



**NOTICE OF A REGULAR MEETING  
THE BRENHAM CITY COUNCIL  
THURSDAY JUNE 20, 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 – Mayor Pro Tem Nix**
- 3. Proclamation**
  - **The C. C. & Sadie Smith Family Reunion**
- 4. Citizens Comments**

**Page 1**

**CONSENT AGENDA**

**5. Statutory Consent Agenda**

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

**5-a. Minutes from the May 23, 2013 and May 30, 2013 City Council Meetings**

**Pages 2-8**

**REGULAR AGENDA**

- 6. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham, Texas by Amending Article IV, Substandard Buildings and Structures**

**Pages 9-30**
- 7. Discuss and Possibly Act Upon a Recommendation for Appointment to the Building and Standards Commission**

**Pages 31-36**

8. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Prohibiting Turns Into and Left Turns Out of the Connector Driveway of Alton Elementary School**  
**Pages 37-41**
9. **Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with Michele Bright dba Bright Star Aviation, LLC for Hangar Space at the Brenham Municipal Airport**  
**Pages 42-51**
10. **Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with A.J. Foyt for Hangar Space at the Brenham Municipal Airport**  
**Pages 52-61**
11. **Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with Richardson & Dunn dba J&S Water Wells for Hangar Space at the Brenham Municipal Airport**  
**Pages 62-71**
12. **Discuss and Possibly Act Upon Approval of Two (2) Ground Space Lease Agreements with John Richardson dba JR Leasing for Hangar Space at the Brenham Municipal Airport**  
**Pages 72-90**
13. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 6, Buildings and Structures, Article X, Swimming Pools, Section 6-145 of the Code of Ordinances of the City of Brenham**  
**Pages 91-94**
14. **Discuss and Possibly Act Upon Change Order No. 2, Change Order No. 3 (Reconciliation), and Final Payment to Supak Construction, Inc. for the 2012 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation**  
**Pages 95-107**
15. **Discuss and Possibly Act Upon Resolution No. R-13-011 Regarding the Gas Fund and Maintenance of Cash Reserves**  
**Pages 108-110**
16. **Discuss and Possibly Act Upon Washington County's Proposal to Operate Emergency Communications (as well as EMS and Jail) in Exchange for the City of Brenham Providing Animal Control Services, Animal Shelter Services, Fire Protection and Fire Rescue Services, and Library Services at the Nancy Carol Roberts Memorial Library Under a Comprehensive Interlocal Agreement and Potentially Discuss Other Current Interlocal Agreements Between Washington County and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation, If Needed**  
**Pages 111-115**
17. **Discuss and Possibly Act Upon the following Interlocal Agreements Between the City of Brenham and Washington County Related to: Animal Control Services, Animal Shelter Services, Fire Protection and Fire Rescue Services, Library Services at the Nancy Carol Roberts Memorial Library, and Operation of and Improvements to Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation**  
**Pages 116-118**

## WORK SESSION

### 18. Discussion and Presentation on a Downtown Incentive Grant Policy **Pages 119-130**

**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.

### 19. 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 June 20, 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 June 17, 2013 at **12:20 PM**.

*Amanda Klehm*

Deputy 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

## PROCLAMATION

**WHEREAS,** **The C. C. & Sadie Smith Family Reunion** brings together family and friends for a joyful celebration; giving each and every one the chance to renew ties and remember special times. Reunions provide the opportunity for families to come together, to worship and praise, to honor those who are no longer here and to welcome the newest members; and

**WHEREAS,** **The C.C. & Sadie Smith Family** of Burnet County, Texas were productive members of the communities of Briggs, and Bertram Texas working the land, educating their children and encouraging them to serve their country and then returning to their final resting place at Mahomet.

**WHEREAS,** This family, with all its extended members having traveled today from Washington, Tennessee, Arizona and all parts of Texas join together to honor their ancestors of various Scandinavian, British & Scottish heritage, and at the invitation of local family members Susan and Andrew Ebel, have chosen Brenham, Washington Co., Texas as the location of their 2013 reunion.

**WHEREAS,** This family, with all its extended members, have long worshipped, giving thanks to God for all His goodness and mercy. Dedication and commitment to family is what makes this country great; **The C.C. & Sadie Smith Family** is a shining example of that love and faith in family; and

**WHEREAS,** It is right and just for the City Council and the residents of Brenham to join together to recognize and commend **The C.C. & Sadie Smith Family** for their commitment to each other, their respective communities, their Nation and their God;

Now, THEREFORE I, Milton Y. Tate, Jr., Mayor of the City of Brenham, Texas do Hereby Proclaim Saturday, June 22, 2013 as

### **The C. C. & Sadie Smith Family Reunion Day**

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

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Milton Y. Tate, Jr. Mayor  
City of Brenham

## **Brenham City Council Minutes**

A special meeting of the Brenham City Council was held on May 23, 2013 beginning at 8:30 a.m. in the Brenham City Hall, Conference Room 2-A, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

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

### Members absent:

None

### Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Fire Chief Ricky Boeker, and Police Chief Rex Phelps

### Citizens present:

Zeb Heckmann, Luther Hueske, Robert Mikeska, and Don Voelter

### Media Present:

Arthur Hahn, Brenham Banner Press

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Milton Tate**
- 3. Discussion and Overview of the Interlocal Agreements Between the City of Brenham and Washington County for Animal Control Services, Animal Shelter Services, and Animal Shelter Facility**

Council recommended the following pricing to be charged to the County for Animal Services at the existing shelter:

- \$65.00 per call
- \$175.00 per bite case
- \$103.00 per animal

The following rates are subject to change contingent on the new animal shelter. Council would like to sign an animal services Interlocal agreement with the County for 18 months. When the new shelter is built in the next 18 months to two (2) years, the price will increase per animal to cover the increased cost of maintenance and operations. The new shelter cost will be approximately \$146.00 per animal.

Throughout the discussion, the Councilmembers debated the rate to be charged to adequately cover the costs of the animal shelter. Councilmember Goss stated the City should charge on a per call rate relating to the amount of time it takes to complete the call. City Manager Terry Roberts and Police Chief Rex Phelps explained the costs that were presented have factored in all of the costs on an average basis to incorporate a sufficient charge.

Council would like to have a Resolution presented at the first meeting in June showing their support for the new animal shelter funding. To date, the City does not have confirmation that the County is willing to participate in the new animal shelter facility. Council expressed the need for a deadline for the County to respond regarding their support or lack thereof regarding the new shelter, so the project can proceed forward. The decision of the County will determine if the new shelter will be a regional or city-only shelter.

#### **4. Discussion and Overview of the Interlocal Agreement Between the City of Brenham and Washington County for Fire Protection and Fire Rescue Services**

Councilmembers feel that the County should pay their fair share if they want services provided to them by the Fire Department. Councilmember Herring, Councilmember Goss and Mayor Pro Tem Nix feel that the County should be responsible for \$290,000.00 contribution to the Fire Services budget. Councilmember Barnes-Tilley and Councilmember Ebel agree that the County should compromise between the low and high projected numbers for the Fire Services budget.

Councilmember Goss stated the budget should be based on performing services in the City. Goss does not understand why the County should get a break and why the City should be responsible for paying for fire services in the County. Councilmember Barnes-Tilley states that the County contribution to the Fire Services budget should be like the animal shelter and should be calculated based on actual calls and services provided. Councilmember Herring stated negotiations regarding the Fire Services budget have all taken place on the City side.

#### **5. Discussion and Overview of the Interlocal Agreement Between the City of Brenham and Washington County for Library Services at the Nancy Carol Roberts Memorial Library**

Chief Financial Officer Carolyn Miller stated the current County funding forces the State to view the Library as a City/County library for 35,000 people instead of just for the City with a

population of 17,000. Miller stated if the City accepts any money from the County; the City will have to maintain their City/County accreditation. Miller explained if the City does not accept any money from the County, the Library can go through a three (3) year accreditation to be recognized as a City-only facility, which will allow the City to reduce its staff, hours of operations, and circulations that are currently required due to the population the Library currently serves.

Councilmember Williams stated the County should either contribute their percentage of the budget or nothing at all. Councilmembers agreed the \$30,000.00 contribution from the County is not sufficient and they should be responsible to pay their part to retain the services to their constituents. Councilmember Barnes-Tilley suggested a gradual funding agreement over a period of time. Councilmember Goss questioned Chief Financial Officer Carolyn Miller regarding the usage percentage. Miller explained the only tracking device the Library has to monitor its usage is the library card holders, which poses approximately a 50/50 split between City and County residents. Miller explained if the County does not want to participate in the Library Interlocal Agreement, the County residents will have to pay to use the Library facility. The amount to be paid by a County resident in this instance has not been determined. Miller estimates the cost around \$25.00 a year.

Councilmembers expressed their frustrations with the County's reluctance to pay for the services provided to County residents. Councilmembers stated the amount the County has been providing to the Library budget only makes up 7% of the budget, which does not adequately contribute to the maintenance and operations of the Library. A majority of the Councilmembers agreed they would be in favor of a gradual funding agreement over a three (3) year period if the County's contributions were working toward the 50% Library budget contribution valued at approximately \$200,000.00.

**6. Discussion and Overview of the Interlocal Agreement Between the City of Brenham and Washington County Related to the Operation of and Improvements to Linda Anderson Park**

Councilmembers agreed the Interlocal Agreement regarding Linda Anderson Park can stay as is with the County contributing 50% valued at \$35,000.00 for maintenance and operations of the park. No changes or discussion was made on this item.

**7. Discussion and Overview of the Interlocal Agreement Between the City of Brenham and Washington County for Jail Services and 9-1-1 Emergency Communication Services**

Mayor Tate passed this item since the term is not set to expire until December 31, 2013. Council will discuss this item as the termination date approaches.

**Adjourn**

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeanne Bellinger, TRMC  
City Secretary

## **Brenham City Council Workshop Minutes**

A workshop meeting of the Brenham City Council was held on May 30, 2013 beginning at 8:30 a.m. in the Brenham City Hall, Conference Room 2-A, at 200 W. Vulcan Street, Brenham, Texas.

### Members present:

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

### Members absent:

None

### Others present:

City Manager Terry K. Roberts, Assistant City Manager Kyle Dannhaus, City Secretary Jeana Bellinger, Deputy City Secretary Amanda Klehm, Chief Financial Officer Carolyn Miller, Stacy Hardy, Kaci Konieczny, Fire Chief Ricky Boeker, Deputy Chief Alan Finke, Police Chief Rex Phelps, Development Services Director Julie Fulgham, Public Works Director Dane Rau, Public Utilities Lowell Ogle, Debbie Gaffey, Pam Ruemke, and Grant Lischka

### Media Present:

Arthur Hahn, Brenham Banner Press

- 1. Call Meeting to Order**
- 2. FY 2013-14 Pre-Budget Planning**

City Manager, Terry Roberts, welcomed everyone and explained that the budget team has taken a strategic look at where the City is financially as the City heads into the FY2013-14 budget. Roberts advised Council that Chief Financial Officer, Carolyn Miller, and her staff have assembled a significant amount of financial data to help Council better understand the City's position. Roberts then turned the presentation over to Chief Financial Officer, Carolyn Miller.

Chief Financial Officer Carolyn Miller, Stacy Hardy, and Kaci Konieczny presented the FY2013-14 Pre-Budget Report to Council. Public Utilities Director Lowell Ogle and Regulatory Compliance Manger Debbie Gaffey presented the Utility Funds including:

- Electric Fund
  - Cost of Service
  - Capital Plans
  - Revenues
- Gas Fund
  - Cost of Service
  - Capital Plans
  - Revenues
- Water Fund
  - Cost of Service
  - Capital Plans
  - Revenues
- Wastewater Fund
  - Cost of Service
  - Capital Plans
  - Revenues

Public Works Director Dane Rau and Regulatory Compliance Manger Debbie Gaffey presented:

- Sanitation Fund
  - Cost of Service
  - Capital Plans
  - Revenues

Chief Financial Officer Carolyn Miller presented the General Fund and Debt Service Fund. Miller explained that the workshop was to give Council an idea of what to expect during the FY13-14 budget process. Miller and her team discussed the following topics:

- O&M Tax Rate History
- I&S Tax Rate History
- Combined Tax Rate History
- Sales Tax History
- Utility Franchise Tax History
- Municipal Court Fees & Fines History
- Budget Performance Based on RAE
- Reserve Balance
- 5-Year Revenue Forecast
- 5-Year Expenditure Forecast
- General Fund Capacity
- Equipment Fund Capacity
- Public Safety Capital

- Impact of ILA Decisions
- Schedule of Bond Issues
- Total Debt Outstanding
- 5-Year Debt Service Schedule
- 5-Year Property Tax Rate Projections
- Bond Projects
- Projects for \$1.85 Million in Certificates of Obligation

The Street Program was passed and will be brought to Council in a Work Session at the first meeting in June.

The meeting was adjourned.

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Milton Y. Tate, Jr.  
Mayor

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Jeana Bellinger, TRMC  
City Secretary



**AGENDA ITEM 6**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 17, 2013
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Julie Fulgham
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham, Texas by Amending Article IV, Substandard Buildings and Structures		
<b>SUMMARY STATEMENT:</b> Substandard buildings and structures can pose threats the general welfare of the citizens within the community and therefore, should be abated. Article IV, Substandard Buildings and Structures, within Chapter 8 of the Code of Ordinances creates a Building Standards Commission to review dilapidated structures and gives them the authority to designate such structures as threats and order abatement. The proposed amendments reflect a comprehensive review of this ordinance and the attached ordinance has been overhauled. This overhaul is necessary to ensure the Building Standards Commission composition and duties and the substandard building and structure abatement process aligns with state law. The most substantive changes of this ordinance is changing the number of members on the Building Standards Commission from three to five, as required by state law, as well as updates to the notification procedures in the substandard building abatement process, again to align those requirements with state law. Without these changes, the Building Standards Commission is unable to meet and substandard buildings and structures will remain in the community because our current ordinance does not meet the requirements set forth in state law.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<b>A. PROS:</b>		
<b>B. CONS:</b>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> 1. Approve ordinance		
<b>ATTACHMENTS:</b> (1.) Ordinance		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading amending Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham, Texas by amending Article IV, Substandard Buildings and Structures

**APPROVALS:** Terry K. Roberts

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

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING ARTICLE IV, SUBSTANDARD BUILDINGS OR STRUCTURES, IN CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR THE REGULATION OF SUBSTANDARD BUILDINGS OR STRUCTURES WITHIN THE CITY LIMITS OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A SEVERABILITY, REPEALER AND SAVINGS CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETINGS**

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

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

**WHEREAS**, Article IV, Substandard Buildings or Structures, in Chapter 8, Fire Protection and Prevention, of the City of Brenham's Code of Ordinances shall be repealed and replaced; and

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

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

**SECTION 1.**

Article IV, Substandard Buildings or Structures; in Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham, Texas is hereby repealed.

**SECTION 2.**

Chapter 8, Fire Protection and Prevention, of the Code of Ordinances of the City of Brenham shall be amended to read as follows:

## **ARTICLE IV. - SUBSTANDARD BUILDINGS OR STRUCTURES**

### **DIVISION 1. GENERAL PROVISIONS**

#### **Sec. 8-50. Purpose of chapter.**

- (a) The purpose of this chapter is to protect the health, safety and welfare of the citizens of the City of Brenham by establishing standards for the identification, abatement and/or removal of substandard buildings or structures.
- (b) This chapter is hereby declared to be remedial and shall be constructed to secure the beneficial interests and purposes thereof--which are public safety, health and general welfare--through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.

#### **Sec. 8-51. Scope of chapter.**

The provisions of this chapter shall apply to all unsafe buildings or structures, as herein defined, and shall apply equally to new and existing conditions.

#### **Sec. 8-52. Building and Standards Commission.**

- (a) There is hereby created a Building and Standards Commission to hear and determine cases concerning alleged violations of this chapter. The Commission shall consist of a panel composed of five (5) members, with terms of office of two (2) years. The panel shall include a plumber and electrician licensed by the State of Texas as well as a general contractor by trade. All members shall reside in the City of Brenham, unless a licensed tradesman required above cannot be recruited to serve, then such person may reside within Washington County. Each member shall hold office for a period of two (2) years, or until a successor is appointed, unless a vacancy is created in the member's office by resignation, removal, or death. As near as practical, they shall be qualified in one or more of the fields of fire prevention, building construction, sanitation, health or public safety.
- (b) In addition to said five (5) members, the Fire Marshal, Building Official and Health Inspector of the City of Brenham shall be ex officio, nonvoting members of said Building and Standards Commission. Any City employee in the respective department or division of the City, who shall be designated by the City Manager, shall be authorized to act as substitute for the respective superior of their respective department or division as ex officio member of said Commission. It shall be the duty of the ex officio members of such Commission to assist the Building Official in inspecting all buildings or structures reported to be or believed to be substandard buildings and to present a report of such inspection to the Building and Standards Commission.

- (c) Three (3) members of the Building and Standards Commission shall constitute a quorum. In varying the application of any provision of this chapter or in modifying an order of the Building Official, affirmative votes of not less than three (3) members shall be required. A Commission member shall not act in a case in which he has a conflict of interest as defined by applicable law.
- (d) The City Council may remove a Commission member for cause on a written charge. Before a decision regarding removal is made, the City Council must hold a public hearing on the matter if requested by the Commission member subject to the removal action.
- (e) A vacancy on the Building and Standards Commission shall be filled for the unexpired term.
- (f) The City Council may appoint two (2) alternate members of the Commission who shall serve in the absence of one or more regular members when requested to do so by the Mayor or City Manager. Alternate members serve for the same period and are subject to removal in the same manner as regular members. A vacancy is filled in the same manner as a vacancy among the regular members.
- (g) The Building and Standards Commission may establish rules and regulations for its own procedures not inconsistent with the provisions of this chapter. Each year, the Building and Standards Commission shall appoint a chairperson from among its members to preside over meetings of the Commission. The Commission shall also appoint a vice chairperson to perform the functions and duties in the event the chairperson is unable or refuses to perform the functions and duties of the office. The Commission shall meet as determined by the chairperson.

**Sec. 8-53. Alterations, repairs or rehabilitation work.**

- (a) Alterations, repairs or rehabilitation work may be made to any existing building without requiring the building to comply with all the requirements of the building code of the City of Brenham, Texas; provided, that the alteration, repair or rehabilitation work conforms to the requirements of the building code for new construction. The Building Official shall determine, subject to appeal to the Building and Standards Commission, the extent, if any, to which the existing building shall be made to conform to the requirements of the building code of the City for new construction.
- (b) Alterations, repairs or rehabilitation work shall not cause an existing building to become a substandard building as defined in Section 8-71 of this chapter.
- (c) If the occupancy classification of an existing building is changed, the building shall be made to conform to the requirements of the building code of the City for the new occupancy classification as established by the Building Official.

(d) Repairs and alterations, not covered by the preceding paragraphs of this section, restoring a building to its condition previous to damage or deterioration, or altering it in conformity with the provisions of this chapter or in such manner as will not extend or increase an existing nonconformity or hazard, may be made with the same kind of materials as those of which the building is constructed; but not more than twenty-five (25) percent of the roof covering a building shall be replaced in any period of twelve (12) months unless the entire roof covering is made to conform with the requirements of the building code of the City for new buildings.

**Sec. 8-54. Special historic buildings or districts.**

The provisions of this chapter relating to the construction, alteration, repair, enlargement, restoration, relocation, or moving buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings or structures when such buildings or structures are judged by the Building Official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

**Sec. 8-55. Maintenance.**

All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the building code of the City in a building when erected, altered or repaired shall be maintained in good working order. The owner shall be responsible for the maintenance of buildings and structures.

**Sec. 8-56. Enforcement officer.**

The provisions of this chapter shall be enforced by the Building Official of the City of Brenham, Texas.

**Sec. 8-57. Restrictions on employees.**

An officer or employee of the City connected with the enforcement of this chapter, except one whose only connection is as a member of the Building and Standards Commission, shall not have a financial interest in the furnishing of labor, material or appliances for the construction, alteration, demolition, repair or maintenance of a building, or in the making of plans or of specifications therefor, unless he is the owner of such building. Such officer or employee shall not engage in any work which is inconsistent with his duties or with the interests of the City.

**Sec. 8-58. Records of enforcement officer.**

The Building Official shall keep, or cause to be kept, a record of the business of the City related to the enforcement of this chapter. Such records shall be open to public inspection.

**Sec. 8-59. Powers and duties of the enforcement officer.**

- (a) The Building Official or his authorized representative may enter any building, structure or premises at all reasonable times to make an inspection or enforce any of the provisions of this chapter. When entering a building, structure or premise that is occupied, the Building Official shall first identify himself, present proper credentials and request entry. If the building, structure or premises is unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge of the building and demand entry. If entry is refused, the Building Official or his authorized representative shall have recourse to every remedy provided by law to secure entry.
- (b) The Building Official, the Fire Marshal and other authorized representatives are hereby authorized to make such inspections and to take such actions as may be required to enforce the provisions of this chapter.
- (c) Any requirement necessary for the strength or stability of an existing or proposed building or structure or for the safety or health of the occupants thereof, not specifically covered by this chapter shall be determined by the Building Official.
- (d) The Building Official shall be an ex officio member of the Building and Standards Commission, act as secretary and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member participating therein, the absence of a member and any failure of a member to vote.

**Sec. 8-60. Liability.**

Any officer or employee of the City of Brenham, Texas, or member of the Building and Standards Commission, charged with the enforcement of this chapter, acting for the applicable governing body in the discharge of his duties, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties.

**Sec. 8-61. Validity.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.

**Secs. 8-62--8-69. RESERVED.**

## DIVISION 2. DEFINITIONS AND STANDARDS

### **Sec. 8-70. General definitions.**

For the purposes of this chapter, the following words shall have the following meanings unless the context clearly indicates otherwise:

*Building* or *Structure* means any structure for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for fifty (50) percent of its perimeter. The term "building" shall be construed as if followed by the words "or part thereof." For the purpose of this chapter, each portion of a building separated from other portions by a fire wall shall be considered as a separate building or means that which is built or constructed, a building of any kind, or any pieces of work artificially built up or composed of parts joined together in some definite manner. Structure and Building may be used interchangeably or as separate definitions.

*Occupant* means any person as owner, tenant, licensee, trespasser or other person in the exclusive or partial possession or living upon the premises.

*Owner* means a person claiming, or in whom is vested, the ownership, dominion or title of real property, including, but not limited to: the holder of fee simple title; the holder of a life estate; the holder of a recorded leasehold estate for an initial term of five (5) years or more; the buyer in a recorded contract for deed; and/or a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five (5) years.

*Premises* means a lot, plot or parcel of land, including but not limited to any buildings and structures thereon.

### **Sec. 8-71. Substandard buildings designated.**

Any building, structure, or portion thereof, including but not limited to any dwelling unit, guest room or suite of rooms, or the premises on which the same is located in which there exists any of the following listed in conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof, as determined by the Building Official, shall be deemed and is hereby declared to be a substandard building:

(a) *Inadequate sanitation.* Inadequate sanitation shall include, but not be limited to, the following:

- (1) Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit.
- (2) Lack of or improper water closets, lavatories, and bathtubs or showers per number of guests in a hotel.
- (3) Lack of or improper kitchen sink.
- (4) Lack of hot and cold running water to plumbing fixtures in a hotel.

- (5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (6) Lack of adequate heating facilities.
- (7) Lack, or improper operation, of required ventilating equipment.
- (8) Lack of minimum amounts of natural light and ventilation required by this chapter.
- (9) Lack of required electrical lighting.
- (10) Dampness of habitable rooms.
- (11) Infestation of insects, vermin or rodents as determined by the Building Official.
- (12) General dilapidation or improper maintenance.
- (13) Lack of connection to required sewage disposal system.
- (14) Lack of adequate garbage and rubbish storage and removal facilities as determined by the Building Official.
- (15) Lack of sanitary, interior wall covering.

(b) *Structural hazards.* Structural hazards shall include, but not be limited to, the following:

- (1) Deteriorated or inadequate foundations.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration.
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (8) Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (10) Any condition wherein a building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the buildings or structures is less than it was prior to the damage and is less than the minimum requirement established by the building code of the City.
- (11) Any condition wherein any exterior appendages or portion of a building or structure are not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads.

- (12) Any condition wherein any building, structure or portion thereof as a result of decay, deterioration, or dilapidation is likely to fully or partially collapse.
- (c) *Hazardous wiring.* All wiring except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and is being used in a safe manner.
- (d) *Hazardous plumbing.* All plumbing except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition and which is free of cross-connections and siphonage between fixtures.
- (e) *Hazardous mechanical equipment.* All mechanical equipment, including but not limited to vents, except that which conforms to all applicable laws in effect at the time of installation and which has been maintained in good and safe condition.
- (f) *Faulty weather protection.* Weather protection which shall include, but not be limited to, the following:
- (1) Deteriorated, crumbling or loose plaster.
  - (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
  - (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
  - (4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
  - (5) Lack of adequate insulation in ceilings.
  - (6) Lack of adequate insulation in exterior walls. Provided, however, double wall construction which was in compliance with this chapter at the time of original construction shall be deemed adequate for purposes of this chapter; otherwise, insulating material will be required.
- (g) *Fire hazard.* Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the Chief of the Fire Department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (h) *Faulty materials of construction.* All materials of construction except those which are specifically allowed or approved by this chapter and the building code, and which have been adequately maintained in good and safe condition.
- (i) *Hazardous or insanitary premises.* Those premises on which any accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions constitute fire, health or safety hazards.

- (j) *Inadequate maintenance.* Any building or portion thereof which is determined to be an unsafe building in accordance with any City ordinance.
- (k) *Inadequate exits.* All buildings or portion thereof not provided with adequate exit facilities as required by City ordinance except those buildings or portion thereof whose exit facilities conform with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of, or improper location of, exits, additional exits may be required to be installed.
- (l) *Inadequate fire protection or firefighting equipment.* All buildings or portions thereof which are not provided with a fire-resistive construction or fire extinguishing systems or equipment required by this chapter or the building code, except those buildings or portions thereof which conform with all applicable laws at the time of their construction and whose fire-resistive integrity and fire extinguishing systems or equipment have been maintained and approved in relation to any increase in occupant load, alteration or addition or any change in occupancy.
- (m) *Improper occupancy.* All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancy.

**Sec. 8-72. Tense, gender and number.**

Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural number includes the singular.

**Secs. 8-73--8-79. Reserved.**

**DIVISION 3. INSPECTION; NOTICE OF SUBSTANDARD BUILDING; HEARING**

**Sec. 8-80. Abatement of substandard buildings.**

All buildings or portions thereof which are determined to be substandard buildings, as defined in this chapter, are hereby declared to be a hazard to the health, safety and welfare of the citizens, and shall be abated by repair, vacation, rehabilitation, demolition or removal in accordance with the procedures specified in this chapter, by prosecution in municipal court, or as otherwise allowed by law or equity.

**Sec. 8-81. Inspection.**

The Building Official shall inspect or cause to be inspected any building, structure or portion thereof which is or may be a substandard building.

**Sec. 8-82. Action required.**

After the Building Official has inspected or caused to be inspected a building, structure or portion thereof and has determined that such building, structure or portion thereof is a substandard building, he shall initiate proceedings to cause the abatement of the unsafe condition by repair, vacation, demolition or combination thereof.

**Sec. 8-83. Emergency procedure for abating substandard building.**

- (a) When it shall appear that a building or structure in the City of Brenham is a substandard building under the terms of this chapter and that such building or structure or the manner of its use constitutes an immediate and serious danger to life or property, the condition shall be deemed a condition justifying the use of emergency measures, and the Building and Standards Commission, or a majority of the Building and Standards Commission, may, with the consent and approval of the City Manager, order any of the following emergency measures to be taken:
- (1) Immediate vacation of such building, structure and/or adjoining buildings or structures;
  - (2) Vacation of the danger area around such building or structure;
  - (3) Such emergency shoring-up and bracing of walls, roofs and supports as are required to render such building or structure safe;
  - (4) The destruction of such walls, roofs, and supports or the entire structure or so much thereof as cannot be braced or made secure with safety; or
  - (5) Posting of notices on or near such building or structure, or buildings or structures, notifying the public of such orders and ordering all persons to keep out of such building, buildings, structures or structure and the areas of danger surrounding it or them.
- (b) When any of the above-mentioned measures are ordered to be taken, notice of such order shall be given as follows:
- (1) Such order shall be directed to the owner of such substandard building or structure, or the owner's authorized representative, if the same shall be known. Where notification can be accomplished without increasing the danger to life or property, notice shall be given by personal service on the owner of the building or structure, or the owner's representative or by certified mail, return receipt requested;
  - (2) In the event that such notification would create such a delay as would materially increase the danger of life or property, then such notice need not be given.

**Sec. 8-84. Standard procedure for abating substandard building.**

(a) When it appears that a building or structure in the City of Brenham is a substandard building, but that no necessity exists for instituting emergency procedures under Section 8-83 of this chapter, the Building Official shall prepare and issue a notice of substandard building directed to the owner, mortgagee, registered agent or any lienholder of the building or structure found using a search of real property records of Washington County, Appraisal District Records of Washington County, Records of the Secretary of State, Assumed Name Records of Washington County, City of Brenham Tax Records, and City of Brenham Utility Records. The notice shall contain, but not be limited to, the following information:

- (1) The street address or legal description of the building, structure or premises.
- (2) A statement indicating the building or structure has been declared a substandard building by the Building Official, and a detailed report documenting the conditions determined to have rendered the building or structure a substandard building under the provisions of this chapter.
- (3) The action required to be taken as determined by the Building Official.
- (4) A notice of the date, place and time that the notice of substandard building is set for public hearing before the Building and Standards Commission. The hearing notice shall include, but not be limited to, the following information:

*"You are hereby notified that on the \_\_\_\_ day of \_\_\_\_\_20\_\_, at \_\_\_\_ o'clock in the \_\_\_\_\_, at \_\_\_\_\_, a hearing will be held before the Building and Standards Commission to consider the Notice of Substandard Building of the Building Official regarding the property located at \_\_\_\_\_. You may choose to be represented by counsel. You may present evidence and will be given an opportunity to cross-examine all witnesses. You may request the issuance of subpoenas to compel witnesses to appear and for the production of other supporting data or documentation by filing a written request therefor with the Building and Standards Commission."*

- (5) A notice providing as follows:

*"According to the Real Property Records of Washington County, you own or claim an interest in the real property described in this notice. If you no longer own or claim an interest in the property, you must execute an affidavit stating that you no longer own or claim an interest in the property and stating the name and last known address of the person who acquired the property or an interest in the property from you. The affidavit must be delivered in person or by certified mail, return receipt requested, to the Building Official of the City of Brenham not later than the 10th day after the date that you receive this notice. If you do not send the affidavit, it will be presumed, pursuant to TEX. LOCAL GOV'T CODE ANN. § 54.005, as amended, that you own or claim an interest in the property described in this notice, even if you do not."*

- (b) The notice of substandard building and all attachments thereto shall be personally delivered or mailed to any owner, mortgagee and lienholder of record, and posted on the premises in a conspicuous location on or before the 10th day before the date of the hearing before the Commission panel. In addition, the notice must be published in a newspaper of general circulation in the City of Brenham on one occasion on or before the 10th day before the date fixed for the hearing.
- (c) The notice of substandard building shall be either personally delivered or mailed by certified mail, postage prepaid, return receipt requested, to each person at the last known address of the person. If addresses are not available on any person required to be notified of the substandard building proceeding, the notice addressed to such person shall be mailed to the address of the building or structure involved in the proceedings. The failure of any person to receive notice shall not invalidate any proceedings under this chapter. Notification by certified or registered mail as herein described shall be effective on the date the notice was received as indicated on the return receipt. When the City mails a notice in accordance with this chapter to a property owner, mortgagee, lienholder, or registered agent and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered on the third (3<sup>rd</sup>) day (excluding Sundays) occurring after the date the notice was mailed.
- (d) The Building Official shall file notice of a substandard building proceeding before the Building and Standards Commission in the Official Public Records of Real Property of Washington County. The notice must contain the name and address of the owner of the affected property if that information can be determined from a reasonable search of the instruments on file in the office of the county clerk, a legal description of the affected property, and a description of the proceeding. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice and constitutes notice of the proceeding on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice.

**Sec. 8-85. Hearings before the Building and Standards Commission.**

- (a) Failure of any person to appear at the hearing set in accordance with the provisions of this chapter shall constitute a waiver of that person's right to a hearing on the notice of substandard building.
- (b) The hearing shall offer all interested persons reasonable opportunity to be heard.
- (c) A person may appear at the hearing in person or through an attorney or other designated representative.

(d) The Building and Standards Commission, after hearing evidence from each interested party present, may:

- (1) Find that the building or structure is not a substandard building and refer the matter to the Building Official for further appropriate action;
- (2) Grant a variance in order to avoid the imposition of an unreasonable hardship;
- (3) In the case of a single-family dwelling occupied by the owner, where the health, safety and welfare of other persons will not be affected, grant an exception to any provision of this chapter to avoid the imposition of an unreasonable hardship;
- (4) Find that the building or structure is a substandard building and order the repair or other suitable remedy within a specified period of time and/or demolition of the structure if the repair and other suitable remedies are not timely effected; or
- (5) Order the demolition of the building or structure within a specified period of time.

**Sec. 8-86. Order of Building and Standards Commission.**

(a) The final decision of the Building and Standards Commission shall be in writing and contain all findings of fact.

(b) After receipt of all competent evidence presented at a hearing, if the Building and Standards Commission shall find a building or structure to be a substandard building, the Building and Standards Commission shall enter its written order containing, but not limited to, the following information:

- (1) The street address or legal description of the building, structure or premises.
- (2) A statement indicating the building or structure has been declared a substandard building by the Building and Standards Commission, and an account giving the conditions determined to have rendered the building or structure a substandard building under the provisions of this chapter.
- (3) The action required to be taken as determined by the Building and Standards Commission.
  - a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within sixty (60) days and continued to completion within such time as the Building and Standards Commission determines. The notice shall also indicate the degree to which the repairs must comply with the provisions of the building code of the City.
  - b. If the building or structure is to be demolished, the notice shall require that the premises be vacated within sixty (60) days, that all required permits for demolition be secured, and that the demolition be completed within such time as determined reasonable by the Building and Standards Commission.

- (4) A statement of additional reasonable time for the ordered action to be taken by a mortgagee or lienholder in the event the owner fails to timely take the ordered action.
  - (5) A statement advising that if the required action is not commenced within or completed by the time specified, the building will be ordered vacated and posted to prevent further occupancy until the work is completed, and the Building Official may cause the work to be done and all costs incurred charged against the premises and/or the owner.
  - (6) A statement advising that any owner, lienholder, or mortgagee of record may appeal the order by the Building and Standards Commission to District Court; and that such petition shall be in writing in the form specified by this chapter and shall be filed with the District Court within thirty (30) calendar days after the date a copy of the final decision of the Commission panel is personally delivered or mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service. In the event no timely appeal is filed in District Court, the order of the Building and Standards Commission is, in all respects, final and binding, and the failure to appeal in the time specified will constitute a waiver of all rights to an appeal.
- (c) The final order of the Building and Standards Commission shall be served on all persons entitled to receive the notice of substandard building in the proceeding, and shall be served on such parties in the same manner specified for service of the notice of substandard building in Section 8-84 of this chapter. In addition, an abbreviated copy of the order shall be published one time in a newspaper of general circulation in the City of Brenham within ten (10) calendar days after the date of the delivery or mailing of the copy, including the street address or legal description of the property; the date of the hearing, a brief statement indicating the results of the order, and instructions stating where a complete copy of the order may be obtained. Further, a copy of the order shall be filed in the office of the City Secretary.

**Sec. 8-87. Recording.**

- (a) A record shall be made of all hearings and proceedings. The method of recording shall be designated by the Building and Standards Commission.
- (b) The record of any hearing may, upon payment of the prescribed fees, be made available to any person on request.

**Sec. 8-88. Reasonable dispatch.**

The Building and Standards Commission shall proceed with reasonable dispatch to conclude any matter before it, with due regard to the convenience and necessity of the parties involved.

**Sec. 8-89. Subpoenas.**

- (a) The Building and Standards Commission may obtain the issuance and service of subpoenas for the attendance of witnesses or the production of evidence at the hearings. Subpoenas may be issued upon the request of any member of the Building and Standards Commission or of an interested party.
- (b) The issuance and service of subpoenas shall be in accordance with established law.
- (c) Any person who refuses without legal excuse to respond to any subpoena lawfully issued and served may be prosecuted to the extent established by law.

**Sec. 8-90. Procedural rules.**

- (a) Hearings shall not be required to be conducted in accordance with the Texas Rules of Civil Procedure or the Texas Rules of Evidence.
- (b) The Building and Standards Commission may grant continuance for good cause.

**Sec. 8-91. Evidence.**

- (a) In any proceedings under this chapter any member of the Building and Standards Commission shall have the power to administer oaths and affirmations and to certify official acts.
- (b) Oral evidence shall be taken only on oath or affirmation.
- (c) Relevant evidence shall be admitted if it is the type on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil courts.

**Sec. 8-92. Inspections.**

The Building and Standards Commission may inspect any building, structure or premises involved in the proceeding during the course of the hearing, provided the following are complied with:

- (1) Notice of such inspection is given to the parties prior to making the inspection;
- (2) The parties are allowed to be present during the inspection; and
- (3) The Commission shall state for the record, upon completion of the inspection, the facts observed and any conclusions drawn therefrom.

**Sec. 8-93. Recording of notice.**

If the notice is not complied with nor an appeal filed within the allotted time, the Building Official shall file in the office of the County Clerk of Washington County a certificate describing the premises, certifying that the building or structure is a substandard building and that the owner of record and any mortgagee or lienholders have been served, and stating the restrictions on the disposal of premises set out in Section 8-94 of this chapter. This certificate shall remain on file until such time as the conditions rendering the building or structure a substandard building have been abated. At such time, the Building Official shall file a new certificate indicating that corrective action has been taken and the building or structure is no longer a substandard building.

**Sec. 8-94. Restriction on the disposal of premises.**

No owner of any building or structure upon whom a notice has been served that violations of this chapter exist in such building or structure or on its premises shall sell, transfer, grant, mortgage, lease or otherwise dispose of such premises until compliance with such notice or order has been secured, or until such owner shall have furnished to the purchaser, transferee, grantee, mortgagee or lessee who is affected by the violations a true copy of such notice or order and at the same time shall have given adequate notification to the Building Official of his intent to enter into such transaction, including supplying the name and address of the person to whom the sale, transfer, grant, mortgage or lease is proposed. A purchaser who has been informed of the existence of any notice or order pursuant to this chapter shall be bound thereby.

DIVISION 4. APPEALS

**Sec. 8-95. Requirements for appeal.**

- (a) Any owner, lienholder, or mortgagee of record jointly or severally aggrieved by any decision of the Building and Standards Commission may present a petition to a District Court, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within thirty (30) calendar days after the date a copy of the final decision of the Commission panel is personally delivered, mailed by first class mail with certified return receipt requested, or delivered by the United States Postal Service using signature confirmation service to the owner, lienholder, or mortgagee.
- (b) On presentation of the petition, the court may allow a writ of certiorari directed to the Building and Standards Commission to review its decision and shall prescribe in the writ the time, which may not be less than ten (10) days, within which a return on the writ must be made and served on the relator or the relator's attorney. The Commission panel may not be required to return the original papers acted on by it. It is sufficient for the Commission panel to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ. The return must concisely set forth other facts as may be pertinent and material to show the grounds for the decision appealed from and shall be verified.

**Sec. 8-96. Staying of order under appeal.**

The allowance of the writ by the District Court does not stay proceedings on the decision appealed from.

**Sec. 8-97. Procedural and evidentiary rules.**

The District Court's review shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the decision brought up for review.

**Sec. 8-98. Costs of appeal.**

- (a) If the decision of the Building and Standards Commission is affirmed or not substantially reversed but only modified, the District Court shall allow to the City all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners as well as all persons found to be in occupation of the property subject to the proceedings before the Building and Standards Commission.

**Secs. 8-99.–8-100. Reserved.**

DIVISION 5. ENFORCEMENT

**Sec. 8-101. Failure to commence work.**

- (a) Whenever the required repair, vacation or demolition is not commenced within thirty (30) days after the effective date of any order, the building, structure or premises shall be posted as follows:

UNSAFE BUILDING  
DO NOT OCCUPY

It shall be punishable by law to occupy this building or remove or deface this Notice  
(Specify the applicable ordinance and the penalty for violation thereof)

Building Official  
City of Brenham

- (b) Subsequent to posting the building, the Building Official may cause the building to be repaired to the extent required to render it safe, or if the notice required demolition, to cause the building or structure to be demolished and all debris removed from the premises. The cost of repair or demolition shall constitute a lien on the premises as provided in this chapter.

- (c) Any monies received from the sale of a building or from the demolition thereof, over and above the cost incurred, shall be paid to the owner of record or other persons lawfully entitled thereto.

**Sec. 8-102. Extension of time.**

The Building Official may approve one or more extensions of time as he may determine to be reasonable to complete the required repair or demolition. Such requests for extensions shall be made in writing stating the reasons therefor. If the extensions of time, in total, exceed one hundred twenty (120) days, they must also be approved by the Building and Standards Commission which may act without further public hearing.

**Sec. 8-103. Assessment of expenses.**

In any case where the Building and Standards Commission orders a substandard building or structure repaired or demolished and cleared or removed, and the owner of any such premises or building or structure which is a substandard building fails to correct, remedy or remove such condition, and the owner, or duly authorized representative of the owner, shall have exhausted his rights and remedies under this chapter, the commission may order such work or make such improvements as are necessary to correct, remedy or remove such conditions, or cause the same to be done, and pay therefor, and charge the expenses incurred thereby to the owner of such lot or premises. Such expense shall be assessed against the lot or real property upon which work was done, the improvements made or the demolishing, cleaning or removal of substandard buildings or structures accomplished. The performance of such work by the City or the ordering of same by the Building and Standards Commission shall not relieve such person from prosecution for failure to comply with the notice.

**Sec. 8-104. Lien for expenses.**

- (a) Whenever any work is done or improvements are made or any substandard building or structure is repaired, demolished, cleared or removed by the city under the provisions of this chapter, the Building Official, on behalf of the City, shall file a statement of the expenses incurred thereby with the County Clerk. Such statement shall give the name and address of the owner, if it can be determined with a reasonable effort, the legal description of the affected property, the amount of such expenses, the date or dates on which the work was done, or the expenses incurred, and the costs of demolishing, cleaning, repairing or removing the conditions or substandard building and structure and the amount of expenses then due. When this statement is filed with the County Clerk, the City of Brenham shall have a lien on the lot or real estate upon which the work was done, or improvements made, or repairs made, or substandard buildings repaired, removed or demolished and cleared to secure the expenses thereof unless the property is homestead protected by the Texas Constitution.

If notice is given and the opportunity to repair, remove or demolish the building is afforded to each mortgagee and lienholder, the lien of the City is a privileged lien, subordinate only to taxes and all previously recorded bona fide mortgage liens attached to the property. The City's lien is superior to any previously recorded judgment liens. The amount of the City's lien shall bear interest at the rate of ten percent (10%) per annum from the date the statement was filed with the County Clerk. For any such expenditure, expense and interest suit may be instituted against the owner or owners. The statement of expenses for repairs or demolition made herein and filed with the County Clerk, or a certified copy thereof, shall be prima facie proof of the amount expended for such work, improvements, repairs, demolition, clearance or removal.

- (b) In any judicial proceeding regarding the enforcement of the City's rights under this section, the prevailing party is entitled to recover reasonable attorney's fees.
- (c) A lien acquired by the City under this chapter for repair expenses may not be foreclosed if the property upon which the repairs were made is occupied as a residential homestead by a person sixty-five (65) years of age or older.

**Sec. 8-105. Penalties.**

A person commits an offense punishable in accordance with Section 1-5 of the Code of Ordinances if:

- (a) The person fails or refuses to respond to the direction of an order of the Building Official or Building and Standards Commission after that order becomes final;
- (b) The person shall obstruct or interfere with the implementation of any action required by the final order of the Building Official or the Building and Standards Commission after that order becomes final; or
- (c) The person willfully refuses to leave or fails to leave a building or structure which has been ordered vacated under the provisions of this chapter.

**Secs. 8-106--8-109. Reserved.**

**SECTION 3.**  
**SAVINGS CLAUSE**

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

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

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

**SECTION 5.**  
**REPEALER**

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

**SECTION 6.**  
**EFFECTIVE DATE**

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

**SECTION 7.**  
**PROPER NOTICE AND MEETINGS**

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

**PASSED AND APPROVED** on its first reading this the \_\_\_\_ day of May, 2013.

**PASSED AND APPROVED** on its second reading this the \_\_\_\_ day of May, 2013.

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

**ATTEST:**

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



**AGENDA ITEM 7**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 17, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Julie Fulgham	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING	
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING	
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION	
	<input type="checkbox"/> WORK SESSION		
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon a Recommendation for Appointment to the Building and Standards Commission			
<b>SUMMARY STATEMENT:</b> The current Building Standards Commission is comprised of 3 members: Walt Edmonds (plumber), Stoney Lacina (photographer), and Johnny Andrade (general contractor). The Commission is required to have 5 members with the revised ordinance and state law requirements. Staff recommends appointing Lloyd Pieper (electrician) and Jason Kiemsteadt (loan officer) to the Building Standards Commission.			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> 1. Appoint Lloyd Pieper and Jason Kiemsteadt to the Building Standards Commission.			
<b>ATTACHMENTS:</b> (1.) Board Appointment Application for Lloyd Pieper; and (2.) Board Appointment Application for Jason Kiemsteadt			
<b>FUNDING SOURCE (Where Applicable):</b> N/A			
<b>RECOMMENDED ACTION:</b> Approve recommendation to appoint Lloyd Pieper and Jason Keimsteadt to the Building Standards Commission effectively immediately with terms expiring in December of 2015.			
<b>APPROVALS:</b> Terry K. Roberts			



Applicant Name: Lloyd Pieper

**BACKGROUND**

Education/Training: BHS Graduate / Blinn College Graduate / Electrical Trade Schools, Continuing Ed courses.

Areas of Interest: Hunting, Fishing, Local Sports Programs

Current or Past Volunteer Experience/Community Service:

Please specify current or past volunteer experience/community service, if any, on Boards, Commissions, Corporations, Non-Profit Entities, Agencies, or other Entities. Additional information may be attached.

Organization: Past service: Brenham Vol. Fire Department - 29yrs - last position: Asst. Chief - 1985 - 2000

Organization: Past service: City of Brenham Electric Board

Organization: Past service: Salem Lutheran Church Council

Organization: \_\_\_\_\_

\*\*\*\*\*

**Reasons for seeking appointment:** Please attach a brief narrative outlining your interests and qualifications for seeking this appointment. You may also add a resume or any additional documentation.

**I have read and understand the instructions and appointment process.** I certify that all statements that I have made on this application and other supplementary materials are true and correct. I acknowledge that any false statement or misrepresentation on this application or supplementary materials will be cause for refusal of appointment or immediate dismissal at any time during the period of my appointment.

Lloyd W Pieper  
Signature

2/6/13  
Date

**FILE THIS COMPLETED APPLICATION FORM WITH CITY SECRETARY'S OFFICE ON OR BEFORE 5:00 P.M. ON OCTOBER 1ST**

City of Brenham - City Secretary  
P. O. Box 1059  
Brenham, Texas 77834-1059  
Phone: 979-337-7567  
Fax: 979-337-7568

*(Original copy will be kept on file in the City Secretary's office for 12 months from the date of submission)*

February 6, 2013

Re: Request for Appoint to City of Brenham Boards and Commissions

To Whom It May Concern,

I, Lloyd Pieper, request your consideration to allow me to serve the City of Brenham on the Building Standards Commission. I feel my professional background, volunteer background to the City, and long time residency of the city are strong qualifications for my consideration. My wife and myself are presently owners of an electrical contracting company and have been involved in its operation for over forty five years. The company is involved in construction work that must meet building standards and I am familiar with the reading of blue prints and related code requirements.

I served with the Brenham Volunteer Fire Department for twenty nine years serving the last fifteen as an assistant fire chief. I saw many building problems resulting in fire hazards and attended fire schools related to building code violations. The Brenham area had an electrical association prior to the enactment of a State of Texas licensing system and I was actively involved in that association.

I have raised my family in the City of Brenham based on the quality of life a small town has to offer. My grandchildren continue to be involved in activities that use city facilities. I wish our city to continue to be safe environment through regulated building programs and I ask your consideration to my appoint to the Building Standards Commission.

Sincerely,

  
Lloyd Pieper



Applicant Name: Jason David Kiemsteadt

BACKGROUND

Education/Training: Blinn College - A.A. , University of Houston B.S - Political Science

Areas of Interest:

Current or Past Volunteer Experience/Community Service:

Please specify current or past volunteer experience/community service, if any, on Boards, Commissions, Corporations, Non-Profit Entities, Agencies, or other Entities. Additional information may be attached.

Organization: Brenham Evening Lion Club

Organization:

Organization:

Organization:

\*\*\*\*\*

Reasons for seeking appointment: Please attach a brief narrative outlining your interests and qualifications for seeking this appointment. You may also add a resume or any additional documentation.

I have read and understand the instructions and appointment process. I certify that all statements that I have made on this application and other supplementary materials are true and correct. I acknowledge that any false statement or misrepresentation on this application or supplementary materials will be cause for refusal of appointment or immediate dismissal at any time during the period of my appointment.

Signature [Handwritten Signature]

Date: 5/16/2013

FILE THIS COMPLETED APPLICATION FORM WITH CITY SECRETARY'S OFFICE ON OR BEFORE 5:00 P.M. ON OCTOBER 1ST

City of Brenham - City Secretary
P. O. Box 1059
Brenham, Texas 77834-1059
Phone: 979-337-7567
Fax: 979-337-7568

(Original copy will be kept on file in the City Secretary's office for 12 months from the date of submission)



## AGENDA ITEM 8

<b>DATE OF MEETING:</b> June 20, 2013	<b>DATE SUBMITTED:</b> June 17, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services	<b>SUBMITTED BY:</b> Grant L. Lischka	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Prohibiting Turns Into and Left Turns Out of the Connector Driveway of Alton Elementary School		
<b>SUMMARY STATEMENT:</b> The Brenham Independent School District is constructing a connector driveway that will allow student drop off traffic to exit from the Alton Elementary School site to South Austin Street. The location of the driveway is on the southern boundary of the City's Water Treatment Plant and is located in the access easement recently approved by Council. Traffic will only be allowed to exit onto South Austin Street by turning right. The proposed ordinance prohibits left hand turns out of the driveway, as well as all turns from South Austin Street onto the driveway.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<b>A. PROS:</b>		
<b>B. CONS:</b>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>		
<b>ATTACHMENTS:</b> (1.) Ordinance with Exhibit A		
<b>FUNDING SOURCE (Where Applicable):</b>		
<b>RECOMMENDED ACTION:</b> Approve an Ordinance on its first reading prohibiting turns into and left turns out of the connector driveway of Alton Elementary School		
<b>APPROVALS:</b> Terry K. Roberts		

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

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, PROHIBITING VEHICLES FROM MAKING TURNS INTO AND LEFT TURNS OUT OF THE CONNECTOR DRIVEWAY OF ALTON ELEMENTARY SCHOOL, SAID CONNECTOR DRIVEWAY BEING MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” AND SITUATED AT THE SOUTHERN BOUNDARY OF THE CITY OF BRENHAM WATER TREATMENT PLANT PREMISES, AND EXITING ONTO SOUTH AUSTIN STREET; PROVIDING A PENALTY FOR VIOLATING THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, in order to enhance, promote, and protect the health, safety, and general welfare of the citizens of Brenham, Texas, the City Council has determined that it is necessary to prohibit turns into and left turns out of the connector driveway of Alton Elementary School, as described in Exhibit “A,” and situated at the southern boundary of the City of Brenham Water Treatment Plant premises and exiting onto South Austin Street;

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

**SECTION 1.** It shall be unlawful for the operator of any vehicle to make a left turn onto South Austin Street while exiting from the connector driveway situated at the west end of Alton Elementary School and along the southern boundary of the City of Brenham Water Treatment Plant premises. All vehicles leaving said driveway must turn right when entering South Austin Street. It shall also be unlawful for the operator of any vehicle to make a left or right turn from South Austin Street to enter said driveway of Alton Elementary School.

**SECTION 2.** The City Manager or his designee is hereby authorized and directed to place appropriate signs giving notice of the turning regulations provided for in this Ordinance. Any person who disobeys the directions of any such sign commits a violation of this Ordinance.

**SECTION 3.** Penalty. That any person, firm or corporation, violating Section 1 hereof, shall be fined in a sum not less than \$1.00 and not more than \$500.00, plus court costs.

**SECTION 4.** Cumulative Effect. This Ordinance shall be cumulative of all laws of the State of Texas and the United States governing the subject matter of this Ordinance, including without limitation, the Texas Transportation Code, now existing or as hereafter amended.

**SECTION 5.** Repeal. All ordinances in conflict with this Ordinance or inconsistent with the provisions of same are hereby repealed to the extent necessary to give this Ordinance full force and effect.

**SECTION 6.** Severability. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance.

**SECTION 7.** Effective Date. This Ordinance shall be effective from and after its passage, approval and adoption on second reading, and its publication as may be required by applicable law.

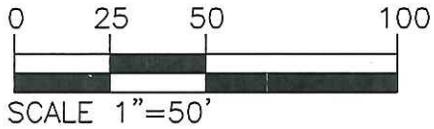
**PASSED and APPROVED** on its first reading this the \_\_\_\_ day of \_\_\_\_\_,  
2013.

**PASSED and APPROVED** on its second reading this the \_\_\_\_ day of \_\_\_\_\_,  
2013.

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

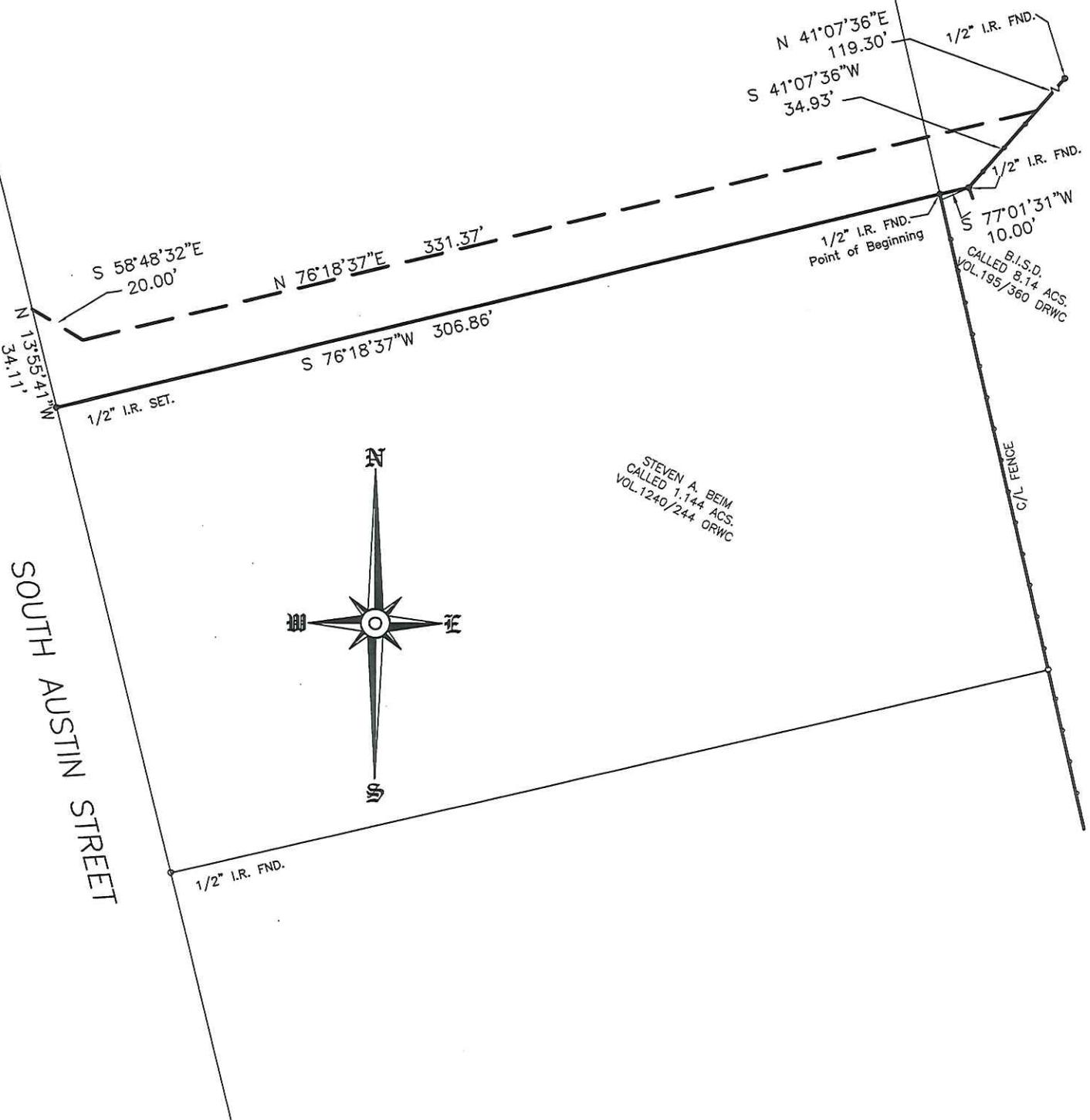
**ATTEST:**

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



CITY OF BRENHAM  
WATER TREATMENT PLANT  
VOL.37/593 DRWC

CITY OF BRENHAM  
CALLED 0.268 AC.  
VOL.1193/586 ORWC



STEVEN A. BEIM  
CALLED 1.144 ACS.  
VOL.1240/244 ORWC

B.I.S.D.  
CALLED 8.14 ACS.  
VOL.195/360 DRWC

SOUTH AUSTIN STREET

1/2" I. FENCE

NOTES:

1. Bearings are based on Geodetic North as determined from GPS observations.
2. All set corners are marked by 1/2 inch iron rods with a cap stamped "RPLS 4705".
3. This survey is valid only if it bears the seal and original signature of the surveyor.
4. This plat is accompanied by a description of even date herewith.

The information shown on this plat is based on a survey performed on the ground under my supervision and completed June 12, 2013. It is my professional opinion that this map represents the facts as found.

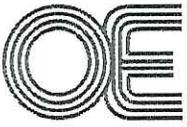
*Robert C. Schmidt*  
Robert C. Schmidt, RPLS  
Texas Registered Professional  
Land Surveyor No. 4705



**EXHIBIT "A"**  
1 of 2

PLAT SHOWING AN EASEMENT OUT OF A TRACT CONVEYED TO THE CITY OF BRENHAM BY DEED RECORDED IN VOLUME 37, PAGE 593 DEED RECORDS OF WASHINGTON COUNTY AND A CALLED 0.268 ACRE TRACT CONVEYED BY DEED RECORDED IN VOLUME 1193, PAGE 586 OFFICIAL RECORDS OF WASHINGTON COUNTY CITY OF BRENHAM WASHINGTON COUNTY, TEXAS

**O'MALLEY ENGINEERS**  
203 S. JACKSON ST. BRENHAM, TEXAS  
(979) 836-7937 FAX (979) 836-7936



STATE OF TEXAS )  
COUNTY OF WASHINGTON)

EASEMENT

ALL THAT CERTAIN tract or parcel of land out of a tract conveyed to City of Brenham by deed recorded in Volume 37, Page 593, Deed Records of Washington County, Texas (DRWC) and a called 0.268 acre tract conveyed to City of Brenham by deed recorded in Volume 1193, Page 586, DRWC. Said easement being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2 inch iron rod found at the northeast corner of a called 1.144 acre tract conveyed to Steven A. Beim by deed recorded in Volume 1240, Page 244 DRWC, being a southeast corner of said City of Brenham tract and the south corner of said City of Brenham called 0.268 acre tract;

THENCE along the north line of said Beim tract and the south line of said City of Brenham tract, South 76°18'37" West, a distance of 306.86 feet to a 1/2" iron rod set for the northwest corner of said Beim tract, the southwest corner of the herein described tract and being in the east right of way line of South Austin Street;

THENCE with the east right of way of South Austin Street and the west line of said City of Brenham tract, North 13°55'41" West, a distance of 34.11 feet to a point;

THENCE severing said City of Brenham tract, South 58°48'32" East, a distance of 20.00 feet to a point;

THENCE North 76°18'37" East , a distance of 331.37 feet to a point on the southeast line of said City of Brenham called 0.268 acre tract, from which a 1/2" iron rod found for the northeast corner of said City of Brenham called 0.268 acre tract bears North 41°07'36" East, a distance of 119.30 feet;

THENCE with the southeast line of said City of Brenham called 0.268 acre tract, South 41°07'36" West, a distance of 34.93 feet to a 1/2" iron rod found for the southeast corner of said City of Brenham called 0.268 acre tract;

THENCE with the south line of said City of Brenham called 0.268 acre tract, South 77°01'31" West, a distance of 10.00 feet to the PLACE OF BEGINNING.

Notes:

1. Bearings are based on Geodetic North as determined from GPS observations.
2. This survey is valid only if it bears the seal and original signature of the surveyor.
3. This description is accompanied by a plat of even date herewith.

June 12, 2013.

Robert C. Schmidt  
Robert C. Schmidt, TX RPLS No. 4705



**EXHIBIT** "A"  
2 of 2



**AGENDA ITEM 9**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 13, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Kim Hodde	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with Michele Bright dba Bright Star Aviation, LLC for Hangar Space at the Brenham Municipal Airport			
<b>SUMMARY STATEMENT:</b> Michele Bright wants to construct a 70x80 hangar (5,600 sf) at the airport. She also wants to lease the area behind her hangar. This area is otherwise unusable; therefore, neither Grant nor I have any problem with allowing her to lease the additional area. I have attached our standard ground space lease agreement (.08 cents per square foot) for your consideration. With the standard 10 feet on each side plus the additional 110 feet on the rear side, the lease space will be 18,000 square feet (90x200).			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>			
<b>ATTACHMENTS:</b> (1.) Ground Space Lease Agreement			
<b>FUNDING SOURCE (Where Applicable):</b> N/A			
<b>RECOMMENDED ACTION:</b> Approve the ground space lease agreement with Michele Bright dba Bright Star Aviation, LLC for hangar space at the Brenham Municipal Airport.			
<b>APPROVALS:</b> Terry K. Roberts			

**LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH MICHELE BRIGHT DBA BRIGHT STAR AVIATION, LLC (2803 AVIATION WAY)**

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and MICHELE BRIGHT DBA BRIGHT STAR AVIATION LLC, hereinafter called "Lessee":

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

**ARTICLE I – PREMISES AND PRIVILEGES**

A. DESCRIPTION OF PREMISES.

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

B. TERM.

The term of said lease is for a period of thirty (30) years commencing June 20, 2013 and terminating June 20, 2043. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 18,000 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

C. ACCESS.

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

**It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].**

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport
4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section D of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.
2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.
3. Sales of alcoholic beverages at the leased premises, except with City approval.
4. Sales, advertisement or storage of non-aviation products.
5. Storage, transfer, or sale of fuel.
6. Any sublease which allows further sublease by Lessee's tenant
7. Any use prohibited by law.

G. MANDATORY CONSTRUCTION.

Lessee agrees to commence construction of the improvements described within this section within 150 days of starting date of this lease. Generally, such improvements shall include a hangar having 5,600 square feet of space. Lessee agrees to complete all improvements within 365 days of the above date, except that a longer period of time may be granted by the City of Brenham upon a showing by the Lessee that progress has been delayed because of reasons beyond the control of Lessee. If Lessee fails to commence construction within 150 days of the date above stated or if Lessee fails to complete construction within 365 days of the date stated or within such additional period of time as granted by the City of Brenham, this lease shall become voidable at the City's option.

Lessee understands that all development shall conform to Airport Master Plan Guidelines and other Airport Rules and Regulations as approved by City Council. A site plan of Lessee's area is attached as Exhibit "A". Intentional failure to conform development to approved plans and as scheduled shall be cause for termination of this Lease upon failure to conform within thirty (30) days of City's notice to Lessee of its failure to conform.

Title to all improvements constructed or installed by Lessee on the leased premises shall throughout the term of this Lease remain in Lessee. However, upon expiration or termination of this Lease, Lessee shall have no further right or interest in the improvements, except as provided in Article I, Section H.

H. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or
2. The City may enter into a new lease agreement for the lease area.

I. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

J. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

K. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

**ARTICLE II – OBLIGATIONS OF LESSEE**

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

**B. ALTERATIONS TO AND CONDITIONS OF PREMISES.**

**Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham.** Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

**C. TRASH, GARBAGE, LANDSCAPING.**

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that “as a covenant running with the land” (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of , or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may

be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive nuisances, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.
2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

**ARTICLE III – OTHER CONDITIONS**

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.
4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF

BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2013.

**CITY OF BRENHAM (LESSOR)**

\_\_\_\_\_  
Milton Y. Tate, Jr., Mayor  
City of Brenham  
P. O. Box 1059  
Brenham, TX 77834-1059

ATTEST:

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

**BRIGHT STAR AVIATION LLC (LESSEE)**

\_\_\_\_\_  
Michele Bright dba  
Bright Star Aviation, LLC  
2668 Hwy 36 S #303  
Brenham, Texas 77833  
(713) 907-1893





**AGENDA ITEM 10**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 13, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Kim Hodde	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with A.J. Foyt for Hangar Space at the Brenham Municipal Airport			
<b>SUMMARY STATEMENT:</b> A.J. Foyt wants to construct a 110x120 hangar (13,200 sf) at the airport. I have attached our standard ground space lease agreement (.08 cents per square foot) for your consideration. With the standard 10 feet on each side plus 10 feet on the rear side, the lease space will be 16,900 square feet (130x130).			
<b>STAFF ANALYSIS (For ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>			
<b>ATTACHMENTS:</b> (1.) Ground Space Lease Agreement			
<b>FUNDING SOURCE (Where Applicable):</b>			
<b>RECOMMENDED ACTION:</b> Approve the ground space lease agreement with A.J. Foyt for hangar space at the Brenham Municipal Airport.			
<b>APPROVALS:</b> Terry K. Roberts			

LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH A.J. FOYT, JR.

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between the CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and A.J. FOYT, JR., hereinafter called "Lessee":

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

ARTICLE I – PREMISES AND PRIVILEGES

A. DESCRIPTION OF PREMISES.

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects, and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

B. TERM.

The term of said lease is for a period of thirty (30) years commencing June 20, 2013, and terminating June 20, 2043. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 16,900 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

C. ACCESS.

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not

interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport

4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

#### F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section D of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.
2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.
3. Sales of alcoholic beverages at the leased premises, except with City approval.
4. Sales, advertisement or storage of non-aviation products.
5. Storage, transfer, or sale of fuel.
6. Any sublease which allows further sublease by Lessee's tenant
7. Any use prohibited by law.

#### G. MANDATORY CONSTRUCTION.

Lessee agrees to commence construction of the improvements described within this section within 150 days of starting date of this lease. Generally, such improvements shall include a hangar having 13,200 square feet of space. Lessee agrees to complete all improvements within 365 days of the above date, except that a longer period of time may be granted by the City of Brenham upon a showing by the Lessee that progress has been delayed because of reasons beyond the control of Lessee. If Lessee fails to commence construction within 150 days of the date above stated or if Lessee fails to complete construction within 365 days of the date stated or within such additional period of time as granted by the City of Brenham, this lease shall become voidable at the City's option.

Lessee understands that all development shall conform to Airport Master Plan Guidelines and other Airport Rules and Regulations as approved by City Council. A site plan of Lessee's area is attached as Exhibit "A". Intentional failure to conform development to approved plans and as scheduled shall be cause for termination of this Lease upon failure to conform within thirty (30) days of City's notice to Lessee of its failure to conform.

Title to all improvements constructed or installed by Lessee on the leased premises shall throughout the term of this Lease remain in Lessee. However, upon expiration or termination of this Lease, Lessee shall have no further right or interest in the improvements, except as provided in Article I, Section H.

H. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or
2. The City may enter into a new lease agreement for the lease area.

I. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

J. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

K. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

ARTICLE II – OBLIGATIONS OF LESSEE

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable Maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

**B. ALTERATIONS TO AND CONDITIONS OF PREMISES.**

Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham. Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

**C. TRASH, GARBAGE, LANDSCAPING.**

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive uses, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.
2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

**ARTICLE III – OTHER CONDITIONS**

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.

4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the 14 day of June, 2013.

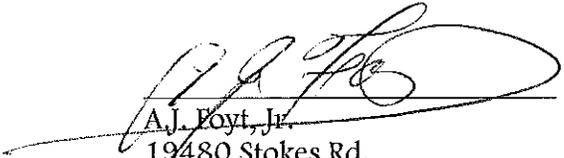
CITY OF BRENHAM (LESSOR)

\_\_\_\_\_  
Milton Y. Tate, Jr., Mayor  
City of Brenham  
P. O. Box 1059  
Brenham, TX 77834-1059

ATTEST:

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

A.J. FOYT, JR. (LESSEE)

  
A.J. Foyt, Jr.  
19480 Stokes Rd.  
Waller, Texas 77484

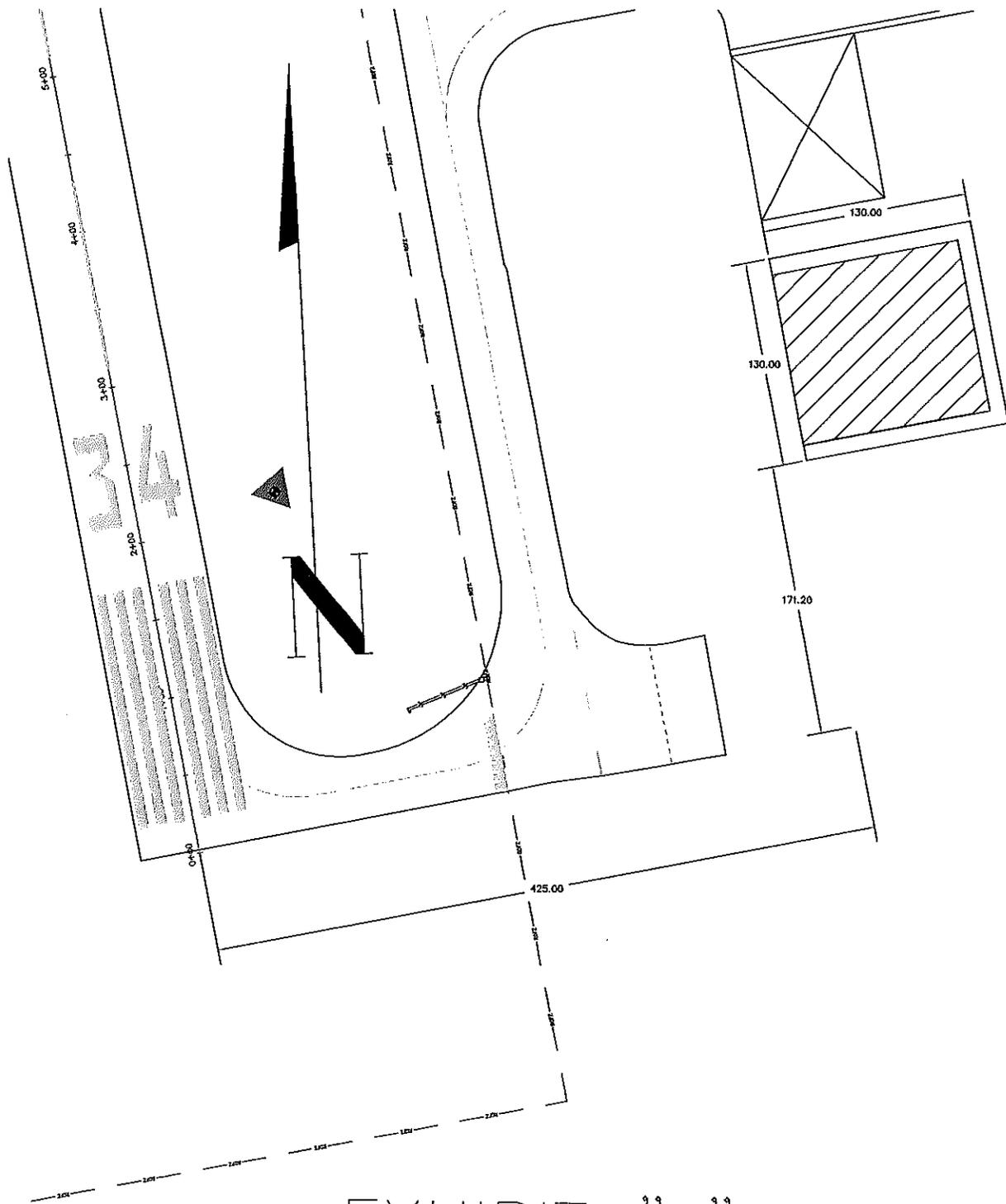


EXHIBIT "A"



**AGENDA ITEM 11**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 13, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Kim Hodde	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Approval of a Ground Space Lease Agreement with Richardson & Dunn dba J&S Water Wells for Hangar Space at the Brenham Municipal Airport			
<b>SUMMARY STATEMENT:</b> John Richardson wants to construct a 64x60 hangar (3,840 sf) at the airport. I have attached our standard ground space lease agreement (.08 cents per square foot) for your consideration. With the standard 10 feet on the east side and the rear, plus an additional 35 feet on the west side, the lease space will be 9,520 square feet (119x80).			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>			
<b>ATTACHMENTS:</b> (1.) Ground Space Lease Agreement			
<b>FUNDING SOURCE (Where Applicable):</b>			
<b>RECOMMENDED ACTION:</b> Approve the ground space lease agreement with Richardson & Dunn dba J&S Water Wells for hangar space at the Brenham Municipal Airport.			
<b>APPROVALS:</b> Terry K. Roberts			

**LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH RICHARDSON AND DUNN, INC. DBA J&S WATER WELLS**

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and RICHARDSON AND DUNN, INC. DBA J&S WATER WELLS, hereinafter called "Lessee":

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

**ARTICLE I – PREMISES AND PRIVILEGES**

**A. DESCRIPTION OF PREMISES.**

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

**B. TERM.**

The term of said lease is for a period of thirty (30) years commencing June 20, 2013 and terminating June 20, 2043. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 9,520 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

**C. ACCESS.**

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport
4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section D of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.
2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.
3. Sales of alcoholic beverages at the leased premises, except with City approval.
4. Sales, advertisement or storage of non-aviation products.
5. Storage, transfer, or sale of fuel.
6. Any sublease which allows further sublease by Lessee's tenant
7. Any use prohibited by law.

G. MANDATORY CONSTRUCTION.

Lessee agrees to commence construction of the improvements described within this section within 150 days of starting date of this lease. Generally, such improvements shall include a hangar having 3,840 square feet of space (60x60). Lessee agrees to complete all improvements within 365 days of the above date, except that a longer period of time may be granted by the City of Brenham upon a showing by the Lessee that progress has been delayed because of reasons beyond the control of Lessee. If Lessee fails to commence construction within 150 days of the date above stated or if Lessee fails to complete construction within 365 days of the date stated or within such additional period of time as granted by the City of Brenham, this lease shall become voidable at the City's option.

Lessee understands that all development shall conform to Airport Master Plan Guidelines and other Airport Rules and Regulations as approved by City Council. A site plan of Lessee's area is attached as Exhibit "A". Intentional failure to conform development to approved plans and as scheduled shall be cause for termination of this Lease upon failure to conform within thirty (30) days of City's notice to Lessee of its failure to conform.

Title to all improvements constructed or installed by Lessee on the leased premises shall throughout the term of this Lease remain in Lessee. However, upon expiration or termination of this Lease, Lessee shall have no further right or interest in the improvements, except as provided in Article I, Section H.

H. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or
2. The City may enter into a new lease agreement for the lease area.

I. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

J. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

K. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

ARTICLE II – OBLIGATIONS OF LESSEE

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

B. ALTERATIONS TO AND CONDITIONS OF PREMISES.

Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham. Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

C. TRASH, GARBAGE, LANDSCAPING.

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may

be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive nuisances, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.
2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.
4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF

BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2013.

CITY OF BRENHAM (LESSOR)

\_\_\_\_\_  
Milton Y. Tate, Jr., Mayor  
City of Brenham  
P. O. Box 1059  
Brenham, TX 77834-1059

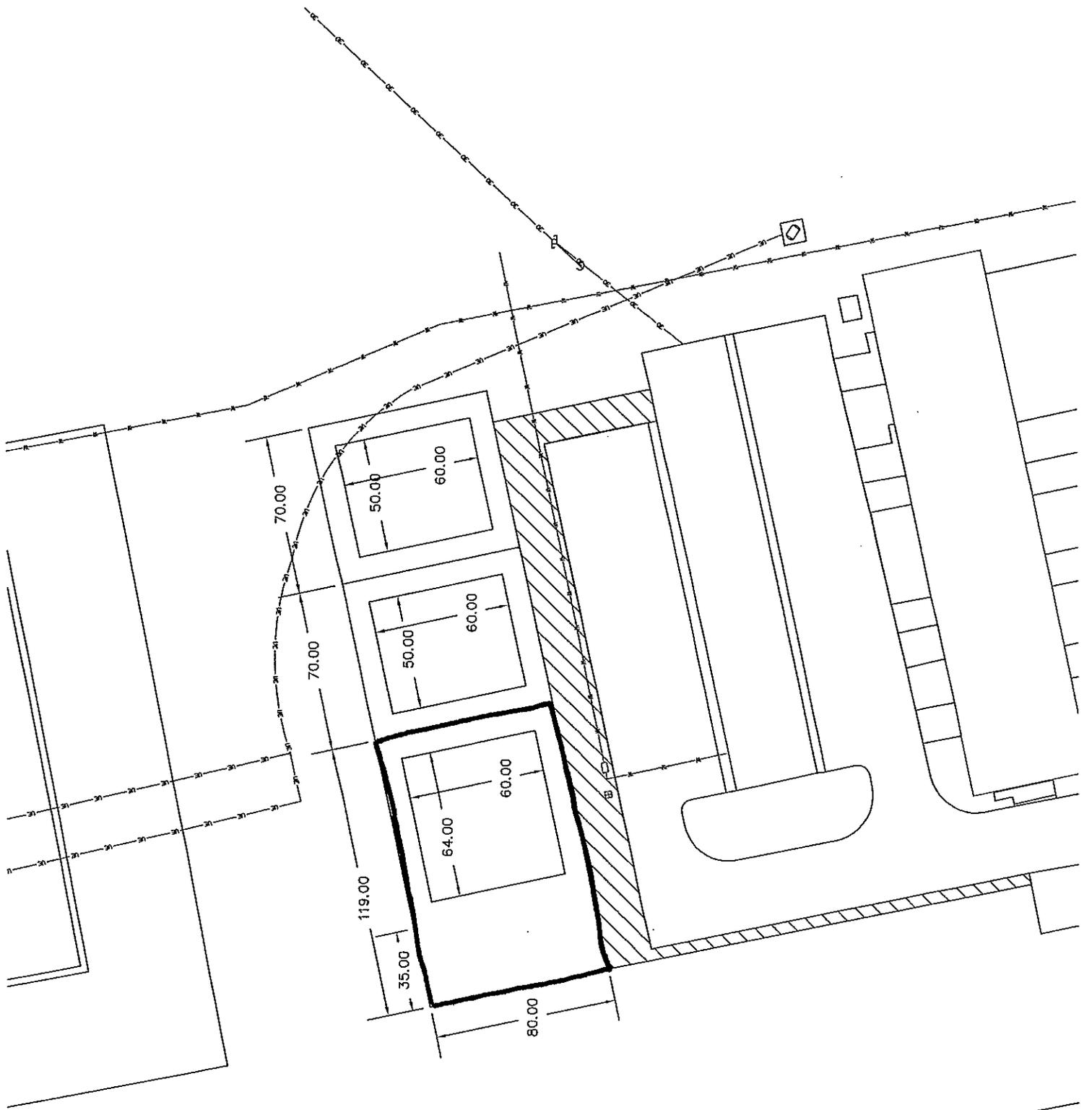
ATTEST:

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

J&S WATER WELLS (LESSEE)

  
\_\_\_\_\_  
Richardson & Dunn, Inc. dba  
J&S Water Wells  
P.O. Box 675  
Bellville, Texas 77418  
(979) 865-2393

Monte Richardson, President



**EXHIBIT "A"**



**AGENDA ITEM 12**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 13, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services		<b>SUBMITTED BY:</b> Kim Hodde	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Approval of Two (2) Ground Space Lease Agreements with John Richardson dba JR Leasing for Hangar Space at the Brenham Municipal Airport			
<b>SUMMARY STATEMENT:</b> Lease #1 - John Richardson wants to construct a 50x60 hangar (3,000 sf) at the airport. I have attached our standard ground space lease agreement (.08 cents per square foot) for your consideration. With the standard 10 feet on each side, the lease space will be 5,600 square feet (70x80).  Lease #2 - John Richardson wants to construct a second 50x60 hangar (3,000 sf) at the airport. I have attached our standard ground space lease agreement (.08 cents per square foot) for your consideration. With the standard 10 feet on each side, the lease space will be 5,600 square feet (70x80).			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>			
<b>ATTACHMENTS:</b> (1.) Ground Space Lease Agreement #1; and (1.) Ground Space Lease Agreement #2			
<b>FUNDING SOURCE (Where Applicable):</b> N/A			
<b>RECOMMENDED ACTION:</b> Approve Two (2) Ground Space Lease Agreements with John Richardson dba JR Leasing for Hangar Space at the Brenham Municipal Airport			
<b>APPROVALS:</b> Terry K. Roberts			

**LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH JOHN RICHARSON DBA JR LEASING**

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and JOHN RICHARDSON DBA JR LEASING, hereinafter called "Lessee":

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

**ARTICLE I – PREMISES AND PRIVILEGES**

**A. DESCRIPTION OF PREMISES.**

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

**B. TERM.**

The term of said lease is for a period of thirty (30) years commencing June 20, 2013 and terminating June 20, 2043. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 5,600 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

**C. ACCESS.**

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport
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Lessee agrees to commence construction of the improvements described within this section within 150 days of starting date of this lease. Generally, such improvements shall include a hangar having 3,000 square feet of space (50x60). Lessee agrees to complete all improvements within 365 days of the above date, except that a longer period of time may be granted by the City of Brenham upon a showing by the Lessee that progress has been delayed because of reasons beyond the control of Lessee. If Lessee fails to commence construction within 150 days of the date above stated or if Lessee fails to complete construction within 365 days of the date stated or within such additional period of time as granted by the City of Brenham, this lease shall become voidable at the City's option.

Lessee understands that all development shall conform to Airport Master Plan Guidelines and other Airport Rules and Regulations as approved by City Council. A site plan of Lessee's area is attached as Exhibit "A". Intentional failure to conform development to approved plans and as scheduled shall be cause for termination of this Lease upon failure to conform within thirty (30) days of City's notice to Lessee of its failure to conform.

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On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

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ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.
4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF

BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2013.

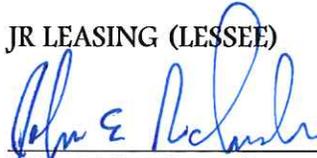
CITY OF BRENHAM (LESSOR)

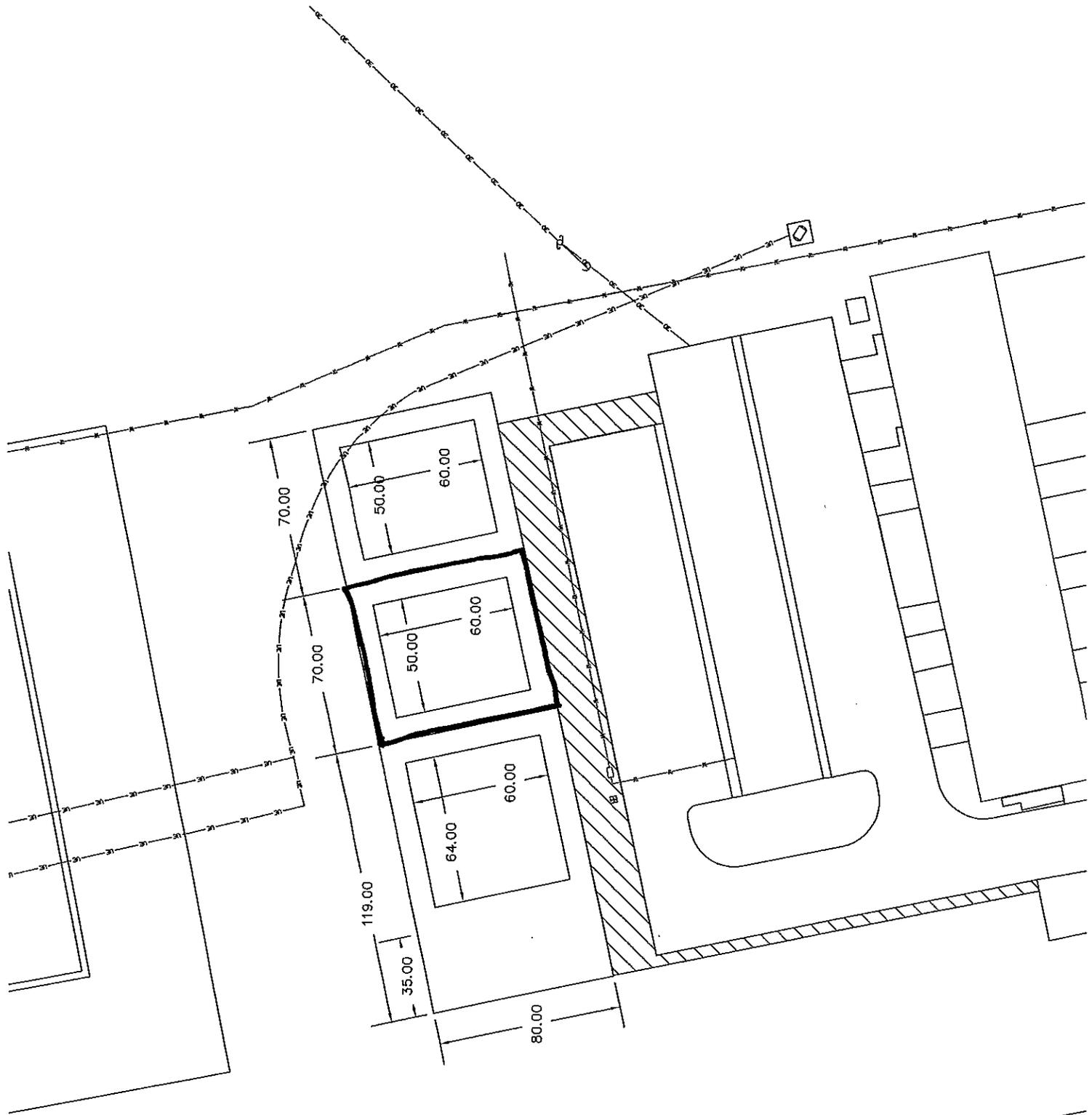
\_\_\_\_\_  
Milton Y. Tate, Jr., Mayor  
City of Brenham  
P. O. Box 1059  
Brenham, TX 77834-1059

ATTEST:

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

JR LEASING (LESSEE)

  
\_\_\_\_\_  
John Richardson dba  
JR Leasing  
P.O. Box 675  
Bellville, Texas 77418  
(979) 865-2393



**EXHIBIT "A"**

LEASE AGREEMENT: CITY OF BRENHAM, TEXAS TO AND WITH JOHN RICHARSON DBA JR LEASING

THE STATE OF TEXAS  
COUNTY OF WASHINGTON

This Lease Agreement made and entered into by and between CITY OF BRENHAM, a Texas Municipal Corporation, hereinafter called "Lessor" and JOHN RICHARDSON DBA JR LEASING, hereinafter called "Lessee":

WITNESSETH:

Lessor, in consideration of the premises and the covenants and agreements herein undertaken to be kept and performed by Lessee does lease unto said Lessee the following described property situated in Washington County, Texas, to have and to hold all and singular the said premises and improvements thereon, together with the rights, privileges and appurtenances thereunto belonging unto said Lessee under the following terms and provisions:

ARTICLE I – PREMISES AND PRIVILEGES

A. DESCRIPTION OF PREMISES.

For and in consideration of the terms, conditions and covenants of this Lease to be performed by Lessee, all of which Lessee accepts, City hereby leases to Lessee the premises being an area located on the City of Brenham Municipal Airport, north of the CITY OF BRENHAM, TEXAS and being a space of land located as shown on the attached "EXHIBIT A".

Lessee accepts the premises in their present condition subject to and including all defects and Lessee will, without expense to City, repair and maintain any installations thereon and remove, or cause to be removed, any debris, buildings or improvements to the extent required for Lessee's use thereof.

B. TERM.

The term of said lease is for a period of thirty (30) years commencing June 20, 2013 and terminating June 20, 2043. The rent for the first five years shall be eight (\$.08) cents per square foot per year for 5,600 square feet, payable annually on the anniversary hereof. Any rental fee not paid by the tenth of the month is subject to a late fee of five (\$5) dollars. On the fifth anniversary and each fifth anniversary thereafter, the rent shall adjust to the prevailing rate at that time, not to exceed an increase of two (\$.02) cents per square foot.

C. ACCESS.

Upon paying the rental hereunder and performing the requirements of this Lease, Lessee shall have the right of access to and from said premises over such roadway(s), as may be designed for that purpose and the right of access to and from the landing area for airplanes over taxiways and aircraft parking ramps as provided by City at its sole discretion. Said roadway(s), aircraft parking ramps and taxiways shall be used jointly with other airport tenants, but not for the conduct of business of another Lessee's premises and Lessee shall not interfere with the rights and privileges of other persons or firms using said facilities and shall be subject to such weight and type use restrictions as the City Council deems necessary.

D. OBJECTS AND PURPOSES OF LEASE.

Lessee is hereby granted the right and privilege to use the leased area for aviation related activities, being those provided by a Corporate Hangar Operator. Lessee shall have the uses and rights to build a private, corporate hangar to house its own privately-owned aircraft, all of which shall be subject to the terms set forth:

Lessee shall not use the premises for any purposes other than those authorized herein, without the prior written consent of City. Specifically, Lessee will not store fuel, nor do any aircraft maintenance on aircraft other than the aircraft owned or contracted by Lessee.

It is understood and agreed that nothing herein shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308(a) of the Federal Aviation Act of 1958, [49 USCA Chapter 471 or successor statute].

E. CITY'S RESERVED RIGHTS.

1. Development. City, at its sole discretion, reserves the right to further develop or improve the aircraft operating area of the airport as it sees fit and to take action it considers necessary to protect the aerial approaches of the Airport against obstructions, together with the right to prevent Lessee from erecting or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
2. Oil, Gas, Mineral Interests. It is understood and agreed that this Lease is made subject and subordinate to the terms of any oil, gas, and other mineral interest; leases; or right-of-way easements of any nature that may have been executed heretofore.

City agrees that (1) if it should, as a mineral owner under the premises, develop all or part of the Airport for oil, gas or other mineral purposes, no well will be drilled or other operations conducted on the leased premises, and (2) in the event it should hereafter execute an oil, gas or other mineral lease in favor of a third party covering the Airport area, or a portion thereof, it will cause such lease to contain a provision that the Lessee therein will not conduct any of its drilling or other operations on the land covered by this Lease, or in a manner which would unreasonably interfere with Lessee's use and enjoyment of the premises.

3. Other Contracts. This lease shall be subordinate to the provisions of any existing or future agreement between the City and the United States, relative to the operation or maintenance of the airport, the terms and execution of which have been or may be required as a condition precedent to the expenditure or reimbursement to City of federal funds for the development of the Airport
4. Other Leases. Nothing herein contained shall limit City with respect to granting of leases to other aviation tenants under other terms as herein set forth or to granting of leases for non-commercial aviation or non-aviation purposes at terms different from those set forth herein.

F. PROHIBITED USES.

Lessee shall not use or permit the use of any part of the premises in any other manner than set out in Section D of this Lease. Some specific activities prohibited are as follows:

1. Auto rental service.
2. Food sales (except the sale of confections and refreshments prepared and packaged off the leased premises through either coin-operated vending machines or over-the-counter or in the waiting area, and other foods prepared and packaged off the leased premises for food trays for private or charter flights) at the leased premises.
3. Sales of alcoholic beverages at the leased premises, except with City approval.
4. Sales, advertisement or storage of non-aviation products.
5. Storage, transfer, or sale of fuel.
6. Any sublease which allows further sublease by Lessee's tenant
7. Any use prohibited by law.

G. MANDATORY CONSTRUCTION.

Lessee agrees to commence construction of the improvements described within this section within 150 days of starting date of this lease. Generally, such improvements shall include a hangar having 3,000 square feet of space (50x60). Lessee agrees to complete all improvements within 365 days of the above date, except that a longer period of time may be granted by the City of Brenham upon a showing by the Lessee that progress has been delayed because of reasons beyond the control of Lessee. If Lessee fails to commence construction within 150 days of the date above stated or if Lessee fails to complete construction within 365 days of the date stated or within such additional period of time as granted by the City of Brenham, this lease shall become voidable at the City's option.

Lessee understands that all development shall conform to Airport Master Plan Guidelines and other Airport Rules and Regulations as approved by City Council. A site plan of Lessee's area is attached as Exhibit "A". Intentional failure to conform development to approved plans and as scheduled shall be cause for termination of this Lease upon failure to conform within thirty (30) days of City's notice to Lessee of its failure to conform.

Title to all improvements constructed or installed by Lessee on the leased premises shall throughout the term of this Lease remain in Lessee. However, upon expiration or termination of this Lease, Lessee shall have no further right or interest in the improvements, except as provided in Article I, Section H.

H. EXPIRATION.

Upon the expiration of this Lease,

1. The City may purchase building and improvements on the lease area at a fair market value as determined by an Independent Appraiser mutually agreeable to the City and the Lessee, all fees for such appraisal services to be paid by the Lessee, or
2. The City may enter into a new lease agreement for the lease area.

I. DEFAULT.

Any of the following events constitutes default:

1. An act of the Lessee which is in variation with the site plan and is not corrected after 30 days notice by Lessor to Lessee of said default,
2. The nonperformance by Lessee of any other covenant or condition of this lease which is not cured within thirty (30) days after written notice thereof from Lessor, or
3. The subjection of any of Lessee's property to any levy, seizure, assignment, application, or sale for or by any creditor or governmental agency.

J. LESSOR'S RIGHTS UPON DEFAULT.

On the occurrence of any of the events defined as constituting "default", Lessor may without notice to or demand on Lessee, take possession of the leased property and lease the same or any portion thereof, for such period and such rental, and to such persons, as Lessor shall elect.

K. MORTGAGE OF LEASEHOLD INTEREST.

Lessee shall have the right subject to City Manager approval to place a first mortgage lien upon its leasehold. Any approved lender shall notify City of all action taken by it in the event payments on such loans shall become delinquent.

**ARTICLE II – OBLIGATIONS OF LESSEE**

A. NET LEASE: MAINTENANCE AND OPERATION.

The use and occupancy of the leased premises by Lessee will be without cost or expense to City. It shall be the sole responsibility of Lessee to construct, maintain, repair and operate the entirety of the leased premises and any improvements and facilities constructed thereon at Lessee's sole cost and expense except as specifically set forth in this article.

Lessee shall maintain the leased premises at all times in a safe, neat and attractive condition and shall not permit the accumulation of any trash or debris on the premises. Lessee shall repair all damages to said premises caused by its employees, patrons, or its operation thereon; shall maintain and repair all buildings, pavements, equipment and improvements; and shall repaint the buildings as necessary. Lessee shall pay all taxes against the property and indemnify City from any tax lien.

City reserves the right to make periodic inspection of leased premises and improvements and equipment therein during normal business hours.

City, in its reasonable discretion, shall be the sole judge of the quality of maintenance that shall uniformly apply to all airport tenants. Upon written notice by City to Lessee, Lessee shall be required to perform whatever reasonable maintenance City deems necessary. If said maintenance is not undertaken by Lessee within ten (10) days after receipt of written notice, City shall have the right to enter upon the leased premises and perform the necessary maintenance, the cost of which shall be borne by Lessee.

**B. ALTERATIONS TO AND CONDITIONS OF PREMISES.**

Any change in exterior paint colors shall be subject to the prior written approval of the City of Brenham. Lessee agrees not to construct, install, remove and/or materially modify any of the buildings or premises leased hereunder without prior written approval of the City of Brenham subject to the conditions considered by City to be necessary.

Lessee shall not remove or demolish, in whole or in part, any improvements upon the premises without the prior written consent of City which may, at its discretion, condition such consent upon the obligation of Lessee to replace the same by an improvement specified in such consent.

**C. TRASH, GARBAGE, LANDSCAPING.**

Lessee shall provide a complete and proper arrangement of the adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, and other refuse caused as a result of the operation of its business. Lessee shall provide and use approved receptacles for all such garbage, trash and other refuse. Piling of boxes, cartons, barrels or other similar items in an unattractive or unsafe manner, on or about the leased premises, is prohibited.

Lessee shall be responsible for maintaining suitably attractive yard-appearance, as follows: Lessee shall be responsible for groundskeeping and shall screen any outside storage or work areas by the use of an opaque fence or other suitable opaque barrier so that such storage or work areas shall be hidden from public view from the street.

Lessee is specifically responsible for mowing (and to ensure that weed or grass growth is never allowed in excess of that allowed by City weed ordinance requirements) and removal of weeds from around fences and buildings for the area within ten feet of the property shown on the attached Exhibit "A". Lessee is encouraged to provide additional landscaping beyond the minimum required by City to assist in enhancing Airport appearance.

D. SIGNS.

Lessee may not install identifying signs on the leased premises except with the written permission of City Manager.

E. UTILITIES.

Lessee shall assume and pay for all costs or charges for utility services furnished to Lessee during the term hereof; provided, however, that Lessee shall have the right to connect to any and all storm and sanitary sewers and water and utility outlets at its own cost and expense; and Lessee shall pay for any and all service charges incurred therefor.

F. FIELD USE CHARGES.

Nothing herein shall be deemed to relieve Lessee and its tenants, sublessees, patrons, invitees, and others from field landing fees, nor its guests from fuel flowage fees, as are levied by City or the Fixed Base Operator.

G. PAYMENTS DUE.

Lessee agrees that no payments owed by Lessee of any nature whatsoever to City, including payment in advance for service charges, such as garbage collection, or any other sums of any character whatsoever, shall become delinquent or in arrears.

H. COMPLIANCE WITH RULES.

Lessee will comply with any and all federal or state laws, rules and regulations, and all regulations made by the City of Brenham and approved by the City Council.

I. NONDISCRIMINATION/FEDERALLY REQUIRED ASSURANCES.

Lessee, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby agree that "as a covenant running with the land" (1) no person on the grounds of race, color, sex, creed, national origin, or handicapped status shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, or in the construction of any improvements on, or under such land, or the furnishing of services thereof, and (2) that Lessee shall use the premises in compliance with and conduct its operations in accordance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, or Section 504 of the Rehabilitation of 1973 (23 USC 794) and 49 CFR Part 27 and as said regulations may be amended, and that Lessee will comply with such enforcement procedures as the United States might demand that City take.

J. FAA AND OTHER APPROVAL OF USE.

Lessee agrees to secure approval from the Federal Aviation Administration concerning the height and location of all buildings or improvements or modifications thereof which may

be constructed or installed on the leased premises and to satisfy any applicable environment or other requirements of federal, state, and local authorities as to noise, smoke, fumes emissions, storm water, or other hazards or potential hazards or other offensive nuisances, if any, which may occur as a result of Lessee's operations on the premises.

K. NON-INTERFERENCE WITH OPERATION OF AIRPORT/EASEMENTS.

1. Lessee, by accepting this Lease, expressly agrees for itself, its successors and assigns that it will not make use of the premises in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard. If Lessee violates this, City reserves the right to enter upon the premises and remove the interference at the expense of the Lessee.
2. City shall maintain and keep in good repair the landing area of the Airport, and shall have the right to direct and control all activities of the Lessee in this regard.
3. City shall retain an easement over, above and on the premises in relation to aircraft noise and the utilization of the air space for the purposes of the operation of said Airport.

L. LESSEE AUTHORITY.

The officers of the Lessee which execute this lease represent and promise that they are duly authorized by corporate resolution or other appropriate authorization to execute the same on behalf of Lessee.

ARTICLE III – OTHER CONDITIONS

1. Lessee agrees to pay all public utility charges that may be assessed, including charges for gas, electric, water and any other utility charge.
2. Any holding over by Lessee or his successors, at the expiration or termination of this lease, in whatever manner its termination may be brought about, shall not operate as a renewal of this lease, but during the period of such holding over Lessee shall be a tenant at the will of Lessor.
3. Lessee shall maintain property and casualty insurance in amounts satisfactory with Lessor and shall provide for public liability insurance in the amount of ONE MILLION AND NO/100 (\$1,000,000.00) DOLLARS in order to protect Lessor against claims arising because of the operation of Lessee. Lessee shall give evidence of insurability. CITY OF BRENHAM, TEXAS shall always be shown as an addition insured. Provided, however, if CITY OF BRENHAM, TEXAS so elects, it may take out said insurance and then prorate said costs to Lessee and any Sublessees on an equitable basis, as determined by CITY OF BRENHAM, TEXAS. The CITY OF BRENHAM reserves the right to require that the amount of any and all types of insurance may be increased upon the CITY OF BRENHAM giving thirty (30) days notice to Lessee or any sublessee.
4. The CITY OF BRENHAM requires that Lessee and users of Lessee's premises shall agree to be bound by all of the regular rules and regulations as may be set out by the F.A.A. as to pilots and their conduct and that they agree to abide by any and all local rules that may be approved by the City Council of the CITY OF BRENHAM, TEXAS, for pilots at the CITY OF

BRENHAM MUNICIPAL AIRPORT and as may be adopted by the AIRPORT ADVISORY COMMITTEE of the CITY OF BRENHAM, TEXAS. Lessee shall agree that in the event he is found not to have abided by the rules or does not correct a situation required to be corrected by the City of Brenham, then and in that event he may lose his privilege to occupy the Hangar that is located on property being leased by the CITY OF BRENHAM, TEXAS.

5. This Lease is governed by the laws of the State of Texas and performable in Washington County, Texas.

6. If any provision herein is held to be invalid in a court of law, the invalidity of such provision shall in no way affect the validity of any other provision.

7. Any notice required herein shall be effective upon mailing to the address described herein by depositing said notice in the mail, certified mail – return receipt requested.

APPROVED this the \_\_\_\_ day of \_\_\_\_\_, 2013.

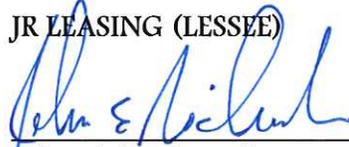
CITY OF BRENHAM (LESSOR)

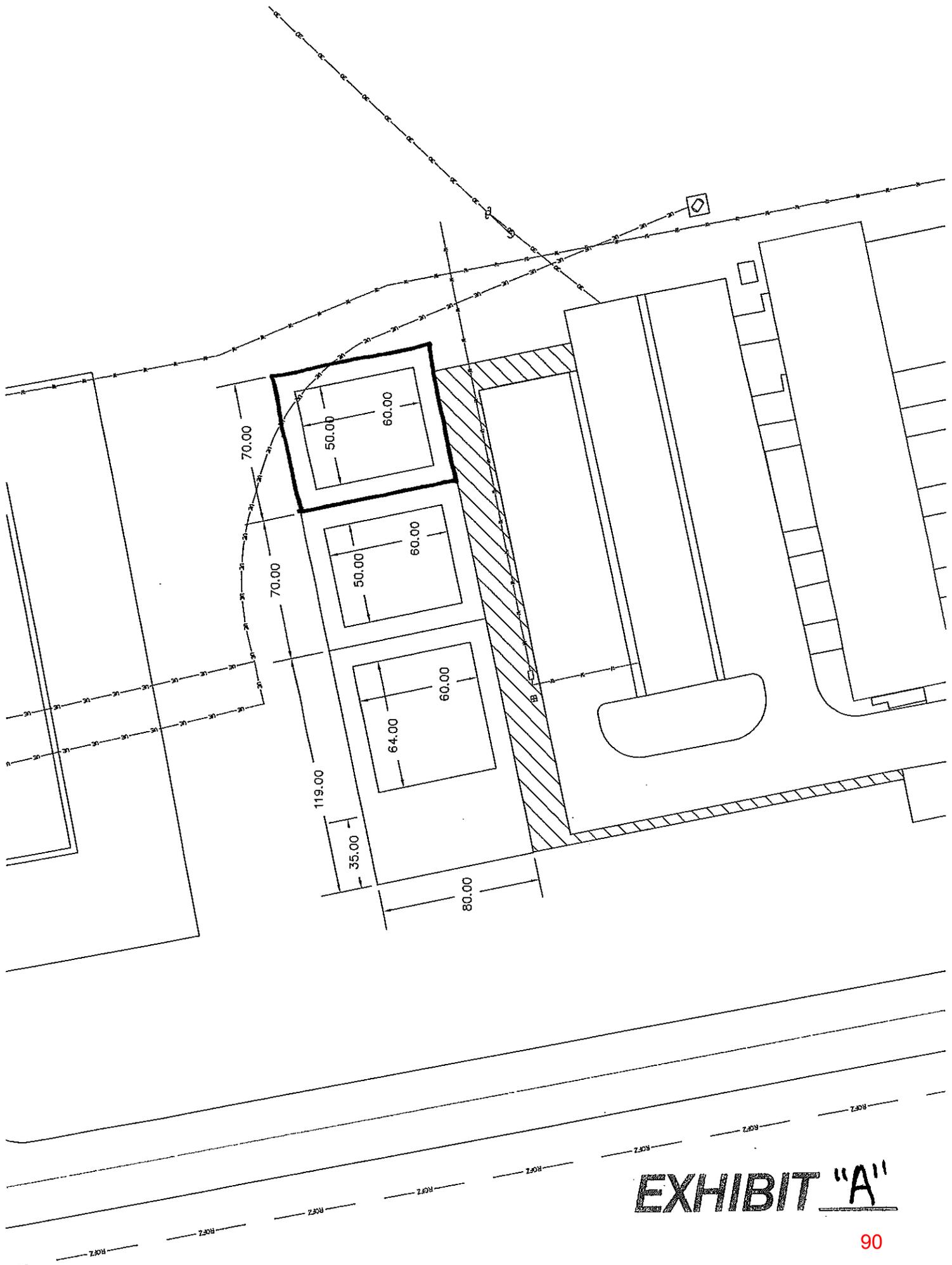
\_\_\_\_\_  
Milton Y. Tate, Jr., Mayor  
City of Brenham  
P. O. Box 1059  
Brenham, TX 77834-1059

ATTEST:

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

JR LEASING (LESSEE)

  
\_\_\_\_\_  
John Richardson dba  
JR Leasing  
P.O. Box 675  
Bellville, Texas 77418  
(979) 865-2393



**EXHIBIT "A"**



### AGENDA ITEM 13

<b>DATE OF MEETING:</b> June 20, 2013	<b>DATE SUBMITTED:</b> June 14, 2013	
<b>DEPT. OF ORIGIN:</b> Development Services	<b>SUBMITTED BY:</b> Julie Fulgham	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 6, Buildings and Structures, Article X, Swimming Pools, Section 6-145 of the Code of Ordinances of the City of Brenham		
<b>SUMMARY STATEMENT:</b> Currently, Section 6-145 requires swimming pools to conform to the accessory building and use regulations that are outlined in the zoning ordinance. This amendment eliminates this requirement and is being proposed to clarify swimming pool regulations. The zoning ordinance prohibits accessory buildings and uses (pools) from being located anywhere in front of the midpoint of the lot in which it is to be constructed. The proposed ordinance allows pools to be constructed behind the established building line or required setbacks, whichever is greater. The proposed amendment also requires pools to be located a minimum of 5 feet from side and rear lot lines as well as 5 feet from structures. This standard was discovered to be a best practice, as it relates to emergency rescues operations around swimming pools, when research for this amendment was conducted.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
A. <b>PROS:</b> Allows more area on a lot for construction of a swimming pool.		
B. <b>CONS:</b> Increases the required side and rear yard setback for swimming pools.		
C.		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> 1. Approve the proposed ordinance, 2. Modify the proposed ordinance, 3. Deny the proposed ordinance		
<b>ATTACHMENTS:</b> (1). Red-lined version of the proposed changes; and (2.) Ordinance		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading amending Chapter 6, Buildings and Structures, Article X, Swimming Pools, Section 6-145 of the Code of Ordinances of the City of Brenham.

**APPROVALS:** Terry K. Roberts

## PROPOSED CHANGES:

### Sec. 6-145. Construction requirements.

(a) ~~No pool shall be located, erected, constructed or maintained closer to any side or rear lot line than allowed by zoning ordinance for permitted accessory building uses, and in no case shall the water line of any pool be less than four (4) feet from any lot line.~~ All pools located, erected, enlarged, or constructed within the City of Brenham shall conform to the following requirements:

1. A minimum five-foot (5') rear and side yards is required;
2. A minimum twenty-five foot (25') front yard and a fifteen foot (15') side yard on corner lots is required, or pools must be located behind the established building lines of the principle structure located on the lot, whichever distance is greater;
3. Pools must be a minimum of five feet (5') from any structure to allow access for emergency rescue operations; and
4. All measurements are taken from the outermost edge of the pool coping.

(b) Any connection to the city's sewer system shall include a suitable gap or backflow prevention device to prevent contamination of the pool by the sewer.

(c) Gaseous chlorination system shall not be used as a disinfection method for pool waters. The building inspector shall recommend a proper disinfectant.

(d) Any connection to the city's potable water system shall be protected by a suitable air gap or approved backflow prevention device.  
(Ord. of 5-16-91, § 4)

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

**AN ORDINANCE AMENDING SECTION 6-145, CONSTRUCTION REQUIREMENTS WITHIN CHAPTER 6, BUILDINGS AND STRUCTURES, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, PROVIDING FOR REGULATIONS RELATED TO THE CONSTRUCTION OF SWIMMING POOLS.**

**BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT SECTION 6-145, CONSTRUCTION REQUIREMENTS WITHIN CHAPTER 6, BUILDINGS AND STRUCTURES OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, BE AMENDED IN THE FOLLOWING MANNER:**

*SECTION 1.* That Section 6-145, Construction Requirements, within Chapter 6, Buildings and Structures, of the Code of Ordinances of the City of Brenham, Texas, is hereby amended as follows:

**Sec. 6-145. Construction requirements.**

(a) All pools located, erected, enlarged, or constructed within the City of Brenham shall conform to the following requirements:

1. A minimum five-foot (5') rear and side yards is required;
2. A minimum twenty-five foot (25') front yard and a fifteen foot (15') side yard on corner lots is required, or pools must be located behind the established building lines of the principle structure located on the lot, whichever distance is greater;
3. Pools must be a minimum of five feet (5') from any structure to allow access for emergency rescue operations; and
4. All measurements are taken from the outermost edge of the pool coping.

(b) Any connection to the city's sewer system shall include a suitable gap or backflow prevention device to prevent contamination of the pool by the sewer.

(c) Gaseous chlorination system shall not be used as a disinfection method for pool waters. The building inspector shall recommend a proper disinfectant.

(d) Any connection to the city's potable water system shall be protected by a suitable air gap or approved backflow prevention device.

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

**PASSED and APPROVED** on its first reading this the \_\_\_\_\_ day of June, 2013.

**PASSED and APPROVED** on its second reading this the \_\_\_\_\_ day of July, 2013.

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

ATTEST:

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



**AGENDA ITEM 14**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 17, 2013	
<b>DEPT. OF ORIGIN:</b> Public Utilities		<b>SUBMITTED BY:</b> Lowell Ogle	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING	
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING	
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION	
	<input type="checkbox"/> WORK SESSION		
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Change Order No. 2, Change Order No. 3 (Reconciliation), and Final Payment to Supak Construction, Inc. for the 2012 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation			
<b>SUMMARY STATEMENT:</b> Supak Construction, Inc. has completed work to replace sections of water lines where a majority of leaks have occurred. The project included the installation of over 3800 feet of 6" PVC water lines along Bormann, Reimer, and Longhofer streets as well as Westwind and Windy Drive. Change Order No. 1 was issued May 8, 2012 and approved by Council at the May 17, 2012 meeting. Change Order No.1 added replacement of approx. 500 feet of AC water main on South Day Street. Change Order No. 2 was issued April 4, 2013 to pay for the addition of a fire hydrant on Longhofer and to relocate a hydrant on South Day Street that needed moving to allow room to replace the lead, gate valve, and valve box. This Change Order was \$2,000. Change Order No. 3 (reconciliation) included an additional 140 feet of 6" PVC to tie in to existing lines, some additional services that were installed and additional pavement repair due to the increased footages. This change order is \$10,412.00. The construction portion of the project totaled \$349,283.00 including the change orders.			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b> Replace problem water lines and project was within budget.			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>			
<b>ATTACHMENTS:</b> (1.) Change Order No. 2; (2.) Application for Payment No. 8 (Final); (3.) Change Order No.3 (Reconciliation); (4.) Certificate of Substantial Completion; and (5.) Consent of Surety to Final Payment			
<b>FUNDING SOURCE (Where Applicable):</b> N/A			

**RECOMMENDED ACTION:** Approve Change Order No.2 in the amount of \$2,000, Change Order No. 3 in the amount of \$10,412 and approve final payment to Supak Construction, Inc. in the amount of \$349,283.00 for work completed on the 2012 Water Distribution System Improvements Project.

**APPROVALS:** Terry K. Roberts



# O'Malley Engineers, L.L.P.

TBPE No. F-3244

Craig Kankel, P.E.  
Robert C. Schmidt, P.E.  
Ed Addicks, P.E.

CITY OF BRENHAM  
2012 WATER DISTRIBUTION SYSTEM IMPROVEMENTS  
OE JOB NO. 1006.073 WG/WH

CHANGE ORDER NO. 2  
April 4, 2013

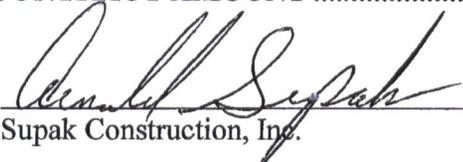
REASON: To add a pay item for installation of a fire hydrant unit using a hydrant furnished by the City. To add a pay item to cover additional costs incurred to remove and replace thrust blocking on the existing fire hydrant on South Day Street to replace the fire hydrant lead, gate valve, and valve box. The fire hydrant had to be moved and reset because there was not enough room to replace the lead, gate valve, and valve box.

ADDITIONS:

1. Install fire hydrant unit using hydrant furnished by the City, complete in place, 1 LS @ \$1,250.00 ..... \$1,250.00
  2. Remove existing thrust blocking on existing fire hydrant to replace lead, gate valve, and valve box. reset existing hydrant and install new thrust blocking, complete in place, 1 LS @ \$750.00 ..... \$750.00
- TOTAL CHANGE ORDER NO. 2 ..... \$2,000.00

ORIGINAL CONTRACT AMOUNT ..... \$299,978.50  
 PLUS CHANGE ORDER NO. 1 ..... \$36,892.50  
 PLUS CHANGE ORDER NO. 2 ..... \$2,000.00

**ADJUSTED CONTRACT AMOUNT ..... \$338,871.00**

ACCEPTED BY:  4-8-13  
 Supak Construction, Inc. Date

RECOMMENDED BY:  4.4.13  
 O'Malley Engineers, L.L.P. Date

APPROVED BY:  4/15/13  
 City of Brenham Date

**APPLICATION FOR PAYMENT NO. 8 & Final**

TO OWNER: City of Brenham, 200 West Vulcan, Brenham, TX 77833  
 FROM CONTRACTOR: Supak Construction, Inc., 512 South Missouri, Orchard, TX 77464  
 PROJECT: 2012 Water Distribution System Improvements  
 OE JOB NO.: 1006.073-WG/WH

CONTRACT AWARDED: May 17, 2012  
 PERIOD FROM: March 8, 2013  
 CONST. TIME ALLOTTED: 120 Calendar Days

NOTICE TO PROCEED: June 25, 2012  
 PERIOD TO: March 8, 2013  
 TIME USED: 257 Calendar Days

Item No.	Description	Contract Quantity	Completed Quantity			Unit Price	Total Value of Work Completed
			Previous Period	Current Period	Total		
1	Furnish and install 12" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	60 LF	60	0	60	\$ 50.00	\$ 3,000.00
2	Furnish and install 10" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	35 LF	35	0	35	\$ 45.00	\$ 1,575.00
3	Furnish and install 6" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	3,855 LF	3,990	0	3,990	\$ 32.50	\$ 129,675.00
4	Furnish and install 2" Schedule 40 PVC water line by open cut, with trace wire	50 LF	48	0	48	\$ 15.00	\$ 720.00
5	Furnish and install 6" gate valve and valve box	6 EA	6	0	6	\$ 850.00	\$ 5,100.00
6	Furnish and install 2" gate valve and valve box	1 EA	1	0	1	\$ 400.00	\$ 400.00
7	Furnish and install 10" x 10" tapping sleeve and valve	1 EA	1	0	1	\$ 4,450.00	\$ 4,450.00
8	Furnish and install 6" x 6" tapping sleeve and valve	8 EA	8	0	8	\$ 2,750.00	\$ 22,000.00
9	Furnish all labor and materials and make 10" wet connection to existing 10" water line	1 EA	1	0	1	\$ 1,500.00	\$ 1,500.00
10	Furnish all labor and materials and make 6" wet connection to existing 6" water line	2 EA	2	0	2	\$ 750.00	\$ 1,500.00
11	Remove and dispose of existing fire hydrant lead, gate valve, and valve box. Furnish and install fire hydrant lead, gate valve, and valve box and tie-in to existing fire hydrant (including anchoring tee and any required gaskets)	3 EA	0	0	0	\$ 3,750.00	\$ -
12	Furnish and install fire hydrant unit	1 EA	4	0	4	\$ 3,450.00	\$ 13,800.00
13	Furnish all labor and materials and make 1" service connection	52 EA	63	0	63	\$ 250.00	\$ 15,750.00
14	Furnish and install 1" SDR 9 CTS Polyethylene service line	1,290 LF	1,490	0	1,490	\$ 8.50	\$ 12,665.00
15	Furnish all labor and materials and tie new 1" Poly service line into existing meter	57 EA	60	0	60	\$ 100.00	\$ 6,000.00
16	Furnish and install ductile iron fittings	2.40 TON	2.40	0	2.40	\$ 3,750.00	\$ 9,000.00
17	Furnish all labor and materials and obliterate existing valve box	10 EA	10	0	10	\$ 50.00	\$ 500.00
18	Furnish all labor and materials and remove existing gate valve and valve box and plug existing tee (all sizes)	2 EA	2	0	2	\$ 50.00	\$ 100.00
19	Furnish all labor and materials to plug and abandon existing water lines in place	1 LS	1	0	1	\$ 150.00	\$ 150.00
20	Furnish and install automatic flush valve unit per detail	1 EA	1	0	1	\$ 4,450.00	\$ 4,450.00
21	Perform trench safety per Technical Specification Section 31 50 00, 5-10' depth	10 LF	10	0	10	\$ 0.10	\$ 1.00

Item No.	Description	Contract Quantity	Completed Quantity			Unit Price	Total Value of Work Completed
			Previous Period	Current Period	Total		
22	Furnish all materials and perform traffic control in accordance with the TxDOT permit and Texas MUTCD	1 LS	1	0	1	\$ 1,250.00	\$ 1,250.00
23	Furnish all labor and materials to perform asphalt pavement repair in City right-of-way	4,940 LF	5,251	0	5,251	\$ 14.50	\$ 76,139.50
24	Furnish all labor and materials to perform repair of reinforced concrete pavement (including valley gutters and sloped paving)	120 LF	50	0	50	\$ 18.50	\$ 925.00
25	Perform seeding in all areas disturbed by construction	1 LS	1.00	0	1.00	\$ 750.00	\$ 750.00

**CHANGE ORDER NO. 1**

1	Remove and dispose of existing 8" water line and furnish and install 8" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	310 LF	340	0	340	\$ 42.50	\$ 14,450.00
2	Remove and dispose of existing 8" water line and furnish and install 8" Class 150 AWWA C-900 PVC water line in 14" Class 150 AWWA C-905 PVC casing by open cut, with trace wire	20 LF	20	0	20	\$ 87.50	\$ 1,750.00
3	Furnish and install 8" Class 150 AWWA C-900 PVC water line by bore, with trace wire	155 LF	155	0	155	\$ 57.50	\$ 8,912.50
4	Furnish all labor and materials and make 8" wet connection to existing 8" water line	2 EA	2	0	2	\$ 1,500.00	\$ 3,000.00
5	Remove and dispose of existing fire hydrant lead, gate valve, and valve box. Furnish and install fire hydrant lead, gate valve and valve box and tie-in to existing fire hydrant (including anchoring tee, any necessary bends/fittings, and any required gaskets)	1 EA	1	0	1	\$ 1,250.00	\$ 1,250.00
6	Furnish and install ductile iron fittings	0.54 TON	0.54	0	0.54	\$ 3,750.00	\$ 2,025.00
7	Furnish all labor and materials to plug and abandon existing water lines in place	1 LS	1	0	1	\$ 300.00	\$ 300.00
8	Remove and dispose of existing 6" sanitary sewer line and furnish and install 6" ASTM D-2241 SDR-26 PVC gravity sanitary sewer, all cuts, with trace wire	26 LF	0	0	0	\$ 47.50	\$ -
9	Furnish all labor and materials and tie new 6" PVC sanitary sewer into existing manhole	1 EA	0	0	0	\$ 750.00	\$ -
10	Furnish all labor and materials and tie new 6" PVC sanitary sewer into existing sanitary sewer line	1 EA	0	0	0	\$ 300.00	\$ -
11	Perform trench safety per Technical Specification Section 31 50 00, 5-10' depth	40 LF	40	0	40	\$ 0.50	\$ 20.00
12	Furnish all materials and perform traffic control in accordance with the TxDOT	1 LS	1	0	1	\$ 1,500.00	\$ 1,500.00
13	Furnish all labor and materials to perform repair of reinforced concrete pavement (including valley gutters and sloped paving)	40 LF	40	0	40	\$ 57.50	\$ 2,300.00
14	Perform seeding in all areas disturbed by construction	1 LS	1	0	1	\$ 375.00	\$ 375.00

Item No.	Description	Contract Quantity	Completed Quantity			Unit Price	Total Value of Work Completed
			Previous Period	Current Period	Total		
<b>CHANGE ORDER NO. 2</b>							
1	Install fire hydrant unit using hydrant furnished by the City	1 EA	1	0	1	\$ 1,250.00	\$ 1,250.00
2	Remove existing thrust blocking on existing fire hydrant to replace lead, gate valve, and valve box. Reset existing hydrant and install new thrust blocking	1 LS	1	0	1	\$ 750.00	\$ 750.00

Original Contract:	\$ 299,978.50	Value of Work Performed to Date	\$ 349,283.00
Plus C.O. No. 1	\$ 36,892.50	Plus Materials Stored at Close of Period	\$ -
Plus C.O. No. 2	\$ 2,000.00	Net Amt Earned to Date	\$ 349,283.00
Plus C.O. No. 3 & Recon.	\$ 10,412.00	Less 0% Retainage	\$ -
Adjusted Contract:	\$ 349,283.00	Subtotal	\$ 349,283.00
		Less Previous Pay Applications	\$ 314,354.70
		<b>Amount Due this Application</b>	<b>\$ 34,928.30</b>

**AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR**

STATE OF TEXAS  
COUNTY OF FORT BEND

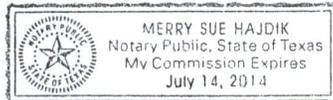
WHEREAS, the undersigned, Arnold Supak, who being duly sworn, on oath, says that he is the legal representative of Supak Construction, Inc., has been employed by City of Brenham to furnish labor and materials for the installation of 2012 Water Distribution System Improvements in Brenham, TX.

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

BY: Arnold Supak DATE: ~~4-30-13~~ 5-8-13  
 SUPAK CONSTRUCTION, INC.  
 PRINTED NAME: Arnold Supak TITLE: President

SWORN TO AND SUBSCRIBED BEFORE ME THIS THE 8 DAY OF April May, 2013

Merry Sue Hajdik  
 NOTARY-PUBLIC IN AND FOR  
 THE STATE OF TEXAS.



RECOMMENDED BY: Keay Hagen DATE: 5.6.2013  
 O'MALLEY ENGINEERS, L.L.P.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 CITY OF BRENHAM

CHANGE ORDER NO. 3 - Reconciliation of Final Quantities  
 CITY BRENHAM  
 2012 WATER DISTRIBUTION SYSTEM IMPROVEMENTS  
 OE JOB NO.: 1006.073-WH  
 April 24, 2013

REASON: Reconciliation of Final Quantities.

Item No.	Description	Contract Quantity	Final Quantity	Quantity Increase/Decrease	Unit Price	Amount Increase	Amount Decrease
1	Furnish and install 12" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	60 LF	60	0	\$ 50.00	-	-
2	Furnish and install 10" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	35 LF	35	0	\$ 45.00	-	-
3	Furnish and install 6" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	3,855 LF	3,990	135	\$ 32.50	\$ 4,387.50	-
4	Furnish and install 2" Schedule 40 PVC water line by open cut, with trace wire	50 LF	48	(2)	\$ 15.00	-	\$ (30.00)
5	Furnish and install 6" gate valve and valve box	6 EA	6	0	\$ 850.00	-	-
6	Furnish and install 2" gate valve and valve box	1 EA	1	0	\$ 400.00	-	-
7	Furnish and install 10" x 10" tapping sleeve and valve	1 EA	1	0	\$ 4,450.00	-	-
8	Furnish and install 6" x 6" tapping sleeve and valve	8 EA	8	0	\$ 2,750.00	-	-
9	Furnish all labor and materials and make 10" wet connection to existing 10" water line	1 EA	1	0	\$ 1,500.00	-	-
10	Furnish all labor and materials and make 6" wet connection to existing 6" water line	2 EA	2	0	\$ 750.00	-	-
11	Remove and dispose of existing fire hydrant lead, gate valve, and valve box. Furnish and install fire hydrant lead, gate valve, and valve box and tie-in to existing fire hydrant (including anchoring tee and any required gaskets)	3 EA	0	(3)	\$ 3,750.00	-	\$ (11,250.00)
12	Furnish and install fire hydrant	1 EA	4	3	\$ 3,450.00	\$ 10,350.00	-
13	Furnish all labor and materials and make 1" service connection	52 EA	63	11	\$ 250.00	\$ 2,750.00	-
14	Furnish and install 1" SDR 9 CTS Polyethylene service line	1,290 LF	1,490	200	\$ 8.50	\$ 1,700.00	-
15	Furnish all labor and materials and tie new 1" Poly service line into existing meter	57 EA	60	3	\$ 100.00	\$ 300.00	-
16	Furnish and install ductile iron fittings	2 TON	2	0	\$ 3,750.00	-	-
17	Furnish all labor and materials and obliterate existing valve box	10 EA	10	0	\$ 50.00	-	-
18	Furnish all labor and materials and remove existing gate valve and valve box and plug existing tee (all sizes)	2 EA	2	0	\$ 50.00	-	-
19	Furnish all labor and materials to plug and abandon existing water lines in place	1 LS	1	0	\$ 150.00	-	-
20	Furnish and install automatic flush valve unit per detail	1 EA	1	0	\$ 4,450.00	-	-
21	Perform trench safety per Technical Specification Section 31 50 00, 5-10' depth	10 LF	10	0	\$ 0.10	-	-
22	Furnish all materials and perform traffic control in accordance with the TxDOT permit and Texas MUTCD	1 LS	1	0	\$ 1,250.00	-	-
23	Furnish all labor and materials to perform asphalt pavement repair in City right-of-way	4,940 LF	5,251	311	\$ 14.50	\$ 4,509.50	-

24	Furnish all labor and materials to perform repair of reinforced concrete pavement (including valley gutters and sloped paving)	120 LF	50	(70)	\$ 18.50	-	\$ (1,295.00)
25	Perform seeding in all areas disturbed by construction	1 LS	1	0	\$ 750.00	-	-
<b>CHANGE ORDER NO. 1</b>							
1	Remove and dispose of existing 8" water line and furnish and install 8" Class 150 AWWA C-900 PVC water line by open cut, with trace wire	310 LF	340	30	\$ 42.50	\$ 1,275.00	-
2	Remove and dispose of existing 8" water line and furnish and install 8" Class 150 AWWA C-900 PVC water line in 14" Class 150 AWWA C-905 PVC casing by open cut, with trace wire	20 LF	20	0	\$ 87.50	-	-
3	Furnish and install 8" Class 150 AWWA C-900 PVC water line by bore, with trace wire	155 LF	155	0	\$ 57.50	-	-
4	Furnish all labor and materials and make 8" wet connection to existing 8" water line	2 EA	2	0	\$ 1,500.00	-	-
5	Remove and dispose of existing fire hydrant lead, gate valve, and valve box. Furnish and install fire hydrant lead, gate valve and valve box and tie-in to existing fire hydrant (including anchoring tee, any necessary bends/fittings, and any required gaskets)	1 EA	1	0	\$ 1,250.00	-	-
6	Furnish and install ductile iron fittings	0.54 TON	1	0	\$ 3,750.00	-	-
7	Furnish all labor and materials to plug and abandon existing water lines in place	1 LS	1	0	\$ 300.00	-	-
8	Remove and dispose of existing 6" sanitary sewer line and furnish and install 6" ASTM D-2241 SDR-26 PVC gravity sanitary sewer, all cuts, with trace wire	26 LF	0	(26)	\$ 47.50	-	\$ (1,235.00)
9	Furnish all labor and materials and tie new 6" PVC sanitary sewer into existing manhole	1 EA	0	(1)	\$ 750.00	-	\$ (750.00)
10	Furnish all labor and materials and tie new 6" PVC sanitary sewer into existing sanitary sewer line	1 EA	0	(1)	\$ 300.00	-	\$ (300.00)
11	Perform trench safety per Technical Specification Section 31 50 00, 5-10' depth	40 LF	40	0	\$ 0.50	-	-
12	Furnish all materials and perform traffic control in accordance with the TxDOT permit and Texas MUTCD	1 LS	1	0	\$ 1,500.00	-	-
13	Furnish all labor and materials to perform repair of reinforced concrete pavement (including valley gutters and sloped paving)	40 LF	40	0	\$ 57.50	-	-
14	Perform seeding in all areas disturbed by construction	1 LS	1	0	\$ 375.00	-	-
<b>CHANGE ORDER NO. 2</b>							
1	Install fire hydrant unit using hydrant furnished by the City	1 EA	1	0	\$ 1,250.00	-	-
2	Remove existing thrust blocking on existing fire hydrant to replace lead, gate valve, and valve box. Reset existing hydrant and install new thrust blocking	1 LS	1	0	\$ 750.00	-	-
SUBTOTAL FOR AMOUNT INCREASE						\$ 25,272.00	
SUBTOTAL FOR AMOUNT DECREASE							\$ (14,860.00)
NET CONTRACT INCREASE/DECREASE							\$ 10,412.00

ADJUSTED CONTRACT AMOUNT (FINAL)

ORIGINAL CONTRACT AMOUNT	\$	299,978.50
PLUS CHANGE ORDER NO. 1	\$	36,892.50
PLUS CHANGE ORDER NO. 2	\$	2,000.00
PLUS CHANGE ORDER NO.3 - RECONCILIATION (NET CONTRACT INCREASE)	\$	10,412.00
REVISED CONTRACT AMOUNT	\$	349,283.00

REQUESTED BY: *David Supak* 4-30-13  
SUPAK CONSTRUCTION, INC. DATE

RECOMMENDED BY: *Keenan Hayes* 5.6.2013  
OMALLEY ENGINEERS, L.L.P. DATE

APPROVED BY: \_\_\_\_\_ CITY OF BRENHAM DATE

# CERTIFICATE OF SUBSTANTIAL COMPLETION

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DATE OF ISSUANCE April 24, 2013

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OWNER City of Brenham

CONTRACTOR Supak Construction, Inc.

Contract: \_\_\_\_\_

Project: 2012 Water Distribution System Improvements

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OWNER's Contract No. \_\_\_\_\_

ENGINEER's Project No. 1006.073-WH

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This Certificate of Substantial Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

To \_\_\_\_\_ City of Brenham  
OWNER

And To \_\_\_\_\_ Supak Construction, Inc.  
CONTRACTOR

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The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR and ENGINEER, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

March 8, 2013  
DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within 0 days of the above date of Substantial Completion.

EJCDC No. 1910-8-D (1996 Edition)

Prepared by the Engineers' Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties and guarantees shall be as follows:

OWNER: As of the date of substantial completion, the OWNER shall assume responsibility for security, operation, safety, maintenance, and utilities associated with the portion of the project certified as substantially complete. Within 15 days from the date of substantial completion the OWNER shall become responsible for insurance associated with the portion of the project certified as substantially complete.

CONTRACTOR: The CONTRACTOR shall be responsible for providing warranties and guarantees in accordance with the CONTRACT DOCUMENTS.

The following documents are attached to and made a part of this Certificate:

None

*[For items to be attached see definition of Substantial Completion as supplemented and other specifically noted conditions precedent to achieving Substantial Completion as required by Contract Documents.]*

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR's obligation to complete the Work in accordance with the Contract Documents.

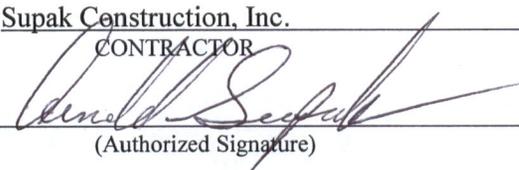
Executed by ENGINEER on 5.6.2013  
Date

O'Malley Engineers, L.L.P.  
ENGINEER

By:   
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on 4-30-13  
Date

Supak Construction, Inc.  
CONTRACTOR

By:   
(Authorized Signature)

OWNER accepts this Certificate of Substantial Completion on \_\_\_\_\_  
Date

City of Brenham  
OWNER

By: \_\_\_\_\_  
(Authorized Signature)

BOND NUMBER **58S201586**

OWNER	<input type="checkbox"/>
ARCHITECT	<input type="checkbox"/>
CONTRACTOR	<input type="checkbox"/>
SURETY	<input type="checkbox"/>
OTHER _____	<input type="checkbox"/>

### CONSENT OF SURETY TO FINAL PAYMENT

Conforms with the American Institute of  
Architects, AIA Document G707

TO OWNER: City of Brenham  
*(Name and address)*

200 West Vulcan, Brenham, TX 77833

PROJECT: 2012 Water Distribution System Improvements  
*(Name and address)*

ARCHITECT'S PROJECT NO.:  
OE Job No. 1006.073-WG/WH

CONTRACT FOR:  
2012 Water Distribution System Improvements

CONTRACT DATED:

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

West American Insurance Company

13201 NW Fwy, Suite 810, Houston, TX 77040

on bond of  
*(Insert name and address of Contractor)*

Supak Construction, Inc.

P.O. Box 325, Orchard, TX 77464

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the Surety of any of its  
obligations to  
*(Insert name and address of Owner)*

City of Brenham

200 West Vulcan, Brenham, TX 77833

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:  
*(Insert in writing the month followed by the numeric date and year.)*

West American Insurance Company

*(Surety)*



*(Signature of authorized representative)*

Attest:

Henry D. Childers, Attorney-in-Fact

*(Printed name and title)*

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.**

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

Certificate No. 6011205

American Fire and Casualty Company  
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company  
West American Insurance Company

**POWER OF ATTORNEY**

KNOWN ALL PERSONS BY THESE PRESENTS: That American Fire & Casualty Company and The Ohio Casualty Insurance Company are corporations duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint Brian A. Schmulen; Gary F. Banks; Henry D. Childers; James B. Kottwitz; Ken Pearson; Kenneth R. Kapelka; Michael W. Turner; SuEllen Landriault; William L. Kottwitz Jr

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

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 28th day of February, 2013.



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

By: Gregory W. Davenport  
Gregory W. Davenport, Assistant Secretary

STATE OF WASHINGTON ss  
COUNTY OF KING

On this 28th day of February, 2013, before me personally appeared Gregory W. Davenport, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Seattle, Washington, on the day and year first above written.



By: KD Riley  
KD Riley, Notary Public

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

**ARTICLE IV – OFFICERS** – Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

**ARTICLE XIII – Execution of Contracts – SECTION 5. Surety Bonds and Undertakings.** Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

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

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

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

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 6th day of May, 20 13.



By: David M. Carey  
David M. Carey, Assistant Secretary

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

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



## AGENDA ITEM 15

<b>DATE OF MEETING:</b> June 20, 2013	<b>DATE SUBMITTED:</b> June 14, 2013	
<b>DEPT. OF ORIGIN:</b> Finance	<b>SUBMITTED BY:</b> Carolyn D. Miller	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Resolution No. R-13-011 Regarding the Gas Fund and Maintenance of Cash Reserves		
<p><b>SUMMARY STATEMENT:</b> The City is a charter member of the Joint Gas Purchase Contract with Municipal Gas Acquisition and Supply Corporation. The contract is administered by Municipal Energy Resources Corporation (MERC). During 2008 when the cost of natural gas rose exponentially, MERC adopted internal policies to address financial risk to protect the 74 municipal customers in the Joint Gas Purchase Program. They feel that all the municipal customers have joint responsibility for the Program and should maintain reserves sufficient to minimize the risk. Until recently, compliance with these policies was not enforced by MERC, however, their private “A” stable bond rating could be affected if member cities do not comply.</p> <p>For the last several months, the City's CFO and Public Utilities Director have been working with the Vice President of MERC regarding the Gas Utility unrestricted cash reserves. As of September 30, 2012, the Gas Fund unrestricted cash balance was \$668,729 which is below the requirement of \$850,000. We explained that cash reserves were used for the AMR meter replacement; however, MERC is looking at the City’s ability to have unrestricted cash on hand to pay our gas supplier.</p>		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<p><b>A. PROS:</b> Maintain compliance with Joint Gas Purchase Program</p> <p><b>B. CONS:</b> In abstract, suspend delivery, resort to buying directly from gas supplier, lose out on \$0.30 discount per MMBTU</p>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>		
<b>ATTACHMENTS:</b> (1) Resolution No. R-13-011		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		

**RECOMMENDED ACTION:** Approve Resolution No. R-13-011 Regarding the Gas Fund and Maintenance of Cash Reserves

**APPROVALS:** Kyle Dannhaus

**RESOLUTION NO. R-13-011**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS CONCERNING ITS GAS FUND AND MAINTENANCE OF CASH RESERVES**

**WHEREAS**, The City of Brenham, through its Gas Utility, strives to provide all of its residents and customers with the lowest priced utilities available while maintaining the best service possible,

**WHEREAS**, The City of Brenham Gas Utility has materially reduced the cost of its gas supplies through its long-standing participation in the municipal gas purchasing cooperative with Municipal Gas Acquisition and Supply Corporation (“MuniGas”),

**WHEREAS**, in its efforts to maintain its credit-worthy and cost-saving relationship with MuniGas on terms similar to other participating municipal utilities, The City of Brenham represents and confirms on behalf of itself and of its Gas Utility that:

1. As of April 30, 2013, the unrestricted cash reserves of the Gas Utility, available for the payment of its operating and maintenance expenses (specifically, including purchases of natural gas supplies), exceeds \$850,000.
2. The Gas Utility shall continually maintain the above noted level of unrestricted cash reserves, except to the degree such required balance is reasonably adjusted in writing by MuniGas, consistent with its requirement of other similar municipal participants in the cooperative Program as a result of material changes in (a) natural gas prices, (b) the Gas Utility’s gas supply requirements, and/or (c) other currently unforeseen requirements, including those related to Program gas suppliers, rating agencies and/or significant credit changes in the Gas Utility’s major customers.
3. The staff of the City of Brenham shall notify MuniGas within one business day of the City’s determination that the balance of this reserve fund falls below the level required in item 2 above.
4. This Resolution will be submitted for approval by future City Councils as necessary to perpetuate the underlying understanding of this Resolution. Furthermore, to the extent this Resolution is deemed ineffective and/or not approved by future City Councils in a timely manner, the City will promptly notify MuniGas in writing.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY OF BRENHAM, TEXAS** that the Mayor is authorized to execute all documents necessary concerning the City of Brenham’s Gas Fund and maintenance of cash reserves.

**PASSED and APPROVED** on this the \_\_\_\_\_ day of June, 2013.

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

**ATTEST:**

By: \_\_\_\_\_  
Amanda Klehm, Deputy City Secretary



**AGENDA ITEM 16**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 17, 2013	
<b>DEPT. OF ORIGIN:</b> Administration		<b>SUBMITTED BY:</b> Terry K. Roberts	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon Washington County’s Proposal to Operate Emergency Communications (as well as EMS and Jail) in Exchange for the City of Brenham Providing Animal Control Services, Animal Shelter Services, Fire Protection and Fire Rescue Services, and Library Services at the Nancy Carol Roberts Memorial Library Under a Comprehensive Interlocal Agreement and Potentially Discuss Other Current Interlocal Agreements Between Washington County and the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation, If Needed			
<b>SUMMARY STATEMENT:</b> See attached memorandum.			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b>			
<b>B. CONS:</b>			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> N/A			
<b>ATTACHMENTS:</b> (1.) Memo regarding County ILA Proposal; and (2.) 2013 Washington County Proposal to City of Brenham			
<b>FUNDING SOURCE (Where Applicable):</b>			
<b>RECOMMENDED ACTION:</b> See attached memorandum.			
<b>APPROVALS:</b> Terry K. Roberts			



## **MEMORANDUM**

To: Mayor and Council  
From: Terry K. Roberts, City Manager  
Subject: County ILA Proposal  
Date: June 17, 2013

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Washington County has submitted a proposal to the City of Brenham to create a new interlocal agreement that exchanges a set of governmental services rather than be billed for City services performed in the County. The County believes this a good way to resolve the interlocal agreement debate.

The County gave the attached one page proposal to the City on June 5<sup>th</sup>. We were unable to discuss it at your June 6<sup>th</sup> Council meeting because it was submitted after your agenda was posted. No details of the County offer or plan have been received.

The County wants to take over countywide emergency communications from us and have the City provide, at no cost, the following: fire and rescue, library, animal control and animal shelter in exchange. That is their proposal in a single sentence.

You may have formed an initial opinion about the concept of what they are offering. You may or may not like the concept of the exchange of services but I think it is impossible to make an informed decision about accepting their offer without more details.

The County feels their offer is generous. The County appears ready to take over our \$1.2 million countywide communications operation if the City provides the fire, animal and library services to the County in exchange. The presumption is both would maintain the current levels of service.

The County's proposal appears to recognize that the current ILAs have greatly favored the County in the past. The County cited as their reason for making such a proposal is to control their cost and not depend on the City to establish a rate.

Excluding future capital costs to the City, the County's proposal would potentially generate an operating budget savings of roughly a million dollars. The County's numbers in the City's proposed ILAs are \$65,000 for fire and rescue, \$76,000 for animal shelter and \$7,000 for animal control.

Even accounting for the current library funding of \$30,000, the County would avoid \$178,000 in City charges but we would save \$1.2 million in the County operation of countywide emergency services. The savings are slightly higher for us using the current budget numbers for fire (\$27,500) and shelter (\$45,600). Future capital costs will diminish the million dollar annual budget savings.

Emergency communications is the critical lifeblood of our emergency responders and their safety is paramount. Emergency communications averages 100 calls on their 9-1-1 telephones every day. In 2012, there were almost 58,000 calls for service to emergency communications...almost 159 every 24 hours.

If the Council wants to seriously evaluate the County's offer, some sort of transition plan is needed to address how the changes will be implemented and how the quality of service will be maintained. With County participation, the initial evaluation could be done in 30 to 60 days. Given this time of year, the budget calendar mandates it be reviewed that quickly.

The comprehensive County offer may have merit but you cannot discount the cost of future capital. Also, it is important to be fiscally conservative but, at the same time, we must insist the quality service is maintained to ensure the safety of our public safety professionals. With the call volumes that our emergency communications staff handles daily, it is absolutely critical emergency communications be funded and staffed adequately to keep ours and their first responders safe.

The first of two agenda items related to interlocal agreements provides you with the opportunity to consider the County's proposal. We need to know whether or not you want to consider the County's offer.

You have the option to tell the County "yes" that you like the offer and want to work on an ILA that accomplishes the exchange of services. You can say "maybe" and table the County's proposal so that the two entities can see if the details of an exchange are worth pursuing. Lastly, you can say "no" indicating you do not want to even consider the proposed barter arrangement that the County submitted.

Even if the City agreed to consider the County's offer, something must be put in place by July 1<sup>st</sup> for the County to continue to receive City services for its citizens outside the city limits. A 60 or 90 day interim extension would be needed to evaluate and prepare a new comprehensive agreement. This needs to be addressed in the following agenda item.

The City's effort in the entire ILA process has been all about ensuring county citizens are not being subsidized by City taxpayers. Reaching an agreement that each side believes is fair and equitable has been an elusive target. I do believe the public has a desire that the City and County reach an agreement on the delivery of these very important public services.

**2013  
Washington County Proposal  
To  
City of Brenham**

In an attempt to find a mutually advantageous resolution, while meeting the objective of fair and equitable, Washington County proposes the following offer to the City of Brenham.

ILA/Dept/Program	City Funding	County Funding	Current ILA
Animal Shelter and Control	100%		
Fire and Rescue Services	100%		
Library	100%		
Health Inspections	Terminated	Terminated	Terminated
Regional Radio System	Terminated	Terminated	Terminated
*Communications/Dispatch		100%	
Emergency Medical Services (EMS)		100%	
Jail		100%	
Parks and Recreation			✓
IT/Fiber			✓

\*Does not include software and hardware O/M

As shown in the chart above, Washington County proposes to operate and manage the Communications/Dispatch, Jail and Emergency Medical Services in lieu of the City of Brenham continuing to operate and manage the Animal Shelter and Control, Brenham Fire/Rescue Services and Library. While no services would be interrupted, Washington County ascertains this would be a fiscally beneficial agreement for all involved, especially the Taxpayers of Washington County.

**If this proposal is found mutually acceptable between the City of Brenham and Washington County, then a New Inter-Local Agreement between the City and County shall follow detailing all terms and conditions.**



**AGENDA ITEM 17**

<b>DATE OF MEETING:</b> June 20, 2013	<b>DATE SUBMITTED:</b> June 17, 2013	
<b>DEPT. OF ORIGIN:</b> Administration	<b>SUBMITTED BY:</b> Terry K. Roberts	
<b>MEETING TYPE:</b> <input checked="" type="checkbox"/> REGULAR <input type="checkbox"/> SPECIAL <input type="checkbox"/> EXECUTIVE SESSION	<b>CLASSIFICATION:</b> <input type="checkbox"/> PUBLIC HEARING <input type="checkbox"/> CONSENT <input checked="" type="checkbox"/> REGULAR <input type="checkbox"/> WORK SESSION	<b>ORDINANCE:</b> <input type="checkbox"/> 1 <sup>ST</sup> READING <input type="checkbox"/> 2 <sup>ND</sup> READING <input type="checkbox"/> RESOLUTION
<b>AGENDA ITEM DESCRIPTION:</b> Discuss and Possibly Act Upon the Following Interlocal Agreements Between the City of Brenham and Washington County Related to: Animal Control Services, Animal Shelter Services, Fire Protection and Fire Rescue Services, Library Services at the Nancy Carol Roberts Memorial Library, and Operation of and Improvements to Linda Anderson Park and Authorize the Mayor to Execute Any Necessary Documentation		
<b>SUMMARY STATEMENT:</b> See attached memorandum.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>  <b>A. PROS:</b>  <b>B. CONS:</b>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> N/A		
<b>ATTACHMENTS:</b> (1.) Memo		
<b>FUNDING SOURCE (Where Applicable):</b>		
<b>RECOMMENDED ACTION:</b> See attached memorandum.		
<b>APPROVALS:</b> Terry K. Roberts.		



## **MEMORANDUM**

To: Mayor and Council

From: Terry K. Roberts, City Manager

Subject: ILA Memo To Address Current Agreements

Date: June 17, 2013

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This memorandum addresses the second of two agenda items on this Council agenda concerning interlocal agreements between the City of Brenham and Washington County. The previous agenda item addressed the County's proposal to create a new comprehensive agreement based on an exchange of several services. This agenda item affords you the opportunity to address both the current ILAs set to expire June 30<sup>th</sup> and the ones you proposed to the County on June 6<sup>th</sup>.

Your reaction to the County ILA proposal will impact your possible course of action for this agenda item. Because this is the last scheduled Council meeting prior to the expiration of the current ILA agreements, some action may be needed.

There are three possible scenarios concerning the County's proposal. They are (1) support the concept of the County's proposal, (2) be willing to explore the possibility of the County's proposal, but remain non-committal until further discussions take place, or, (3) reject the offer favoring to continue to charge for services rather than barter or exchange services.

If either of the first two options is considered, the current agreements will need to be extended in some fashion. It will take longer than a couple of weeks to evaluate and draft a potential agreement based on the County's proposal. Since you also approved proposing 18 month agreements to return to a schedule where the County get back on a calendar year expiration that coincides with their budget year on June 6<sup>th</sup>, it may also be in order to temporarily suspend that action if consideration of the County's proposal is actively being reviewed or considered.

The third option, to reject the barter concept and County proposal, would likely result in a different handling of the current agreements and the proposed agreements. If the Council opts to reject, you will still need to at least consider extending the current fire and rescue agreement.

You may recall from previous discussions that we would need time to unwind the current agreement including the County and the volunteer departments assuming District 5, the County determining how they plan to provide rescue services and for staff to modify the rural addresses of the affected territory in the Communications database.

The unwinding activities need to happen if an agreement is not reached on fire and rescue services. The County will still have a meeting next week to consider the June 6<sup>th</sup> offer of the 18 month ILAs.

Whatever decisions are made by the City and County governing bodies, the public safety personnel need time to modify their procedures, assignments and operating protocols.



**AGENDA ITEM 18**

<b>DATE OF MEETING:</b> June 20, 2013		<b>DATE SUBMITTED:</b> June 14, 2013	
<b>DEPT. OF ORIGIN:</b> Main Street/Development Services		<b>SUBMITTED BY:</b> Jennifer Eckermann	
<b>MEETING TYPE:</b>		<b>CLASSIFICATION:</b>	
<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	
<b>ORDINANCE:</b>			
<input type="checkbox"/> 1 <sup>ST</sup> READING			
<input type="checkbox"/> 2 <sup>ND</sup> READING			
<input type="checkbox"/> RESOLUTION			
<b>AGENDA ITEM DESCRIPTION:</b> Discussion and Presentation on a Downtown Incentive Grant Policy.			
<b>SUMMARY STATEMENT:</b> The Main Street Board is requesting adoption of an Incentive Reimbursement Grant Policy that would make funds available for building and site improvements in the National Register District area. The program would benefit the City of Brenham by making Downtown more attractive, increasing the economic vitality of the buildings, increasing sales tax and property values while preserving and enhancing Brenham's architectural and cultural history. During this work session, we will give an overview of the program, show some example projects from other communities, and try to answer any questions you may have.			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
A. PROS:			
B. CONS:			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> N/A			
<b>ATTACHMENTS:</b> (1.) Downtown Incentive Reimbursement Grant Program Application and Instructions			
<b>FUNDING SOURCE (Where Applicable):</b> Requested in the 2013/2014 Main Street Budget			
<b>RECOMMENDED ACTION:</b> Discussion only.			
<b>APPROVALS:</b> Terry K. Roberts			



MAIN STREET  
B R E N H A M

## **DOWNTOWN INCENTIVE REIMBURSEMENT GRANT PROGRAM**

### **Application Instructions**

**If you have any application questions, please contact the Main Street Brenham office at 979.337.7384. If you have any building permit questions, please contact the Building Permits and Inspections Department at 979.337.7220.**

*The City of Brenham Main Street Program works to revitalize and enhance the unique character of Downtown Brenham through historic preservation and community involvement, while at the same time promoting Downtown, providing educational and technical assistance to business and property owners, and maintaining the beauty of Brenham.*

*As an economic incentive, the City of Brenham Development Services Department has designed the following incentive reimbursement grant program.*

### **PROGRAM GOALS:**

Funds available through this program will be used to improve the buildings and building sites located in the eligible area of Downtown. The program will benefit the City of Brenham by making Downtown more attractive, increasing the economic vitality of the buildings, increasing sales tax and property values while preserving and enhancing Brenham's architectural and cultural history.

### **PROGRAM OBJECTIVES:**

- A. Restore and preserve the historical fabric and character of Downtown Brenham, ensuring the survival of the area's rich architectural and cultural history.
- B. Stimulate redevelopment to increase sales tax revenues and property values; and
- C. Eliminate dilapidated structures or property conditions as they exist in Downtown Brenham.

### **PROGRAM DETAILS:**

The Downtown Incentive Reimbursement Grant Program is set up as a single payment reimbursement to property owners for exterior building renovations and improvements. Reimbursement grants are available for Façade Rehabilitation, to include: removing slipcovers or non-historic/added facades; re-pointing brick or replacing mortar joints; replacing or restoring architectural details; removing paint from brick; painting and replacing or restoring windows, canopies, awnings or storefronts. Signage is not included unless it is restoring historic signage. Painting historic masonry is not eligible unless it has previously been painted.



Project Limits:

1. 50/50% matching basis with a cap of \$5,000 per grant (\$10,000+ total project cost).
2. 50/50% matching bases with a cap of \$2,000 per grant (\$4,000+ total project cost) for fabric awning or paint grants.

**GRANT GUIDELINES (please read carefully):**

1. Façade rehabilitation grant funds are available for exterior work on building facades that immediately overlook public streets location in the designated Main Street area, as defined by the attached map and are historic and meets the following criteria:
  - Possess significance in history, architecture, archeology, or culture;
  - Embodies the distinctive characteristics of a type, period, or method of construction;
  - Represents the work of a master designer, builder, or craftsman;
  - Represents an established and familiar visual feature of the City;
  - Meets the criteria established by the National Register of Historic Places;
  - Exemplification the culture, economic, social, ethnic, or historical heritage of the City, state, or nation;
  - Identification with a person or persons who significantly contributed to the culture and development of the city, state, or nation; or
  - Is the site of an event that had significant contributions to the culture and development of the city, state, or nation.
2. Grants are on a first-come, first-served basis until allocated funds are depleted, or until the program ends, whichever comes first. Funding is subject to allocation in the annual budget.
3. No grants will be awarded for work that has already been completed or for work that is covered by insurance. Incentive grant applications must be submitted before requests for building permits.
4. All grants will be awarded on a reimbursement basis once completed work has been verified by staff as compliant with the plans proposed in the approved application. Any deviation from the approved grant project may result in the total or partial withdrawal of the grant.
5. All submitted work will be reviewed based on the secretary of the Interior's *Standards for Rehabilitation* (see attached) and the Main Street Brenham's *Downtown Design Guidelines* (available from the Main Street office in City Hall). City staff and the Main Street Design Committee will review submitted work and determine eligibility. Staff will present the application to the Main Street Board for a recommendation on approving or denying the request. A positive recommendation is required before final approval by the City Manager. Final approval by the City Manger must be obtained BEFORE any work commences.



6. Grant applications and awards can be made in any of the reimbursable activities listed above and may be combined for any single property or project. **However, the maximum amount available bi-annually per applicant is \$7,000.**
7. An applicant is defined as an eligible property within the Main Street designated area. A single owner of multiple properties may apply for grant funds for each property owned but may not receive more than \$7,000 per property.
8. Projects will be reviewed with the following considerations in mind:
  - Project compliance with all current building standards;
  - Perceived need for proposed renovations to building;
  - Historical accuracy of proposed renovations;
  - Design quality of the proposed renovations;
  - Compatibility of design in relation to other buildings;
  - Project compatibility with streetscape objectives; and
  - Project compatibility in relation to downtown development goals at time of application.

### **GRANT APPLICATION PROCESS**

1. ***Determine eligibility:*** Discuss project plans in a pre-application meeting with Brenham Main Street. An appointment for free assistance in selecting paint, fabrics, color schemes and materials for the building façade may be scheduled through the Texas Main Street Center’s Architectural Assistance Program, or with the Main Street Design Committee. The *Downtown Design Guidelines* should be a reference guide when making any design improvements to the properties in the Main Street District. The Downtown Design Guidelines are available from the Main Street Program office at 200 W. Vulcan, Brenham, Texas 77833.
2. ***Fill out incentive reimbursement grant application agreement forms.*** All grant applications must include a drawing, with dimensions, from the project architect or contractor of all proposed grant work to be done. Color samples of all final paint selections and/or material selections must be included with the application to be reviewed and approved/rejected by the Brenham Main Street Board. Obtain **itemized** written work estimates on all project work from contractors or project architects. At least two bids shall be submitted to Main Street Brenham for review. Only supplies necessary for the property will be reimbursed for self-contracted work. This expressly excludes tools. The applicant’s labor or labor from family members of applicant is not an eligible expense.
3. ***Return the completed application form*** with a tax certificate from the Washington County Appraisal District showing all taxes are paid, all original itemized work estimates, color samples, drawings and sample materials of the proposed work to the Main Street office at 200 W. Vulcan, no later than 5 p.m. the Friday prior to the 2nd Thursday of each month.



4. *The approval process will include without limitation the following:*

- (a) All projects must meet current building standards and codes, as well as building permit requirements.
- (b) All applicants are required to attend and present their grant reimbursement project to Brenham Main Street. This may involve multiple presentations.
- (c) If the Main Street Board recommends approval of the project, the request will be reviewed for approval/denial by the City Manager and final notification of the request will be sent to the applicant.
- (d) Main Street Brenham shall only consider applications which have been properly and fully completed and which contain all information required in the application, or requested.
- (e) **The City of Brenham’s Administration Department has the final discretion with regard to funding and reserves the right to modify or reject any project or elements of any project.**
- (f) All construction bids submitted by an applicant must be current and must be dated no earlier than ninety (90) days prior to the application request. Bids shall be submitted on the contractor’s or project architect’s letterhead and shall contain the contractor name, address, telephone number, and shall itemize the bid in a manner that allow Main Street Brenham to determine the bid components and authenticity of the bid.
- (g) An applicant who submits an application that was denied a grant by Main Street Brenham shall not be eligible to re-submit a grant application for six (6) months from the date the prior application was declined by Main Street Brenham.
- (h) Applicants awarded a grant shall commence construction described within the application within ninety (90) days from the date the grant is awarded. All applicants must complete the construction described in the application within one 6 months from the date the official grant notification is sent. If the Applicant is unable to commence construction with ninety (90) days from the date the grant is approved or complete construction within 6 months from the date the grant is approved, the applicant may submit a written request for an extension provided the extension request is made prior to the time limit. Main Street Brenham shall not be obligated to allow extensions but may do so at their discretion. The extensions, if granted, shall be for the term and for the conditions determined exclusively by Main Street Brenham. An extension denial cannot be appealed and shall be final.



- (i) The City Manager shall have sole discretion in awarding grants. The grants will be awarded considering the following:
- the amount requested;
  - grant funds available;
  - the guidelines of the grant program;
  - condition of the building;
  - economic impact;
  - Main Street Brenham’s recommendation; and
  - the type and nature of the construction.
- (j) No applicant has a proprietary right to receive grant funds. Main Street Brenham shall consider any application to determine what grant amount would be in the best interest of the Grant Program. The review criteria may include, but shall not be limited to, project compliance with all current building standards, perceived need for proposed renovations to building, historical accuracy of proposed renovations, design quality of the proposed renovations, the compatibility of design in relation to other buildings, project compatibility with streetscape objectives and project compatibility in relation to downtown development goals at time of application.
- (k) The applicant shall be required to furnish current and historical photographs (if available) of the building’s exterior as part of the application request and shall provide photographs after the construction has been completed, as a condition of final grant reimbursement.
- (l) The applicant is required to obtain all applicable City permits and City approvals required for the construction if a grant is awarded.
- (m) No applicant, nor applicant agent, representative or tenant shall be entitled to receive grant approval on the same property – for the same grant type - if requested within three (3) years from the date a previous grant was awarded
- (n) An applicant, or applicant’s representative, must attend the Main Street Board meeting in which consideration of the request is scheduled to be discussed. Failure to attend a meeting when required shall be cause for rejection of the application.
- 5. *Reimbursement:* When the entire grant project has been satisfactorily completed and reviewed, the applicant shall present the Main Street Brenham office with copies of all paid invoices, including copies of cancelled checks and/or credit card receipts, for a single payment reimbursement of the approved funding.**

## REHABILITATION TIPS

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- Roof, foundation and structural items should always be given priority over cosmetic improvements.
- Carefully examine old buildings for termites, wood rot and general deterioration.
- When repairing a building, do not cut expenses on the roof or foundation.
- Be aware of areas on the roof and at connecting walls where water does not readily drain. Flashing should be installed at intersections to prevent leakage.
- Carefully locate air conditioning units to avoid water condensations on the sides of buildings. Condensing units should be supported from the masonry walls and not placed directly on the roof.
- The top brick cornices that project above the roof deteriorate rapidly unless they are capped with metal, terra cotta, stone or concrete.
- When mortar is missing or in poor repair, moisture will enter the walls and eventually may cause structural damage. Deteriorated mortar should be removed to a depth of at least three-fourths of an inch and replaced with new mortar that matches the old in color, texture and striking of the joint.
- Do not sandblast. Chemicals and/or water can remove dirt and paint without damaging the surface of the building.
- Do not paint too often; many times a building only needs mild washing.
- If the building has stone or brick that has never been painted, do not create a maintenance problem by painting it.
- Existing architectural details, including old wood doors, windows, ceilings, and trim work add to the character of a building and its resale value. Repair these features rather than remove them.
- Wood windows are reasonable to repair, if a specialist in window repair can be found. If the windows are missing, custom-made windows can be ordered for replacement in old buildings.
- Pressed metal ceiling panels are still being manufactured today with some of the same patterns installed originally. Deteriorated panels, therefore, can often be replaced exactly.
- Do not use aluminum siding. It can hide water penetration into the walls and accelerate deterioration.
- Before rehabilitating a building façade, take a careful look at the structural aspects of the building. Develop a design that is compatible with neighboring buildings.



## SECRETARY OF INTERIOR'S STANDARDS FOR REHABILITATION

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**Main Street Brenham will maintain an awareness of the *Standards of Rehabilitation as follows:***

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New addition and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.



## **DOWNTOWN INCENTIVE REIMBURSEMENT GRANT PROGRAM CHECKLIST**

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**Use this form as a checklist to follow all steps needed to complete the Downtown Incentive Reimbursement Grant Program application to receive approval.**

- Meet with Main Street staff to determine eligibility and to walk through Downtown Incentive Reimbursement Grant and instructions, and to possibly set up an appointment for free assistance from the Texas Main Street Center's Design Assistance Program.
- Meet with the City's Building Inspectors for any work involving a building or sign permit.
- Complete the Downtown Incentive Reimbursement Grant application form and sign agreement form. Include the following required attachments: Drawing to show all of proposed grant work to be done including renderings, color samples of all final paint selections and/or material selections, photographs of building exterior.
- Return completed application and agreement form with required attachments no later than 5 p.m. on the Friday prior to the 2<sup>nd</sup> Thursday of the month to the Main Street office.
- Attend and present Downtown Incentive Reimbursement Grant application project all required meetings.
- Receive project recommendation of proposed work listed on grant application.
- Do not start work until notification of grant award is received from the Administration office of the City of Brenham
- If approved, Downtown Incentive Reimbursement Grant project construction may commence. Work must commence within ninety (90) days of approval from Main Street Board and be completed in 6 months.
- Upon completion of Downtown Incentive Reimbursement Grant project, furnish photographs of the building's exterior; copies of all paid invoices, including copies of cancelled checks and/or credit card receipts, to receive a single payment reimbursement of the approved funding.



## DOWNTOWN INCENTIVE REIMBURSEMENT GRANT PROGRAM APPLICATION

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Please return completed with necessary attachments and signature to Main Street Brenham offices at 200. W. Vulcan, no later than 5 P.M. on the Friday prior to the 2<sup>nd</sup> Thursday of each month. If you have any application questions, please contact the Main Street staff at 337.7374. If you have any building permit questions, please contact the City of Brenham’s Building and Permits Department at 337.7220.

❖ Applicant Name: \_\_\_\_\_ Date: \_\_\_\_\_

❖ Business Name: \_\_\_\_\_

❖ Mailing Address: \_\_\_\_\_

❖ Contact Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

❖ Building Owner (if different than applicant) \_\_\_\_\_

❖ Historical/Current Building Name: \_\_\_\_\_

❖ Physical Building Address: \_\_\_\_\_

❖ Type of Work: (check all that apply)

\_\_\_ Façade Rehabilitation

\_\_\_ Façade – paint only

\_\_\_ Awnings

Details of Planned Improvements for Downtown Reimbursement Grant: (attach additional sheets if necessary.)

\_\_\_\_\_

List Contractor/Project Architect proposals and Total amounts (please attach copies of original proposals.)

1. \_\_\_\_\_

2. \_\_\_\_\_

**Total Cost of Proposed Project:** \_\_\_\_\_

**Amount of Grant Requested (50% of Total Cost Above, within stated limits):** \_\_\_\_\_

*Attach with all required color samples of paint, awning/canopy design, etc., as well as current and historical photographs (when available) of building’s exterior façade.*

\_\_\_\_\_  
**Applicant’s Signature**

\_\_\_\_\_  
**Date**



## **DOWNTOWN INCENTIVE REIMBURSEMENT GRANT AGREEMENT FORM**

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I have met with the Brenham Main Street staff, and I fully understand the Downtown Incentive Reimbursement Grant Procedures and Detail established by Main Street Brenham. I intend to use this grant program for the aforementioned renovation projects to forward the efforts of revitalization and historic preservation of Brenham’s historic downtown. I have not received, nor will I receive insurance monies for this revitalization program.

I have read the Downtown Incentive Reimbursement Grant Application Procedures including the Downtown Incentive Reimbursement Grant Details.

I understand that if I am awarded a reimbursement grant for façade or awning work and the façade or awning is altered for any reason within one (1) year from construction, I may be required to reimburse the City of Brenham immediately for the full amount of the Downtown Reimbursement Grant.

\_\_\_\_\_

*Business/Organization Name*

\_\_\_\_\_

<i>Applicant’s Signature</i>	<i>Printed Name</i>	<i>Date</i>
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<i>Building Owner’s Signature (if different from applicant)</i>	<i>Printed Name</i>	<i>Date</i>
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<i>Design Committee signature</i>	<i>Recommendation</i>	<i>Date</i>
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\_\_\_\_\_

<i>Main Street Board signature</i>	<i>Recommendation</i>	<i>Date</i>
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<i>City Manager signature</i>	<i>Action</i>	<i>Date</i>
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**Eligible Area**

1 inch = 377 feet

