZOS VALLEY RECYCLING is to indemnify and hold CITY harmless for any disposal of any prohibited material whether intentional or inadvertent.

BRAZOS VALLEY RECYCLING shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by BRAZOS VALLEY RECYCLING, its agents, employees, and representatives.

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

SECTION 17. INSURANCE

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

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

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

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

A. STANDARD INSURANCE POLICIES REQUIRED

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

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

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

C. COMMERCIAL GENERAL LIABILITY

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

D. AUTOMOBILE LIABILITY

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

E. WORKERS' COMPENSATION

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

F. CERTIFICATES OF INSURANCE

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

SECTION 18. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by BRAZOS VALLEY RECYCLING without the specific prior written approval of the City Council. Any assignment by BRAZOS VALLEY RECYCLING without prior written approval of the City Council shall be null and void.

SECTION 19. SAFETY

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

**SECTION 20.
AD VALOREM TAXES**

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

**SECTION 21.
NOTICES**

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

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

BRAZOS VALLEY RECYCLING

ATTN: _____

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

**SECTION 22.
AMENDMENTS**

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

**SECTION 23.
SEVERABILITY**

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

**SECTION 24.
TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the ____ day of _____, 20____, being the date of acceptance by BRAZOS VALLEY RECYCLING and shall terminate on September 30, 2014.

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

**SECTION 25.
ACCEPTANCE OF AGREEMENT**

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

**SECTION 26.
AUTHORIZATION TO EXECUTE**

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

**SECTION 27.
PUBLIC MEETING**

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

PASSED and APPROVED on its first reading this ____ day of _____, 2013.

PASSED and APPROVED on its second reading this ____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 8

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Jeana Bellinger	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input checked="" 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 Ordinance No O-13-006 on Its Second Reading to Grant a Non-Exclusive Franchise to Action Roll-Offs, Inc. to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits		
SUMMARY STATEMENT: At the March 7, 2013 council meeting, I presented this Ordinance for 1 st reading. After discussing the Ordinance further with Council, it was decided that staff should be allowed to set the <u>exact location and specific time period</u> for any containers placed on city streets. In response to Council's direction, Section 8, Placement of Containers, was amended to include the appropriate wording. As a reminder, Action Roll-Offs has never had a franchise with the City. My office received a letter from them on February 25, 2013 requesting to do business in Brenham. Action Roll-Offs is located in Hempstead and has been in business since 2007.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) A redlined version of Section 8; and (2) Ordinance No. O-13-006.		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Approve Ordinance No. O-13-006 on its second reading to grant a non-exclusive franchise to Action Roll-Offs, Inc. to operate a roll-off container service for residents, businesses, and industries inside Brenham city limits		
APPROVALS: Terry K. Roberts		

SECTION 8.
PLACEMENT OF CONTAINERS

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

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

ORDINANCE NO. O-13-006

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

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

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

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

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to ACTION ROLL-OFFS, INC., under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

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

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

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

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

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

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

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

Action Roll-Offs, Inc. Herein-after referred to as "ACTION ROLL-OFFS, INC.". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

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

**SECTION 3.
AUTHORITY FOR TO PROVIDE SERVICE**

CITY hereby grants to ACTION ROLL-OFFS, INC. the privilege to collect from commercial, residential, and industrial customers within the City limits solid waste using roll-off containers and/or commercial compactors only.

**SECTION 4.
DISPOSAL SITE TO BE USED**

Unless approved otherwise in writing by the CITY, ACTION ROLL-OFFS, INC. shall utilize any Type I permitted landfill that ACTION ROLL-OFFS, INC. deems appropriate and is authorized for disposal of all solid waste, which is collected by ACTION ROLL-OFFS, INC. from within the corporate limits of the CITY.

**SECTION 5.
RATES TO BE CHARGED**

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

**SECTION 6.
PAYMENTS TO CITY**

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

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

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

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

SECTION 7. ACCESS TO RECORDS & REPORTING

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

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

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

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

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

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

The CITY will comply with Section 552.305 of the Act with regard to any requests for records concerning ACTION ROLL-OFFS, INC. that invoke Section 552.305.

SECTION 8. PLACEMENT OF CONTAINERS

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

SECTION 9. CONTAINER MAINTENANCE

ACTION ROLL-OFFS, INC. agrees to properly maintain as necessary, including but not limited to cleaning and painting, all roll-off containers placed for service within CITY.

**SECTION 10.
COMPLAINTS REGARDING SERVICE/SPILLAGE**

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

**SECTION 11.
OBEISANCE OF LAWS**

ACTION ROLL-OFFS, INC. agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, and CITY. All collections made hereunder shall be made by ACTION ROLL-OFFS, INC. without unnecessary noise, disturbance, or commotion.

**SECTION 12.
UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY**

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

SECTION 13.

OWNERSHIP OF MATERIALS COLLECTED

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

SECTION 14. INTERRUPTION OF SERVICE OR DEFAULT

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

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

SECTION 15. FAILURE TO PERFORM

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

SECTION 16. INDEMNIFICATION

In the event CITY is damaged due to the act, omission, mistake, fault or default of ACTION ROLL-OFFS, INC., then ACTION ROLL-OFFS, INC. shall indemnify and hold CITY harmless for such damage.

ACTION ROLL-OFFS, INC. is to indemnify and hold CITY harmless for any disposal of

any prohibited material whether intentional or inadvertent.

ACTION ROLL-OFFS, INC. shall indemnify and hold CITY harmless from any and all injuries to or claims of adjacent property owners caused by ACTION ROLL-OFFS, INC., its agents, employees, and representatives.

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

SECTION 17. INSURANCE

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

ACTION ROLL-OFFS, INC. insurance coverage shall be primary insurance with respect to the CITY, its officials, employees and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees or volunteers shall be considered in excess of the ACTION ROLL-OFFS, INC. insurance and shall not contribute to it.

ACTION ROLL-OFFS, INC. shall include all subcontractors as additional insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage's for subcontractors shall be subject to all of the requirements stated herein.

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

A. STANDARD INSURANCE POLICIES REQUIRED

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

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

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

C. COMMERCIAL GENERAL LIABILITY

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

D. AUTOMOBILE LIABILITY

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

E. WORKERS' COMPENSATION

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

F. CERTIFICATES OF INSURANCE

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

SECTION 18. ASSIGNMENT

This Agreement and the rights and obligations contained herein may not be assigned by ACTION ROLL-OFFS, INC. without the specific prior written approval of the City Council. Any assignment by ACTION ROLL-OFFS, INC. without prior written approval of the City Council shall be null and void.

SECTION 19. SAFETY

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

**SECTION 20.
AD VALOREM TAXES**

ACTION ROLL-OFFS, INC. agrees to render all personal property utilized in its solid waste operation services to Washington County Appraisal District so that said personal property will be the subject of ad valorem taxation for the benefit of CITY.

**SECTION 21.
NOTICES**

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

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

ACTION ROLL-OFFS, INC.

ATTN: _____

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

**SECTION 22.
AMENDMENTS**

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

**SECTION 23.
SEVERABILITY**

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

**SECTION 24.
TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the ____ day of _____, 20____, being the date of acceptance by ACTION ROLL-OFFS, INC. and shall terminate on September 30, 2014.

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

**SECTION 25.
ACCEPTANCE OF AGREEMENT**

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

**SECTION 26.
AUTHORIZATION TO EXECUTE**

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

**SECTION 27.
PUBLIC MEETING**

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

PASSED and APPROVED on its first reading this ____ day of _____, 2013.

PASSED and APPROVED on its second reading this ____ day of _____, 2013.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 9

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 12, 2013	
DEPT. OF ORIGIN: Fire/Communications		SUBMITTED BY: Ricky Boeker	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input 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 the City of College Station for the Purchase of Radio Equipment for Use Related to the Brazos Valley Wide-Area Communication System (BVWACS) and Authorize the Mayor to Execute Any Necessary Documentation			
SUMMARY STATEMENT: In order for Communications to be compliant, they are required by the State Interoperability Plan to monitor certain radio channels in the 800 MHz range. Currently we did not have this capability and for us to purchase this equipment it would be in the \$25,000 to \$30,000 range. This equipment would be seldom used and we felt that it was not where we needed to spend our money. During meetings at the BVWACS Operating Board it came up that College Station had some of this surplus equipment that they did not need any longer. This equipment was working when it was turned off and we are confident that it will serve our needed purpose. After some discussions we were able to work out the arrangement that is stated in the ILA before you today. There will be some minimal charges for us to get this equipment operational but nothing compared to the cost savings we are seeing getting this equipment from College Station. We have estimated cost of below \$5,000 which also includes repairing some of the grounding at Communications.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference): We could purchase this equipment new but staff feels because of its low use we are being fiscally responsible trying this method first.			
ATTACHMENTS: (1) Interlocal Agreement Between the City of College Station and City of Brenham			
FUNDING SOURCE (Where Applicable): Communications budget			

RECOMMENDED ACTION: Approve an Interlocal Agreement between the City of Brenham and the City of College Station for the purchase of radio equipment for use related to the Brazos Valley Wide-Area Communication System (BVWACS) and authorize the Mayor to execute any necessary documentation

APPROVALS: Terry K. Roberts

**INTERLOCAL AGREEMENT BETWEEN
THE CITY OF COLLEGE STATION AND
CITY OF BRENHAM**

WHEREAS, Chapter 791 of the Texas Government Code, also known as the Interlocal Cooperation Act, authorizes all local governments to contract with each other to perform governmental functions or services including administrative functions normally associated with the operation of government such as purchasing of necessary equipment and supplies; and

WHEREAS, the **City of College Station** (hereinafter referred to as “**College Station**”), and **City of Brenham** (hereinafter referred to as “**City of Brenham**”) desire to enter into this Agreement for the purpose of fulfilling and implementing their respective public and governmental purposes, needs, objectives, programs, functions, and services; and

WHEREAS, the **City of College Station, City of Brenham** and other local governmental entities entered into an interlocal agreement in 2008 (Resolution No. 6-26-08-08) for the construction, acquisition, implementation, operation, and maintenance of an interoperable radio and data communications system, known as the Brazos Valley Wide Area Communications System (“**BVWACS**”); and

WHEREAS, College Station has surplus 800 MHz radio equipment; and

WHEREAS, City of Brenham is in need of such radio communications equipment to facilitate better usage of the interoperable radio system and meet state interoperability requirements for public safety; and

WHEREAS, radio interoperability between local governmental entities accomplishes a valid public purpose and enhances public safety; and

WHEREAS, it is deemed in the best interest of the participating governments that said governments do enter into a mutually satisfactory agreement for the transfer of the radio equipment;

NOW THEREFORE, the parties hereto, in consideration of the mutual covenants and conditions contained herein, promise and agree as follows:

- 1.** Within thirty (30) days of the effective date of this Agreement and for the consideration contained in paragraph 4 of this agreement, **City of Brenham** shall receive surplus radio equipment in “as is condition” from **College Station**.

- 2. College Station** shall transfer to **City of Brenham** the following radio equipment:
Chassis SN: CAEVWV0P3C
Model: T5365A
Radio SN: 448CWF0090

Chassis SN: CAEVWV0P3B

Model: T5365A
Radio SN: 448CWF0091

Chassis SN: CAEVWV0P3H
Model: T5365A
Radio SN: 225CWF0269

Duplexer
No SN or part number on item.

City of Brenham and **College Station** shall schedule a date and time convenient to both parties for a **City of Brenham** representative to collect the equipment. Delivery will be F.O.B. College Station, Texas.

3. **Effective Date.** This Agreement shall be effective when signed by the last party whose signing makes the Agreement fully executed. Notwithstanding this provision, any party may modify or terminate this Agreement as provided in Paragraph(s) 5 or 6.
4. **Consideration.** Upon **College Station's** receipt of a written request from **City of Brenham** for surplus radio equipment, **College Station** will sell to **City of Brenham**, and **City of Brenham** will pay **ONE AND NO/100 DOLLARS (\$1.00)**, for available surplus radio equipment identified in paragraph 2. **City of Brenham** agrees to use the surplus radio equipment for the purposes established in this Agreement.
5. **Modification.** The terms and conditions of this Agreement may be modified upon the mutual consent of both parties. Mutual consent will be demonstrated approval of the governing body of each party hereto. No modification to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.
6. **Termination.** Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to the other party in accordance with Paragraph 10 herein.
7. **Hold Harmless.** **College Station** and **City of Brenham** agree to hold each other harmless from and against any and all claims, losses, damages, causes of action, suits, and liabilities of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury or death of any person, for damage to any property, or for any breach of contract, arising out of or in connection with this Agreement.
8. **Disclaimer of Warranty.** The transfer of the radio equipment is as is, where is and without warranty, express or implied, as to quality, condition, fitness for known purpose, or of any other kind. **City of Brenham** understands and agrees that the goods are provided "as is."
9. **Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or

impaired thereby. The parties shall use their best efforts to replace the respective provision or provisions of this Agreement with legal terms and conditions approximating the original intent of the parties.

10. **Written Notice.** Unless otherwise specified, written notice shall be deemed to have been duly served if delivered in person or sent by certified mail to the last business address as listed herein.

City of Brenham: City of Brenham
Attn: Pam Ruemke, Brenham Communications Manager
301 N. Baylor
P.O. Box 2258
Brenham, TX 77834-2258
(979) 337-7274

College Station: City of College Station, Department of Information
Technology
Attn: Ben Roper, IT Director
310 Krenek Tap Rd
P.O. Box 9960
College Station, Texas 77842
(979)764-3538

11. **Entire Agreement.** It is understood that this Agreement contains the entire agreement between the parties and supercedes any and all prior agreements, arrangements, or understandings between the parties relating to the subject matter. No oral understandings, statements, promises, or inducements contrary to the terms of this Agreement exist. This Agreement cannot be changed or terminated orally. No verbal agreement or conversation with any officer, agent, or employee of any party before or after the execution of this Agreement shall affect or modify any of the terms or obligations hereunder.
12. **Amendment.** No Amendment to this Agreement shall be effective and binding unless and until it is reduced to writing and signed by duly authorized representatives of both parties.
13. **Texas Law.** This Agreement has been made under and shall be governed by the laws of the State of Texas.
14. **Place of Performance.** Performance and all matters related thereto shall be in Brazos County, Texas, United States of America.
15. **Authority to Enter Contract.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each party has been properly authorized and empowered to enter into this Agreement. The persons executing this Agreement hereby represent that they have authorization to sign on behalf of their respective corporations.
16. **Waiver.** Failure of either party, at any time, to enforce a provision of this Agreement, shall in no way constitute a waiver of that provision, nor in anyway affect the validity of

this Agreement, any part hereof, or the right of either party thereafter to enforce each and every provision hereof. No term of this Agreement shall be deemed waived or breach excused unless the waiver shall be in writing and signed by the party claimed to have waived. Furthermore, any consent to or waiver of a breach will not constitute consent to or waiver of or excuse of any other different or subsequent breach.

- 17. **Agreement Read.** The parties acknowledge that they have read, understand and intend to be bound by the terms and conditions of this Agreement.
- 18. **Assignment.** This Agreement and the rights and obligations contained herein may not be assigned by any party without the prior written approval of the other parties to this Agreement.
- 19. **Multiple Originals.** It is understood and agreed that this Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

CITY OF BRENHAM

CITY OF COLLEGE STATION

Milton Y. Tate, Jr.
Mayor
Date: _____

By: _____
Nancy Berry, Mayor
Date: _____

ATTEST:

ATTEST:

Jeana Bellinger, TRMC
City Secretary
Date: _____

Sherry Mashburn, City Secretary
Date: _____

APPROVED:

Frank Simpson, Interim City Manager
Date: _____

City Attorney
Date: _____

Jeff Kersten, Executive Director of Business
Services
Date: _____



AGENDA ITEM 10

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 13, 2013	
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Dane Rau	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input 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 Agreement Between City of Brenham and Texas Commercial Waste for Exclusive Small Commercial Container Service Within the City Limits and Authorize the Mayor to Execute Any Necessary Documentation		
<p>SUMMARY STATEMENT: In May of this year, our exclusive Sanitation contract with Texas Commercial Waste will expire. This will conclude the 10 year term that we have had which allowed TCW to exclusively operate dumpster and cart services within City limits. We have had a great relationship with TCW over the last 10 years and have had very few complaints. They have been consistent and reliable when it comes to providing an essential service to our businesses.</p> <p>TCW currently services over 560 accounts within the City. The City of Brenham benefits by receiving a franchise fee payment of 7% as well as a 3% billing fee on gross charges. Overall, the City of Brenham brings in approximately \$80,000 annually into the Sanitation Fund with its only responsibility being the customer billing.</p> <p>On January 31st staff discussed with council our options when it came to commercial sanitation services within Brenham city limits. At that meeting it was the consensus to work with TCW on a new contract and keep them as our provider.</p> <p>Since that meeting, staff has worked with Carey and TCW to revise the old contract and bring it up to 2013 standards. The contract is now up to date and was mutually agreed on by both the City of Brenham and TCW. Changes in the contract have been noted in your packet. The major change was the term of the contract which now calls for an initial 3 year term with automatic one year renewals after the third year. This contract does give either party an out clause which would be notification of 120 days prior to the ending of the initial 3 year term or 120 days prior to the renewed term.</p> <p>Staff feels that right now it would be in the best interest to sign a new contract with TCW. Our recommendation would be for 3 years with automatic one year renewals. By doing this it will allow the service to continue as it is without any changes. It will also allow the City of Brenham ample time to seriously consider operating this service in-house three years from now.</p>		

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: By awarding contract to TCW will be staying with same company who has provided excellent service for last 10 years.

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) A redlined version of Agreement for Small Commercial Container Service (Non-Residential) from 2003

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve Agreement between City of Brenham and Texas Commercial Waste for exclusive small commercial container service within the City Limits and authorize the Mayor to execute any necessary documentation

APPROVALS: Terry K. Roberts

**AGREEMENT FOR SMALL COMMERCIAL CONTAINER SERVICE
(NON-RESIDENTIAL)**

STATE OF TEXAS

§

§ KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF WASHINGTON

§

The CITY OF BRENHAM, a home-rule municipal corporation located in Washington County, Texas (hereinafter called "CITY"), acting by and through its duly authorized Mayor, and Bryan Iron & Metal, Ltd., A Texas Limited Partnership, acting by and through Bryan Management Co., Inc., its General Partner, D.B.A. Texas Commercial Waste (hereinafter called "CONTRACTOR"), do hereby agree as follows:

1.

EXCLUSIVE CONTRACT AND FRANCHISE AGREEMENT

For and in consideration of compliance by CONTRACTOR with the covenants and conditions herein set forth, and the ordinances and regulations of CITY governing the collection and disposal of solid waste and refuse, CITY hereby grants to CONTRACTOR an exclusive permit and franchise to engage in the business of collecting solid waste, garbage, trash, brush, and other refuse from commercial, industrial and other approved types of waste generators using containers as described herein subject to the following conditions:

- A. At the beginning of the term of this Contract as set forth in paragraph 6 below, the Contractor will provide container service to City customers as reflected in Exhibit A attached hereto pursuant to the terms and conditions of this Contract, commercial customers of the City must initiate a request for container service to the City. The City will notify the Contractor in writing of any additions, deletions or changes to the customer list reflected on Exhibit A. The City may provide the information reflected in Exhibit A to Contractor by fax, ~~or~~ email, or personal delivery.
- B. The Contractor will place the container within two (2) business days of receipt of written notification and all information as reflected in Exhibit A. The Contractor shall not service single-family residential customers. Contractor will only service those commercial customers (including multi-family dwellings such as apartment complexes and townhomes) based on written request by the City.
- ~~C.~~ As the service provided in this Contract involves the general health, safety and welfare of the public and the City desires to have compliance with all requirements, conditions, and terms of this exclusive contract, the City during the term of this agreementContract will not grant to another Contractor a permit, franchise or privilege to provide commercial container

services (but not including roll-off container and/or commercial compactor services) within the City limits of the City of Brenham and the City will not enter into any Contract with another contractor to provide the same or similar container service as described herein within the City limits of the City of Brenham.

2. SCOPE OF THE WORK

The work under this Contract shall consist of the placement and collection of small commercial containers, as described in Exhibit "B". The scope of the work will include all the supervision, materials, equipment, labor and all other items necessary to complete said work in accordance with the terms of this Contract.

2.01 LOCATION OF CONTAINERS

Each commercial container shall be located to provide accessibility by the Contractor's truck. The Contractor may decline to collect any commercial container not accessible by collection truck. The Contractor will provide such containers as described in Exhibit A or as requested by City for its customers in a written request as set forth in paragraph 1 above.

2.02 DISPOSAL LOCATION

Contractor shall be allowed to utilize the City of Brenham Transfer Station for disposal of all waste material collected by Contractor within the corporate limits of the City of Brenham under this Contract, of not less than fifteen (15) tons ~~nor more than thirty (30) tons~~ a day. The rate schedule in Exhibit B is based on ~~\$33.50~~ \$42.50 per ton as the disposal rate at the City's Transfer Station. In the event of a change in said rate, Contractor may adjust the rate schedule as provided in paragraph 3.01 . Contractor will also utilize a type I MSW land fill in the disposal of such solid waste such as Brazos Valley Solid Waste Management Agency ("BVSWMA") landfill. The Contractor and the City may adjust the rate schedule as provided in paragraph 3.01 in the event of a change in the land fill rate of BVSWMA landfill or any other acceptable landfill utilized by Contractor.

2.03 ACTS OF GOD

In case of a storm, flood, hurricane, or other disaster or other acts of God not within the control of the Contractor, the City shall grant the Contractor reasonable variances from the regular schedules and routes. The Contractor shall notify the City of such changes due to acts of God and present to the City within two (2) business days a proposed variance from the regular schedules and routes, subject to the City's approval. The City will be responsible for providing notice of such changes and variances to the customer.

3.
RATE SCHEDULE

During the term of the Contract, Contractor agrees to provide the commercial container services to the City pursuant to the rate schedule attached hereto and incorporated herein verbatim as Exhibit B. The charges reflected in the rate schedule may be adjusted by Contractor in accordance with paragraph 3.01.

3.01
ADJUSTMENT OF RATE SCHEDULE

The rate schedule is based upon the current charges for land fill rates, including the rates charged at the City of Brenham Transfer Station. In the event of an increase in land fill rates, the Contractor subject to approval by the City, in the City's sole discretion, may adjust and increase the rate schedule to reflect such increases. The Contractor will provide to the City written documentation which substantiates any requested adjustment of the rate schedule.

The rate schedule is also based on the current price of diesel fuel. In the event of an extra ordinary increase in diesel fuel prices, the Contractor may request in writing, and subject to approval by the City, in the City's sole discretion, to provide for charge a fuel surcharge to cover this increase.

In addition to the above, the Contractor may petition the City in writing at any time for additional rates and price adjustments on the basis of usual/unusual changes in its cost of operation, such as revised laws, ordinances or regulations; changes in location of disposal sites, etc. Approval of such adjustments shall not be unreasonably withheld by the City, which The City may require reasonable/sufficient documentation from the Contractor of supporting such requested increased s expenses from the Contractor.

4.
BILLING

The Contractor shall bill the City pursuant to the rate schedule the City for services rendered within ten (10) days following the end of the month and the City shall pay the Contractor on or before the 20th30th day following the end of such month. Such billings and payment shall be based on the rate schedule set forth in the Contract documents (Exhibit B), as may be adjusted from time to time as provided herein. The Contractor shall be entitled to payment for services rendered irrespective of whether or not the City collects from the customer for such service.

**4.01
PAYMENT TO THE CITY**

The Contractor shall pay to the City the billing fee and franchise fee as set forth in paragraph 5 within ten (10) days of receipt of payment by the City.

**4.02
CITY TO ACT AS COLLECTOR**

The City shall submit statements to and collect from all commercial customers for the services provided by Contractor. The City shall be solely responsible for notifying the Contractor in writing as provided in paragraph 1 above of any changes to any customer's services due to non-payment of delinquent account(s). The City shall indemnify and hold the Contractor harmless from any claims, suit, damages, liabilities or expenses (including but not limited to expenses of attorney's fees) resulting from the Contractor's discontinued service to a Customer at any location at the written direction of the City.

**5.
FEES TO THE CITY**

- 5.1 **Billing fees:** the Contractor shall pay the City 3% of the gross charges as reflected in paragraph 4 above as a billing fee for the City providing the billing services under this Contract.
- 5.2 **Franchise fee:** During the ~~first year of the~~ term of this Contract, ~~the Contractor shall pay the City 2% of the gross charges submitted to the City as a franchise fee for the exclusive franchise and permit granted under this Contract. In each year after the first year under the term of the Contract,~~ the Contractor shall pay the City seven percent (7%) of the gross charges submitted to the City pursuant to paragraph 4 as a franchise fee for the exclusive franchise and permit granted under this Contract.

**6.
TERM**

The term of the Contract shall be for a five~~three~~ (3) year period beginning on ~~a date mutually agreed upon by the Contractor and the City~~ _____, 2013 ~~as the commencement date of the services to be provided by Contractor and terminating on~~ _____, 2016, ~~unless sooner terminated as provided herein. The commencement date after the agreement of the parties will be reflected in the Addendum attached as Exhibit C. The initial five year term of~~ Thereafter, this Contract shall automatically ~~renew annually be extended for a an additional five~~ one (1) year term, unless either party notifies the other party in writing, not less than 120 days prior to the expiration of the initial five~~three~~ (3) year term or the then current renewal term, of its intention to

terminate this Contract as of the date of expiration of the then current term. Any such written notice shall be served by certified ~~or registered~~ mail, return receipt requested.

6.01

NOTIFICATION BY CONTRACTOR

The Contractor shall notify the City no later than 180 days prior to the expiration of the initial five (3) year term of the rate schedule to be charged to the City for an additional term. In the event the Contractor fails to provide such timely written notification to the City, the Contract will not be extended as provided in this paragraph. However, if the Contractor provides a rate schedule for the subsequent term timely to the City, then the Contract will be extended unless timely written notification is provided by either party as provided in paragraph 6 above.

7.

INDEMNITY AND INSURANCE Indemnification: The Contractor shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, damages, actions, injury, or claims of any character, name and description, including attorney's fees and expenses, arising out of this Contract, or brought for or on account of the said Contractor or his employees by or on account of any act or omission, neglect or misconduct of the said Contractor, or by or on account of any claims of amounts recovered under Workmen's Compensation Law or any other law, ordinance, order or decree. Contractor shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with the indemnification clause regardless of whether the injury or damage is caused in part by the City, its officers, agents or employees.

Insurance: The Contractor, before starting work for the City, must furnish to the City Certificates of Insurance or other acceptable evidence from a reputable insurance company or companies with an A.M. Best rating of "A" (such companies to be acceptable to the City) licensed to write insurance in the State of Texas, showing that the Contractor is covered by insurance as follows:

- A. Statutory Workmen's Compensation and Employer's Liability Insurance in the amount of \$500,000. In the event any work is sublet, the Contractor shall require the subcontractor similarly to provide the same coverage and shall himself acquire evidence of such coverage on behalf of the subcontractor.
- B. Commercial General Liability Insurance with a \$1,000,000 Combined Single Limit. The policy shall be on the Comprehensive General Liability 1986/90 Occurrence form, and shall include coverage for acts of independent contractors, and shall name the City of Brenham as an additional insured.
- C. Automobile Public Liability Insurance with a \$1,000,000 Combined Single Limit on all self-propelled vehicles used in consideration with the AgreementContract, whether owned, non-owned or hired.

The certificates of insurance furnished to the City shall contain a provision that coverage under such policies shall not be cancelled or materially changed without at least thirty (30) days prior written notice to the City. It is expressly agreed that the Contractor shall, as a condition for the continuation of this AgreementContract, keep and maintains the hereinabove described insurance continuously in effect throughout the term of this AgreementContract.

8. **MISCELLANEOUS PROVISIONS**

8.1 **Operations:** All vehicles used by Contractor shall be clearly marked with Contractor's name in letters not less than three (3") inches in height. In the residential areas of the City where noise will be an adverse factor, the hours of operation of Contractor shall be limited to 7:00 a.m. to 6:00 p.m., Central Time.

8.2 **Container Maintenance:** Contractor agrees to properly maintain, and clean and paint as necessary all front-end loader (FEL) small commercial containers placed for service within the corporate limits of said City. Contractor agrees to clean and/or paint any containers identified by City as needing said maintenance.

8.3 **Location of Container:** All containers placed for service within City shall be located in such a manner so as not to be safety or traffic hazards. Under no circumstances shall Contractor place containers on public streets, alleys and/or thoroughfares without the prior approval of the City. City reserves the right to specify to Contractor the exact location of any container(s) it places for service within the corporate limits of said City.

8.4 **Holiday Time:** The City agrees to grant only the following holidays to Contractor on which days there will be no collection: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. In the event the City's customer's collection is on a holiday, Contractor will provide for collection on an alternate day in order to insure collection of containers at least one day during the week of the holiday.

8.5 **Complaints:** The City shall deal with and receive directly any complaints pertaining to service from the commercial container customers located within the corporate limits of said City. Any such complaints received by City shall be forwarded in writing to Contractor within two (2) business days. Contractor shall respond to said complaint within two (2) business days of receipt of written notice of complaint from the City. The City and the Contractor will designate a primary contact representative and a secondary contact representative to communicate complaints and remedial action. The initial contact representatives are set forth in Exhibit D.

8.6 **Compliance with Laws:** Contractor agrees that it shall comply with all laws, policies, rules and regulations of the United States, State of Texas, Brenham Transfer Station, Washington County and City of Brenham with regard to the operation of the landfill

and disposal of solid waste, including safe and responsible collection methods and practices. All collections made hereunder shall be made by Contractor without unnecessary noise, disturbance, or commotion.

8.7 Hazardous waste: The Contractor shall not dispose of special or other hazardous waste prohibited for disposal at the Brenham Transfer Station or at any Type I Landfill. The City is responsible for notifying customers of the prohibition of special or other hazardous waste and the enforcement of such restriction by ordinance or other-wise. The Contractor will notify the City of any container which cannot be disposed of due to special or other hazardous waste prohibited for disposal and the City shall be responsible for notifying the customer of such prohibition.

8.8 Equal Opportunity: The Contractor shall comply with ~~the~~all equal opportunity requirements as set forth in applicable federal, state and local laws and regulations~~clause set out in Section 130.15 of Federal Register 36FR dated December 22, 1974.~~

8.9 Variances to the Contract: Contractor requests for variances to this ~~e~~Contract must be submitted to the City Manager or his designee in writing and authorization for any requested variances must be in writing and signed by the City Manager or his designee.

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

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

CONTRACTOR: General Manager
Texas Commercial Waste
P. O. Box 645 Bryan, Texas
77806 Fax: 979-778-4661

All notices shall be deemed to have been properly served only if sent by ~~Registered~~ ~~or~~ Certified Mail, to the person(s) at the address designated as above provided, or to any other person at the address which either party may hereinafter designated ~~d~~ by written notice to the other party. Notice of changes to Exhibit A and of customer complaint may be sent by fax, email or personal delivery.

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

8.12 **Non-Assignability:** This Contract ~~and Agreement~~ and any and all rights and obligations may not be assigned by Contractor without specific approval of the City.

8.13 **Attorney's Fees:** If any action is brought to enforce, construe or determine the validity of any term or provision of this Contract (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.

8.14 **Venue:** Venue of any suit or cause of action under this Contract shall lie exclusively in Washington County, Texas. This Contract shall be construed in accordance with the laws of the State of Texas.

8.15 **Breach:** The failure of either party to comply with the terms and conditions of this Contract shall constitute a breach of this Contract. 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 Contract in any manner provided by law. This Contract 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 Contract 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) 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 Contract may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity.

This ~~Agreement~~Contract is executed this the day of _____February, 201303,
and is to be
effective on the _____ day of _____, 20103.



AGENDA ITEM 11

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 11, 2013	
DEPT. OF ORIGIN: Purchasing Services	SUBMITTED BY: Wende Ragonis	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input 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 Bid No. 13-006 for the Sale of a Certain 0.3455 Acre Tract of Land, More or Less, Being the East Part of Lot 1-A and Part of Lot 1-B, Davidson Addition, City of Brenham, Washington County, Texas, and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: Purchasing Services issued Bid No. 13-006 on February 15, 2013 for the Sale of two lots (0.3455 Acres and 0.912 Acres) on Chappell Hill Street. The bid was listed on the City’s website and twelve (12) bid packets were mailed to adjacent land owners. A notification of the bid was sent to the Washington County Chamber of Commerce as well. Included in the bid packet was the option to bid on both or only one property. Purchasing Services received two responsive bids:		
<ol style="list-style-type: none"> 1) Stanpac USA, LLC which bid \$21,100 on Property 1 (0.3455 acres) and “No Bid” on Property 2 (0.912 acres); and 2) Mr. Tommie Wellmann who bid \$20,250 on Property 1 (0.3455 acres) and \$30,250 on Property 2 (0.912 acres). 		
The bid packet specified a minimum bid for each property. For Property 1, the minimum bid was \$20,000 and for Property 2 the minimum bid was \$40,000. A pre-bid meeting was held February 26 th at 10:00 am at the property site. No prospective bidders attended this meeting. The bid opening was held March 6, 2013 at 2:00 pm at City Hall.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Bid tabulation

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve Bid No. 13-006 to Stanpac USA, LLC in the amount of \$21,100 for the sale of a certain 0.3455 acre tract of land, more or less, being the east part of Lot 1-A and part of Lot 1-B, Davidson Addition, City of Brenham, Washington County, Texas, and authorize the Mayor to execute any necessary documentation

APPROVALS: Kyle Dannhaus



Bid Information/Tabulation Sheet

March 6, 2013

Bid No. 13-006

For: 2013 Sale of Surplus Land

Number of bidders furnished a bid packet: 12

Number of completed bids returned to Purchasing: 2

2013 SALE OF SURPLUS LAND		
BID NO. 13-006		
	Stanpac	
BIDDER	USA	Tommie
	LLC	Wellmann
Property 1	\$ 21,100.00	\$ 20,250.00
Property 2	No Bid	\$ 30,250.00
Minimum bid for Property 1-\$20,000.00		
Minimum bid for Property 2-\$40,000.00		



AGENDA ITEM 12

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 11, 2013
DEPT. OF ORIGIN: Purchasing Services		SUBMITTED BY: Wende Ragonis
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input 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 Bid No. 13-006 for the Sale of a Certain 0.912 Acre Tract of Land, More or Less, Being Reserve No. 3 in the L. D. Brown Subdivision, City of Brenham, Washington County, Texas, and Authorize the Mayor to Execute Any Necessary Documentation		
SUMMARY STATEMENT: Purchasing Services issued Bid No. 13-006 on February 15, 2013 for the Sale of two lots (0.3455 Acres and 0.912 Acres) on Chappell Hill Street. The bid was listed on the City’s website and twelve (12) bid packets were mailed to adjacent land owners. A notification of the bid was sent to the Washington County Chamber of Commerce as well. Included in the bid packet was the option to bid on both or only one property. Purchasing Services received two responsive bids:		
<ol style="list-style-type: none"> 1) Stanpac USA, LLC which bid \$21,100 on Property 1 (0.3455 acres) and “No Bid” on Property 2 (0.912 acres); and 2) Mr. Tommie Wellmann who bid \$20,250 on Property 1 (0.3455 acres) and \$30,250 on Property 2 (0.912 acres). <p>The bid packet specified a minimum bid for each property. For Property 1, the minimum bid was \$20,000 and for Property 2 the minimum bid was \$40,000. A pre-bid meeting was held February 26th at 10:00 am at the property site. No prospective bidders attended this meeting. The bid opening was held March 6, 2013 at 2:00 pm at City Hall.</p>		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Bid tabulation

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Approve Bid No. 13-006 to Tommie Wellmann in the amount of \$30,250 for the sale of a certain 0.912 acre tract of land, more or less, being Reserve No. 3 in the L. D. Brown Subdivision, City of Brenham, Washington County, Texas, and authorize the Mayor to execute any necessary documentation

APPROVALS: Kyle Dannhaus



Bid Information/Tabulation Sheet

March 6, 2013

Bid No. 13-006

For: 2013 Sale of Surplus Land

Number of bidders furnished a bid packet: 12

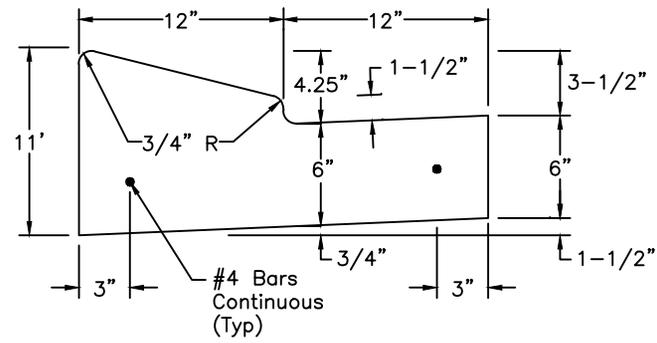
Number of completed bids returned to Purchasing: 2

2013 SALE OF SURPLUS LAND		
BID NO. 13-006		
BIDDER	Stanpac USA LLC	Tommie Wellmann
Property 1	\$ 21,100.00	\$ 20,250.00
Property 2	No Bid	\$ 30,250.00
Minimum bid for Property 1-\$20,000.00		
Minimum bid for Property 2-\$40,000.00		



AGENDA ITEM 13

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Grant Lischka	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input checked="" type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discussion and Presentation of the Adopted City of Brenham Design and Construction Standards and Standard Specifications Regarding Curb Standards		
SUMMARY STATEMENT: The City of Brenham adopted Design and Construction Standards in June of 1996 and Standard Specifications in August of 1996 to regulate development of both public infrastructure and private property. These adopted standards and specifications supplement the City of Brenham’s Zoning, Subdivision, and Building Code ordinances. A comprehensive review of these standards has begun to ensure the minimum requirements align with currently accepted and modern engineering practices and building methods and standards. These standards can be amended by the City Engineer by filing amendments for 30 days in the City Secretary’s office before enforcement. Most proposed changes will be how the City processes applications procedurally and technical updates. However, one item that is proposed to be changed is allowing the option of a “lay-down” curb on local residential streets, which will change the look of subdivisions, if allowed. Staff would like Council’s input before amending these standards and specifications.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference): N/A		
ATTACHMENTS: (1) Lay-Down Curb Detail		
FUNDING SOURCE (Where Applicable): N/A		
RECOMMENDED ACTION: Discussion only		
APPROVALS: Terry K. Roberts		



LAY-DOWN CURB DETAIL
NTS



AGENDA ITEM 14

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 4, 2013
DEPT. OF ORIGIN: Public Works Department		SUBMITTED BY: Dane Rau
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input checked="" type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Presentation of the 2012 Annual Report by the Public Works Department		
SUMMARY STATEMENT: In order to be more cost efficient, a copy of the annual report is not included in the agenda packet. However, a bound copy of each report will be distributed to Mayor and City Council Members. A bound copy of the 2012 Public Works Department Annual Report is on file for review in the City Secretary's Office. A copy can also be downloaded from the City of Brenham's website at www.cityofbrenham.org . If you are interested in obtaining a hard copy, please call the City Secretary at 979-337-7567		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: NA		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: NA		
APPROVALS: Terry K. Roberts		



AGENDA ITEM 15

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 4, 2013	
DEPT. OF ORIGIN: Public Utilities Department		SUBMITTED BY: Lowell Ogle	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input type="checkbox"/> SPECIAL		<input type="checkbox"/> CONSENT	
<input type="checkbox"/> EXECUTIVE SESSION		<input type="checkbox"/> REGULAR	
		<input checked="" type="checkbox"/> WORK SESSION	
ORDINANCE:			
<input type="checkbox"/> 1 ST READING			
<input type="checkbox"/> 2 ND READING			
<input type="checkbox"/> RESOLUTION			
AGENDA ITEM DESCRIPTION: Presentation of the 2012 Annual Report by the Public Utilities Department			
SUMMARY STATEMENT: In order to be more cost efficient, a copy of the annual report is not included in the agenda packet. However, a bound copy of each report will be distributed to Mayor and City Council Members. A bound copy of the 2012 Public Utilities Department Annual Report is on file for review in the City Secretary's Office. A copy can also be downloaded from the City of Brenham's website at www.cityofbrenham.org . If you are interested in obtaining a hard copy, please call the City Secretary at 979-337-7567			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference): N/A			
ATTACHMENTS: N/A			
FUNDING SOURCE (Where Applicable): N/A			
RECOMMENDED ACTION: N/A			
APPROVALS: Terry K. Roberts			



AGENDA ITEM 16

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry K. Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input checked="" type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Texas Government Code Section §551.074 – Personnel Matters – Discuss and Consider Compensation for Municipal Court Judges Julian Weisler and Robert Wright		
SUMMARY STATEMENT: Executive Session discussion.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None.		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Discussion only.		
APPROVALS: Terry K. Roberts		



AGENDA ITEM 17

DATE OF MEETING: March 21, 2013	DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry K. Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input checked="" type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Texas Government Code Section §551.074 – Personnel Matters – Discuss and Consider the Rescission of the Appointment of the Assistant City Attorney for City Prosecution in Municipal Court		
SUMMARY STATEMENT: Executive Session discussion.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None.		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Discussion only.		
APPROVALS: Terry K. Roberts		



AGENDA ITEM 18

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 18, 2013
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry K. Roberts
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input 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 Take Action as a Result of Executive Session Regarding Compensation for Municipal Court Judges Julian Weisler and Robert Wright		
SUMMARY STATEMENT: To be discussed in Executive Session.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: None		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: As discussed in Executive Session		
APPROVALS: Terry K. Roberts		



AGENDA ITEM 19

DATE OF MEETING: March 21, 2013		DATE SUBMITTED: March 18, 2013	
DEPT. OF ORIGIN: Administration		SUBMITTED BY: Terry K. Roberts	
MEETING TYPE:		CLASSIFICATION:	
<input checked="" type="checkbox"/> REGULAR		<input type="checkbox"/> PUBLIC HEARING	
<input 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 Take Action as a Result of Executive Session Regarding the Rescission of the Appointment of and Cancellation of the Agreement with the Assistant City Attorney for City Prosecution in Municipal Court			
SUMMARY STATEMENT: To be discussed in Executive Session.			
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):			
A. PROS:			
B. CONS:			
ALTERNATIVES (In Suggested Order of Staff Preference):			
ATTACHMENTS: None			
FUNDING SOURCE (Where Applicable):			
RECOMMENDED ACTION: As discussed in Executive Session			
APPROVALS: Terry K. Roberts			