



**NOTICE OF A REGULAR MEETING  
THE BRENHAM CITY COUNCIL  
THURSDAY JANUARY 23, 2014 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 – City Attorney Cary Bovey**
- 3. Citizens Comments**

**CONSENT AGENDA**

**4. Statutory Consent Agenda**

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

- 4-a. Correction to the Minutes from the September 19, 2013 Regular City Council Meeting Page 1**
- 4-b. Ordinance No. O-14-002 on Its Second Reading for the Creation of Reinvestment Zone Number 37 Requested by PPE, LLC and GSL Constructors Ltd. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 4.929 Acres, More or Less, Being Located at 3201 South Blue Bell Road, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In Page 2-6**
- 4-c. Ordinance No. O-14-003 on Its Second Reading Amending Chapter 24, Taxation, Article II, Hotel Occupancy Tax, of the Code of Ordinances of the City of Brenham Page 7-13**

## **WORK SESSION**

5. **Discuss and Review the FY2012-13 Fourth Quarter Financial Report** **Page 14-40**
6. **Discussion and Presentation on Potential Areas for Annexation into the City of Brenham** **Page 41-43**
7. **Discussion and Presentation Regarding the City of Brenham's Street Program and Street Equipment Inventory** **Page 44-50**

## **PUBLIC HEARING**

8. **Public Hearing Considering the Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in a Mixed Residential (R-2) District** **Page 51**
9. **Public Hearing Considering the Amendment of Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure** **Page 52**
10. **Public Hearing, Discussion and Receipt of Input Related to the Proposed Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas** **Page 53**

## **CLOSE PUBLIC HEARING**

## **REGULAR AGENDA**

11. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District** **Page 54-63**

12. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure** **Page 64-67**
13. **Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In**  
**Page 68-96**
14. **Discuss and Possibly Act Upon Resolution No. R-14-003 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with PPE, LLC and GSL Constructors Ltd.** **Page 97-130**
15. **Discuss and Possibly Act Upon the Acceptance of a Donation in the Amount of \$500,000.00 to the City of Brenham for the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation**  
**Page 131-132**
16. **Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 8, Fire Protection and Prevention, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham** **Page 133-147**

**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.

## **17. 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 January 23, 2014 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 January 17, 2014 at *5:45 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 \_\_\_\_\_, 2014 at \_\_\_\_\_ AM PM.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**6. Discuss and Possibly Act Upon a Recommendation from the Main Street Board Asking for 2013 Swirl Net Revenue of \$12,250 Be Transferred to Downtown Donations Fund with \$10,000 to be Designated for Funding of Incentive Grant Policy**

Development Services Director Julie Fulgham presented this item. Fulgham stated Main Street Board Chair Traci Pyle will be presenting this item to request Council's approval of transferring the 2013 Uptown Swirl net revenue of \$12,250 to the Main Street Donations Fund, with \$10,000 to be Designated for funding of the new Incentive Grant Policy. Pyle stated the Main Street Design Committee did a petition with 140 signatures from those who volunteer and support Downtown in favor of Council approving the transfer of Downtown Swirl net revenue to fund the Incentive Grant Policy. The signed petition was given to City Secretary, Jeana Bellinger, for review.

Councilmember Goss stated he spoke with Chief Financial Officer, Carolyn Miller, regarding the indirect costs incurred for the Downtown Swirl event. Miller stated the indirect costs totaled \$1,413.00, and the actual revenue from the event was \$10,841.00. Miller explained the direct expenditures were \$11,508.00, which includes the time spent by Main Street Manager and her salary related to the event. Mayor Tate stated this event is part of her job; therefore, those costs should not be considered. Tate stated the event generates sales tax, which is the goal. Goss stated the people on the City's Staff are paid by taxpayers and the surplus money cannot be used for personal gain and improvements to their businesses. Goss stated he has a concerned citizen that does not want taxpayer money going for personal gain or to promote/change personal property. Goss asked the Council to exclude Main Street Manager, Jennifer Eckermann's salary from the revenue gain.

Deleted: \$1,314.00  
Deleted: \$12,250.00

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to approve the recommendation from the Main Street Board asking for 2013 Swirl net revenue of \$12,250 be transferred to downtown donations fund with \$10,000 to be designated for funding of Incentive Grant Policy.

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

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

**ORDINANCE NO. O-14-002**

**AN ORDINANCE DESIGNATING LOT 4, RESERVE "B" BEING A REPLAT OF A PORTION OF RESERVE "B," BRENHAM BUSINESS CENTER, PHASE I, CONTAINING APPROXIMATELY 4.929 ACRES OF LAND OUT OF THE ISAAC LEE SURVEY, ABSTRACT NO. 77, LOCATED IN THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS ACCORDING TO THE PLAT THEREOF RECORDED PLAT CABINET FILE NO. [REDACTED], PLAT RECORDS OF WASHINGTON COUNTY, TEXAS, BEING PART OF THE SAME PROPERTY DESCRIBED IN DEED DATED MARCH 8, 1996, EXECUTED BY ARTHUR SCHOMBURG TO BRENHAM COMMUNITY DEVELOPMENT CORPORATION, RECORDED IN VOLUME 817, PAGE 705, OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, BEING PART OF THE SAME PROPERTY DESCRIBED IN DEED DATED FEBRUARY 12, 1998, EXECUTED BY FRITZ W. BECKENDORF, ET AL. TO BRENHAM COMMUNITY DEVELOPMENT CORPORATION, RECORDED IN VOLUME 883, PAGE 417, OFFICIAL RECORDS OF WASHINGTON COUNTY, TEXAS, AS REINVESTMENT ZONE NUMBER THIRTY-SEVEN FOR COMMERCIAL TAX PHASE-IN INCENTIVE AS PROVIDED IN CHAPTER 312, TEXAS TAX CODE; ESTABLISHING THE NUMBER OF YEARS FOR THE ZONE, AUTHORIZING AN AGREEMENT FOR EXEMPTION FROM TAXATION THE INCREASE IN VALUE OF CERTAIN PROPERTY IN ORDER TO ENCOURAGE DEVELOPMENT AND REDEVELOPMENT AND OTHER MATTERS RELATING THERETO; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City Council of the City of Brenham, Texas, ("City") desires to encourage supervised improvements by property owners and lessees through tax phase-in procedures within its jurisdiction by the creation of a reinvestment zone as authorized by Chapter 312, Texas Tax Code (the "Act"); and

**WHEREAS**, on the 9<sup>th</sup> day of January, 2014, the City Council held a public hearing to receive comments concerning the designation of proposed Reinvestment Zone Number Thirty-Seven. The notice of such hearing was published on January 2, 2014, such date being not later than the seventh day before the date of the public hearing; and

**WHEREAS**, the City called a public hearing and published notice of such public hearing as required by Section 312.201 of the Act; and has delivered written notice to the presiding

officer of the governing body of each taxing unit within the jurisdiction of the proposed Reinvestment Zone Number Thirty-Seven for Commercial Tax Phase-In; and

**WHEREAS**, at said public hearing the City presented evidence that such proposed designation would be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property, that the proposed improvements are feasible and practical, that said improvements would be a benefit to the land included in the zone and that would contribute to the economic development of the City; and

**WHEREAS**, the designation of the proposed reinvestment zone is consistent with the City's policies adopted by Council Resolution No. R-13-020 on the 5<sup>th</sup> day of December, 2013, and will benefit the land included within the Reinvestment Zone after the expiration of the Agreement; and

**WHEREAS**, the City at such public hearing invited any interested person or his attorney to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory which is referred to as City of Brenham Reinvestment Zone Number Thirty-Seven for Commercial Tax Phase-In, should be included in such proposed reinvestment zone, and obtain tax phase-in; and

**WHEREAS**, at such hearing recommendations were given as to the number of years the reinvestment zone would be designated, the number of years in which an agreement would be available, as well as the percentage of potential tax exemption under the aforesaid tax phase-in guidelines and criteria to be applied to taxable real property which is redeveloped;

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

**Section 1.** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are incorporated herein for all purposes.

**Section 2.** That the City, after conducting such hearing and having further studied recommendations, as well as the evidence presented at the public hearing, has made the following findings based on the evidence and testimony presented to it:

- a) That the public hearing on the adoption of the reinvestment zone under the provisions of the Act has been properly called, held and conducted and that notice of such hearing has been published as required by law and has been sent to the respective taxing units within the proposed reinvestment zone; and
- b) That the City has jurisdiction to hold and conduct said public hearing on the creation of the proposed reinvestment zone pursuant to the Act; and

- c) That creation of the proposed reinvestment zone with boundaries described herein will result in improvements made after the passage of this Ordinance and the execution of tax phase-in agreements, that are feasible and practical and will benefit the City, its residents and property owners in the reinvestment zone; and
- d) That the proposed designation will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investments to the zone that would be a benefit to the property and contribute to economic development of the City.

**Section 3.** That the City hereby creates Reinvestment Zone Number Thirty-Seven, designated as Lot 4, Reserve “B,” being a Replat of a Portion of Reserve “B,” Brenham Business Center, Phase I, containing approximately 4.929 acres of land out of the Isaac Lee Survey, Abstract No. 77, located in the City of Brenham, Washington County, Texas, according to the plat thereof recorded Plat Cabinet File No. [REDACTED], Plat Records of Washington County, Texas, being part of the same property described in deed dated March 8, 1996, executed by Arthur Schomburg to Brenham Community Development Corporation, recorded in Volume 817, Page 705, Official Records of Washington County, Texas, being part of the same property described in deed dated February 12, 1998, executed by Fritz W. Beckendorf, et al. to Brenham Community Development Corporation, recorded in Volume 883, Page 417, Official Records of Washington County, Texas, said property being located at 3201 South Blue Bell Road, Brenham, Texas, said property being more fully described in Exhibit “A” attached hereto and incorporated herein for all purposes, and such reinvestment zone shall hereafter be identified as Reinvestment Zone Number Thirty-Seven for Commercial Tax Phase-In, City of Brenham, Texas.

**Section 4.** That the designation of Reinvestment Zone Number Thirty-Seven for Commercial Tax Phase-In, shall expire five (5) years from the date of this Ordinance, unless renewed as provided by the Act, or at an earlier time designated by subsequent ordinance.

**Section 5.** That written agreements as provided in the Act with owners of eligible property located within the reinvestment zone shall be for a period of up to ten (10) years, and that the eligible property that is subject to the above mentioned exemption from taxation shall be the improvements to the property in conformity with the City's criteria and guidelines, and written agreements shall provide for an exemption from taxation of the total increase in value of the eligible property over its value in the year the agreement is executed. The written agreement will require that all taxes be current at the time of execution of agreement and be kept current to all taxing entities during the term of said agreement.

**Section 6.** That said designation of Reinvestment Zone Number Thirty-Seven for Commercial Tax Phase-In and the written agreement thereof are in accordance

with the City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises and will be a benefit to the land which will be included within the Reinvestment Zone and to the City of Brenham after the expiration of the agreement.

**Section 7.** That if any provision of this Ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part of it.

**Section 8.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

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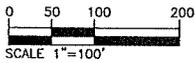
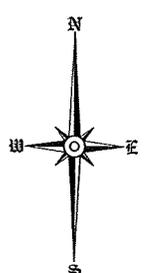
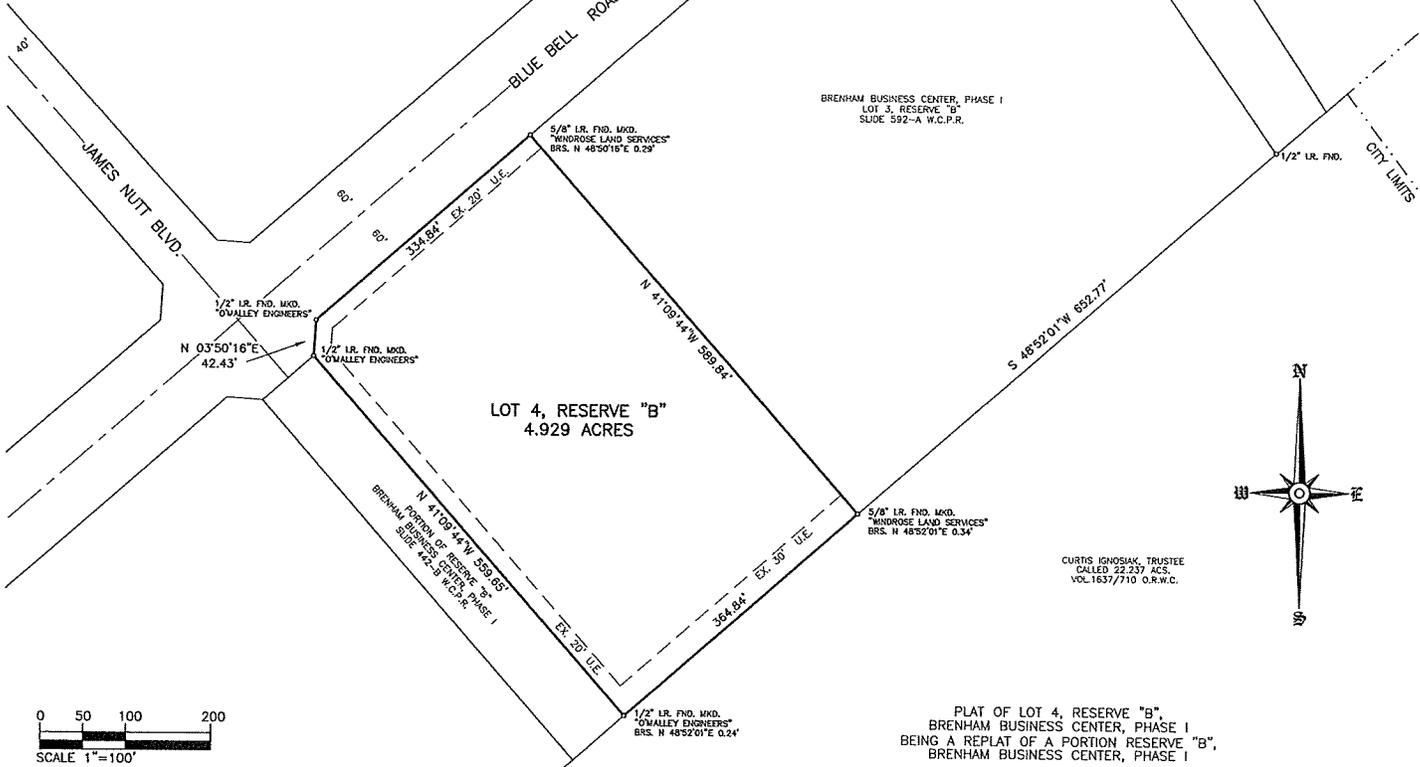
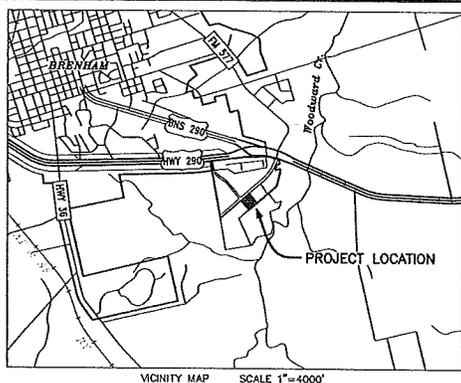
Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC  
City Secretary

**CITY OF BRENHAM  
WASHINGTON COUNTY, TEXAS**



PLAT OF LOT 4, RESERVE "B",  
BRENHAM BUSINESS CENTER, PHASE I  
BEING A REPLAT OF A PORTION OF RESERVE "B",  
BRENHAM BUSINESS CENTER, PHASE I

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the Planning and Zoning Commission of the City of Brenham, Texas.

Chairman \_\_\_\_\_  
Secretary \_\_\_\_\_

I, \_\_\_\_\_, County Clerk in and for Washington County, hereby certify that the foregoing instrument with its certificate of authentication was filed in my office the \_\_\_\_ day of \_\_\_\_\_, AD, 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_ m., in the Texas.

By: \_\_\_\_\_, Deputy  
Washington County, Texas

- General Notes:
1. Bearings are based on bearings of record as recorded in Plat Slide 403-A, of the Washington County Plat Records.
  2. The surveyor has not abstracted the property. This survey was performed without the benefit of a current abstract of property or title report and would be subject to any conditions, restrictions or exceptions that a current title opinion might disclose.
  3. This survey is valid only if it bears the original seal and signature of the surveyor.
  4. The subject property lies within the "Zone X" area determined to be outside the 0.2% annual chance floodplain, according to the Flood Insurance Rate Maps of Washington County, Texas Map No. 4847700315D, effective August 16, 2011.

STATE OF TEXAS  
COUNTY OF WASHINGTON

The Brenham Community Development Corporation, owners of the property subdivided in the foregoing replat of a portion of Reserve "B" of Brenham Business Center, Phase I, platted herein as Lot 4, Reserve B of Brenham Business Center, Phase I, do hereby make subdivision of said property according to the lines, streets, lots, alleys, building lines, and easements thereon shown and designate said subdivision as Lot 4, Reserve B of Brenham Business Center, Phase I to the City of Brenham, Texas, located in Brenham, Washington County, Texas, and we do hereby dedicate to public use, as such the streets, alleys, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administrators to warrant and forever defend the title to the land so dedicated.

There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to all easements shown hereon. Five foot (5') aerial easement being adjacent to streets, boulevards, and reserve boundary lines. We hereby covenant and agree that the area within the boundaries of this subdivision is for business purposes unless otherwise noted.

Witness my hand at Brenham, Washington County, Texas on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Terry Roberts, Chairman of the  
Brenham Community Development Corporation

\_\_\_\_\_  
Attest: Secretary of the  
Brenham Community Development Corporation

STATE OF TEXAS  
COUNTY OF WASHINGTON

Before me the undersigned authority, on this day personally appeared Terry Roberts, Chairman of the Brenham Community Development Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the State of Texas

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, Robert C. Schmidt, R.P.L.S., do hereby certify, that this survey was performed on the ground under my supervision and completed December 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



**BRENHAM BUSINESS CENTER, PHASE I  
PLAT OF LOT 4, RESERVE "B"  
BEING A REPLAT OF A PORTION OF RESERVE "B"  
4.929 ACRES  
OUT OF THE ISAAC LEE SURVEY, A-77  
CITY OF BRENHAM,  
WASHINGTON COUNTY, TEXAS**

**O'MALLEY  
ENGINEERS**  
203 S. JACKSON ST. BRENHAM, TEXAS  
(979) 836-7937 FAX (979) 836-7936  
JOB NO. 608.14 LC DWG. NO. BDRYADJ-RES-B.DWG

**ORDINANCE NO. O-14-003**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 24, TAXATION, ARTICLE II, HOTEL OCCUPANCY TAX, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS PROVIDING FOR THE COLLECTION OF HOTEL OCCUPANCY TAXES AND ADDITIONAL MATTERS RELATED TO THE COLLECTION OF HOTEL OCCUPANCY TAXES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETINGS**

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

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

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

**WHEREAS**, Chapter 351 of the Texas Tax Code allows for the imposition and collection of hotel occupancy taxes by municipalities; and

**WHEREAS**, the City Council desires to amend Chapter 24, Taxation, of the Code of Ordinances of the City of Brenham in order to conform Chapter 24 with state laws related to hotel occupancy tax collection and procedures, and to provide for other beneficial changes;

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

**SECTION 1.**

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

**SECTION 2.**

The Code of Ordinances of the City of Brenham, Texas, Chapter 24, TAXATION, Article II, HOTEL OCCUPANCY TAX, is hereby amended to read as follows:

**ARTICLE II  
HOTEL OCCUPANCY TAX**

**Sec. 24-21. Definitions.**

The following words, terms and phrases are, for the purpose of this article, except where the context clearly indicates a different meaning, defined as follows:

*City* shall mean the City of Brenham, Texas.

*City Secretary* shall mean the City Secretary of the City of Brenham, Texas.

*Consideration* shall mean the cost of the room, sleeping space, bed or other facility in a hotel and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room, sleeping space, bed or other facility for occupancy.

*Hotel* shall mean any building or buildings, trailer or facility, in which the public may, for consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, tourist houses, tourist courts, lodging houses, inns, rooming houses, bed and breakfast facilities, or other buildings where rooms are furnished for consideration, but hotel shall not be defined so as to include: 1) hospitals, sanitariums or nursing homes; 2) a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003, Texas Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or 3) an oilfield portable unit, as defined by Section 152.001, Texas Tax Code.

*Monthly* shall mean the regular succeeding calendar months of each calendar year beginning with the month of January and ending with the month of December.

*Occupancy* shall mean the use or possession, or the right to the use or possession, of any room or rooms, sleeping space, bed or other facility in a hotel for any purpose.

*Occupant* shall mean anyone who, for a consideration, uses, possesses, or has a right to use or possess any room or rooms, sleeping space, bed or other facility in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

*Permanent Resident* shall mean any occupant who has or shall have the right to occupancy of any room or rooms or sleeping space or other facility in a hotel for at least thirty (30) consecutive days, so long as there is no interruption of payment for the period.

*Hotelier* shall mean any individual, company, corporation, association or other entity owning, operating, managing or controlling any hotel.

**Sec. 24-22. Levy of tax; exceptions.**

- (a) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel within the city limits of the City of Brenham or within the City of Brenham extraterritorial jurisdiction where such occupancy is at the rate of two dollars (\$2.00) or more per day, and such tax shall be equal to seven percent (7%) of the consideration paid by the occupant of such room to such hotel.
- (b) No tax shall be imposed hereunder upon a Permanent Resident.

**Sec. 24-23. Collection.**

- (a) Every Hotelier shall collect the tax imposed in Section 24-22 hereof for the City of Brenham.
- (b) The City of Brenham may bring suit against a Hotelier who is required to collect the tax imposed by this Article and who has failed to file a tax report or pay the tax when due, to collect the tax not paid or to enjoin the Hotelier from operating a hotel in the City of Brenham until the tax is paid or the report is filed, as provided by the court's order. In addition to the amount of any tax owed under this Article, the hotelier is liable to the City for:
  - (1) the City's reasonable attorney's fees;
  - (2) the costs of an audit conducted under Subsection (c)(1), as determined by the City using a reasonable rate, but only if:
    - (A) the tax has been delinquent for at least two (2) complete City fiscal quarters at the time the audit is conducted; and
    - (B) the City has not received a disbursement from the State Comptroller as provided by Section 156.2513, Texas Tax Code, related to the Hotelier's concurrent state tax delinquency described by Section 351.008, Texas Tax Code;
  - (3) a penalty equal to fifteen percent (15%) of the total amount of the tax owed if the tax has been delinquent for at least one (1) complete City fiscal quarter; and
  - (4) interest under Section 351.0042, Texas Tax Code.
- (c) If a Hotelier required to file a tax report under this Article does not file the report as required by the City, the City may determine the amount of tax due under this Article by:
  - (1) conducting an audit of each hotel in relation to which the Hotelier did not file the report as required by the City; or
  - (2) using the tax report filed for the appropriate reporting period under Section 156.151, Texas Tax Code, in relation to that hotel.

- (d) If the Hotelier did not file a tax report under Section 156.151, Texas Tax Code, for that reporting period in relation to that hotel, the City may estimate the amount of tax due by using the tax reports in relation to that hotel filed during the previous calendar year under this Article or Section 156.151, Texas Tax Code. An estimate made under this subsection is prima facie evidence of the amount of tax due for that period in relation to that hotel.
- (e) The authority to conduct an audit under this Section is in addition to any other audit authority provided by statute, charter, or ordinance. The City may directly perform an audit authorized by this Section or contract with another person to perform the audit on an hourly rate or fixed-fee basis. The City shall provide at least thirty (30) days' written notice to a Hotelier who is required to collect the tax imposed by this Article with respect to a hotel before conducting an audit of the hotel under this section.
- (f) The remedies provided by this Section are in addition to other available remedies.

#### **Sec. 24-24. Reports.**

Every Hotelier required hereby to collect the tax imposed by this Article shall file a report with the City Secretary showing the consideration paid for all room occupancies in the preceding month, the amount of tax collected on the City's behalf for such occupancies, and any other information as the City Secretary may reasonably require.

The taxes collected by a Hotelier and payable to the City pursuant to this Article must be received in full by the City Secretary's office no later than the last day of the month following the calendar month in which the taxes were collected. If the last day of the month falls on a Saturday, Sunday, or Holiday, designated by the City, said tax payment must be received by the City Secretary's office no later than the close of business on the next regular business day.

Such Hoteliers shall pay to the City the tax due on such occupancies at the time of filing such report. Each Hotelier shall also furnish to the City Secretary a copy of the quarterly tax report filed with the State Comptroller in connection with the State of Texas Hotel Occupancy Tax, such report shall be furnished on or before the date the report is required to be filed with the State Comptroller.

#### **Sec. 24-25. Rules and regulations.**

The City Secretary shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied herein, and shall upon reasonable notice have access to books and records of each Hotelier necessary to enable the City Secretary to determine the correctness of any report filed as required by this Article and the amount of taxes due under the provisions of this Article.

If, as a result of an audit conducted under this Article, the City obtains documents or other information showing a failure to collect or pay when due both the tax imposed by this Article and the tax imposed by Chapter 156, Texas Tax Code, the City Secretary shall notify and submit the relevant information to the State Comptroller's Office.

**Sec. 24-26. Violations; penalties.**

- (a) If any Hotelier required by the provisions of this Article to collect the tax imposed herein, to make reports as required herein, and to pay to the City Secretary the tax imposed herein shall fail to collect such tax, shall fail to file such report, or shall fail to pay such tax, or if such person shall file a false report, such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed five hundred dollars (\$500.00).
- (b) If any Hotelier shall fail to file a report as required by this Article or shall fail to pay to the City at the City Secretary's Office the tax as imposed by this Article when said report or payment is due, said person shall pay to the City as an administrative penalty the greater amount of: (1) five percent (5%) of the total tax due; or (2) five dollars (\$5.00).

An additional administrative penalty of the greater amount of (1) five percent (5%) of such delinquent tax; or (2) five dollars (\$5.00), shall be paid to the City if the tax is paid more than thirty (30) days after the original due date. Any person who fails to pay the tax due as required by this Article is liable to the City for interest on the unpaid amount at the greater of: (1) the rate provided by the Texas Tax Code Section 111.060(b); or (2) the rate imposed by the City on January 1, 2013, said rate being ten percent (10%) per annum. Interest on delinquent taxes due to the City as required by this Article accrues from the first day after the date due until the tax is paid. In addition to all taxes, penalties, and interest payable to the City, a twenty-five dollar (\$25.00) administrative fee shall be imposed for taxes that remain delinquent more than thirty (30) days after the original due date.

**Sec. 24-27. Collection Procedures on Purchase of Hotel.**

- (a) If a Hotelier who is liable for the payment of a tax under this Article is the owner of a hotel and sells the hotel, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount due until the seller provides a receipt from the City Secretary showing that the amount has been paid or a certificate showing that no tax is due.
- (b) The purchaser of a hotel who fails to withhold an amount of the purchase price as required by this Section is liable for the amount required to be withheld to the extent of the value of the purchase price.

- (c) The purchaser of a hotel may request that the City Secretary issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The City Secretary shall issue the certificate or statement not later than the sixtieth (60<sup>th</sup>) day after the date that the person receives the request.
- (d) If the City Secretary fails to issue the certificate or statement within the period provided by Subsection (c), the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

**Secs. 24-28--24-29. 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 \_\_\_\_\_, 2014.

**PASSED AND APPROVED** on its second reading this the \_\_\_\_ day of \_\_\_\_\_, 2014.

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

**ATTEST:**

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



**AGENDA ITEM 5**

<b>DATE OF MEETING:</b> January 23, 2014		<b>DATE SUBMITTED:</b> January 17, 2014	
<b>DEPT. OF ORIGIN:</b> Finance		<b>SUBMITTED BY:</b> Carolyn D. Miller	
<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> Discuss and Review FY2012-13 Fourth Quarter Financial Report.			
<b>SUMMARY STATEMENT:</b> See attached Financial Performance Report and Financial Statements for General Fund and Five Utility Funds.			
<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) FY2012-13 Fourth Quarter Financial Report from CFO; and (2) Financial Performance Reports for General Fund and Five Utility Funds.			
<b>FUNDING SOURCE (Where Applicable):</b>			
<b>RECOMMENDED ACTION:</b> Discussion Only.			
<b>APPROVALS:</b> Carolyn D. Miller			



**MEMORANDUM**

To: Mayor, Council and City Manager

From: Carolyn D. Miller  
Chief Financial Officer *CM*

Subject: FY2012-13 Fourth Quarter Financial Report

Date: January 17, 2014

The Finance Division is pleased to provide financial performance reports for the quarter and year ended September 30, 2013. The General Fund and the five major utility funds are presented with both budget amendments included. For FY2012-13, the City experienced favorable performance in the General, Electric and Gas Funds. Due to a 3% decrease in water consumption, the Water Fund performance was unfavorable; due to lower utility revenues, the Wastewater Fund also posted a net loss; and the Sanitation Fund overall posted a net loss for the year primarily due to capital improvements at the Recycling Center.

Please be advised that the *days of reserves or working capital*, as presented in this executive summary, were calculated using the FY13-14 budget, while the information shown in the financial statements is based on the FY12-13 budget. This is important as we endeavor to manage our available resources (reserves) compared to unexpected or unplanned occurrences or events.

**FINANCIAL PERFORMANCE SUMMARY**

Fund	YTD FY13 Actual Performance		
	Revenues	Expenditures	Net Revenues
General Fund	\$ 15,935,007	\$ 15,924,510	\$ 10,497
Electric Fund	25,792,730	25,241,226	551,504
Gas Fund	2,996,865	2,824,920	171,945
Water Fund	4,914,876	5,019,163	(104,287)
Wastewater Fund	3,622,070	3,647,934	(25,864)
Sanitation Fund	3,379,769	3,428,776	(49,007)

**GENERAL FUND**

For FY2012-13, the General Fund revenues exceeded expenditures by \$10,497 which increased the fund balance reserves from \$3.56 million to \$3.57 million giving us 98 days of General Fund reserves.

Beginning Fund Balance	\$ 3,564,464
Net Revenues	10,497
Non-budget/CAFR Adjustment	-
Ending Fund Balance-98 Days	\$ 3,574,961
<b>90 Day Reserve</b>	3,285,446
<b>5 Day R&amp;R Reserve</b>	<u>182,525</u>
3 Day Undesignated Reserves	\$ 106,990

At the end of the fiscal year, we have 98 days of General Fund reserves to cover our financial goal of 90 days reserve and 5 days Renovations and Replacements (R&R) reserve. This leaves us with about 3 days of undesignated reserves. We fell from 100 days in the prior year due to two unanticipated items: airport matching grant; and remaining balance for demolition of the former city hall. Capital expenditures are shown in Exhibits G and H, respectively for the General Fund and the Equipment Fund.

**ELECTRIC FUND**

The Electric Fund experienced favorable net revenues of \$551,504 for the fiscal year with 35% or \$194,547 related to distribution and 65% or \$356,957 related to generation. The distribution side of the operation realized savings in operating departments expenditures, primarily capital spending. The generation side of the operation realized increased revenue from a higher average price per kWh rising from \$0.0809 in FY12 to \$0.0836 in FY13. Capital expenditures for the Electric Fund are shown in Exhibit H.

The Electric Fund working capital reserves grew from 91 to 100 days.

Beginning Working Capital	\$ 6,631,950
Net Revenues	551,504
CAFR (Accrual) Adj.	<u>147,488</u>
Ending Working Capital	\$ 7,330,942
<b>Days of Working Capital</b>	<b>100</b>

**GAS FUND**

The Gas Fund posted favorable net revenues of \$171,945 for the fiscal year mainly resulting from higher commodity revenue the majority of which ultimately gets passed to customers. Natural gas prices were higher in FY12-13 and consumption was higher creating additional mcf sales. Capital expenditures for the Gas Fund are shown in Exhibit H.

Even with the favorable performance in the Gas Fund, working capital reserves decreased from 146 days to 133 days. The gas purchase costs have risen from \$1.6 million in FY13 to over \$1.8 million in FY14 which reduced our days of working capital reserves (larger amount of expenditures included in working capital calculation). Essentially, higher consumption and prices resulted in higher commodity revenues (majority pass-thru), raising revenues and reserve requirement.

**GAS FUND (continued)**

Beginning Working Capital	\$	969,554
Net Revenues		171,945
CAFR (Accrual) Adj.		83
Ending Working Capital	\$	<u>1,141,582</u>
<b>Days of Working Capital</b>		<b>133</b>

**WATER FUND**

The Water Fund experienced unfavorable net revenues of (\$104,287) for FY12-13. With more normalized weather for two consecutive years following the drought of 2011, water consumption was down 25.4 million gallons or 3% over the prior fiscal year. Capital expenditures for the Water Fund are shown in Exhibit H.

Although we experienced a net loss in the Water Fund, the working capital reserves increased from 152 days to 164 days. In FY13, we budgeted \$700,000 for the AMR meter replacement project, as opposed to a zero budget in FY14. This resulted in lower expenditures for the working capital calculation.

Beginning Working Capital	\$	2,328,885
Net Revenues		(104,287)
CAFR (Accrual) Adj.		(63,287)
Ending Working Capital	\$	<u>2,161,311</u>
<b>Days of Working Capital</b>		<b>164</b>

**WASTEWATER FUND**

The FY2012-13 performance for the Wastewater Fund showed a net loss of (\$25,864) which was favorable compared to a budgeted shortfall of (\$113,769). Utility revenues were lower due to a decrease in the average billing rate on residential customers and lower processed gallons in other customer classes. Although the budgeted shortfall anticipated using our working capital reserves for the AMR meter project, expenditures were less than budgeted. Department operating expenditures were also lower due to personnel turnover. To review capital expenditures for this fund, see Exhibit G.

Similar to the Water Fund, the Wastewater Fund posted a net loss of (\$25,864) however the days of working capital reserves grew from 54 days to 57 days. In FY13, we budgeted \$350,000 for the AMR meter replacement project, as opposed to a zero budget in FY14. This resulted in lower expenditures for the working capital calculation.

Beginning Working Capital	\$	633,859
Net Revenues		(25,864)
CAFR (Accrual) Adj.		(56,783)
Ending Working Capital	\$	<u>551,212</u>
<b>Days of Working Capital</b>		<b>57</b>

**SANITATION FUND**

The combined operations of the Sanitation Fund posted unfavorable net revenues of (\$49,007) for the year ending September 30, 2013. All business units except for Transfer Station and Residential Collection lagged budget projections. As you recall, the Recycling Center invested in capital improvements with the purchase of land from Woodson Lumber totaling \$38,248 and improvements in the amount of \$15,173. Capital expenditures for this fund can be found on Exhibit G.

The Sanitation Fund working capital reserves decreased from 95 days to 88 days. In reviewing the FY14 budget, it was noted that \$108,000 in decision packages were funded by using \$75,349 in reserves. The projects include \$68,000 for a haul trailer; \$10,000 for software upgrades; this coupled with the net operating loss in FY13, contributed to the decrease in working capital reserves.

Beginning Working Capital	\$	864,874
Net Revenues		(49,007)
CAFR (Accrual) Adj.		2,408
Ending Working Capital	\$	818,275
<b>Days of Working Capital</b>		<b>88</b>

**CONCLUSION**

As noted in this financial report, the City experienced favorable performance in the General, Electric, and Gas funds, and grew working capital in all utility funds except for Sanitation. This outstanding performance is due in a large part to the efforts of our division directors and senior management who monitor department expenditures and overall Fund performance and make necessary adjustments throughout the year.

After you have reviewed this quarterly financial performance report, should you have any questions or comments prior to the council meeting, please do not hesitate to contact Terry Roberts, Kyle Dannhaus, Lowell Ogle, Debbie Gaffey or me directly.

*NOTE: The financial performance reports for the General Fund and five utility funds are attached to this memorandum, and are an integral part of the quarterly financial performance report.*

**GENERAL FUND  
4TH QUARTER PERFORMANCE**



**EXHIBIT A**

**TOTAL OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD BUD FY13	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>REVENUES</b>						
3,434,361	3,555,564	121,203	PROPERTY TAX	3,493,831	3,555,564	61,733
4,107,558	4,404,296	296,738	SALES TAX	4,491,582	4,404,296	(87,286)
2,526,183	2,608,246	82,063	UTILITIES FRANCHISE TAX	2,650,046	2,608,246	(41,800)
371,038	355,288	(15,750)	OTHER TAXES	375,000	355,288	(19,712)
10,439,140	10,923,393	484,253	<b>SUBTOTAL TAXES</b>	11,010,459	10,923,393	(87,066)
941,647	720,243	(221,404)	LICENSES, PERMITS & FEES	933,405	720,243	(213,162)
496,673	394,448	(102,226)	MISCELLANEOUS	396,572	394,448	(2,124)
226,366	255,548	29,182	AQUATICS	254,100	255,548	1,448
29,507	30,004	497	ANIMAL CONTROL	31,870	30,004	(1,866)
12,133,333	12,323,636	190,302	<b>TOTAL REVENUES</b>	12,626,406	12,323,636	(302,770)
2,986,429	3,194,460	208,031	<b>TRANSFERS-IN</b>	3,440,575	3,194,460	(246,115)
416,246	416,912	666	<b>INTERLOCAL AGREEMENTS</b>	435,055	416,912	(18,143)
15,536,009	15,935,007	398,999	<b>TOTAL OP RESOURCES</b>	16,502,036	15,935,007	(567,029)

**EXHIBIT B**

**TOTAL USES OF OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD BUD FY13	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>EXPENDITURES</b>						
14,457,283	14,813,208	(355,925)	OPERATING DEPTS	15,667,225	14,813,208	854,018
330,106	485,669	(155,563)	NON-DEPT DIRECT	491,862	485,669	6,192
28,677	15,489	13,188	NON-DEPT MISC (3)	18,500	15,489	3,011
14,816,067	15,314,367	(498,300)	<b>TOTAL EXPENDITURES</b>	16,177,587	15,314,367	863,221
456,211	610,144	(153,933)	<b>TRANSFERS-OUT</b>	610,144	610,144	0
15,272,278	15,924,510	(652,233)	<b>TOTAL USES OP RESOURCES</b>	16,787,731	15,924,510	863,221

(3) Excludes uncollectible accounts.

**GENERAL FUND  
4TH QUARTER PERFORMANCE**



**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		BUD FY13	ACT FY13	VARIANCE
15,536,009	15,935,007	398,999	<b>TOTAL OP RESOURCES</b>	16,502,036	15,935,007	(567,029)
15,272,278	15,924,510	(652,233)	<b>TOTAL USES OP RESOURCES</b>	16,787,731	15,924,510	863,221
263,731	10,497	(253,234)	<b>NET REVENUES</b>	(285,695)	10,497	296,192

**EXHIBIT D**

**UNRESTRICTED FUND BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		BUD FY13	ACT FY13	VARIANCE
3,300,733	3,564,464	263,731	<b>BEGINNING BALANCE (1)</b>	3,564,464	3,564,464	0
263,731	10,497	(253,234)	<b>NET REVENUES</b>	(285,695)	10,497	296,192
8,250	0	(8,250)	<b>NON-BUDGET/CAFR ADJS</b>	0	0	0
3,572,714	3,574,961	2,247	<b>ENDING BALANCE</b>	3,278,769	3,574,961	296,192

(1) Beginning unrestricted fund balance for FY12 excludes \$535,918 tracked in other governmental funds.

**EXHIBIT E**

**DAYS COVERAGE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		BUD FY13	ACT FY13	VARIANCE
<b>CALCULATION</b>						
12,133,333	12,323,636	190,302	<b>REVENUES</b>	12,626,406	12,323,636	(302,770)
416,246	416,912	666	<b>INTERLOCAL AGREEMENTS</b>	435,055	416,912	(18,143)
12,549,579	12,740,547	190,968	<b>TOTAL RESOURCES</b>	13,061,461	12,740,547	(320,914)
34,382	34,906	523	<b>RESOURCES PER DAY (365) (2)</b>	35,785	34,906	(879)
3,572,714	3,574,961	2,247	<b>ACTUAL RESERVES</b>	3,278,769	3,574,961	296,192
3,094,417	3,141,505	47,088	<b>90-DAY POLICY</b>	3,220,634	3,141,505	(79,129)
478,297	433,456	(44,841)	<b>EXCESS/(SHORTFALL)</b>	58,135	433,456	375,321
104	103	(1)	<b>DAYS COVERAGE</b>	92	103	11

(2) Annualized

**GENERAL FUND  
4TH QUARTER PERFORMANCE**



**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD BUD FY13	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>EXPENSE CATEGORY</b>					
9,865,909	10,257,388	(391,478)	10,776,020	10,257,388	518,632
951,831	962,037	(10,205)	1,033,259	962,037	71,222
457,412	865,783	(408,370)	851,389	865,783	(14,394)
1,894,646	1,993,817	(99,171)	2,228,853	1,993,817	235,036
612,546	217,052	395,494	205,968	217,052	(11,083)
674,938	517,132	157,806	571,736	517,132	54,604
14,457,283	14,813,208	(355,925)	15,667,225	14,813,208	854,018

**EXHIBIT G**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD BUD FY13	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>DEPARTMENT</b>					
882,686	930,880	(48,194)	978,114	930,880	47,234
200,576	318,494	(117,918)	323,047	318,494	4,553
227,262	187,554	39,709	197,052	187,554	9,498
181,122	134,260	46,862	134,727	134,260	467
680,852	623,561	57,291	689,122	623,561	65,561
734,433	855,263	(120,830)	910,441	855,263	55,178
229,845	255,166	(25,321)	264,139	255,166	8,973
1,468,972	1,363,275	105,697	1,436,930	1,363,275	73,655
1,129,063	1,112,111	16,952	1,274,931	1,112,111	162,820
391,913	402,856	(10,942)	434,628	402,856	31,773
91,818	117,235	(25,417)	144,278	117,235	27,043
217,534	171,585	45,949	172,794	171,585	1,209
553,687	743,755	(190,068)	743,843	743,755	88
1,046,715	1,184,928	(138,213)	1,259,560	1,184,928	74,632
3,347,839	3,410,089	(62,249)	3,614,289	3,410,089	204,200
1,435,398	1,510,599	(75,201)	1,531,381	1,510,599	20,783
280,468	302,547	(22,078)	306,438	302,547	3,891
351,886	379,910	(28,024)	381,522	379,910	1,612
412,937	231,856	181,081	249,116	231,856	17,259
592,276	577,285	14,991	620,874	577,285	43,589
14,457,283	14,813,208	(355,925)	15,667,225	14,813,208	854,018





**ELECTRIC FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT A**

**TOTAL OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET			
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>DISTRIBUTION REVENUES</b>						
1,236,677	1,243,722	7,045	CUSTOMER CHARGE	1,283,472	1,243,722	(39,749)
4,421,218	4,429,729	8,511	WIRE CHARGE	4,762,362	4,429,729	(332,633)
568,532	549,133	(19,400)	ANCILLARY SERVICE REVENUES	562,631	549,133	(13,498)
7,524	6,272	(1,252)	INTEREST EARNED	7,100	6,272	(828)
(53,945)	40,443	94,387	OTHER REVENUE	28,850	40,443	11,593
6,180,007	6,269,299	89,292	<b>SUBTOTAL DISTRIBUTION REV</b>	6,644,415	6,269,299	(375,116)
<b>GENERATION REVENUES</b>						
21,012,375	21,154,966	142,591	GENERATION CHARGE	22,530,842	21,154,966	(1,375,876)
(2,673,519)	(2,097,315)	576,204	PCRF	(3,078,258)	(2,097,315)	980,943
0	0	0	LCRA ABNR	0	0	0
18,338,856	19,057,650	718,795	<b>SUBTOTAL GENERATION REV</b>	19,452,584	19,057,650	(394,934)
24,518,862	25,326,949	808,087	<b>TOTAL REVENUES</b>	26,096,999	25,326,949	(770,050)
432,260	465,781	33,521	<b>TRANSFERS-IN UTILITIES</b>	550,341	465,781	(84,560)
24,951,122	25,792,730	841,608	<b>TOTAL OPERATING RESOURCES</b>	26,647,340	25,792,730	(854,610)

**EXHIBIT B**

**TOTAL USES OF OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET			
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>DISTRIBUTION EXPENDITURES</b>						
3,182,984	3,078,578	104,406	OPERATING DEPARTMENTS	3,419,543	3,078,578	340,965
536,307	9,466	526,842	AMR METERS (SEE EXHIBIT H)	9,466	9,466	0
<b>1,679,772</b>	1,731,177	(51,405)	FRANCHISE TAX	1,784,889	1,731,177	53,712
9,564	9,564	0	DEBT SERVICE	9,564	9,564	0
2,360	2,400	(40)	OTHER DIRECT	2,400	2,400	0
66,062	47,219	18,843	MISCELLANEOUS	70,000	47,219	22,781
5,477,050	4,878,404	598,646	<b>SUBTOTAL DISTRIBUTION EXP</b>	5,295,862	4,878,404	417,458
<b>GENERATION EXPENDITURES</b>						
18,401,063	18,700,693	(299,630)	ELECTRICITY PURC/BASE COST	19,447,821	18,700,693	747,128
18,401,063	18,700,693	(299,630)	<b>SUBTOTAL GENERATION EXPENDITUF</b>	19,447,821	18,700,693	747,128
1,535,782	1,637,129	(101,347)	<b>TRANSFERS-OUT GENERAL FUND</b>	1,773,744	1,637,129	136,615
0	25,000	(25,000)	<b>TRANSFERS-OUT GAS FUND</b>	25,000	25,000	0
25,413,895	25,241,226	172,668	<b>TOTAL USES OF OP RESOURCES</b>	26,542,427	25,241,226	1,301,201

**ELECTRIC FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
(400,565)	194,547	595,111	DISTRIBUTION NET REVENUES	100,150	194,547	94,397
(62,208)	356,957	419,164	GENERATION NET REVENUES	4,763	356,957	352,194
(462,772)	551,504	1,014,276	TOTAL NET REVENUES	104,913	551,504	446,591

**EXHIBIT D**

**WORKING CAPITAL BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
6,313,055	6,631,950	318,895	BEGINNING BALANCE	6,631,950	6,631,950	0
(462,772)	551,504	1,014,276	NET REVENUES	104,913	551,504	446,591
781,667	147,488	(634,179)	CAFR ADJ	0	147,488	147,488
6,631,950	7,330,942	698,992	ENDING BALANCE	6,736,863	7,330,942	594,079

**EXHIBIT E**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
			<b>EXPENSE CATEGORY</b>			
1,627,087	1,687,397	(60,310)	PERSONNEL	1,851,453	1,687,397	164,056
130,202	141,567	(11,365)	SUPPLIES	143,032	141,567	1,465
111,227	156,794	(45,567)	MAINTENANCE	147,450	156,794	(9,344)
<b>290,370</b>	334,682	(44,312)	SERVICES	298,045	334,682	(36,637)
975,175	714,566	260,609	CAPITAL (SEE EXHIBIT I)	925,985	714,566	211,419
48,924	43,572	5,352	SUNDRY	63,044	43,572	19,472
3,182,984	3,078,578	104,406	TOTAL DEPT EXPENDITURES	3,429,009	3,078,578	350,431

**ELECTRIC FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
<b>DEPARTMENT</b>					
445,909	422,382	23,528	506,632	422,382	84,250
569,632	662,522	(92,889)	692,113	662,522	29,591
2,167,443	1,993,675	173,768	2,220,798	1,993,675	227,123
3,182,984	3,078,578	104,406	3,419,543	3,078,578	340,965
<b>TOTAL DEPT EXPENDITURES</b>					

**EXHIBIT G**

**AMR METER PROJECT**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
6,929	7,007	78	7,024	7,007	(17)
10	0	(10)	0	0	0
6,939	7,007	68	7,024	7,007	(17)
99.86%	100.00%	0.14%	100.00%	100.00%	0.00%
<b># OF AMR METERS</b>					
<b># OF NON-AMR METERS</b>					
<b>TOTAL # OF METERS</b>					
<b>AMR % OF METERS</b>					

**ELECTRIC FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT H**

**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
0	8,798	(8,798)	10,000	8,798	1,202
22,745	0	22,745	0	0	0
0	1,020	(1,020)	1,020	1,020	0
0	360	(360)	399	360	39
0	2,599	(2,599)	2,600	2,599	1
10,549	0	10,549	0	0	0
1,805	4,259	(2,454)	4,500	4,259	241
0	1,469	(1,469)	1,500	1,469	31
3,762	0	3,762	0	0	0
1,296	0	1,296	0	0	0
1,795	0	1,795	0	0	0
1,434	0	1,434	0	0	0
5,995	0	5,995	0	0	0
3,894	0	3,894	0	0	0
1,281	0	1,281	0	0	0
0	29,367	(29,367)	32,000	29,367	2,633
0	0	0	160,000	0	160,000
185,373	0	185,373	0	0	0
59,612	59,601	10	60,000	59,601	399
24	0	24	0	0	0
5,513	9,426	(3,913)	15,000	9,426	5,574
2,856	0	2,856	0	0	0
7,086	13,436	(6,350)	25,000	13,436	11,564
39,676	58,790	(19,114)	20,000	58,790	(38,790)
27,400	9,604	17,796	20,000	9,604	10,396
124	0	124	0	0	0
112,774	113,786	(1,012)	125,000	113,786	11,214
37,545	23,485	14,060	25,600	23,485	2,115
1,043	1,111	(69)	6,000	1,111	4,889
3,874	0	3,874	0	0	0
28,234	3,680	24,554	10,000	3,680	6,320
61,801	82,834	(21,033)	97,700	82,834	14,866
7,916	288	7,627	0	288	(288)
19,292	0	19,292	0	0	0
4,745	0	4,745	0	0	0
144,478	0	144,478	0	0	0
20,197	0	20,197	0	0	0

**ELECTRIC FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT H (CONTINUED)**

**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
13,109	0	13,109	0	0	0
34,526	0	34,526	0	0	0
22,841	33,663	(10,822)	35,000	33,663	1,337
14,707	2,238	12,469	200	2,238	(2,038)
49,493	0	49,493	0	0	0
12,061	0	12,061	0	0	0
4,320	0	4,320	0	0	0
0	4,482	(4,482)	5,000	4,482	518
0	76,728	(76,728)	75,000	76,728	(1,728)
0	50,708	(50,708)	50,000	50,708	(708)
0	12,399	(12,399)	15,000	12,399	2,601
0	1,664	(1,664)	2,000	1,664	336
0	30,633	(30,633)	26,000	30,633	(4,633)
0	1,105	(1,105)	2,000	1,105	895
0	24,400	(24,400)	25,000	24,400	600
0	5,754	(5,754)	5,000	5,754	(754)
0	46,877	(46,877)	60,000	46,877	13,123
975,175	714,566	247,500	916,519	714,566	201,953

**GAS FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT A**

**TOTAL OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
<b>DISTRIBUTION REVENUES</b>					
1,123,846	1,200,058	76,213	1,232,895	1,200,058	(32,837)
770	447	(323)	700	447	(253)
17,636	15,560	(2,076)	13,200	15,560	2,360
1,142,252	1,216,065	73,813	1,246,795	1,216,065	(30,731)
<b>COMMODITY REVENUES</b>					
3,033,377	3,323,132	289,755	3,290,295	3,323,132	32,838
(1,734,677)	(1,567,332)	167,345	(1,567,332)	(1,567,332)	(0)
1,298,700	1,755,800	457,100	1,722,963	1,755,800	32,837
0	25,000	25,000	25,000	25,000	0
2,440,952	2,996,865	555,913	2,994,758	2,996,865	2,107

**EXHIBIT B**

**TOTAL USES OF OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
<b>DISTRIBUTION EXPENDITURES</b>					
473,423	502,356	(28,933)	461,215	502,356	(41,141)
226,997	50,018	176,979	50,018	50,018	(0)
169,580	206,910	(37,330)	206,910	206,910	0
10,213	2,033	8,180	2,033	2,033	(0)
532	2,274	(1,742)	3,500	2,274	1,226
880,746	763,592	117,154	723,676	763,592	(39,916)
<b>COMMODITY EXPENDITURES</b>					
1,197,194	1,586,954	(389,760)	1,586,954	1,586,954	(0)
1,197,194	1,586,954	(389,760)	1,586,954	1,586,954	(0)
445,806	474,374	(28,568)	517,681	474,374	43,307
2,523,745	2,824,920	(301,175)	2,828,311	2,824,920	3,391

**GAS FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
(184,300)	3,099	187,399	DISTRIBUTION	30,438	3,099	(27,339)
101,507	168,846	67,339	COMMODITY	136,009	168,846	32,837
(82,793)	171,945	254,738	<b>TOTAL NET REVENUES</b>	166,447	171,945	5,498

**EXHIBIT D**

**WORKING CAPITAL BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
1,041,356	969,554	(71,802)	BEGINNING BALANCE	969,554	969,554	0
(82,793)	171,945	254,738	NET REVENUES	166,447	171,945	5,498
10,991	83	(10,908)	CAFR ADJ	0	83	83
969,554	1,141,582	172,028	<b>ENDING BALANCE</b>	1,136,001	1,141,582	5,581

**EXHIBIT E**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
315,238	345,750	(30,512)	PERSONNEL	335,754	345,750	(9,996)
25,049	30,584	(5,535)	SUPPLIES	22,810	30,584	(7,774)
23,069	24,285	(1,216)	MAINTENANCE	25,000	24,285	715
35,037	54,580	(19,543)	SERVICES	61,720	54,580	7,140
70,234	37,503	32,732	CAPITAL	55,000	37,503	17,497
4,796	9,654	(4,858)	SUNDRY	10,949	9,654	1,295
473,423	502,356	(28,933)	<b>TOTAL DEPT EXPENDITURES</b>	511,233	502,356	8,877

**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
473,423	502,356	(28,933)	DEPT 162 - GAS	511,233	502,356	8,877
473,423	502,356	(28,933)	<b>TOTAL DEPT EXPENDITURES</b>	511,233	502,356	8,877

**GAS FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT G**

**AMR METER PROJECT**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
4,103	4,311	208	4,367	4,311	(56)
180	18	(162)	0	18	18
		# OF AMR METERS			
		# OF NON-AMR METERS			
4,283	4,329	46	4,367	4,329	(38)
		TOTAL # OF METERS			
95.80%	99.58%	3.79%	100.00%	99.58%	-0.42%
		AMR % OF METERS			

**EXHIBIT H**

**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
15,264	13,480	1,783	17,500	13,480	4,020
12,489	16,633	(4,145)	17,500	16,633	867
0	0	0	0	0	0
1,258	0	1,258	0	0	0
21,562	0	21,562	0	0	0
19,662	0	19,662	0	0	0
0	288	(288)	6,000	288	5,712
0	2,278	(2,278)	500	2,278	(1,778)
0	0	0	5,000	0	5,000
0	0	0	1,000	0	1,000
0	854	(854)	7,500	854	6,646
70,234	33,533	36,701	55,000	33,533	21,467
		TOTAL			

# WATER FUND

## 4TH QUARTER PERFORMANCE

### EXHIBIT A

#### TOTAL OPERATING RESOURCES

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
<b>REVENUES</b>					
4,300,743	4,241,379	(59,364)	4,423,020	4,241,379	(181,641)
4,108	3,276	(832)	3,500	3,276	(224)
133,253	115,237	(18,015)	105,006	115,237	10,231
4,438,104	4,359,892	(78,212)	4,531,526	4,359,892	(171,634)
340,158	554,984	214,825	983,640	554,984	(428,656)
4,778,262	4,914,876	136,614	5,515,166	4,914,876	(600,290)

(1) RESIDUAL BOND PROCEEDS FROM 2008 DEBT ISSUANCE RELEASED FROM RESTRICTED CASH AT YEAR-END.

### EXHIBIT B

#### TOTAL USES OF OPERATING RESOURCES

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)	YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE	ACT FY13B	ACT FY13	VARIANCE
<b>EXPENDITURES</b>					
1,879,880	2,064,502	(184,621)	2,162,858	2,064,502	98,356
2,372	58,618	(56,246)	529,177	58,618	470,559
10,969	47,392	(36,423)	53,000	47,392	5,608
13,555	137,511	(123,956)	90,000	137,511	(47,511)
466,034	585,770	(119,736)	700,000	585,770	114,230
301,052	296,897	4,155	304,058	296,897	7,161
1,085,422	1,089,622	(4,200)	1,089,624	1,089,622	2
265,650	266,490	(840)	265,650	266,490	(840)
18,990	16,531	2,459	12,818	16,531	(3,713)
4,043,923	4,563,332	(519,409)	5,207,185	4,563,332	643,853
427,083	455,831	(28,748)	501,509	455,831	45,678
4,471,006	5,019,163	(548,157)	5,708,694	5,019,163	689,531

(1) THIS PROJECT IS MONITORED IN FUND 108 BUT IS AN EXPENDITURE OF THE FUND.

(2) EXCLUDES DEPRECIATION, AMORTIZED BOND COSTS/CHARGES, FIXED ASSET CLEARING ACCT BUT INCLUDES INVENTORY ADJUSTMENTS.

**WATER FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
4,778,262	4,914,876	136,614	TOTAL OPERATING RESOURCES	5,515,166	4,914,876	(600,290)
4,471,006	5,019,163	(548,157)	TOTAL USES OF OP RESOURCES	5,708,694	5,019,163	689,531
307,256	(104,287)	(411,543)	NET REVENUES	(193,528)	(104,287)	89,241

**EXHIBIT D**

**WORKING CAPITAL BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
2,119,885	2,328,885	209,000	BEGINNING BALANCE	2,328,885	2,328,885	0
307,256	(104,287)	(411,543)	NET REVENUES	(193,528)	(104,287)	89,241
(98,256)	(63,287)	34,969	CAFR ADJ	0	(63,287)	(63,287)
2,328,885	2,161,311	(167,574)	ENDING BALANCE	2,135,358	2,161,311	25,954

**EXHIBIT E**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
605,380	654,087	(48,707)	PERSONNEL	647,412	654,087	(6,675)
383,610	318,526	65,084	SUPPLIES	357,749	318,526	39,223
214,133	177,317	36,817	MAINTENANCE	197,050	177,317	19,733
286,423	341,373	(54,950)	SERVICES	406,015	341,373	64,642
376,108	555,497	(179,389)	CAPITAL	538,550	555,497	(16,947)
14,227	17,703	(3,476)	SUNDRY	16,082	17,703	(1,621)
1,879,880	2,064,502	(184,621)	TOTAL DEPT EXPENDITURES	2,162,858	2,064,502	98,356

**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
1,155,878	1,088,246	67,633	DEPT 163 - WATER TREATMENT	1,165,010	1,088,246	76,764
724,002	976,256	(252,254)	DEPT 164 - WATER CONSTRUCTION	997,848	976,256	21,592
1,879,880	2,064,502	(184,621)	TOTAL DEPT EXPENDITURES	2,162,858	2,064,502	98,356

**WATER FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT G**

**AMR METER PROJECT**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
5,019	7,302	2,283	# OF AMR METERS	7,481	7,302	(179)
2,284	104	(2,180)	# OF NON-AMR METERS	0	104	104
7,303	7,406	103	TOTAL # OF METERS	7,481	7,406	(75)
68.73%	98.60%	29.87%	AMR % OF METERS	100.00%	98.60%	-1.40%

**EXHIBIT H**

**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
0	1,437	(1,437)	DEPT 163 A/C CHEMICAL ROOM	0	1,437	(1,437)
17,207	0	17,207	DEPT 163 RAW WATER BLDG	0	0	0
4,780	0	4,780	DEPT 163 SOUND FENCE	0	0	0
1,999	0	1,999	DEPT 163/164 ICE MAKER	0	0	0
0	1,636	(1,636)	DEPT 163 RAW WTR PUMP	1,550	1,636	(86)
0	0	0	DEPT 164 COVERED BUILDING	15,000	0	15,000
0	3,340	(3,340)	DEPT 164 PIPE SAW & ACCESSORIES	7,000	3,340	3,660
0	2,862	(2,862)	DEPT 164 COMPRESSOR/GENERATOR	3,500	2,862	638
0	2,875	(2,875)	DEPT 164 TAPPING KIT	3,000	2,875	125
4,132	0	4,132	DEPT 164 BREAK ROOM REFURB	0	0	0
15,904	0	15,904	DEPT 164 TOP60B BREAKER	0	0	0
24,350	0	24,350	64C-03 KUHN LANE WATER LINE	0	0	0
9,070	15,425	(6,355)	64C-13 SVC REPLACEMENTS	18,264	15,425	2,839
36,265	21,301	14,964	64C-14 NEW SVC INSTALLS	25,325	21,301	4,024
3,175	0	3,175	64C-19 INDUSTRIAL PK EXPANSION	0	0	0
41,330	0	41,330	64C-21 HW 36S/NICHOLS DEV	0	0	0
172,241	218,720	(46,478)	64C-22 WATER DIST IMPROVE 2012	200,000	218,720	(18,720)
38,402	0	38,402	64C-23 NICHOLS DEVELOPMENT	0	0	0
2,279	10,819	(8,540)	64C-24 WESTWOOD LN WATER LN	41,371	10,819	30,552
0	7,158	(7,158)	64C-25 VALMONT WATER LINE EXT	23,540	7,158	16,382
4,974	0	4,974	64C-26 HEB	0	0	0
0	269,924	(269,924)	64C-29 WATER DIST IMPROVE 2013	200,000	269,924	(69,924)
376,108	555,497	(179,389)	<b>TOTAL</b>	538,550	555,497	(16,947)

**WASTEWATER FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT A**

**TOTAL OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>REVENUES</b>					
3,529,850	3,483,481	(46,369)	3,696,079	3,483,481	(212,598)
63,137	59,803	(3,334)	70,000	59,803	(10,197)
34,502	47,105	12,602	31,000	47,105	16,105
1,790	1,509	(281)	1,650	1,509	(141)
23,500	0	(23,500)	0	0	0
1,131	30,172	29,041	700	30,172	29,472
3,653,911	3,622,070	(31,841)	3,799,429	3,622,070	(177,359)
11,956	0	(11,956)	0	0	0
3,665,867	3,622,070	(43,797)	3,799,429	3,622,070	(177,359)

**EXHIBIT B**

**TOTAL USES OF OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE	YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>EXPENDITURES</b>					
1,588,249	1,529,757	58,492	1,610,368	1,529,757	80,611
231,683	274,392	(42,708)	350,000	274,392	75,608
247,088	243,844	3,244	258,726	243,844	14,882
1,131,278	1,141,246	(9,968)	1,177,640	1,141,246	36,394
7,128	2,467	4,661	15,000	2,467	12,533
3,205,427	3,191,706	13,721	3,411,734	3,191,706	220,028
422,561	456,228	(33,667)	501,465	456,228	45,237
3,627,988	3,647,934	(19,946)	3,913,198	3,647,934	265,265

**WASTEWATER FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
3,665,867	3,622,070	(43,797)	<b>TOTAL OPERATING RESOURCES</b>	3,799,429	3,622,070	(177,359)
3,627,988	3,647,934	(19,946)	<b>TOTAL USES OF OP RESOURCES</b>	3,913,198	3,647,934	265,265
37,879	(25,864)	(63,743)	<b>NET REVENUES</b>	(113,769)	(25,864)	87,905

**EXHIBIT D**

**WORKING CAPITAL BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
573,812	633,859	60,047	<b>BEGINNING BALANCE</b>	633,859	633,859	0
37,879	(25,864)	(63,743)	<b>NET REVENUES</b>	(113,769)	(25,864)	87,905
22,168	(56,783)	(78,951)	<b>CAFR ADJ</b>	22,168	(56,783)	(78,951)
633,859	551,212	(82,647)	<b>ENDING BALANCE</b>	542,258	551,212	8,954

**EXHIBIT E**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
<b>EXPENDITURE CATEGORY</b>						
514,840	527,124	(12,284)	<b>PERSONNEL</b>	567,137	527,124	40,013
135,614	129,990	5,624	<b>SUPPLIES</b>	138,197	129,990	8,207
163,109	156,534	6,575	<b>MAINTENANCE</b>	126,050	156,534	(30,484)
509,358	606,937	(97,579)	<b>SERVICES</b>	579,166	606,937	(27,770)
243,342	87,723	155,620	<b>CAPITAL (SEE EXHIBIT G)</b>	177,510	87,723	89,787
21,985	21,449	536	<b>SUNDRY</b>	22,307	21,449	858
1,588,249	1,529,757	58,492	<b>TOTAL DEPT EXPENDITURES</b>	1,610,368	1,529,757	80,611

**WASTEWATER FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET			
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
<b>DEPARTMENTS</b>						
491,794	443,671	48,124	DEPT 165 - WASTEWATER CONST	590,740	443,671	147,069
1,096,455	1,086,086	10,369	DEPT 166 - WASTEWATER TREAT	1,019,628	1,086,086	(66,458)
1,588,249	1,529,757	58,492	<b>TOTAL DEPT EXPENDITURES</b>	1,610,368	1,529,757	80,611

**EXHIBIT G**

**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR			ACTUAL VERSUS BUDGET			
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
3,100	0	3,100	DEPT 165 TRAILER	0	0	0
0	0	0	DEPT 166 GATE UPGRADE	7,707	0	7,707
0	0	0	DEPT 166 RTU REPLACEMENT	0	0	0
1,397	0	1,397	DEPT 166 RADIOS/CAMERA	0	0	0
2,099	0	2,099	65C-11 ALOIS LN INFRA	0	0	0
1,496	4,654	(3,158)	65C-15 NEW SVC INSTALLS	8,020	4,654	3,366
2,581	30	2,551	65C-17 SERVICE REPLACEMENTS	0	30	(30)
6,077	0	6,077	65C-20 INDUSTRIAL PK EXP	0	0	0
3,977	0	3,977	65C-22 LOWER SEWER C. LEWIS	0	0	0
32,644	0	32,644	65C-23 NICHOLS DEVELOPMENT	0	0	0
208	3,163	(2,955)	65C-24 AMPHITHEATRE SR TAP	3,163	3,163	1
84,306	0	84,306	65C-25 HWY 36N EXTENSION	0	0	0
9,710	0	9,710	65C-26 WESTWOOD LANE	0	0	0
10,630	31,884	(21,254)	65C-28 SALEM RD SWR LN/LIFT ST	31,884	31,884	(0)
4,325	33,545	(29,220)	65C-29 FM 389 EXTENSION	33,545	33,545	(0)
0	14,041	(14,041)	65C-30 STATE SCHOOL LIFT ST	13,561	14,041	(480)
80,792	0	80,792	66C-06 RECLAIMED WATER	0	0	0
0	407	(407)	66C-07 REPLACE RTU	10,000	407	9,593
0	0	0	166 UNUSED CONTINGENCY	69,630	0	69,630
243,342	87,723	155,619		177,510	87,723	89,788

**SANITATION FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT A**

**TOTAL OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>REVENUES</b>						
789,972	901,495	111,524	TRANSFER STATION	881,111	901,495	20,384
449,915	381,860	(68,056)	COLLECTION STATION	407,365	381,860	(25,505)
167,442	111,155	(56,288)	RECYCLING CENTER	160,000	111,155	(48,845)
1,955,568	1,967,049	11,481	RESIDENTIAL COLLECTION	1,988,554	1,967,049	(21,505)
939	755	(184)	INTEREST EARNED	950	755	(195)
26,439	17,455	(8,983)	OTHER REVENUE	450	17,455	17,005
3,390,275	3,379,769	(10,505)	<b>TOTAL REVENUES</b>	3,438,430	3,379,769	(58,661)
3,390,275	3,379,769	(10,505)	<b>TOTAL OPERATING RESOURCES</b>	3,438,430	3,379,769	(58,661)

**EXHIBIT B**

**TOTAL USES OF OPERATING RESOURCES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
<b>EXPENDITURES</b>						
2,854,755	3,006,426	(151,671)	OPERATING DEPARTMENTS	3,012,144	3,006,426	5,718
57,790	58,132	(342)	FRANCHISE TAX	59,050	58,132	918
75,317	3,550	71,768	DEBT SERVICE	3,550	3,550	0
8,052	6,384	1,669	OTHER	4,500	6,384	(1,884)
2,995,915	3,074,491	(78,576)	<b>TOTAL EXPENDITURES</b>	3,079,244	3,074,491	4,753
316,547	354,285	(37,738)	<b>TRANSFERS-OUT</b>	385,317	354,285	31,032
3,312,462	3,428,776	(116,314)	<b>TOTAL USES OF OP RESOURCES</b>	3,464,561	3,428,776	35,785

**EXHIBIT C**

**NET REVENUES**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD ACT FY12	YTD ACT FY13	FAV/(UNFAV) VARIANCE		YTD ACT FY13B	YTD ACT FY13	FAV/(UNFAV) VARIANCE
3,390,275	3,379,769	(10,505)	<b>TOTAL OPERATING RESOURCES</b>	3,438,430	3,379,769	(58,661)
3,312,462	3,428,776	(116,314)	<b>TOTAL USES OF OP RESOURCES</b>	3,464,561	3,428,776	35,785
77,812	(49,007)	(126,820)	<b>NET REVENUES</b>	(26,131)	(49,007)	(22,876)

**SANITATION FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT D**

**WORKING CAPITAL BALANCE**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
720,040	864,874	144,834	BEGINNING BALANCE	864,874	864,874	0
77,812	(49,007)	(126,820)	NET REVENUES	(26,131)	(49,007)	(22,876)
67,022	2,408	(64,614)	CAFR ADJ	0	2,408	2,408
864,874	818,275	(46,599)	ENDING BALANCE	838,743	818,275	(20,468)

**EXHIBIT E**

**DEPARTMENT EXPENDITURES BY CATEGORY**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
499,675	551,239	(51,564)	PERSONNEL	570,295	551,239	19,056
297,614	328,122	(30,508)	SUPPLIES	316,296	328,122	(11,826)
103,031	129,859	(26,828)	MAINTENANCE	121,062	129,859	(8,797)
1,749,413	1,816,304	(66,891)	SERVICES	1,829,742	1,816,304	13,438
195,415	172,194	23,221	CAPITAL	163,200	172,194	(8,994)
9,607	8,709	899	SUNDRY	11,549	8,709	2,840
2,854,755	3,006,426	(151,671)	TOTAL DEPT EXPENDITURES	3,012,144	3,006,426	5,718

**EXHIBIT F**

**DEPARTMENT EXPENDITURES BY DEPARTMENT**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
804,817	760,762	44,055	DEPT 042 - TRANSFER STATION	761,280	760,762	518
328,796	441,980	(113,184)	DEPT 043 - COLLECTION STATION	442,133	441,980	153
166,012	221,358	(55,346)	DEPT 140 - RECYCLING CENTER	221,320	221,358	(38)
1,555,130	1,582,327	(27,196)	DEPT 142 - RESIDENTIAL COLLECT	1,587,411	1,582,327	5,084
2,854,755	3,006,426	(151,671)	TOTAL DEPT EXPENDITURES	3,012,144	3,006,426	5,718

**SANITATION FUND  
4TH QUARTER PERFORMANCE**

**EXHIBIT G**

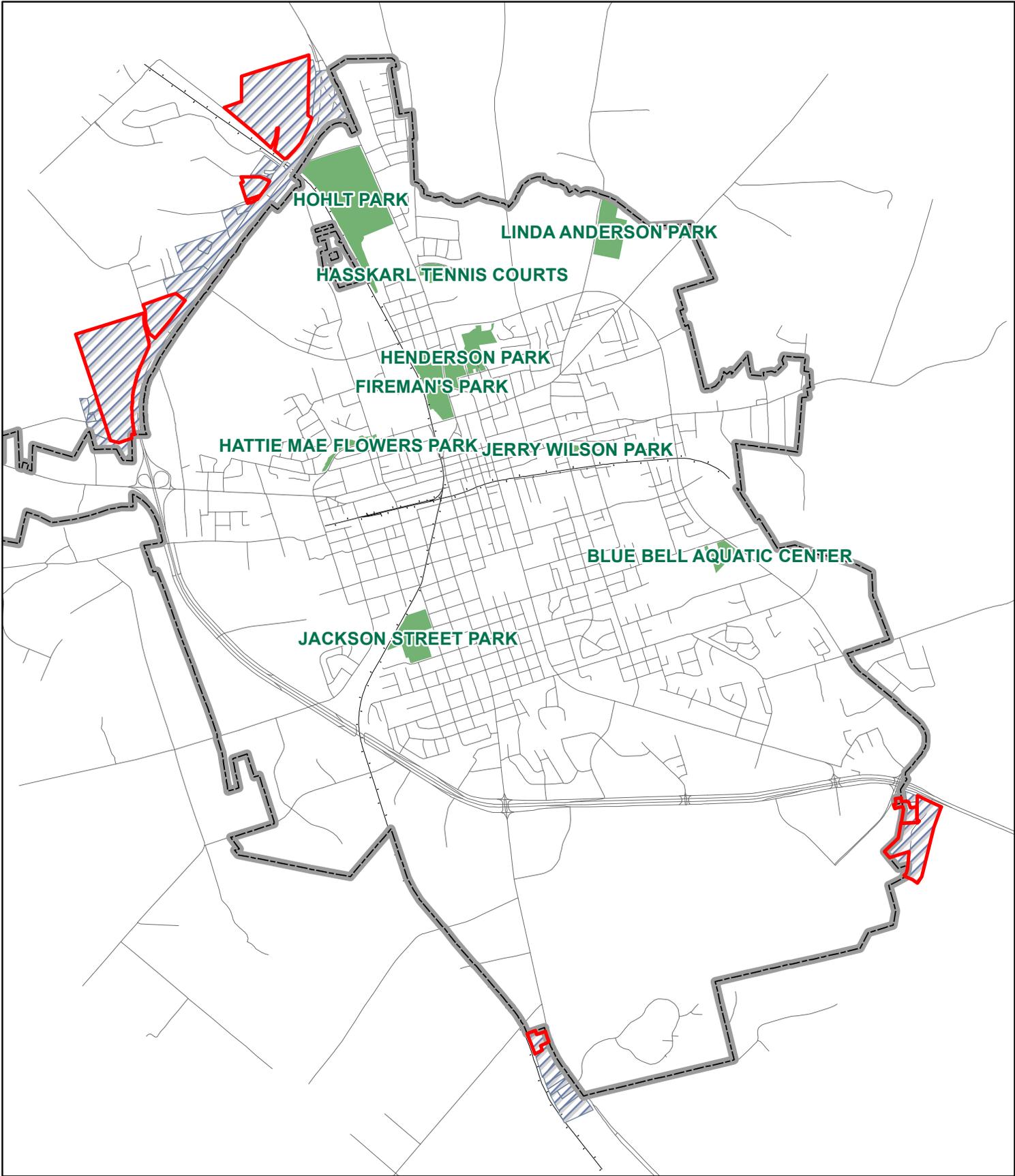
**CAPITAL EXPENDITURE DETAIL**

ACTUAL VERSUS PRIOR YEAR				ACTUAL VERSUS BUDGET		
YTD	YTD	FAV/(UNFAV)		YTD	YTD	FAV/(UNFAV)
ACT FY12	ACT FY13	VARIANCE		ACT FY13B	ACT FY13	VARIANCE
0	1,625	(1,625)	MODEL AIRPORT ENTRANCE (142)	2,500	1,625	875
0	6,265	(6,265)	LANDFILL FENCE (142)	7,500	6,265	1,235
8,150	0	8,150	MULE (042/043)	0	0	0
60,653	0	60,653	REFUSE TRAILERS (042)	0	0	0
78,000	0	78,000	HAUL TRUCKS (042)	0	0	0
0	78,183	(78,183)	BACK HOE (043)	78,200	78,183	17
7,435	0	7,435	RECYCLE BINS (140)	0	0	0
0	0	0	LOADING DOCK (140)	10,000	0	10,000
0	10,768	(10,768)	RECYLING CENTER UPGRADES (140)	15,000	30,173	(15,173)
19,674	0	19,674	RECYCLE TRAILER (140)	0	0	0
0	17,700	(17,700)	BALER (140)	18,000	17,700	300
0	34,407	(34,407)	LAND (140)	0	38,248	(38,248)
17,996	0	17,996	TRUCKS (142)	0	0	0
3,507	0	3,507	GATE (042/043)	0	0	0
<b>195,415</b>	<b>148,948</b>	<b>46,467</b>	<b>TOTAL</b>	<b>131,200</b>	<b>172,194</b>	<b>(40,994)</b>

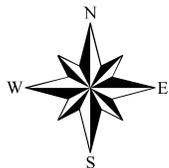


## AGENDA ITEM 6

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 16, 2014	
<b>DEPT. OF ORIGIN:</b> Development Services	<b>SUBMITTED BY:</b> Grant Lischka	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input checked="" type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Discussion and Presentation on Potential Areas for Annexation in the City of Brenham		
<b>SUMMARY STATEMENT:</b> Enclosed you will find potential tracts for annexation and a proposed annexation timeline. Staff requests direction on how to proceed. Additional maps will be provided at the meeting.		
<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) Map; and (2) Timeline		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		
<b>RECOMMENDED ACTION:</b> Discussion Only.		
<b>APPROVALS:</b> Terry K. Roberts		



1 inch = 3,375 feet



**Legend**

-  Ag Exempt
-  Annexation 2013



<u>Date of Action or Meeting</u>	<u>Action</u>	<u>Responsible Department</u>
23-Jan-14	Work session on annexation	Development Services
20-Feb-14	City Council authorization to proceed with the annexation process, reviews tracts, and authorizes to offer Development Agreements (ag exempt properties)	Development Services
21-Feb-14	Letters sent to all property owners with agricultural exemptions offering Development Agreements	Development Services
28-Feb-14	Create service plan	Development Services/Public Utilities/Public Works/Police/Fire
10-Mar-14	Development Agreements due	Development Services
21-Mar-14	Written notice of proposed annexation sent to all property owners in the proposed annexation area	Development Services
21-Mar-14	Send written notice to Brenham ISD of area to be annexed	Development Services
21-Mar-14	Send written notice to railroads with right-of-way in area to be annexed	Development Services
21-Mar-14	Publish notice of 1st public hearing in newspaper	Development Services
21-Mar-14	Post notice of 1st public hearing on City website	IT/Kevin Boggus
31-Mar-14	Agenda notice of 1st public hearing posted at City Hall	City Secretary
3-Apr-14	City Council meeting - 1st public hearing on annexation	Development Services
4-Apr-14	Publish notice of 2nd public hearing in newspaper	Development Services
4-Apr-14	Post notice of 2nd public hearing on City website	IT/Kevin Boggus
14-Apr-14	Agenda notice of 2nd public hearing posted at City Hall	City Secretary
17-Apr-14	City Council meeting - 2nd public hearing on annexation	Development Services
12-May-14	Post Agenda with annexation ordinance	City Secretary
15-May-14	City Council meeting - 1st reading of annexation ordinance	Development Services
2-Jun-14	Post Agenda with second reading of annexation ordinance	City Secretary
5-Jun-14	City Council meeting - 2nd reading of annexation ordinance	Development Services
6-Jun-14	Update Ward, Zoning, City Limit maps	GIS
check state law	Notify DOJ, County, and Appraisal District	City Secretary



## AGENDA ITEM 7

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 16, 2014	
<b>DEPT. OF ORIGIN:</b> Public Works	<b>SUBMITTED BY:</b> Dane Rau	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input checked="" type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION</b> Discussion and Presentation Regarding the City of Brenham’s Street Program and Street Equipment Inventory		
<p><b>SUMMARY STATEMENT:</b> Over the last 3 months the Street Department has been very active improving streets, implementing the maintenance program, and planning the remainder of the budget year. During this process we have also conducted demos on new strategies used in the reconstruction of streets.</p> <p>To date the Street Dept. has spent approximately \$58,603 (27%) of the annual street budget on improvements to E. Sixth St, Alma St, Lott Ln, Carrington Ln., Shepard Ln., Tarver St. and Hidden Creek Ln. with the last of these 5 being chip sealed. Prior to these, the Street Dept. used the remaining funds from the 2011 tax notes on the overlay of three streets being Gun and Rod/ Stone St. intersection, Spinn St, and Second St. at \$62,351.</p> <p>With the remaining portion of this year’s budget money City Staff has outlined several streets in which it is our goal to improve. We plan to reconstruct Swain St, W. Wilkens (500/600 Block), Day St (700/800 Block), W. Sixth St (400/500 Block) and Ross St (600 Block). We also are planning to chip seal Kuhn Ln., Brooks Ln., and Watts Ln. You can see these in the attached spreadsheet which includes projected costs and how it will relate to the annual budget.</p> <p>The Preventative Maintenance Team has also been very busy using the new Crafcoc crack sealing unit which arrived in November. Since November, 3.3 miles of street have been crack sealed. We are dedicated to using this machine each day and it will make a huge difference in preserving our “Good” and “Excellent” streets in Brenham.</p> <p>On reconstructing streets we have looked at several options and one of the most efficient and economical method is asphalt reclamation with cement stabilization. In the past we have used this method only when we have rented a road mixer such as the BOMAG. This process allows you to reuse the existing road surface by mixing the road base and asphalt together along with the addition of cement. By mixing these together you create a solid base that you can actually use as part of your new road and resources are not used for hauling off the old asphalt and hauling crushed limestone in. The other benefit to it is that it almost eliminates the need for crushed limestone which is one of the biggest costs when reconstructing streets when not using the cement stabilization process.</p>		

In the past, we have spent many days reconstructing a road using a motor grader and adding bag cement and crushed limestone to the road. We were not able to reuse the existing asphalt and with the nature of the motor grader we were only able to do sections of the road at a time, not the entire road. This process was very time consuming and expensive. To give you an example, in May of 2013 we reconstructed 1300 feet of Jefferson St. using the motor grader, bagged cement, and crushed limestone and it took approximately 14 days to complete the process. In December of 2013 we were able to demo an Asphalt Zipper (road grinder) and we were able to reuse the existing asphalt, add Portland cement by tanker truck, mix the entire road (615 feet) and it was completed in two days with a total cost of \$11,900. On Jefferson St., a total of \$9,000 was spent on additional crushed limestone.

With this being said and seeing and knowing the difference that a road mixer provides to our department we would respectfully ask council to consider purchasing a road mixer for the Street Dept. We have used two different types in the last two years. One being the BOMAG road grinder and the other being the Asphalt Zipper. Both machines are capable of doing the same thing but each has its advantages and disadvantages. When we compared each unit one main thing stuck out, which was cost. It is our recommendation to look at the Asphalt Zipper for our road mixing needs. This unit can be used with our Case 621D loader which attaches by a quick connect without the loader bucket. We have checked references on 7 cities that own and operate an Asphalt Zipper and all 7 were pleased with the results of the zipper. This is the same unit that was used on the Alma St demo in December. The model that we are looking at is an AZ-590B which has a 6 foot cutting width and has a tilt option that allows for gutter milling. The unit, unlike the BOMAG will be versatile and used for gutter mills, utility patching and smaller areas that we often provide maintenance on. If money was not an option our preference would be a BOMAG but at this time we feel for the value the Asphalt Zipper will provide us with a road mixer that will allow our department to be more efficient and save money.

We would like to ask council for your support on looking at our options regarding financing a road mixer so that we can operate efficiently and ultimately save money by placing a piece of equipment in our fleet such as this. An Asphalt Zipper including the water tank and transport trailer can be purchased off of HGAC for around \$165,000. The BOMAG can also be purchased through HGAC or Buy board at a price of \$290,000 which is a comparable unit to the Asphalt Zipper but is a standalone unit. Each unit can also be financed or leased purchase as well. All estimated costs in the attached spreadsheet related to reconstruction are using the asphalt reclamation with cement stabilization process. Until we receive a road mixer, we will continue to use the road grader and sac concrete for the planned roads. With this process I cannot guarantee you that all these roads will get completed this budget year and the cost of each one would be significantly higher due to the addition of crushed limestone on each street. We will continue to operate and repair as many roads until that time with the equipment that we currently have in fleet.

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

**A. PROS:** Saves money in the long run, is easier on our Street Dept. staff in that we do not have to use Portland cement by the bag and provides a means of reusing the existing asphalt and sub base instead of wasting that material.

**B. CONS:** Will have to find a way to purchase this piece of equipment either financing or lease to own. First payment would be due on January of 2015.

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

**ATTACHMENTS:** (1) Completed/Planned Spreadsheet; (2) Asphalt Zipper Brochure; (3) BOMAG Brochure; and (4) Funding Options

**FUNDING SOURCE (Where Applicable):**

**RECOMMENDED ACTION:** Discussion Only.

**APPROVALS:** Terry K. Roberts

**STREET DEPARTMENT  
COMPLETED**

Acct. No.	Location	Description of Work	Dimensions	Est Price	Actual	Bond Money	\$69,000
100-315.02	Gun & Rod/Stone	Reconstruction	Intersection	6,996	6,996		
	Spinn	Overlay	2050'/27'	35,000	37,879		
	E/W Second	Overlay	925'/30'	16,790	17,476		
		<b>TOTAL</b>		<b>58,786</b>	<b>62,351</b>		
141-315.40	E Sixth (700/8 Blk)	Reconstruction	815'/35'	24,673	19,173	Budgeted	\$135,000
	Alma	Reconstruction	615'/21'	12,500	11,912		
		<b>TOTAL</b>		<b>37,173</b>	<b>31,085</b>		
141-315.20	Lott Ln	Chip Seal	795'/13'	3,000	2,730	Budgeted	\$80,000
	Carrington Ln	Chip Seal	1100'/15'	4,000	3,905		
	Shepard Ln	Chip Seal	1340'/15'	5,000	4,690		
	Tarver St	Chip Seal	295'/17'	1,200	1,032		
	Hidden Creek Ln	Chip Seal	275'/28'	1,000	963		
	Misc Materials	Cold Mix/Prime Oil/Risers		14,200	14,200		
		<b>TOTAL</b>		<b>28,400</b>	<b>27,520</b>		

1.14.14



# Asphalt Zipper

THE WORLD LEADER  
IN PORTABLE RECLAMATION

AZ-590B  
SPECIFIC ATIONS

## AZ-590B Magnum Powered 6 Foot Reclamation Attachment



Tilts  
9  
degrees!



Shifts to the  
side a total  
of 36"!



NEW! CUTS FULL 72" WIDE!



Engine	260 hp, Tier 3, Cummins Electronic, Intercooled, Turbo Charged Diesel Engine	Weight	Approximately 8,600 lbs**
Planetary	Magnum Duty Oil Cooled Gear Box	Transport	Tandem Axle Trailer (Optional)
Torque	730 Foot Pounds of Torque	Mounting	Quick Connect or Optional Bucket Mount
Cutter Depth	Up to 12"	Cutting Teeth	Bullet-Head, Carbide Tipped
Cutter Width	72" inches 60", 48", 36" (Optional)	Depth Control	Active Hydraulic
Cutting Speed	6000 Sq. Ft. per Hour*	Additional Features	<ul style="list-style-type: none"> <li>• Top-Opening Bit Hatch</li> <li>• Pressurized Belt Tensioning</li> <li>• Tilts left or right 9 degrees</li> <li>• Side Shift</li> <li>• Loader Mounting Adapter</li> <li>• Water Spray Dust Abatement</li> </ul>

\*Actual results may vary depending on asphalt hardness, temperature, oil content, age, desired grind, etc.  
\*\*With standard 72" cutter head installed

310 West 700 South • Pleasant Grove, UT 84062 • Toll free: 888-ZIPPER-8 (947-7378) • Fax: 801-772-0909 • [www.asphaltzipper.com](http://www.asphaltzipper.com)

Asphalt Zipper® reserves the right to change specifications at any time. U.S. Patent No. 7036252, 7066555, 7144087. Other U.S. and Canadian patents pending



**BOMAG**  
FAYAT GROUP

## Recycler, Stabilizer, Stabilizer Deep Mix MPH364R/S/SDM-2



### KEY FEATURES

- All hydrostatic travel system
- Planetary Gearbox Drive Design
- Travel speeds to 10 mph; working speeds to 187 fpm
- Optional environmental cabin
- Rear positioned rotor
- 79" rotor cutting width
- Hydrostatic rotor drive with Automatic Power Adjustment (APA)
- Two (2) rotor cutting speeds
- Selectable hydrostatic front drive axle



**EQUIPMENT PURCHASE OPTIONS**

Item	Cost New	5-Year Owner Financing	5-Year City Financing	Rent to Own
		(per year)	(per year)	(per month for 6 months)
Asphalt Zipper (AZ-590B)	\$165,000	\$37,000	\$35,917	\$12,500 + \$5,500 deposit
Bomag (RS350)	\$290,000	\$66,000	\$63,222	n/a



## AGENDA ITEM 8

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<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 checked="" type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Public Hearing Considering the Amendment of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in a Mixed Residential (R-2) District		
<b>SUMMARY STATEMENT:</b> Prior to considering the request for a specific use permit from HuntJon, LLC for a senior housing facility, the City Council is required to hold a Public Hearing to receive input regarding the request.		
<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> N/A		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		
<b>RECOMMENDED ACTION:</b> Discussion Only.		
<b>APPROVALS:</b> Terry K. Roberts		



## AGENDA ITEM 9

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 16, 2014	
<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 checked="" type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Public Hearing Considering the Amendment of Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten Feet (10’) as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure		
<b>SUMMARY STATEMENT:</b> Prior to considering an ordinance to amend Part II, Division 1, Section 17.04 of Appendix A – “Zoning” of the Code of Ordinances, a public hearing must be held to hear input regarding this proposed amendment.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
A. PROS:		
B. CONS:		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>		
<b>ATTACHMENTS:</b> N/A		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		
<b>RECOMMENDED ACTION:</b> Discussion Only.		
<b>APPROVALS:</b> Terry K. Roberts		



## AGENDA ITEM 10

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<b>DEPT. OF ORIGIN:</b> Brenham EDF	<b>SUBMITTED BY:</b> Clint Kolby	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 <sup>ST</sup> READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 <sup>ND</sup> READING
<input type="checkbox"/> EXECUTIVE SESSION	<input type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
<b>AGENDA ITEM DESCRIPTION:</b> Public Hearing, Discussion and Receipt of Input Related to the Proposed Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas		
<b>SUMMARY STATEMENT:</b> Prior to considering the creation of a Reinvestment Zone for implementing a Tax Phase-In incentive for Tempur-Sealy International, Inc., the City Council is required to hold a Public Hearing to receive input regarding the proposal.		
<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> None.		
<b>FUNDING SOURCE (Where Applicable):</b>		
<b>RECOMMENDED ACTION:</b> Discussion Only.		
<b>APPROVALS:</b> Terry K. Roberts		



## AGENDA ITEM 11

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<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 Granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) Being Located on All or Portions of Lots 18A, 19 and 20 Within the Randle Second Addition in the City of Brenham, Washington County, Texas (Said Property Consisting of 2.0 Acres, More or Less, and Being Bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District		
<b>SUMMARY STATEMENT:</b> This request is for a senior housing apartment complex (defined as a retirement village in the zoning ordinance) on approximately 2 acres of land located northeast of downtown, near a large medical facility and residential neighborhood. Staff believes multi-family development for seniors is compatible with the neighborhood and would provide orderly growth. Staff also believes this is an ideal location for a senior housing community because of its close proximity to the medical offices, and further a grocery store and downtown. Additionally, this developer will apply for tax-credit benefits through the Texas Department of Housing and Community Affairs, if the specific use permit request is approved.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<p><b>A. PROS:</b> Provide affordable housing for seniors in a mixed use area.</p> <p><b>B. CONS:</b></p>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> 1. Approve ordinance approving specific use permit; 2. Modify ordinance approving specific use permit; 3. Deny specific use permit request.		
<b>ATTACHMENTS:</b> (1) Ordinance Approving Specific Use Permit Request with Attachment A; and (2) P&Z Staff Report		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading granting a Specific Use Permit to HuntJon, LLC for a Senior Housing Facility (Apartments) being located on all or portions of Lots 18A, 19 and 20 within the Randle Second Addition in the City of Brenham, Washington County, Texas (said property consisting of 2.0 acres, more or less, and being bounded by Liberty Street, North Market Street, and Cottonwood Street), in an R-2, Mixed Residential District.

**APPROVALS:** Terry K. Roberts

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

**AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP TO GRANT A SPECIFIC USE PERMIT FOR A RETIREMENT VILLAGE ON A SITE AREA OF TWO ACRES OR MORE (SENIOR APARTMENT HOUSING) IN AN R-2 (MIXED RESIDENTIAL) ZONING DISTRICT AND BEING LOCATED ON ALL OR PORTIONS OF LOTS 18A, 19, AND 20 WITHIN THE RANDLE SECOND ADDITION TO THE CITY OF BRENHAM, WASHINGTON COUNTY, TEXAS.**

**WHEREAS**, the City of Brenham has adopted Appendix A – “Zoning” of the City of Brenham Code of Ordinances, as amended, which divides the City of Brenham into various zoning districts;

**WHEREAS**, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant specific use permits for specific uses within the various zoning districts; and

**WHEREAS**, this amendment was recommended for approval by the Brenham Planning and Zoning Commission during its regular meeting on January 6, 2014;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:**

*SECTION 1.* That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map of the City of Brenham is hereby amended to grant a specific use permit for retirement village on a site area of two acres or more (senior apartment housing) in an R-2 (Mixed Residential) zoning district and being located on all or portions of Lots 18A, 19, and 20 within the Randle Second Addition to the City of Brenham, Washington County, Texas (said property bounded by Liberty, North Market, and Cottonwood Streets). Furthermore, the specific use permit approval is subject to the development substantially conforming to the concept plan shown on Exhibit A.

*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 \_\_\_\_\_, 2014.

**PASSED and APPROVED** on its second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

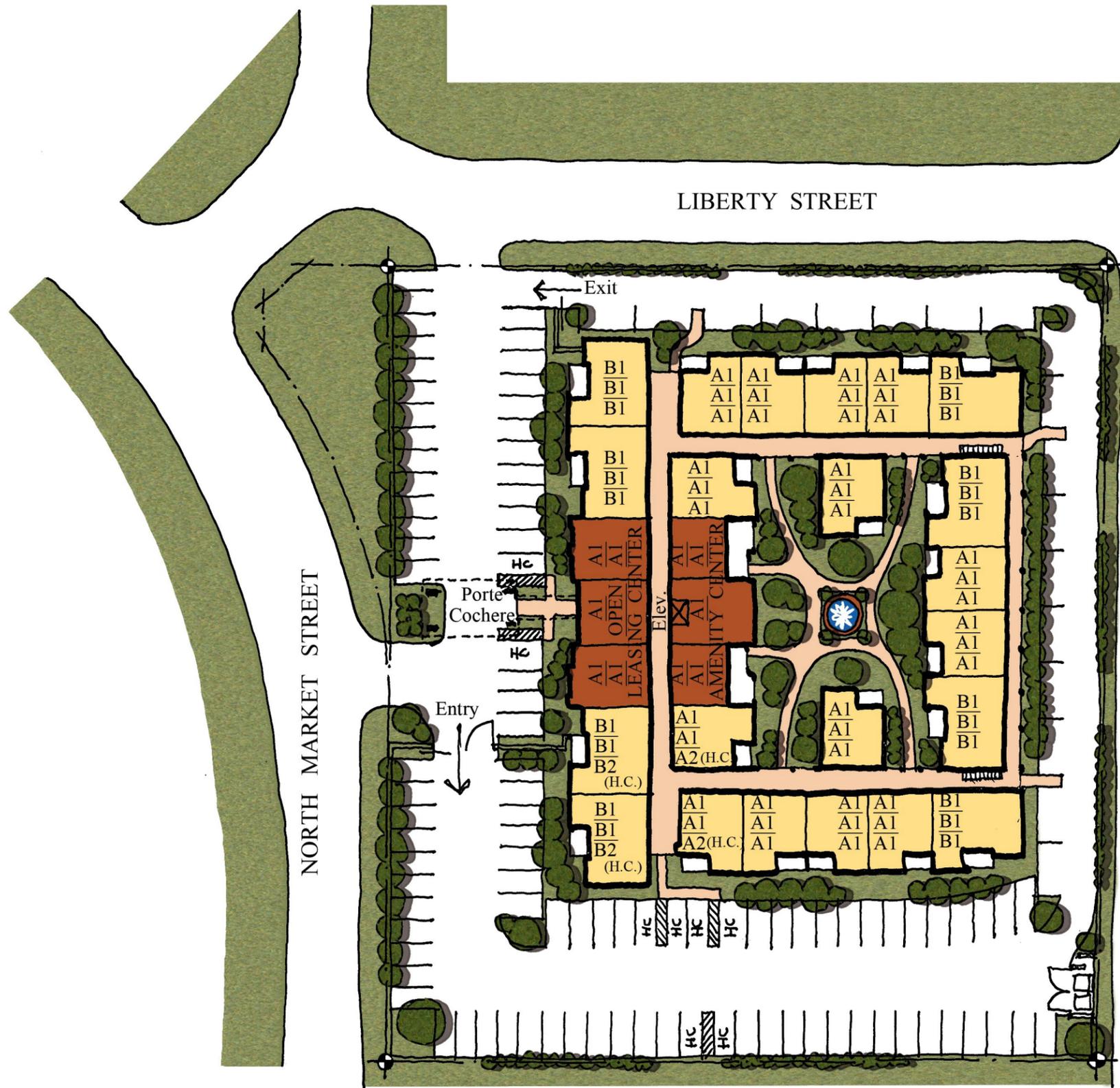
**ATTEST:**

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

# BELLE TOWERS

*A Seniors Community*  
Mucasey & Associates, Architects

December 15, 2013



## PROJECT SUMMARY:

### Apartments:

Type	Description	Area	Qty.
A1	One Bedroom, 1 Bath	729 s.f.	50
A2	One Bedroom, 1 Bath (H.C.)	729 s.f.	2
Total One Bedroom Units			52 Units
B1	Two Bedroom, 2 Bath	990 s.f.	22
B2	Two Bedroom, 2 Bath (H.C.)	990 s.f.	2
Total Two Bedroom Units			24 Units
Apartments Total		61,668 s.f.	76 Units
Amenity Center		4,979 s.f.	
Project Total		66,647 s.f.	

### Parking Required:

76 units @ 1.5 cars per unit =	114 Cars
Parking Provided	114 Cars



# **BELLE TOWERS**

*A Seniors Community*  
Mucasey & Associates, Architects



## Specific Use Request: Belle Towers Senior Community

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**STAFF CONTACT:** Julie Fulgham, Director of Development Services

**OWNERS/APPLICANTS:** Marvalette Hunter, HuntJon, LLC

**LEGAL DESCRIPTION:** Approximately 2.03 acres bounded by Cottonwood, Liberty, and North Market Streets, specifically being Lots 19, 20 and part of Lot 18A within the Randle Second Addition to the City of Brenham, Washington County, Texas

**REQUEST:** A request for a specific use permit to allow a retirement village (apartments) on a site that is approximately 2.03 acres within an R-2 Mixed Residential zoning district. Retirement Villages (senior apartments) are allowed by right within the R-2 zoning district when located on a parcel less than 2 acres.

**SUMMARY RECOMMENDATION:**

Staff recommends approving the specific use permit request.



Aerial photograph



Zoning map

#### ANALYSIS OF CITY OF BRENHAM ZONING POLICIES:

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

- (1) The city's zoning should recognize and seek to preserve the small town attributes that make Brenham a special place for its citizens to live, work and play.**

This request should have no effect on the small town attributes that make Brenham a unique community.

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

This request is for property within an R-2 District and the proposed use is compatible with the list of permitted uses within this district. Apartments are allowed on sites less than two acres and this site is 2.03 acres. The request does not contradict any portion of the Comprehensive Plan. Furthermore, this tract lies across the street from the boundaries of the Downtown Master Plan, which encourages senior housing developments within this area, near the Brenham Clinic.

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

This property is currently undeveloped and this project would be considered an infill project, meaning extension of public utilities is not necessary and development of this site would not cause a burden on the infrastructure in the area.

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

Surrounding properties are zoned within the R-2 District or B-1 District and conflicts between existing and proposed uses should not arise because of the consistent zoning within the area. This tract would serve as a buffer area between more commercial areas to the southwest and single- or two-family development patterns that exist to the northeast.

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

All notification requirements were met with this application and a copy of this staff report was provided to the property owners.

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

The zoning ordinance limits the amount of impervious coverage allowed on a lot at the time of development. All performance criteria shall be met for this site.

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

The property's use as an apartment complex should not impact the future location of businesses or housing within this area.

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

Residential neighborhoods nearby should be preserved by the low impact (in terms of traffic, noise, or undesired activity nearby residential uses) of apartments. Apartments are residential structures compatible within residential neighborhoods.

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

This request buffers the existing low density residential neighborhood with a medium density residential use from the existing non-residential uses further west of this area.

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

This property is currently surrounded by R-2 zoning and the continuation of R-2 zoning on this tract will not negatively impact adjoining properties.

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

Commercial zoning is not appropriate at this location and in this vicinity and this request preserves the residential zoning on this property. The scale of this development is compatible with nearby residential uses.

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

This property is vacant and development of the site with apartment would not create incompatible uses.

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

This land is near a large medical facility and residential neighborhood. Staff believes multi-family development is compatible with the neighborhood and would provide orderly growth. Staff also believes this is an ideal location for a senior housing community because of its close proximity to the medical offices, and further a grocery store and downtown.

**STAFF RECOMMENDATION:**

Staff recommends **approving** the specific use permit, subject to substantial conformity with the attached concept plan.



## AGENDA ITEM 12

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 16, 2014	
<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 Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to Establish Ten (10) Feet as the Minimum Distance Allowed Between an Accessory Structure and a Main Structure		
<b>SUMMARY STATEMENT:</b> City staff believes a twenty-foot separation requirement between accessory structures and the principal structure on a single-family lot is excessive. Modern development trends are for smaller lots due to the costs of developing subdivisions and many single-family residential dwellings are being constructed at the minimum rear twenty-five foot building line. In order to construct an accessory structure, the principal structure must be set much farther away from the minimum rear property line in order to accommodate a twenty-foot separation between these structures, as currently is required. Staff recommends amending the separation between a principal structure and accessory structure distance to a minimum of ten feet instead of twenty. A ten-foot separation is standard in many cities throughout Texas as it is a standard allowable distance in the International Residential Building Code. This amendment does not relax the total amount of coverage allowed on lots so the maximum density (as it relates to building mass) is not increased within this proposed amendment.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<p>A. <b>PROS:</b> relaxing the minimum separation standards allows for greater flexibility and is more aligned with regulations found within the Building Code.</p> <p>B. <b>CONS:</b></p>		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> 1. Approve the proposed text amendment to Appendix A – “Zoning” as recommend by the P&Z Commission at their January 6 <sup>th</sup> Regular Meeting; 2. Deny the proposed text amendment		
<b>ATTACHMENTS:</b> (1) Ordinance; and (2) Memo to P&Z		

**FUNDING SOURCE (Where Applicable):** N/A

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading amending Part II, Division 1, Section 17.04, Rear Yards, of Appendix A – “Zoning” of the Code of Ordinances of the City of Brenham to establish ten feet (10’) as the minimum distance allowed between an accessory structure and a main structure.

**APPROVALS:** Terry K. Roberts

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

**AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING PART II, DIVISION 1, SECTION 17.04, AND SPECIFICALLY AMENDING THE MINIMUM SEPERATION STANDARDS BETWEEN ACCESSORY AND MAIN BUILDINGS.**

**BE IT ORDAINED BY THE CITY OF BRENHAM, TEXAS, THAT APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AND THE OFFICIAL ZONING MAP BE AMENDED IN THE FOLLOWING MANNER:**

*SECTION 1.* That Appendix A - "Zoning" of the Code of Ordinances of the City of Brenham, Texas, and the Official Zoning Map are hereby amended as follows:

(Sec. 17.04) Rear Yards. In residential districts, an accessory building not exceeding twenty (20) feet in height may occupy a maximum of twenty-five (25) percent of the rear yard, and unenclosed parking spaces may occupy a maximum of eighty (80) percent of the area of a required rear yard provided that the total lot coverage shall not exceed the maximum allowable for the district in which the subject property is located. No accessory building shall be closer to any rear or side lot line than applicable zoning district regulations allow and no accessory building that contains more than 100 square feet of gross floor area shall be closer than ten (10) feet to the main building.

*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 23<sup>rd</sup> day of January, 2014.

**PASSED and APPROVED** on its second reading this the 6<sup>th</sup> day of February, 2014.

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

ATTEST:

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

# Memorandum



To: Planning and Zoning Commission

From: Julie Fulgham, Director of Development Services

Date: January 6, 2014

Re: Text Amendment – Minimum Separation Requirement between Accessory Structures and the Main Structure

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City staff believes a twenty-foot separation requirement between accessory structures and the principal structure on a single-family lot is excessive. Modern development trends are for smaller lots due to the costs of developing subdivisions and many single-family residential dwellings are being constructed at the minimum rear twenty-five foot building line. In order to construct an accessory structure, the principal structure must be set much farther away from the minimum rear property line in order to accommodate a twenty-foot separation between these structures, as currently is required. Staff recommends amending the separation between a principal structure and accessory structure distance to a minimum of ten feet instead of twenty. A ten-foot separation is standard in many cities throughout Texas and is a standard allowable distance in the International Residential Building Code.

Below is the proposed text amendment to the Zoning Ordinance changing the minimum separation requirement from twenty (20) feet to ten (10) feet.

**PART II  
DISTRICT REGULATIONS  
DIVISION 1  
REGULATIONS OF GENERAL APPLICABILITY**

**Sec. 17.** Height and area exceptions of general applicability

**(Sec. 17.04) Rear Yards.** In residential districts, an accessory building not exceeding twenty (20) feet in height may occupy a maximum of twenty-five (25) percent of the rear yard, and unenclosed parking spaces may occupy a maximum of eighty (80) percent of the area of a required rear yard provided that the total lot coverage shall not exceed the maximum allowable for the district in which the subject property is located. No accessory building shall be closer to any rear or side lot line than applicable zoning district regulations allow and no accessory building that contains more than 100 square feet of gross floor area shall be closer than ~~twenty (20)~~ ten (10) feet to the main building.



### AGENDA ITEM 13

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<b>DEPT. OF ORIGIN:</b> Brenham EDF	<b>SUBMITTED BY:</b> Clint Kolby	
<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 for the Creation of Reinvestment Zone Number 38 Requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In Incentive on a Certain Tract of Land Containing 11.979 Acres, More or Less, Being Located at 1201 U.S. Highway 290, Brenham, Texas, with Boundaries Further Described in Exhibit “A” of Said Ordinance, and Designating This Property as Qualifying for Tax Phase-In.		
<b>SUMMARY STATEMENT:</b> The EDF has been working with a consultant representing Tempur-Sealy’s corporate office over the past five months in their site selection process to locate their expansion project. After competing with several other communities throughout the nation, Tempur-Sealy has tentatively accepted our incentive package to locate this project at the Brenham plant.  If granted local incentives, Tempur-Sealy has plans to invest \$500,000 in capital to purchase new machinery & equipment and add 104 new jobs. They will be retaining 160 existing employees as well. The use of local incentives will help off-set the initial costs of investing in physical and human capital. This project would also provide a substantial positive economic impact to the rest of the local Brenham economy.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<b>A. PROS:</b> Approve the ordinance creating Reinvestment Zone Number 38 and contribute to the future economic development of the City.		
<b>B. CONS:</b> If the ordinance creating Reinvestment Zone Number 38 is not approved, then Tempur-Sealy may decide to locate in one of the other communities they are considering.		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>		
<b>ATTACHMENTS:</b> (1) Ordinance; (2) Exhibit A – Property Legal Description and Aerial Map; and (3) Tax Phase-In Application from Tempur-Sealy International		

**FUNDING SOURCE (Where Applicable):**

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading for the creation of Reinvestment Zone Number 38 requested by Tempur-Sealy International, Inc. for Commercial-Industrial Tax Phase-In incentive on a certain tract of land containing 11.979 acres, more or less, being located at 1201 U.S. Highway 290, Brenham, Texas, with boundaries further described in Exhibit “A” of said Ordinance, and designating this property as qualifying for Tax Phase-In.

**APPROVALS:** Terry K. Roberts

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

AN ORDINANCE DESIGNATING A TRACT OF LAND CONTAINING 11.979 ACRES OF LAND, MORE OR LESS SITUATED IN THE PHILLIP COE SURVEY, A-31, AND BEING A PORTION OF THE 55.990 ACRES TRACT DESCRIBED IN A DEED FROM FRED J. RODECK, AT UX TO THE BRENHAM INDUSTRIAL FOUNDATION, INC., RECORDS OF WASHINGTON COUNTY, TEXAS, AND BEING A PORTION OF THE 16.386 ACRE TRACT DESCRIBED AS TRACT ONE IN A DEED FROM CARL GALLIP, ET AL TO THE BRENHAM INDUSTRIAL FOUNDATION, INC. DATED SEPTEMBER 20, 1978, RECORDED IN VOLUME 371, PAGE 355, DEED RECORDS OF WASHINGTON COUNTY, TEXAS, AND BEING A PORTION OF THE TWO TRACTS OF LAND DESCRIBED IN A DEED FROM KATHLEEN PATRICIA MUSHAWAY TO HI-LINE INDUSTRIES, INC. DATED APRIL 30, 1974, RECORDED IN VOLUME 329, PAGE 91, DEED RECORDS OF WASHINGTON COUNTY, TEXAS, AND BEING A PORTION OF THE 8.00 ACRES DATED DECEMBER 3, 1959, RECORDED IN VOLUME 224, PAGE 399, DEED RECORDS OF WASHINGTON COUNTY, TEXAS, AND BEING A PORTION OF THE 2.151 ACRES TRACT DESCRIBED IN A DEED FROM THE BRENHAM INDUSTRIAL FOUNDATION, INC. TO CENTRAL FREIGHT LINES, INC., DATED FEBRUARY 20, 1965, RECORDED IN VOLUME 258, PAGE 506, DEED ACRE TRACT CONVEYED BY ED WEHMEYER TO BRENHAM INUDSTRIAL FOUNDATION BY DEED RECORDED IN VOLUME 198, PAGE 56, WASHINGTON COUNTY DEED RECORDS; BEING PART OF THE 14.504 ACRES TRACT CONVEYED BY FRED RODECK TO BRENHAM INDUSTRIAL FOUNDATION BY DEED RECORDED IN VOLUME 198, PAGE 43, WASHINGTON COUNTY DEED RECORDS, AS REINVESTMENT ZONE NUMBER THIRTY-EIGHT FOR COMMERCIAL TAX PHASE-IN INCENTIVE AS PROVIDED IN CHAPTER 312, TEXAS TAX CODE; ESTABLISHING THE NUMBER OF YEARS FOR THE ZONE, AUTHORIZING AN AGREEMENT FOR EXEMPTION FROM TAXATION THE INCREASE IN VALUE OF CERTAIN PROPERTY IN ORDER TO ENCOURAGE DEVELOPMENT AND REDEVELOPMENT AND OTHER MATTERS RELATING THERETO; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

**WHEREAS**, the City Council of the City of Brenham, Texas, ("City") desires to encourage supervised improvements by property owners and lessees through tax phase-in procedures within its jurisdiction by the creation of a reinvestment zone as authorized by Chapter 312, Texas Tax Code (the "Act"); and

**WHEREAS**, on the 23<sup>rd</sup> day of January, 2014, the City Council held a public hearing to receive comments concerning the designation of proposed Reinvestment Zone Number Thirty-Eight. The notice of such hearing was published on January 16, 2014, such date being not later than the seventh day before the date of the public hearing; and

**WHEREAS**, the City called a public hearing and published notice of such public hearing as required by Section 312.201 of the Act; and has delivered written notice to the presiding officer of the governing body of each taxing unit within the jurisdiction of the proposed Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In; and

**WHEREAS**, at said public hearing the City presented evidence that such proposed designation would be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property, that the proposed improvements are feasible and practical, that said improvements would be a benefit to the land included in the zone and that would contribute to the economic development of the City; and

**WHEREAS**, the designation of the proposed reinvestment zone is consistent with the City's policies adopted by Council Resolution No. R-13-020 on the 5<sup>th</sup> day of December, 2013, and will benefit the land included within the Reinvestment Zone after the expiration of the Agreement; and

**WHEREAS**, the City at such public hearing invited any interested person or his attorney to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory which is referred to as City of Brenham Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, should be included in such proposed reinvestment zone, and obtain tax phase-in; and

**WHEREAS**, at such hearing recommendations were given as to the number of years the reinvestment zone would be designated, the number of years in which an agreement would be available, as well as the percentage of potential tax exemption under the aforesaid tax phase-in guidelines and criteria to be applied to taxable real property which is redeveloped.

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

**Section 1.** That the facts and recitations contained in the preamble of this Ordinance are hereby found and declared to be true and correct and are incorporated herein for all purposes.

**Section 2.** That the City, after conducting such hearing having further studied recommendations, as well as the evidence presented at the public hearing, has made the following findings based on the evidence and testimony presented to it:

- a) That the public hearing on the adoption of the reinvestment zone under the provisions of the Act has been properly called, held and conducted and that notice of such hearing has been published as required by law and has been sent to the respective taxing units within the proposed reinvestment zone; and
- b) That the City has jurisdiction to hold and conduct said public hearing on the creation of the proposed reinvestment zone pursuant to the Act; and
- c) That creation of the proposed reinvestment zone with boundaries described herein will result in improvements made after the passage of this Ordinance and the execution of tax abatement agreements, that are feasible and practical and will benefit the City, its residents and property owners in the reinvestment zone; and
- d) That the proposed designation will be reasonably likely to contribute to the retention or expansion of primary employment or to attract major investments to the zone that would be a benefit to the property and contribute to economic development of the City.

**Section 3.** That the City hereby creates Reinvestment Zone Number Thirty-Eight, designated as a tract of land containing 11.979 acres of land, more or less situated in the Phillip Coe Survey, A-31, and being a portion of the 55.990 acres tract described in a deed from Fred J. Rodeck, et ux to The Brenham Industrial Foundation, Inc., Records of Washington County, Texas, and being a portion of the 16.386 acre tract described as Tract One in a deed from Carl Gallip, et al to The Brenham Industrial Foundation, Inc. dated September 20, 1978, recorded in Volume 371, Page 355, Deed Records of Washington County, Texas, and being a portion of the two tracts of land described in a deed from Kathleen Patricia Mushaway to Hi-Line Industries, Inc. dated April 30, 1974, recorded in Volume 329, Page 91, Deed Records of Washington County, Texas, and being a portion of the 8.00 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated December 3, 1959, recorded in Volume 224, Page 399, Deed Records of Washington County, Texas, and being a portion of the 2.151 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated February 20, 1965, recorded in Volume 258, Page 506, Deed acre tract conveyed by Ed Wehmeyer to Brenham Industrial Foundation by deed recorded in Volume 198, Page 56, Washington County Deed Records; being part of the 14.504 acres tract conveyed by Fred Rodeck to Brenham Industrial Foundation by deed recorded in Volume 198, Page 43, Washington County Deed Records, said property being located at 1201 U.S. Highway 290, Brenham, Texas, said property being more fully described in

Exhibit “A” attached hereto and incorporated herein for all purposes, and such reinvestment zone shall hereafter be identified as Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, City of Brenham, Texas.

**Section 4.** That the designation of Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In, shall expire five (5) years from the date of this Ordinance, unless renewed as provided by the Act, or at an earlier time designated by subsequent ordinance.

**Section 5.** That written agreements as provided in the Act with owners of eligible property located within the reinvestment zone shall be for a period of up to ten (10) years, and that the eligible property that is subject to the above mentioned exemption from taxation shall be the improvements to the property in conformity with the City's criteria and guidelines, and written agreements shall provide for an exemption from taxation of the total increase in value of the eligible property over its value in the year the agreement is executed. The written agreement will require that all taxes be current at the time of execution of agreement and be kept current to all taxing entities during the term of said agreement.

**Section 6.** That said designation of Reinvestment Zone Number Thirty-Eight for Commercial Tax Phase-In and the written agreement thereof are in accordance with the City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises and will be a benefit to the land which will be included within the Reinvestment Zone and to the City of Brenham after the expiration of the agreement.

**Section 7.** That if any provision of this Ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part of it.

**Section 8.** That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required.

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Milton Y. Tate, Jr.  
Mayor

**ATTEST:**

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Jeana Bellinger, TRMC  
City Secretary

## Exhibit A

FIELD NOTE to a tract of land containing 11.979 acres (521,815 square feet) of land, more or less situated in the Phillip Coe Survey, A-31, and being a portion of the 55.990 acres tract described in a deed from Fred J. Rodeck, et ux to The Brenham Industrial Foundation, Inc., dated April 28, 1978, recorded in Volume 364, Page 217, Deed Records of Washington County, Texas, and being a portion of the 16.386 acre tract described as Tract One in a deed from Carl Gallip, et al to The Brenham Industrial Foundation, Inc. dated September 20, 1978, recorded in Volume 371, Page 355, Deed Records of Washington County, Texas, and being a portion of the two tracts of land described in a deed from Kathleen Patricia Mushaway to HI-Line Industries, Inc. dated April 30, 1974, recorded in Volume 329, Page 91, Deed Records of Washington County, Texas, and being a portion of the 8.00 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated December 3, 1959, recorded in Volume 224, Page 399, Deed Records of Washington County, Texas; and being a portion of the 2.151 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated February 20, 1965, recorded in Volume 256, Page 506, Deed Records of Washington County, Texas, and being part of the 15.004 acre tract conveyed by Ed Wehmayer to Brenham Industrial Foundation by deed recorded in Volume 198, Page 56, Washington County Deed Records; being part of the 14.504 acres tract conveyed by Fred Rodeck to Brenham Industrial Foundation by deed recorded in Volume 198, Page 43, Washington County Deed Records and more particularly described by metes and bounds as follows:

BEGINNING at a set 1/2" iron rod marking the intersection of the south right-of-way line of US 290 (variable right-of-way) and the westerly line of Gulf Coast & Santa Fe Rail Road, same being the beginning of a curve to the left;

THENCE with said curve to the left along the westerly right-of-way line of Gulf Coast & Santa Fe Rail Road having a radius of 19007.80 feet subtending a central angle of 02° 00' 36" and a length of 668.81 feet to a set 1/2" iron rod;

THENCE N 49° 00' 00" W a distance of 183.80 feet to a set 1/2" iron rod;

Exhibit A

THENCE N 55° 10' 00" W a distance of 228.51 feet to a set 1/2" iron rod;

THENCE S 34° 28' 00" W a distance of 150.89 feet to a set 1/2" iron rod;

THENCE S 74° 20' 33" W a distance of 358.15 feet to a found 5/8" iron rod;

THENCE N 69° 41' 55" W a distance of 458.82 feet to a found 1/2" iron rod in the northeast right-of-way line of a private street, same being the beginning of a curve to the left;

THENCE with said curve to the left along the northeast right-of-way line of a private street with a radius of 70.00 feet subtending a central angle of 50° 25' 28" and a length of 61.81 feet to a found 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 156.26 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 50.88 feet to a set 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 264.35 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 240.00 feet to a set 1/2" iron rod;

THENCE N 34° 46' 48" E a distance of 510.00 feet to a set 1/2" iron rod marking the south right-of-way line of US 290 (variable width);

THENCE S 55° 10' 00" along the south right-of-way line of US 290 (variable width) a distance of 345.80 feet to the POINT OF BEGINNING and containing 11.979 acres, more or less.

FILED FOR RECORD  
WASHINGTON COUNTY, TEXAS

2007 JUN 27 AM 11:14

BETH A. ROTHERMEL  
WASHINGTON COUNTY CLERK

STATE OF TEXAS  
COUNTY OF WASHINGTON

I hereby certify that this instrument was FILED on the date and at the time affixed hereon by me and was duly RECORDED in the volume and page of the OFFICIAL RECORDS of Washington County, Texas, as stamped hereon by me on

JUN 28 2007

*Beth A. Rothermel*

Beth Rothermel, County Clerk  
Washington County, Texas



# EXHIBIT A





## MEMO

To: Mayor Tate and City Council  
From: Brenham Economic Development Foundation  
Date: January 9, 2014  
Re: Tempur-Sealy International Tax Phase-In Application

The Brenham Economic Development Foundation (EDF) respectfully requests your consideration of an application for Tax Phase-In from Tempur-Sealy International.

The EDF has been working with Tempur-Sealy over the past five months in their site selection process to expand their operations here at the Brenham plant located at 1201 U.S. Hwy 290. The use of the Tax Phase-In incentive will help Tempur-Sealy invest in the necessary equipment and human capital to help offset the initial costs of locating this expansion project here. Additionally, Brenham was in strong competition with several other communities throughout the nation and their decision to locate here is contingent upon them receiving local incentives. This project would also provide a substantial positive economic impact to the local Brenham economy.

**JOB CREATION:** Tempur-Sealy will **create 104 jobs** during the first year of operations. The 104 new jobs that will be created are projected to have an average base salary of \$34,000, plus additional benefits. In addition to the new jobs, they will be retaining 160 existing jobs.

**CAPITAL INVESTMENT:** Tempur-Sealy will be **investing \$500,000** in capital for this project. The capital will be used to buy new machinery and equipment.

**NEW TAXES PAID:** If located in Brenham, Tempur-Sealy will pay **a total of \$513 in new taxes in its first year** of operation (\$282 in city taxes). The company will receive an abatement of \$4,616 in year-one (\$2,534 from city taxes). At the end of its tax phase-in period, Tempur-Sealy will have paid **a total of \$65,752 in new taxes** (\$9,857 in city taxes), and will have received a total abatement of \$23,080 (\$12,671 from city taxes). At no point in the tax phase-in process does any company receive abatements on taxes for Blinn College or Brenham ISD.

Attached you will find:

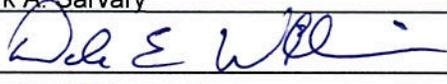
- A) Tax Phase-In application
- B) Management and brief history
- C) Economic Impact Analysis
- D) Property legal description
- E) Aerial Map
- F) Tax Phase-In schedules
- G) Tax Phase-In calculation

As you review the attached documents, if you have any questions, please contact Clint Kolby at the Brenham Economic Development Foundation office at (979)836-8927 or [clint@brenhamtexas.com](mailto:clint@brenhamtexas.com).

**TAX PHASE-IN APPLICATION**

This application must be filed in conformance with the City of Brenham/Washington County Guidelines and Criteria for Tax Phase-In. The application must be filed prior to the beginning of construction or installation of equipment. Approval of this application is discretionary with the City Council and/or Commissioner's Court. All applications submitted to the City of Brenham must be received 20 days before the publication deadline.

**APPLICANT INFORMATION**

Company Name	<u>Tempur Sealy International, Inc.</u>	
Address of HQ	<u>1000 Tempur Way</u>	Annual Sales <u>\$1,402.9 M</u>
	<u>Lexington, KY 40511</u>	Years in Business <u>22</u>
Company President	<u>Mark A. Sarvary</u>	Total Employees <u>1,950</u>
Authorized Signature	<u></u>	Brenham Address:
Title	<u>EVP &amp; CFO</u>	<u>1201 Hwy 290 W</u>
Date	<u>1/7/14</u>	<u>Brenham, TX 77833</u>
Contact Person	<u>Amy Thomas Laub</u>	Telephone <u>979-836-6644</u>

Attach a description of the Company including a brief history, corporate structure and business plan and annual statement, if available.

**PROJECT INFORMATION**

Type of Targeted Enterprise:

Agriculture/ Aquaculture Facility;  Manufacturing/Assembly;  Distribution;  Research

Products and services to be provided: Mattresses, foundations, pillows and other products

**SITE INFORMATION**

Address	<u>1201 Hwy 290 W, Brenham, TX 77833</u>
Legal Description	<u>Coe, Phillip, Tract 180, Acres 11.979</u>

Attach map showing project location.

New Facilities  Expansion of Existing Facilities  Modernization/Remodel

**ECONOMIC INFORMATION**

Construction Estimates

Start Date N/A Contract Amount N/A  
 Completion Date N/A # Construction Jobs N/A

Estimated Appraised Values	Land	Building/Equipment	Personal Property
Value before Tax Phase-In begins	<u>\$105,420</u>	<u>\$4,799,210</u>	<u>\$2,227,740</u>
Value after Tax Phase-In expires	<u>\$105,420</u>	<u>\$5,299,210</u>	<u>\$2,227,740</u>

**PERMANENT EMPLOYMENT INFORMATION**

Will this project create or retain a minimum of 10 jobs at an average base salary of \$33,000/year, or higher, including benefits throughout the tax phase-in process? (yes/no) Yes

Estimated number of jobs to be created	Total	Washington County Residents	Out of County Residents
After first year	104	--	--
End of tax phase-in	104	--	--

Estimated number of jobs to be retained	Total	Washington County Residents	Out of County Residents
After first year	160	121	39
End of tax phase-in	160	121	39

**CHECK LIST FOR APPLICATION FOR TAX PHASE-IN**

All applicants for tax incentives should provide the following:

	ATTACHED	NOT APPLICABLE
(a) A description of waste and by-products, including any air or water pollution generated by the business.	_____	_____ X _____
(b) A drawing showing location of the property, all roadways within 500 feet, current land uses and zoning within 500 feet and a complete metes and bounds description if the property is not platted.	_____ X _____	_____
(c) Itemized estimated cost of the real property and improvements proposed.	_____ X _____	_____
(d) A description of financing methods and projected time when costs or obligations are to be incurred.	_____ X _____	_____
(e) The amount and duration of any tax phase-in requested.	_____ X _____	_____
(f) Any other incentives requested.	_____ X _____	_____
(g) A description of reason for requesting incentives.	_____ X _____	_____
(h) Impact on the project scope and/or location of the project if incentives are not granted.	_____ X _____	_____
(i) Description of tax phase-in requested or to be requested from other applicable taxing entities.	_____ X _____	_____
(j) Details of job types and number employed in each.	_____ X _____	_____
(k) Wages and benefits per job type.	_____ X _____	_____
(l) Schedule of job creation/retention during the tax phase-in period.	_____ X _____	_____
(m) Estimated number and type of employees to be hired/retained from the local labor force.	_____ X _____	_____
(n) Estimated number and type of employees that will be relocated into the local area.	_____ X _____	_____
(o) Projected total payroll.	_____ X _____	_____
(p) Projected utility volume: electricity, natural gas and water.	_____ X _____	_____
(q) Projected Annual Sales tax.	_____	_____ X _____
(r) Projected goods and services purchased from local vendors.	_____	_____ X _____
(s) Description of utility lines and other infrastructure requirement by the City and by the Project.	_____ X _____	_____

**ADDITIONAL PROJECT INFORMATION**

- (a) Not applicable.
- (b) Please see attached aerial map.
- (c)
 

Land	\$0.00
Building Cost	\$0.00
Equipment cost	<u>\$500,000.00</u>
 Total	 <u>\$500,000.00</u>
- (d) The project will be internally financed through existing cash reserves.
- (e) Tax phase-in is projected to be \$23,080 over a period of 8 years. Please see attachment.
- (f) Other incentives requested and granted to the project include being nominated to the Texas Enterprise Zone Program, job-training assistance through the Skills Development Fund, and a local performance-based cash grant.
- (g) The incentives will help off-set the initial costs of making human and capital investments at the Brenham plant location.
- (h) The Brenham plant location is in a competitive process with 15 other communities throughout the U.S. to locate this project. If these incentives are not granted, the Brenham location becomes less feasible over the other communities.
- (i) The tax phase-in incentive is expected to be \$23,080 over a period of 8 years in City and County taxes on the new real property value created from this project. Brenham ISD and Blinn College property taxes will be paid in full at all times.
- (j) For new jobs to be created there will be 100 factory workers/fleet drivers and 4 supervisors/office workers.
- (k) Factory workers/fleet drivers: average W2 wage - \$34,000; benefits - 45%  
Supervisors/office workers: average W2 wage - \$70,000; benefits - 35%
- (l) All new jobs will be created in 2014.

	Q1 2014	Q2 2014	Q3 2014	Q4 2014
Total Hourly	93	6	1	0
Total Salary	4	0	0	0
Total Employees	97	6	1	0

- (m) Priority will be given to the local labor force. However, Tempur-Sealy plans on hiring any skilled labor from within a 1-hour drive-time radius of Brenham.
- (n) The exact number is not yet known.
- (o) Projected new total payroll is estimated to be \$3,680,000.
- (p) Upon completion of the project, electricity consumption is expected to increase by 35 percent and water and natural gas consumption is expected to stay the same. See estimates below:

Estimated average annual electricity consumption – 178470 (includes 35% increase)  
Estimated average annual natural gas consumption – 82  
Estimated average annual water consumption – 65508

- (q) Not applicable.
- (r) Not applicable.
- (s) Electrical upgrades will need to be made at the site for this project.

## Management Team and Brief History

**Mark A. Sarvary** - President and Chief Executive Officer

**David Montgomery** - Executive Vice President and President, International

**Lawrence J. Rogers** - CEO, Sealy

**Dale E. Williams** - Executive Vice President and Chief Financial Officer

**Tim Yaggi** - Chief Operating Officer

**1846** - Stearns & Foster - George S. Stearns and Seth Foster start making cotton batting for mattresses in Cincinnati, Ohio. Stearns & Foster is born.

**1881** - Sealy - Daniel Haynes, cotton gin owner, invents a mattress filled with cotton in Sealy, Texas. Sealy is born.

**1900** - Early innovation - Stearns & Foster introduces the Laced Opening, which allows consumers to see what's inside the mattress.

**1930** - First tuftless - Sealy invents the "tuftless" mattress removing an annoyance for sleepers.

**1931** - First insulated springs - Stearns & Foster introduces the INSULO SPRING CUSHION Mattress.

**1950** - First Posturepedic - Sealy introduces the first Posturepedic, the "Firm-O-Rest", with additional back support.

**1967** - Sealy on TV - Sealy Posturpedic TV spots run during prime time—a first for the industry.

**1980** - Early TEMPUR material - Swedish scientists spend years perfecting NASA's viscoelastic foam for consumer use.

**1983** - Our first merger - Sealy purchases Stearns & Foster, creating a multi-brand mattress company.

**1992** - TEMPUR in the U.S. - After Robert Trussell is introduced to TEMPUR material, he founds Tempur-Pedic and launches its first products in the U.S., a 3" mattress overlay and the iconic "Swedish Neck Pillow".

**1994** - The first Swedish mattress - Tempur-Pedic sells its first "Swedish Mattress" in the U.S.

**1997** - Adjustable bases - Tempur-Pedic offers an adjustable base product as an optional add-on for every mattress.

**1998** - Our first infomercial - Tempur-Pedic launches its first TV campaign, a direct-response long-form infomercial.

**1999** - A global powerhouse - The U.S. and European offices of Tempur-Pedic merge, producing a global company, headquartered in Lexington, KY.

**1999** - Wineglass - Tempur-Pedic introduces what will become the wineglass spot to show the concept of “no motion transfer”.

**2001** - First Tempur-Pedic plant - Tempur-Pedic opens its first manufacturing facility in the U.S. in Duffield, Virginia, producing mattresses and pillows.

**2004** - First filled pillow - Tempur-Pedic introduces the Comfort Pillow, the first pillow with TEMPUR material microcushions, that feels more like a “regular” pillow.

**2007** - Largest facility - Tempur-Pedic opens its second manufacturing facility in the U.S. in Albuquerque, NM, the largest of its kind in the world.

**2008** - TEMPUR-Ergo - Tempur-Pedic introduces the TEMPUR-Ergo Collection of adjustable bases to help people “create a place of true relaxation”.

**2009** - The first soft TEMPUR - Tempur-Pedic launches the TEMPUR-Cloud Collection, softer-formulation mattresses, which quickly become the best-selling group of mattresses in the company’s history.

**2009** - Ask Me - Tempur-Pedic rolls out the “Ask Me” campaign, capitalizing on the fact so many owners love (and recommend) their Tempur-Pedic mattress.

**2011** - Whatever you do in bed - Sealy launches a national ad campaign for the Posturepedic line, with the tagline, “Whatever you do in bed, Sealy supports it”.

**2012** - Introducing Optimum - Sealy introduces Optimum, a new line of gel memory foam mattresses.

**2013** - Our first hybrid - Sealy introduces its Hybrid Series—the first half innerspring, half gel-foam mattresses—under the Posturepedic brand.

**2013** - A powerhouse is born - Tempur-Pedic and Sealy merge, producing the world’s largest bedding company, with headquarters in Lexington, KY.

# Economic Impact Analysis

## **Confidential Furniture Manufacturer**

**Brenham, Texas**

September 3, 2013

**Updated January 6, 2013**

Analysis conducted by LCRA Community and Economic Development for  
the Brenham Economic Development Foundation

## Background

This analysis projects the economic impact of a confidential furniture manufacturer company expanding its Brenham business operations. The company is classified as NAICS 337: Furniture and related product manufacturing. We anticipate:

- (1.) \$475,000 in new equipment purchases
- (2.) 164 existing jobs retained, with average annual compensation of \$36,500
- (3.) An additional 104 new jobs with average pay of \$36,500, bringing total employment to 268 jobs.

The Brenham Economic Development Foundation requested this Economic Impact Analysis (EIA) to better understand the full impact of this project on the City of Brenham and Washington County residents.

## Analysis

### Overall Impact

<b>Total 8-year Impact, 2013-2022 - New Jobs</b>			
<b>Impact</b>	<b>Direct</b>	<b>Indirect</b>	<b>Total</b>
<b>Economic Impact</b>	\$566,956,384	\$142,741,383	\$709,697,767
<b>Average Annual Job Impact</b>	268	173	441
<b>Labor Income Impact</b>	\$54,209,288	\$36,074,722	\$90,284,010
<b>Local Sales Tax Revenue Impact</b>	\$542,093	\$360,747	\$902,840

Source: IMPLAN, LCRA

<b>Total Economic Impact - New &amp; Retained Jobs, Washington County</b>			
<b>Year</b>	<b>Direct Impact</b>	<b>Indirect Impact</b>	<b>Total Impact</b>
<b>Equipment</b>	\$81,700	\$26,122	\$107,822
<b>1</b>	\$76,434,992	\$19,175,266	\$95,610,258
<b>2</b>	\$77,542,035	\$19,436,557	\$96,978,592
<b>3</b>	\$78,665,105	\$19,719,259	\$98,384,364
<b>4</b>	\$79,804,440	\$20,023,299	\$99,827,739
<b>5</b>	\$80,960,285	\$20,348,686	\$101,308,971
<b>6</b>	\$82,132,868	\$20,695,507	\$102,828,375
<b>7</b>	\$83,322,427	\$21,063,920	\$104,386,347
<b>8</b>	\$84,529,224	\$21,454,155	\$105,983,379
<b>Total Years 1-8</b>	\$566,956,384	\$142,741,383	\$709,697,767

Source: IMPLAN, LCRA

## Findings

1. With 268 jobs, the manufacturer will have a regional impact reaching nearly \$710 million over the first eight years of operations.
2. Equipment will mostly be purchased from outside locations, reducing its local impact. However, transport, installation, and servicing will have a localized impact totaling roughly \$108,000.
3. Total annual sales tax from the expansion should equal roughly \$119,000.

## Jobs Impact

### Findings

1. The 104 new jobs will indirectly support an additional 67 jobs throughout the community.
2. Equipment purchases will have a very minor job impact in that purchase year.
3. This manufacturer will directly or indirectly support 441 jobs once it reaches full employment.

Job Impact - Retained Jobs on Washington County			
Year	Direct Jobs	Indirect Jobs	Total Jobs
1	164	106	270
1	164	106	270
2	164	106	270
3	164	106	270
4	164	106	270
5	164	106	270
6	164	106	270
7	164	106	270
8	164	106	270

Source: IMPLAN, LCRA

Job Impact on Washington County - New Jobs			
Year	Direct Jobs	Indirect Jobs	Total Jobs
Equipment	1	0	1
1	104	67	171
2	104	67	171
3	104	67	171
4	104	67	171
5	104	67	171
6	104	67	171
7	104	67	171
8	104	67	171

Source: IMPLAN, LCRA

Total Job Impact on Washington County - New & Retained Jobs			
Year	Direct Jobs	Indirect Jobs	Total Jobs
Equipment	1	0	1
1	268	173	441
2	268	173	441
3	268	173	441
4	268	173	441
5	268	173	441
6	268	173	441
7	268	173	441
8	268	173	441

Source: IMPLAN, LCRA

## Wages and Tax Impact

Total Labor Income - New & Retained Jobs, Washington County			
Year	Direct Income	Indirect Income	Total Income
Equipment	\$26,330	\$7,065	\$33,395
1	\$7,139,677	\$4,751,251	\$11,890,928
2	\$7,284,756	\$4,847,796	\$12,132,552
3	\$7,432,782	\$4,946,303	\$12,379,085
4	\$7,583,817	\$5,046,812	\$12,630,629
5	\$7,737,920	\$5,149,363	\$12,887,283
6	\$7,895,154	\$5,253,998	\$13,149,152
7	\$8,055,585	\$5,360,760	\$13,416,345
8	\$8,219,274	\$5,469,690	\$13,688,964
<b>Total Years 1-8</b>	<b>\$54,209,288</b>	<b>\$36,074,722</b>	<b>\$90,284,010</b>

Source: IMPLAN, LCRA

Total Local Sales Tax Revenue Impact - New & Retained Jobs, Washington County			
Year	Direct Sales Tax	Indirect Sales Tax	Total Sales Tax
Equipment	\$263	\$71	\$334
1	\$71,397	\$47,513	\$118,909
2	\$72,848	\$48,478	\$121,326
3	\$74,328	\$49,463	\$123,791
4	\$75,838	\$50,468	\$126,306
5	\$77,379	\$51,494	\$128,873
6	\$78,952	\$52,540	\$131,492
7	\$80,556	\$53,608	\$134,163
8	\$82,193	\$54,697	\$136,890
<b>Total Years 1-8</b>	<b>\$542,093</b>	<b>\$360,747</b>	<b>\$902,840</b>

Source: IMPLAN, LCRA

Labor Income - Retained Jobs, Washington County			
Year	Direct Income	Indirect Income	Total Income
1	\$4,369,056	\$2,907,482	\$7,276,538
2	\$4,457,836	\$2,966,561	\$7,424,397
3	\$4,548,419	\$3,026,842	\$7,575,261
4	\$4,640,843	\$3,088,348	\$7,729,191
5	\$4,735,145	\$3,151,103	\$7,886,248
6	\$4,831,363	\$3,215,133	\$8,046,496
7	\$4,929,537	\$3,280,465	\$8,210,002
8	\$5,029,705	\$3,347,124	\$8,376,829
<b>Total Years 1-8</b>	<b>\$33,172,848</b>	<b>\$22,075,576</b>	<b>\$55,248,424</b>

Source: IMPLAN, LCRA

Local Sales Tax Revenue Impact - Retained Jobs, Washington County			
Year	Direct Sales Tax	Indirect Sales Tax	Total Sales Tax
1	\$43,691	\$29,075	\$72,765
2	\$44,578	\$29,666	\$74,244
3	\$45,484	\$30,268	\$75,753
4	\$46,408	\$30,883	\$77,292
5	\$47,351	\$31,511	\$78,862
6	\$48,314	\$32,151	\$80,465
7	\$49,295	\$32,805	\$82,100
8	\$50,297	\$33,471	\$83,768
<b>Total Years 1-8</b>	<b>\$331,728</b>	<b>\$220,756</b>	<b>\$552,484</b>

Source: IMPLAN, LCRA

Labor Income - New Jobs, Washington County			
Year	Direct Income	Indirect Income	Total Income
Equipment	\$26,330	\$7,065	\$33,395
1	\$2,770,621	\$1,843,769	\$4,614,390
2	\$2,826,920	\$1,881,235	\$4,708,155
3	\$2,884,363	\$1,919,461	\$4,803,824
4	\$2,942,974	\$1,958,464	\$4,901,438
5	\$3,002,775	\$1,998,260	\$5,001,035
6	\$3,063,791	\$2,038,865	\$5,102,656
7	\$3,126,048	\$2,080,295	\$5,206,343
8	\$3,189,569	\$2,122,566	\$5,312,135
<b>Total Years 1-8</b>	<b>\$21,036,440</b>	<b>\$13,999,146</b>	<b>\$35,035,586</b>

Source: IMPLAN, LCRA

Local Sales Tax Revenue Impact - New Jobs, Washington County			
Year	Direct Sales Tax	Indirect Sales Tax	Total Sales Tax
Equipment	\$263	\$71	\$334
1	\$27,706	\$18,438	\$46,144
2	\$28,269	\$18,812	\$47,082
3	\$28,844	\$19,195	\$48,038
4	\$29,430	\$19,585	\$49,014
5	\$30,028	\$19,983	\$50,010
6	\$30,638	\$20,389	\$51,027
7	\$31,260	\$20,803	\$52,063
8	\$31,896	\$21,226	\$53,121
<b>Total Years 1-8</b>	<b>\$210,364</b>	<b>\$139,991</b>	<b>\$350,356</b>

Source: IMPLAN, LCRA

## Findings

1. Annually, operations will inject an additional \$11.9 million in direct and indirect labor income
2. This additional income will translate into \$119,000 in year 1 and \$137,000 in additional annual local sales tax in year 8. It is important to note this tax impact reflects the impact of wages alone and excludes any additional effects from company purchases and added property values.
3. Overall impact over the first eight years of operations should be over \$90 million in wages and \$900,000 in sales tax revenue gains.

## Terms

**Direct Impacts** are the initial, immediate economic activities (jobs and income) generated by a project or development. Direct impacts associated with the project development coincide with its costs for goods and services purchased directly from the community and nearby area businesses.

**Indirect Impacts** are the production, employment and income changes occurring, as a result of the project, in other businesses/industries in the community that supply inputs to the project.

**Induced Impacts** are the effects of spending by the households in the local economy as the result of direct and indirect effects from an economic activity (i.e. project, event, etc.). The induced effects arise when employees who are working for the project (e.g. new manufacturing plant or the local festival) spend their new income in the community.

**About IMPLAN:** *This analysis was developed by LCRA's Community and Economic Development Department utilizing the IMPLAN econometric model developed by the University of Minnesota. IMPLAN is an input/output model used to estimate economic costs and benefits associated with private and public sector projects and public sector incentives.*

*The IMPLAN econometric model is used by the Federal Government, state governments (including Texas), and economic development agencies to estimate the effectiveness of investments and incentive policies. The projections derived from IMPLAN are dependent on the reliability of data and assumptions built into individual models.*

## Exhibit A

FIELD NOTE to a tract of land containing 11.979 acres (521,815 square feet) of land, more or less situated in the Phillip Coe Survey, A-31, and being a portion of the 55.990 acres tract described in a deed from Fred J. Rodeck, et ux to The Brenham Industrial Foundation, Inc., dated April 28, 1978, recorded in Volume 364, Page 217, Deed Records of Washington County, Texas, and being a portion of the 16.386 acre tract described as Tract One in a deed from Carl Gallip, et al to The Brenham Industrial Foundation, Inc. dated September 20, 1978, recorded in Volume 371, Page 355, Deed Records of Washington County, Texas, and being a portion of the two tracts of land described in a deed from Kathleen Patricia Mushaway to HI-Line Industries, Inc. dated April 30, 1974, recorded in Volume 329, Page 91, Deed Records of Washington County, Texas, and being a portion of the 8.00 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated December 3, 1959, recorded in Volume 224, Page 399, Deed Records of Washington County, Texas; and being a portion of the 2.151 acres tract described in a deed from The Brenham Industrial Foundation, Inc. to Central Freight Lines, Inc., dated February 20, 1965, recorded in Volume 256, Page 506, Deed Records of Washington County, Texas, and being part of the 15.004 acre tract conveyed by Ed Wehmayer to Brenham Industrial Foundation by deed recorded in Volume 198, Page 56, Washington County Deed Records; being part of the 14.504 acres tract conveyed by Fred Rodeck to Brenham Industrial Foundation by deed recorded in Volume 198, Page 43, Washington County Deed Records and more particularly described by metes and bounds as follows:

BEGINNING at a set 1/2" iron rod marking the intersection of the south right-of-way line of US 290 (variable right-of-way) and the westerly line of Gulf Coast & Santa Fe Rail Road, same being the beginning of a curve to the left;

THENCE with said curve to the left along the westerly right-of-way line of Gulf Coast & Santa Fe Rail Road having a radius of 19007.80 feet subtending a central angle of 02° 00' 36" and a length of 668.81 feet to a set 1/2" iron rod;

THENCE N 49° 00' 00" W a distance of 183.80 feet to a set 1/2" iron rod;

Exhibit A

THENCE N 55° 10' 00" W a distance of 228.51 feet to a set 1/2" iron rod;

THENCE S 34° 28' 00" W a distance of 150.89 feet to a set 1/2" iron rod;

THENCE S 74° 20' 33" W a distance of 358.15 feet to a found 5/8" iron rod;

THENCE N 69° 41' 55" W a distance of 458.82 feet to a found 1/2" iron rod in the northeast right-of-way line of a private street, same being the beginning of a curve to the left;

THENCE with said curve to the left along the northeast right-of-way line of a private street with a radius of 70.00 feet subtending a central angle of 50° 25' 28" and a length of 61.81 feet to a found 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 156.26 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 50.88 feet to a set 1/2" iron rod;

THENCE N 34° 28' 00" E a distance of 264.35 feet to a set 1/2" iron rod;

THENCE S 55° 32' 00" E a distance of 240.00 feet to a set 1/2" iron rod;

THENCE N 34° 46' 48" E a distance of 510.00 feet to a set 1/2" iron rod marking the south right-of-way line of US 290 (variable width);

THENCE S 55° 10' 00" along the south right-of-way line of US 290 (variable width) a distance of 345.80 feet to the POINT OF BEGINNING and containing 11.979 acres, more or less.

FILED FOR RECORD  
WASHINGTON COUNTY, TEXAS

2007 JUN 27 AM 11:14

BETH A. ROTHERMEL  
WASHINGTON COUNTY CLERK

STATE OF TEXAS  
COUNTY OF WASHINGTON

I hereby certify that this instrument was FILED on the date and at the time affixed hereon by me and was duly RECORDED in the volume and page of the OFFICIAL RECORDS of Washington County, Texas, as stamped hereon by me on

JUN 28 2007

*Beth A. Rothermel*

Beth Rothermel, County Clerk  
Washington County, Texas





# Overview of the Tax Phase-In Incentive

Based on Policies in the City of Brenham and Washington County, Texas

## Definition:

- Tax Phase-In means the partial, temporary exemption from property taxes, with the purpose of stimulating economic development.
- Only ad valorem property taxes are eligible, and only on certain qualifying property. Brenham Independent School District and Blinn College taxes are to be paid in full at all times.

## Guidelines and Criteria:

- In order to be eligible for tax phase-in, the planned improvement must be an authorized facility, such as a(n):
  - \*Agriculture/Aquaculture Facility
  - \*Distribution Center
  - \*Manufacturing Facility
  - \*Research Facility
  - \*Other Basic Industry [as defined in Glossary-Section XII (o)]
- The project must add new value to the tax roll of eligible property.
- Within the first year and throughout the phase-in period, the applicant must maintain or create a minimum of ten (10) jobs at an average base salary of \$33,000/year, or higher, including any benefits.
- **PLEASE NOTE:** A facility is eligible for tax phase-in if it has applied for the incentive before construction begins, and it meets the complete guidelines and criteria under the Tax Phase-In Policy.
- Tax Phase-In may be granted for new or existing facilities.
- Eligible property for tax phase-in may include the value of buildings, structure, fixed machinery and equipment.

- Property that is not eligible for the tax phase-in incentives include:
  - \*land
  - \*animals
  - \*inventories
  - \*supplies
  - \*tools
  - \*furnishings and other forms of moveable personal property
  - \*vehicles
  - \*vessels
  - \*aircraft
  - \*housing or residential property (except for property owners in a Downtown Zone)
  - \*hotels/motels
  - \*fauna
  - \*flora
  - \*retail facilities (except for property owners in a Downtown Zone)
  - \*deferred maintenance investments
  - \*improvements by the generation or transmission of electrical energy not wholly consumer by a new facility or expansion
  - \*any improvements including those to produce, store or distribute natural gas or fluids that are integral to the operation of the facility
  - \*property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

Application:

- Any present or potential owner of taxable property in the City of Brenham and/or Washington County may request the creation of a Reinvestment Zone and Tax Phase-In Incentive by filing a written request with the Brenham City Manager and/or Washington County Judge.
- After the receipt of the application, the county will make a decision within 90 days. The decision-making process may involve an economic impact study, plus city council and county commissioner's court meetings.
- If accepted, the business receiving tax phase-in will be required to provide a sworn statement and documents, verifying compliance each year. Failure to provide the required documents shall result in termination of the Tax Phase-In agreement.

For further details and confidential assistance, contact:

**ECONOMIC DEVELOPMENT FOUNDATION OF BRENHAM**  
 314 SOUTH AUSTIN STREET • BRENHAM, TEXAS 77833  
 PHONE: [979] 836 8927 FAX: [979] 836 3563  
 EMAIL: EDF@BRENHAMTEXAS.COM

**EXHIBIT "A"**  
**TAX PHASE-IN INCENTIVE SCHEDULES**

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

**TABLE 1** (earns 50% of incentive)

**1A - Property Improvements by an Existing Local Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 150,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

**1B - Property Improvements by a New Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

**TABLE 2** (earns 50% of incentive)

**2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses**

Level	The number of new and/or retained full-time employees with an average salary level of \$33,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

**Tempur-Sealy - Brenham Project  
Tax Phase-In Calculation**

<b>Estimated property taxes to be abated</b>		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Total
Capital investment		\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	
Job creation		104 jobs								
<u>Taxing entity</u>	<u>Tax rate</u>	90%	85%	75%	65%	45%	40%	30%	20%	
City of Brenham	0.5632	\$2,534	\$2,394	\$2,112	\$1,830	\$1,267	\$1,126	\$845	\$563	\$12,671
Washington County	0.4626	\$2,082	\$1,966	\$1,735	\$1,503	\$1,041	\$925	\$694	\$463	\$10,409
		\$4,616	\$4,360	\$3,847	\$3,333	\$2,308	\$2,051	\$1,539	\$1,026	\$23,080

<b>Estimated property taxes to be paid</b>		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Total
Capital investment		\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	\$500,000	
Job creation		104 jobs								
<u>Taxing entity</u>	<u>Tax rate</u>	10%	15%	25%	35%	55%	60%	70%	80%	
City of Brenham	0.5632	\$282	\$422	\$704	\$986	\$1,549	\$1,690	\$1,971	\$2,253	\$9,857
Washington County	0.4626	\$231	\$347	\$578	\$810	\$1,272	\$1,388	\$1,619	\$1,850	\$8,095
		\$513	\$769	\$1,282	\$1,796	\$2,821	\$3,078	\$3,590	\$4,103	\$17,952
<u>Taxing entity</u>	<u>Tax rate</u>	100%	100%	100%	100%	100%	100%	100%	100%	
Brenham ISD	1.1350	\$5,675	\$5,675	\$5,675	\$5,675	\$5,675	\$5,675	\$5,675	\$5,675	\$45,400
Blinn College	0.0600	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$2,400
		\$5,975	\$5,975	\$5,975	\$5,975	\$5,975	\$5,975	\$5,975	\$5,975	\$47,800



## AGENDA ITEM 14

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<b>DEPT. OF ORIGIN:</b> Brenham EDF	<b>SUBMITTED BY:</b> Clint Kolby	
<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 R-14-003 of the City Council of the City of Brenham, Texas, Adopting a Commercial Tax Phase-In Agreement with PPE, LLC and GSL Constructors, Ltd.		
<b>SUMMARY STATEMENT:</b> The EDF has been working with PPE over the past seven months in their site selection process to expand their operations where they will be manufacturing rubber products for various industries. PPE has chosen approximately 5 acres in the Brenham Business Center off of Hwy 290 and S. Blue Bell Rd. to locate this project.  They have also selected GSL Welcome Group (GSL Constructors) to be the developer of this site. GSL will actually own the building and PPE will lease it from them.  The use of the Tax Phase-In incentive will help PPE and GSL invest in the necessary equipment and building to help offset the initial costs of locating here. Additionally, Brenham was in strong competition with another community north of Houston and their decision to locate here is contingent upon them receiving the tax phase-in incentive. This project would also provide a substantial positive economic impact to the local Brenham economy.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<b>A. PROS:</b> Approve the Resolution authorizing the tax phase-in.		
<b>B. CONS:</b> If the Resolution is not approved, then PPE may decide to locate in the other community they were considering in north Houston.		
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b>		
<b>ATTACHMENTS:</b> (1) Resolution R-14-003; and (2) Tax Phase-In Agreement with Exhibits		
<b>FUNDING SOURCE (Where Applicable):</b> N/A		

**RECOMMENDED ACTION:** Approve Resolution R-14-003 of the City Council of the City of Brenham, Texas, adopting a Commercial Tax Phase-In Agreement with PPE, LLC and GSL Constructors, Ltd.

**APPROVALS:** Terry K. Roberts

**RESOLUTION NO. R-14-003**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, ADOPTING A COMMERCIAL TAX PHASE-IN AGREEMENT WITH PPE, LLC AND GSL CONSTRUCTORS, LTD; AUTHORIZING THE MAYOR TO EXECUTE THE TAX PHASE-IN AGREEMENT; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.**

**WHEREAS**, Chapter 312 of the Texas Tax Code authorizes the City of Brenham, Texas, to participate in tax phase-in incentives; and

**WHEREAS**, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas previously passed a resolution stating the City's intent to participate in tax phase-in incentives; and

**WHEREAS**, in accordance with Section 312.002 of the Texas Tax Code, the City of Brenham, Texas also previously adopted tax phase-in incentive guidelines and criteria; and

**WHEREAS**, the City Council of the City of Brenham, Texas, finds and determines that the terms of the Tax Phase-In Agreement and the subject property meet the applicable tax phase-in incentive guidelines and criteria, and entering into the Tax Phase-In Agreement will be to the benefit of the citizens of the City of Brenham; and

**WHEREAS**, the City Council desires to adopt the Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein for all purposes, by and between the City of Brenham, Texas, PPE, LLC, a Texas limited liability company, and GSL Constructors, LTD, a Texas limited partnership;

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

Section 1: That the foregoing recitals are hereby found to be true and correct legislative findings of the City of Brenham, Texas, and are fully incorporated into the body of this Resolution.

Section 2: That the City Council of the City of Brenham, Texas does hereby adopt the commercial Tax Phase-In Agreement, a copy of which is attached hereto as Exhibit "A", by and between the City of Brenham, Texas, PPE, LLC and GSL Constructors, LTD.

Section 3: That the Mayor is hereby authorized to execute the Tax Phase-In Agreement between the City of Brenham, Texas, PPE, LLC and GSL Constructors, LTD, a copy of which is attached hereto as Exhibit "A".

Section 4: This Resolution shall become effective immediately from and after its passage.

**RESOLVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**ATTEST:**

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

**AGREEMENT FOR DEVELOPMENT AND TAX PHASE-IN  
IN REINVESTMENT ZONE NO. 37 CITY OF BRENHAM  
FOR COMMERCIAL TAX PHASE-IN, CITY OF BRENHAM, TEXAS**

**THE STATE OF TEXAS**

**COUNTY OF WASHINGTON**

This Agreement is entered into by and between the CITY OF BRENHAM, TEXAS, a Texas home-rule municipal corporation, of Washington County, Texas, acting herein by and through its Mayor, hereinafter referred to as “CITY”; PPE, LLC, a Texas limited liability company, hereinafter referred to as “PPE”; and GSL CONSTRUCTORS, LTD., a Texas limited partnership, hereinafter referred to as “GSL” and, together with PPE, as “COMPANY”.

**WITNESSETH:**

The City Council of the City of Brenham, Texas, ("COUNCIL") on February 20, 1992, adopted by resolution a policy for the creation of tax abatement zones in the City of Brenham, ("POLICY"). Said POLICY was amended by COUNCIL on April 2, 1992, amended on June 4, 1992, and re-adopted on December 1, 1994, November 20, 1997, October 21, 1999, November 1, 2001, January 15, 2004, December 20, 2007, December 17, 2009, December 15, 2011 and December 5, 2013 (as amended) (entitled “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises”). On January 23, 2014, the COUNCIL, by Ordinance, established Reinvestment Zone No. 37, City of Brenham, for Commercial Tax Phase-In, City of Brenham, Texas, ("ZONE") as authorized by V.T.C.A., Tax Code Chapter 312. Said POLICY is attached hereto as Exhibit “B” and incorporated herein for all purposes.

**WHEREAS**, COMPANY has filed an application for the phase-in of ad valorem taxes,

**WHEREAS**, COUNCIL finds that this application, this Agreement, and the property subject to this Agreement meet the applicable guidelines and criteria of said POLICY,

**WHEREAS**, in order to provide for the proper development of such property and to aid in the conduct of the operation thereof to the best interest of the CITY in accordance with the above referenced ordinances and statutes, the parties do mutually agree as follows:

1. **Location of Tax Phase-In.** The property that is the subject matter of this Agreement is the land located at 3201 South Blue Bell Road and described more particularly as that certain tract of land containing 4.929 acres, more or less, being further described in Exhibit “A”, attached hereto and incorporated herein for all purposes, and which property is hereinafter referred to as "PREMISES."

2. **Improvements.** In consideration of COMPANY'S construction of at least Five-Million Five-Hundred Thousand Dollars (\$5,500,000.00) of real and personal property improvements and renovations to said PREMISES, including fixed machinery, equipment and buildings, CITY agrees that, subject to the terms and conditions contained herein, eligible improvements and renovations to the above described PREMISES shall be entitled to tax phase-in incentives in accordance with the schedule as provided in “Table 1B – Property Improvements by a New Business”, and tax phase-in incentives in accordance with the schedule as provided in “Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses”, said Tables being set out in the attached Exhibit “B”, and that upon the expiration of such tax phase-in incentives this Agreement shall terminate.

"Improvements and renovations" as used herein shall be defined as including the building and all other associated improvements (personal and realty) and fixtures on the PREMISES added by the COMPANY within said zone. COMPANY will limit the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect.

COMPANY acknowledges and agrees that the purpose of CITY in entering into this Agreement is to encourage development of the property in the ZONE and, therefore, COMPANY agrees to limit the use of the property to further said purpose.

3. **Submission of Plans.** COMPANY agrees that the site plan, interior and exterior design drawings and materials ("PLANS") for each improvement will be submitted to CITY and/or its designated representative for its approval when available. An official set of PLANS will be designated by the COMPANY and will be kept on file with the CITY.

4. **Other Applicable Regulations.** COMPANY agrees to construct all improvements in accordance with all applicable laws, ordinances, codes, rules, requirements or regulations of the City of Brenham, Washington County, the State of Texas and the United States, and any subdivision, agency or authority thereof.

5. **Liability of City in Approving Plans.** CITY, by approving the PLANS or any revised PLANS, assumes no liability or responsibility therefore for any defect in any fixed machinery or equipment installed or any structure constructed, renovated, or repaired from the

PLANS or approved revised PLANS. The relationship between and among CITY, PPE and GSL at all times shall not be deemed a partnership or joint venture for purposes of this Agreement or for any other purpose.

PPE and GSL each agree to hold harmless, indemnify and reimburse CITY, its officers, agents, and/or employees for any damages suffered by them due to PPE's (in the case of PPE) or GSL's (in the case of GSL) negligence in connection with the PLANS or any revised PLANS, any defect in any fixed machinery or equipment installed or any structure constructed, renovated, or repaired from the PLANS or approved revised PLANS, such duty and liability not to exceed what PPE or GSL would owe to any of them under common law. CITY agrees to use best reasonable efforts to notify PPE and GSL as soon as possible after it becomes aware of any legal action (including pre-litigation notices, demand letters, etc.) which reasonably could then be foreseen as having the prospective potential of activating the terms of the immediately preceding sentence.

6. **Rights of City to Inspect.** At all reasonable times during the construction and installation of improvements on the PREMISES and following completion, CITY and its respective designees may inspect PREMISES in order to verify the construction, workmanship, materials and installations involved in or incident to the project are performed in substantial compliance with the approved PLANS and compliance with the applicable building permits and governmental regulations.

7. **Payment of Taxes by Company.** PPE and GSL agree to pay all ad valorem taxes and assessments that may be owed to CITY or any other taxing entity by each respective

entity prior to such taxes and/or assessments becoming delinquent; provided, that PPE and GSL shall each have the right to contest in good faith the validity or application of any such tax or assessment and shall not be considered in default hereunder so long as such contest is diligently pursued to completion. If PPE or GSL undertakes any such contest, it shall so notify in writing CITY and keep CITY apprised of the status of such contest. Should PPE or GSL be unsuccessful in such contest, PPE or GSL, as the case may be, shall promptly pay the taxes, penalties, and/or interest, resulting therefrom.

COMPANY certifies that at the time of execution of this Agreement, there are no delinquent ad valorem taxes on the PREMISES owed to any taxing jurisdiction. Subject to the foregoing paragraph, PPE and GSL shall pay all non-phased-in taxes subject to all requirements and due dates, as each respective entity would be required to pay in the absence of this Agreement.

8. **Employment.** PPE anticipates hiring or retaining between twenty (20) and twenty-nine (29) employees upon opening and fifty (50) and more over the tax phase-in period. COMPANY acknowledges and agrees that PPE's failure to create and maintain a minimum of ten (10) jobs within the first year and throughout the Tax Phase-In incentive period in accordance with this Agreement and the POLICY attached hereto as Exhibit "B" is a default in the performance of this Agreement, and may subject the COMPANY to the remedies for default as provided in this Agreement.

9. **Tax Recapture.** In the event COMPANY (i) does not construct a minimum of \$5,550,000 of improvements and renovations to the PREMISES as contemplated by Section 2 of

this Agreement, (ii) fails to use the PREMISES for the purposes that are contemplated by this Agreement, (iii) fails to comply with the terms of the “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises” attached hereto as Exhibit “B,” or (iv) otherwise fails to comply with the terms of this Agreement, and such default continues for a period of thirty (30) days after written notice thereof to each of PPE and GSL, then the CITY shall have the right to terminate this Agreement and recapture the amount of all property taxes abated as a result of this Agreement in accordance with Texas Tax Code Sec. 312.205 and the POLICY, provided, however, if any COMPANY default by its nature cannot be cured within 30 days of notice, this Agreement shall not be terminated hereunder for so long as the Company undertakes curative measures within such 30 day period and thereafter diligently continues to prosecute such curative measures to completion.

10. **Default.** In the event COMPANY (i) allows the PREMISES to become vacant, (ii) fails to pay all non-abated ad valorem taxes as required by Section 7 hereof, (iii) fails to comply with the terms of the “City of Brenham Policy Statement on Property Tax Phase-In Incentive for Selected Commercial Enterprises” attached hereto as Exhibit B, or (iv) otherwise fails to comply with the terms of this Agreement, and such failure or noncompliance continues for a period of thirty (30) days after written notice thereof to each of PPE and GSL, then COMPANY shall be in "default" in the performance of this Agreement, provided, however, if any COMPANY failure or noncompliance by its nature cannot be cured within 30 days of notice, this Agreement shall not be terminated hereunder for so long as the Company undertakes curative measures within such 30 day period and thereafter diligently continues to prosecute such curative measures to completion. The CITY shall notify each of PPE and GSL in writing of said "default." Further, in accordance with Chapter 2264, Texas Government Code, PPE and GSL

each certifies that it, or a branch, division, or department, does not and will not knowingly employ an undocumented worker. PPE and GSL each further certifies that in the event that it or any of its branches, divisions, or departments is convicted of a violation under 8 U.S.C. Section 1324a(f), PPE or GSL, as the case may be, shall repay the amounts of ad valorem taxes previously abated by the CITY pursuant to this Agreement, with interest, calculated at the rate ten percent (10%) annually. Such a conviction shall constitute a default under this Agreement.

If PPE or GSL does not comply with this Agreement within thirty (30) days of written notice of such "default," CITY reserves the right to terminate this Agreement and terminate the benefits of tax phase-in provided for in this Agreement, and all taxes previously abated pursuant to this Agreement shall be recaptured from the defaulting party and paid to the City. In such event, the PREMISES and all improvements, fixed machinery and equipment installed thereon shall be deemed taxable and not entitled to tax phase-in as provided herein. If this Agreement is terminated, any taxes abated for the calendar year of the termination shall be paid within sixty (60) days of the date of such termination, and all taxes and all taxes previously abated pursuant to this Agreement shall be recaptured and paid to the City within sixty (60) days of the date of termination.

11. **Tax Phase-In Amount.** COMPANY shall receive tax phase-in incentives for eligible property improvements in accordance with the schedule as provided in "Table 1B – Property Improvements by a New Business", and tax phase-in incentives for job creation in accordance with the schedule as provided in "Table 2 – Jobs Created & Retained – by Existing Businesses or New/Relocating Businesses" said Tables being set out in the attached Exhibit "B," and that upon the expiration of such tax phase-in incentives this Agreement shall terminate. The

total annual tax phase-in incentive amount received by the COMPANY, expressed on a percentage basis, shall be the sum of the respective percentages provided for in Table 1B and Table 2 for the applicable year of the tax phase-in.

PPE and GSL shall each, on or before October 15 of each calendar year, submit a sworn statement to the Compliance Review Committee that it is in compliance with this Agreement, including such information as may be necessary to verify compliance (e.g. employment and payroll information), subject to verification by the City of Brenham and/or the Compliance Review Committee.

During the term of this Agreement, the CITY, its officers and employees, and/or the Compliance Review Committee is entitled to review and verify PPE's and GSL's employment records, payroll records, and such other information and documents as the CITY and/or the Compliance Review Committee deems reasonably necessary to verify compliance with this Agreement. The CITY, its officers and employees, and/or the Compliance Review Committee may conduct on-site inspections of the PREMISES and facilities located thereon during the term of this Agreement to verify compliance with this Agreement.

The estimated value of eligible property improvements for tax phase-in incentives is more than Five-Million Five-Hundred Thousand Dollars (\$5,500,000.00). Notwithstanding anything contained herein to the contrary, COMPANY and CITY agree that the amount of eligible property improvements and jobs created & retained as set forth herein are based on projected property improvements and personnel employed, and the actual amount of tax phase-in incentives shall be determined annually by Table 1B and Table 2 of the POLICY attached hereto

as Exhibit "B" based on the actual eligible improvements and the actual number of employees. PPE and GSL each agree to reasonably cooperate with CITY to determine compliance with this Agreement and the applicable level of tax phase-in incentives.

12. **Certificate of Compliance.** Upon completion of the improvements and renovations to the PREMISES, COMPANY shall submit to CITY a sworn Certificate of Compliance certifying that all construction of the improvements and renovations to the PREMISES has been completed in accordance with the approved plans. After receipt of this Certificate of Compliance, CITY shall make a final inspection of PREMISES to determine whether the improvements and renovations have been constructed and installed in compliance with this Agreement. Upon so finding, CITY shall approve such a Certificate of Compliance and authorize tax phase-in to commence on January 1 of the year indicated in said certificate and terminate after the property has received the tax phase-in incentives as provided by this Agreement and Exhibit "B."

13. **Eligible and Ineligible Property.** "Eligible property" is defined to include all of the following items located on the PREMISES which were not so located prior to execution of this Agreement and whether or not they are so affixed as to become "real property": buildings, structures, fixed machinery and equipment, site improvements (including landscaping), office space and related fixed improvements necessary to the operation and administration of the facility.

"Ineligible Property" shall be fully taxable and ineligible for abatement, defined as including:

- Land;
- Animals;
- Inventories;
- Supplies;
- Tools;
- Furnishings and other forms of movable personal property (except as described as "eligible property" above);
- Vehicles;
- Vessels;
- Aircraft;
- Hotels/motels;
- Housing or residential property;
- Fauna;
- Flora (excluding landscaping improvements);
- Retail facilities;
- Deferred maintenance investments;
- Improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion;
- Any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility; or
- Property owned or used by the State of Texas or its political subdivisions or by any organization owned operated or directed by a political subdivision of the State of Texas.

14. **Severability**. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under the present or future laws effective while this Agreement is in effect, such provision shall be automatically deleted from this Agreement and the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected thereby, and in lieu of such deleted provision, there shall be added automatically as part of this Agreement a provision that is similar in terms and substance to such deleted provision as may be possible and yet be legal, valid and enforceable under the Texas Tax Code and related state statutes.

15. **Texas Law to Apply.** This Agreement shall be construed under the POLICY adopted by the CITY, including the Glossary of Terms, in accordance with said POLICY in force at the date of execution hereof and in accordance with the laws of the State of Texas. All obligations of the parties created hereunder are performable in Washington County, Texas. In the event of litigation, or other claim or dispute arising out of or involving this Agreement, exclusive venue shall lie in a court of competent jurisdiction in Washington County, Texas.

16. **Prior Agreements Superseded.** This Agreement constitutes the sole agreement of the parties herein and supersedes any and all prior written or oral agreements, arrangements or understandings between the parties relating to the subject matter.

17. **Amendments.** No amendment, modification or alteration of the terms hereof shall be binding unless the same shall be in writing, dated subsequent to the date of this Agreement and duly executed by the parties hereto.

18. **Rights and Remedies Cumulative.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by either party shall not preclude or waive its rights to use all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

19. **No Waiver.** No waiver by any party in any event of default, or breach of any covenant, condition or stipulation herein contained by another party shall be treated as a waiver of any subsequent default or breach of the same or any other covenant, condition or stipulation hereof.

20. **Assignment.** This Agreement may be assigned or transferred by either PPE or GSL upon CITY'S prior written approval of said assignment or transfer by the adoption of a resolution by the City Council, which approval will not be unreasonably withheld; provided, however, that any such assignment or transfer shall comply with the applicable provisions of the POLICY attached hereto as Exhibit "B."

21. **Authority to Act.** The parties to this Agreement shall provide proof of authorization to execute this document.

22. **Notice.** Whenever notice or other communication is herein required to be given to PPE, to GSL, to COMPANY or to CITY, such notice will be sent : (a) in the case of PPE and COMPANY, to the attention of PPE's President or other designated officer at the address of the PREMISES, with a copy to Precision Polymer Engineering Limited, Greenbank Road, Blackburn BB1 3EA, England, Attention: Managing Director, and IDEX Corporation, 1925 West Field Court, Suite 200, Lake Forest, IL 60045, Attention: General Counsel; (b) in the case of GSL and COMPANY, to the attention of GSL's President at the address of 5858 Westheimer Road, Suite 800, Houston, TX 77057-5777; and (c) in the case of CITY, to the attention of the City Manager at the address of said Manager's then-current office location, in each case, via certified or registered mail, return receipt requested. Such notice will be considered effectively delivered when sent if such is properly addressed and sent and the return receipt is received by the sender, or if addressee fails to receive or accept delivery and the undelivered item is returned to sender.

23. **Definitions.** It is specifically understood by the governing body of the jurisdiction and its signatory/agent as well as each of PPE and GSL and their respective signatories/agents that "new jobs," as used in both, this Agreement and the underlying CITY guidelines for tax phase-in, means (and calculations therefore include) PPE employees as follows: The number of "new jobs" each year shall be determined by the cumulative sum of all new jobs employed by PPE in the reinvestment zone after execution of this Agreement. This includes all employees who, subsequently to the Agreement, begin working in the reinvestment zone for PPE (whether newly hired or who were previously hired by PPE elsewhere and whose work location is transferred to within the reinvestment zone), and, for purposes of the tax phase-in schedules in the guidelines and this Agreement, who work an average of at least a forty (40) hour work week. Two part-time employees working an average of twenty (20) hours each per week shall constitute one full-time employee for the calculation of "new jobs."

Any definitions of words or phrases given in the currently effective tax phase-in guidelines entitled "City of Brenham Policy Statement on Property Tax Phase-in Incentive for Selected Commercial Enterprises" shall be controlling in this document as well, except as may be specifically modified herein.

24. This Agreement has been approved by the governing body of the CITY.

25. Any aspect of this Agreement which may happen to conflict with the underlying jurisdiction's tax phase-in guidelines shall be considered as an approved modification or clarification of such guidelines as may be required to affect the intent of this Agreement.

26. For the duration of this Agreement and for additional consideration for this tax phase-in, COMPANY agrees to purchase the following utilities for the PREMISES: water, natural gas, and sewer, exclusively from the City of Brenham in its service area.

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

28. The liabilities and obligations of PPE and GSL under this Agreement are several and not joint, and neither PPE nor GSL shall have the right, power or authority to take any action, make any promise, undertaking, agreement or commitment, or incur any liability or obligation in the name or on behalf of the other party.

29. This Agreement may be executed in separate counterparts. It is not necessary that each party execute the same counterpart, and any party may execute this Agreement by executing any counterpart of this Agreement.

The parties hereto have executed or caused to be executed by their respective duly authorized signatories/agents this Agreement in multiple counterparts, each of equal dignity, on this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**PPE, LLC**

**CITY OF BRENHAM**

BY: \_\_\_\_\_

Craig T. Boyd  
Vice President  
1925 W. Field Court, Suite 200  
Lake Forest, IL 60045-4824

BY: \_\_\_\_\_

Milton Y. Tate, Jr.  
Mayor  
P.O. Box 1059  
Brenham, Texas 77834-1059

**GSL CONSTRUCTORS, LTD**

***ATTEST:***

BY: \_\_\_\_\_

Welcome Wilson, Jr.  
President & Chief Executive Officer  
5858 Westheimer Rd., Suite 800  
Houston, Texas 77057-5777

BY: \_\_\_\_\_

Jeana Bellinger, TRMC  
City Secretary  
P.O. Box 1059  
Brenham, Texas 77834-1059

**THE STATE OF TEXAS**

**COUNTY OF WASHINGTON**

Before me, the undersigned authority, on this day personally appeared **MILTON Y. TATE, JR.**, Mayor of the City of Brenham, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

**THE STATE OF ILLINOIS**

**COUNTY OF LAKE**

Before me, the undersigned authority, on this day personally appeared **CRAIG T. BOYD**, Vice President of PPE, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public in and for  
The State of Illinois

**THE STATE OF TEXAS**

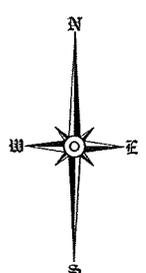
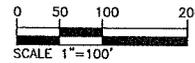
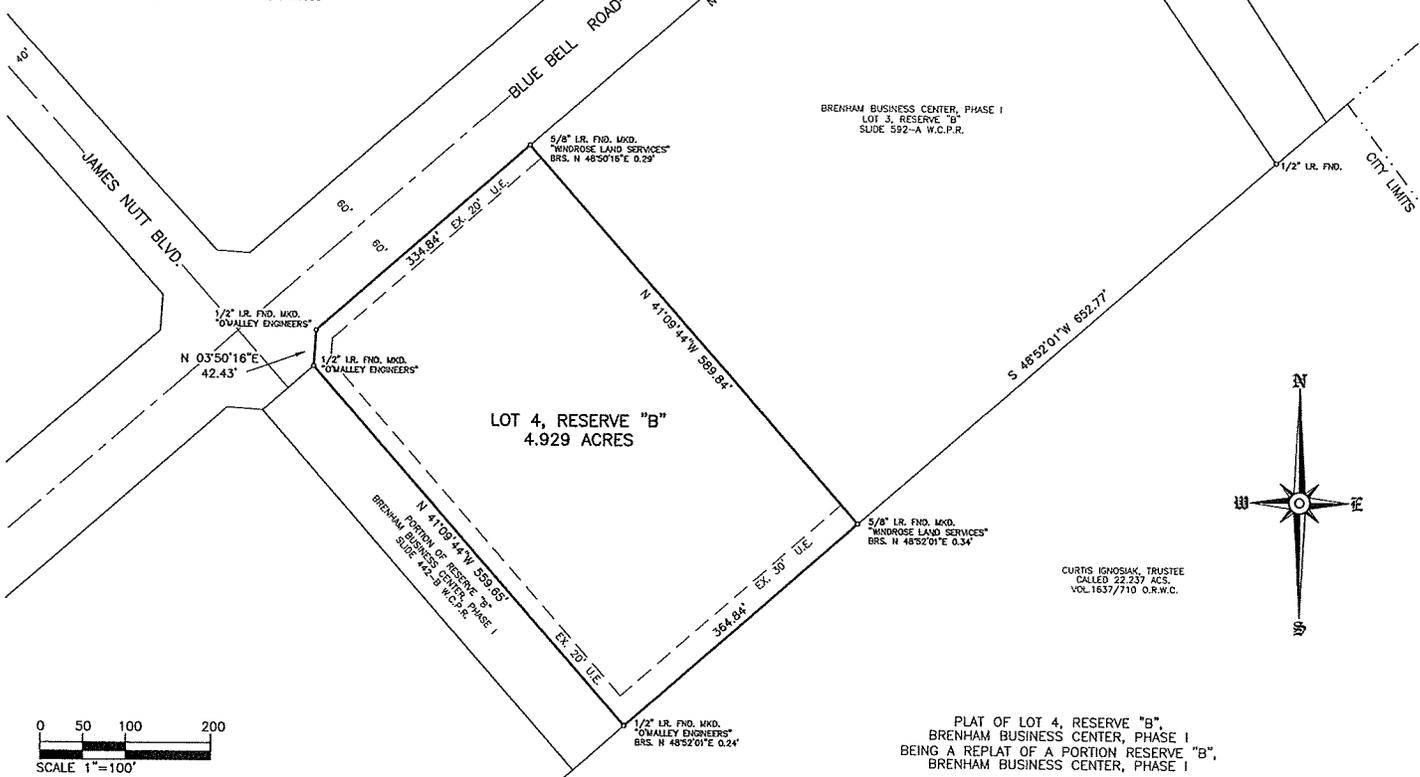
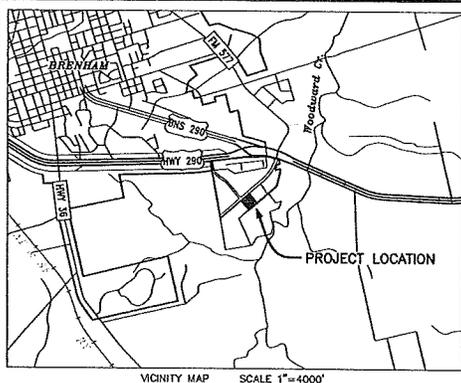
**COUNTY OF \_\_\_\_\_**

Before me, the undersigned authority, on this day personally appeared **WELCOME WILSON, JR.**, President & Chief Executive Officer of GSL CONSTRUCTORS, LTD, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public in and for  
The State of Texas

CITY OF BRENHAM  
WASHINGTON COUNTY, TEXAS



PLAT OF LOT 4, RESERVE "B",  
BRENHAM BUSINESS CENTER, PHASE I  
BEING A REPLAT OF A PORTION OF RESERVE "B",  
BRENHAM BUSINESS CENTER, PHASE I

Approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the Planning and Zoning Commission of the City of Brenham, Texas.

Chairman \_\_\_\_\_

Secretary \_\_\_\_\_

I, \_\_\_\_\_, County Clerk in and for Washington County, hereby certify that the foregoing instrument with its certificate of authentication was filed in my office the \_\_\_\_ day of \_\_\_\_\_, AD, 20\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_ m., in the Texas.

By: \_\_\_\_\_ Deputy \_\_\_\_\_ Washington County, Texas

- General Notes:
1. Bearings are based on bearings of record as recorded in Plat Slide 403-A, of the Washington County Plat Records.
  2. The surveyor has not abstracted the property. This survey was performed without the benefit of a current abstract of property or title report and would be subject to any conditions, restrictions or exceptions that a current title opinion might disclose.
  3. This survey is valid only if it bears the original seal and signature of the surveyor.
  4. The subject property lies within the "Zone X" area determined to be outside the 0.2% annual chance floodplain, according to the Flood Insurance Rate Maps of Washington County, Texas Map No. 48477003150, effective August 16, 2011.

STATE OF TEXAS  
COUNTY OF WASHINGTON

The Brenham Community Development Corporation, owners of the property subdivided in the foregoing replat of a portion of Reserve "B" of Brenham Business Center, Phase I, platted herein as Lot 4, Reserve B of Brenham Business Center, Phase I, do hereby make subdivision of said property according to the lines, streets, lots, alleys, building lines, and easements thereon shown and designate said subdivision as Lot 4, Reserve B of Brenham Business Center, Phase I to the City of Brenham, Texas, located in Brenham, Washington County, Texas, and we do hereby dedicate to public use, as such the streets, alleys, and easements shown thereon forever, and do hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated or occasioned by the alteration of the surface of any portion of streets and alleys to conform to such grades, and do hereby bind ourselves, our heirs, executors, and administrators to warrant and forever defend the title to the land so dedicated.

There is also dedicated for utilities an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to all easements shown hereon. Five foot (5') aerial easement being adjacent to streets, boulevards, and reserve boundary lines. We hereby covenant and agree that the area within the boundaries of this subdivision is for business purposes unless otherwise noted.

Witness my hand at Brenham, Washington County, Texas on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Terry Roberts, Chairman of the Brenham Community Development Corporation

Attest: Secretary of the Brenham Community Development Corporation

STATE OF TEXAS  
COUNTY OF WASHINGTON

Before me the undersigned authority, on this day personally appeared Terry Roberts, Chairman of the Brenham Community Development Corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purpose and consideration therein expressed.

Given under my hand and seal of office this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Notary Public in and for the State of Texas

STATE OF TEXAS  
COUNTY OF WASHINGTON

I, Robert C. Schmidt, R.P.L.S., do hereby certify, that this survey was performed on the ground under my supervision and completed December 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



**BRENHAM BUSINESS CENTER, PHASE I**  
**PLAT OF LOT 4, RESERVE "B"**  
**BEING A REPLAT OF A PORTION OF RESERVE "B"**  
**4.929 ACRES**  
**OUT OF THE ISAAC LEE SURVEY, A-77**  
**CITY OF BRENHAM,**  
**WASHINGTON COUNTY, TEXAS**

**O'MALLEY ENGINEERS**  
203 S. JACKSON ST. BRENHAM, TEXAS  
(979) 836-7937 FAX (979) 836-7936  
JOB NO. 608.14 LC DWG. NO. BDRYADJ-RES-B.DWG

## **CITY OF BRENHAM**

### **POLICY STATEMENT ON PROPERTY TAX PHASE-IN INCENTIVE FOR SELECTED COMMERCIAL ENTERPRISES**

Policy Adoption Date: December 5, 2013

#### **I. PURPOSE**

The City of Brenham, hereinafter referred to as "the City," is committed to the promotion of high quality development in all parts of the community and to improving the quality of life for its citizens. In order to help meet these goals and to stimulate economic development, the City will consider providing incentives that include, but are not limited to, the property Tax Phase-In incentive, in accordance with the procedures, criteria and guidelines set forth in this Policy and as provided by Chapter 312 of the Texas Tax Code. Nothing in this Policy shall imply or suggest that the City is under any obligation to provide any incentives to any applicant. Each application for the Tax Phase-In incentive under this Policy shall be considered on an individual basis.

#### **II. DEFINITION OF TAX PHASE-IN INCENTIVE**

Tax Phase-In incentive, as referred to in this Policy, means the partial, temporary exemption from ad valorem taxes on certain qualifying property in a Reinvestment Zone designated by the City or County for economic development purposes. Only ad valorem (property) taxes are eligible for the incentive. Brenham ISD and Blinn College taxes are required to be paid in full at all times.

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

#### **III. GUIDELINES AND CRITERIA**

In order to be eligible for property Tax Phase-In incentive, the planned improvement at a minimum must:

- (a) Be an Authorized Facility. A facility may be eligible if it is a(n):
  - Agriculture/Aquaculture Facility,
  - Distribution Center Facility,
  - Manufacturing Facility,
  - Research Facility, or
  - Other Basic Industry. [as defined in Glossary-Section XII (o)]
- (b) The project must add new value to the tax roll of eligible property: a minimum of \$300,000 for a business new to Brenham or \$150,000 for an existing local business. For development in the Downtown Zone, a National Register Historic District, the added value must be a minimum of \$50,000. This is to help maintain the economic viability of

the central business district.

- (c) The applicant must maintain or create within the first year and throughout the Tax Phase-In incentive period a minimum of ten (10) jobs at an average base salary of \$33,000/year or higher, including any benefits (except for a location in the Downtown Zone).

In consideration of the request for the Tax Phase-In incentive, the following factors will also be considered:

- (1) Jobs The projected new jobs created including the number of jobs, the type of jobs and the average salary per job class.
- (2) Fiscal Impact The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales tax that may be generated, any infrastructure improvements by the City that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's master plan for development.
- (3) Valuation at Termination of Tax Phase-In Incentive Period The estimated fair market value, valued at the end of incentive period, of any equipment included in the Tax Phase-In incentive. The economic life of the added-value property must exceed the duration of the granted Tax Phase-In incentive period.

- (4) Community Impact

The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project;

The revitalization of a depressed area;

The business opportunities of existing local businesses;

The alternative development possibilities for proposed site;

The impact on other taxing entities;

Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Washington County to another; and/or,

Whether the product manufactured or service provided by the business competes to a substantial degree with an existing business.

#### **IV. TAX PHASE-IN INCENTIVE AUTHORIZED**

- (a) Authorized Date A facility shall be eligible for the Tax Phase-In incentive if it has applied for the incentive prior to the commencement of construction and meets the guidelines and criteria under this Policy.

- (b) Creation of New Value Tax Phase-In incentive may only be granted for the additional value

of eligible property improvements made subsequent to the filing of an application for the Tax Phase-In incentive and specified in the Tax Phase-In incentive agreement between the City and the property owner and/or lessee, subject to such limitations as the guidelines and criteria may require.

(c) New and Existing Facilities Tax Phase-In incentive may be granted for new facilities and improvements and for the expansion or modernization of existing facilities and improvements. If the modernization project includes facility replacement, the Tax Phase-In incentive value shall be the tax-appraised value of the new unit(s) less the value of the old unit(s).

(d) Eligible Property Except as otherwise provided in this policy, the Tax Phase-In incentive may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary or convenient to the operation and administration of the facility.

(e) Ineligible Property The following types of property shall be fully taxable and ineligible for property Tax Phase-In incentives:

- land,
- animals,
- inventories,
- supplies,
- tools,
- furnishings and other forms of movable personal property,
- vehicles,
- vessels,
- aircraft,
- housing or residential property (except for property owners in the Downtown Zone),
- hotels/motels,
- fauna,
- flora,
- retail facilities (except for property owners in the Downtown Zone),
- deferred maintenance investments,
- property to be rented or leased except as provided in Part IV (f),
- improvements for the generation or transmission of electrical energy not wholly consumed by a new facility or expansion,
- any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility,
- property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated or directed by a political subdivision of the State of Texas.

(f) Owned/Leased Facilities If a leased facility is granted the Tax Phase-In incentive, the agreement shall be executed with the lessor and the lessee and the new value investment shall be combined to calculate the total new value investment. If the lessee removes or reduces its new value investment to the detriment of the lessor, the lessor may annually elect to extend its Tax Phase-In incentive to obtain a replacement lessee. The lessor may obtain the full benefit of the remaining Tax Phase-In incentive period by resuming the Tax Phase-In incentive with the combined value of the replacement lessee by disregarding the Tax Phase-In incentive extension

term. The lessor shall not receive any Tax Phase-In incentive during any year where a Tax Phase-In incentive extension has been elected. The Tax Phase-In incentive period, including any extensions, shall never exceed a total of ten years as provided by state law. The replacement lessee may apply for its own Tax Phase-In incentive based solely on its new value investment.

(g) Value and Term of Tax Phase-In incentive Tax Phase-In incentives shall commence with the January 1 valuation date immediately following the occupancy of the property qualifying for the Tax Phase-In incentive unless otherwise specified by the City. The value of new eligible properties shall be abated according to the approved agreement between applicant and the City. The City, in its sole discretion, shall determine the amount of any Tax Phase-In incentive. The table one Tax Phase-In incentive schedule - Exhibit "A", table three in a Downtown Zone (map Exhibit "B"), incorporated herein by reference, shall be the maximum Tax Phase-In incentive available based on total new value investment or added employment for each year during the Tax Phase-In incentive term, whichever is greater. The total amount of abatement shall be derived from the sum of table one and table two, unless located in a Downtown Zone, in which the total amount of abatement will be derived from table three. Tax Phase-In incentive in a Downtown Zone shall receive approval for building plans and specifications by the Main Street Board as a condition of receiving the Tax Phase-In incentive.

(h) Downtown Zone A Tax Phase-In incentive zone within the designated downtown area in the attached Exhibit B, incorporated herein by reference, and any tracts or parcels contiguous to a tract in Exhibit B under common ownership.

(i) Taxability From the execution of the Tax Phase-In incentive contract to the end of the agreement period, taxes shall be payable as follows:

- (1) The value of ineligible property as provided in Part IV (e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV (g).

## **V. APPLICATION PROCESS**

(a) Any present or potential owner of taxable property in the City of Brenham may request the creation of a Reinvestment Zone and Tax Phase-In incentive by filing written request with the City Manager.

(b) The application shall consist of a completed application form accompanied by:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken;
- (2) A descriptive list of the improvements which will be a part of the facility;
- (3) A map and property description or a site plan, including a legal description of the area proposed for designation as a Reinvestment Zone, as applicable.

- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing or replacing existing facilities, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application;
- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant;
- (7) A schedule reflecting the proposed amount of abated taxes for which the applicant seeks, as well as the anticipated taxes to be paid by the applicant which will not be subject to the Tax Phase-In incentive; and
- (8) A schedule of the proposed job creation or retention, including details of job type(s), wages and benefits, and the timing of creation of any job within the phase-in period.

(c) Upon receipt of a completed application, the City Manager shall notify the Mayor and City Council. Before acting upon the application, the City may conduct an Economic Impact Study. Following this step, the City shall afford the applicant and any other interested persons the opportunity to speak and present evidence for or against the designation of the area as a Reinvestment Zone for the purpose of the Tax Phase-In incentive during a public hearing. Notice of the public hearing shall be clearly identified on an agenda of the City to be posted as required by law. At least seven (7) days before the date of the hearing, notice of the hearing must be 1) published in a newspaper having general circulation in the City; and 2) delivered in writing to the presiding officer of the governing body of each taxing entity having in its boundaries real property that is to be included in the proposed Reinvestment Zone.

(d) The City shall approve or disapprove the application for designation of an area as a Reinvestment Zone for Tax Phase-In incentive within ninety (90) days after receipt of the application. The presiding officer of the legislative body of the City shall notify the applicant of the approval or disapproval promptly thereafter.

(e) A request for designation of an area as a Reinvestment Zone for the purpose of receiving the Tax Phase-In incentive shall not be granted if the jurisdiction receiving the application finds that the request for the Tax Phase-In incentive was filed after the commencement of construction or installation of improvements related to a proposed modernization expansion or new facility began.

Variance. Requests for any variances from this Policy may be made in written form to the City Manager. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) majority vote of the governing body of the City. The approval by the City of a Tax Phase-In incentive shall conclusively be deemed as an approval of any variance from the provisions of Subsections (a) through (e) of Part V.

## **VI. PUBLIC HEARING**

(a) Should the City be able to show cause in the public hearing why the granting of a designation of an area as a Reinvestment Zone for the Tax Phase-In incentive will have a substantial adverse effect on its bonds, service capacity or the provision of service, that showing shall be reason for the City to deny the granting of the application.

(b) Neither a Reinvestment Zone nor a property Tax Phase-In incentive agreement shall be authorized if it is determined that:

- (1) There would be a substantial adverse affect on the provision of a government service or tax base of the City.
- (2) The applicant has insufficient financial capacity
- (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
- (4) Planned or potential use of the property violates governmental codes or laws.

## **VII. AGREEMENT**

(a) After approval of the application for the designation of an area as a Reinvestment Zone for the property Tax Phase-In incentive, the City shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:

- (1) Estimated value to be abated and the base year value.
- (2) Percent of value to be abated each year as provided in Part IV (g).
- (3) The commencement date and the termination date of Tax Phase-In incentive.
- (4) The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description and improvements list as provided in Application, Part V.
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes, recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
- (6) Amount of investment and average number of jobs involved for the period of the Tax Phase-In incentive.
- (7) Said contract shall meet all of the requirements of Texas Tax Code Chapter 312.

(b) Such agreement shall be executed within ninety (90) days after the later of 1) the date

applicant has forwarded all necessary information to the City or 2) the date of the approval of the application.

(c) The City shall make its own determination of the property Tax Phase-In incentive which shall not bind any other jurisdiction.

## **VIII. ADMINISTRATION**

Each Tax Phase-In incentive project will be monitored annually for compliance. The agreement will require the applicant to provide a sworn statement and documents verifying compliance each year. Failure to provide the required documents in the manner outlined herein shall result in termination of the Tax Phase-In incentive agreement.

The terms of the agreement shall include the right of the City to review and verify the applicant's employment records and payroll records in each year during the term of the agreement, and to conduct an on-site inspection of the project in each year during the duration of the Tax Phase-In incentive, and to review such other items as may be reasonable to verify compliance with the terms of the agreement.

The agreement shall stipulate that employees and/or designated representatives of the City will have access to the Reinvestment Zone during the term of the Tax Phase-In incentive to inspect the facility to determine compliance with the terms and conditions of the agreement. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will be conducted in such manner as to not unreasonably interfere with the construction and/or operation the facility. All City inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

All proprietary information acquired by any affected jurisdiction for purposes of monitoring compliance with the terms and conditions of a property Tax Phase-In incentive agreement shall be considered confidential to the extent allowed by law.

Compliance will be monitored in the following manner:

- (a) A Compliance Review Committee shall collect from the applicant a sworn statement of compliance and verifying documents and conduct any inspections on or before October 15 of each calendar year. The Committee shall be comprised of 5 representatives, with 2 appointed by the Mayor, 2 appointed by the County Judge and 1 by the Chief Appraiser. They will be appointed by January 30 of even numbered years for a two year term. Any vacancy on the committee will be filled by the designated official who appointed the vacating committee person. The designated official may remove an appointee at any time. The company/individual receiving the property Tax Phase-In incentive shall furnish the Committee with such information as may be necessary to verify compliance, including the number of new or retained employees associated with the facility and their salaries.
- (b) The Chief Appraiser of the County shall annually determine an assessment of the real and personal property in the Reinvestment Zone. This shall be done on or before December 1 of each calendar year.

- (c) The Committee shall provide a report on the status of all Tax Phase-In incentive agreements to the City Council on or before December 15 of each calendar year.

## **IX. RECAPTURE**

Should the City determine that a company or individual is in default according to the terms and conditions of its agreement, the City shall notify the company or individual in writing at the address stated in the agreement, and if such default is not cured within thirty (30) days or begun to be cured (in the case of a default that cannot reasonably be cured within 30 days) from the date of such notice ("Cure Period"), then the agreement shall be terminated.

In the event that the company or individual:

- (1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
- (2) does not create or maintain jobs as outlined in the agreement; or
- (3) violates any of the terms and conditions of the Tax Phase-In incentive agreement and fails to cure same during the Cure Period; or
- (4) if the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion or other casualty or accident or natural disaster, for a period of more than one (1) year during the Tax Phase-In incentive period;

then the agreement shall terminate and so shall the Tax Phase-In incentive of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the City within sixty (60) days from the date of termination, and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination. The City will use all available means for recapture, including but not limited to, placing a lien on the property and pursuing all other legal and equitable remedies available to the City.

## **X. ASSIGNMENT**

- (a) The Tax Phase-In incentive may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of the City, subject to the financial capacity of the assignee and provided that all conditions and obligations in the Tax Phase-In incentive agreement are guaranteed by the execution of a new contractual agreement with the City.
- (b) The contractual agreement with the new owner or lessee shall not exceed the termination date of the Tax Phase-In incentive agreement with the original owner and/or lessee.
- (c) No assignment or transfer shall be approved if the parties to the existing agreement, the

new owner or new lessee are liable to the City for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld.

## **XI. SUNSET PROVISION**

(a) This policy is effective upon the date of the adoption and will remain in force for two (2) years, at which time all Reinvestment Zones and Tax Phase-In incentive contracts created pursuant to its provisions may be reviewed by the City to determine whether the goals have been achieved. Based on that review, this policy may be modified, renewed or eliminated, providing that such actions shall not affect existing contracts.

(b) This policy does not amend any existing Industrial District Contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the City.

(c) Prior to the date for review, as defined above, this Policy Statement may be modified by a three fourths (3/4) vote of members each governing body, as provided for under the laws of the State of Texas.

## **XII. SEVERABILITY AND LIMITATIONS**

(a) In the event that any section, clause, sentence, paragraph or any part of this Policy Statement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of this Policy Statement.

(b) Property that is owned or leased by the following is excluded from the property Tax Phase-In incentive:

- (1) a member of the governing body of the City of Brenham or a member of a planning board or commission of the City; or
- (2) a member of the Commissioners Court or a member of a planning board or commission of Washington County.

(c) If this Policy Statement has omitted any mandatory requirements of the applicable Tax Phase-In incentive laws of the State of Texas, then such requirements are hereby incorporated as a part of this Policy Statement.

## **GLOSSARY**

- (a) "Agriculture/Aquaculture Facility" means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is of food and/or fiber products in commercially marketable quantities.
- (b) "City" means the City of Brenham, Texas that levies ad valorem taxes upon and/or provides services to property located within the City limits.
- (c) "Agreement" means a contractual agreement between a property owner and/or lessee and the City for the purpose of the Tax Phase-In incentive.
- (d) "Base year value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for the Tax Phase-In incentive.
- (e) "Committee" means the Compliance Review Committee, consisting of representatives appointed by the City, County and Chief Appraiser's office to annually review documents verifying compliance of all projects receiving the Tax Phase-In incentive.
- (f) "Deferred maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside of Washington County.
- (h) "Existing Local Business" means a business that has been located in the City of Brenham and has paid property taxes for at least one full year prior to submitting any application for the property Tax Phase-In incentive.
- (i) "Expansion" means the addition of buildings, employees, structures, machinery or equipment for purposes of increasing production capacity.
- (j) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (k) "Job(s)" shall represent a newly created or a retained employment position on a full-time permanent basis at an average base salary of \$30,000 or higher, including any benefits, whether hired directly or leased through an employee leasing service.
- (l) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (m) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers the unit

cost of the operation. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

(n) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(o) "Other Basic Industry" means buildings and structures/including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or providing of services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

(p) "Productive Life" means the number of years a property improvement is expected to be in service in a facility.

(q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.

**EXHIBIT "A"**  
**TAX PHASE-IN INCENTIVE SCHEDULES**

Applicants may receive property Tax Phase-In incentive according to the schedules in Tables 1 and 2, depending on their combination of property value creation and job creation/retention.

**TABLE 1** (earns 50% of incentive)

**1A - Property Improvements by an Existing Local Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 150,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

**1B - Property Improvements by a New Business**

Level	Amount of Valuation of Eligible Improvements as determined by the Tax Appraisal District:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	\$ 300,000	\$1,000,000	45	40	30	20	0	0	0	0	0	0
2	\$1,000,001	\$2,500,000	45	45	40	30	20	0	0	0	0	0
3	\$2,500,001	\$4,000,000	45	45	45	40	30	20	0	0	0	0
4	\$4,000,001	\$5,500,000	45	45	45	45	40	30	20	0	0	0
5	More than	\$5,500,000	45	45	45	45	45	40	30	20	0	0

**TABLE 2** (earns 50% of incentive)

**2 - Jobs Created & Retained - by Existing Businesses or New/Relocating Businesses**

Level	The number of new and/or retained full-time employees with an average salary level of \$33,000+/year including benefits averaged during the twelve calendar months prior to the tax assessment date of January 1:		Percent of property tax to be abated each year									
	From	To	1	2	3	4	5	6	7	8	9	10
1	10	19	45	40	30	20	0	0	0	0	0	0
2	20	29	45	45	40	30	20	0	0	0	0	0
3	30	39	45	45	45	40	30	20	0	0	0	0
4	40	49	45	45	45	45	40	30	20	0	0	0
5	50 and more		45	45	45	45	45	40	30	20	0	0

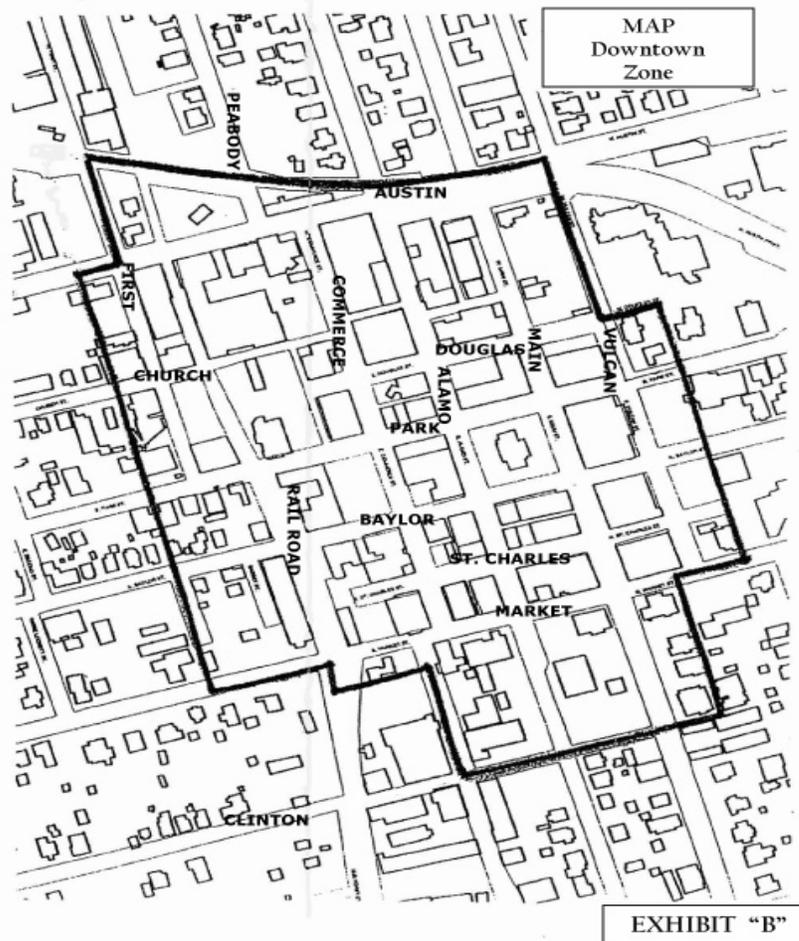
**TABLE 3** Downtown Zone

Amount of valuation  
of downtown  
reinvestment  
determined by tax appraisal:

Percent of property tax to be abated each year

Valuation	1	2	3	4	5	6	7	8
\$ 50,000 to \$150,000	90	90	90	60	40	20	0	0
\$150,001 to \$250,000	90	90	90	90	60	40	20	0
\$250,001 and beyond	90	90	90	90	90	60	40	20

**EXHIBIT  
B  
MAP OF DOWNTOWN  
ZONE**





**AGENDA ITEM 15**

<b>DATE OF MEETING:</b> January 23, 2014		<b>DATE SUBMITTED:</b> January 16, 2014	
<b>DEPT. OF ORIGIN:</b> Police		<b>SUBMITTED BY:</b> Rex Phelps	
<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 the Acceptance of a Donation in the Amount of \$500,000.00 to the City of Brenham for the Brenham Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation			
<b>SUMMARY STATEMENT:</b> An anonymous donor has come forward to offer this generous donation for the construction of the above named facility. In accordance with the City of Brenham Resolution number R-00-013 the Mayor and City Council must approve the acceptance of the donation.			
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>			
<b>A. PROS:</b> Assist the community in funding a significant part of the capital project			
<b>B. CONS:</b> None Identified			
<b>ALTERNATIVES (In Suggested Order of Staff Preference):</b> None Identified			
<b>ATTACHMENTS:</b> (1) Brenham Resolution #R-00-013			
<b>FUNDING SOURCE (Where Applicable):</b> N/A			
<b>RECOMMENDED ACTION:</b> Approve the acceptance of a donation in the amount of \$500,000.00 to the City of Brenham for the Brenham Pet Adoption and Animal Care Facility and authorize the Mayor to execute any necessary documentation.			
<b>APPROVALS:</b> Terry K. Roberts			

RESOLUTION NO. R-00-013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRENHAM, TEXAS, ESTABLISHING A PROCESS FOR THE ACKNOWLEDGEMENT OF RECEIPT OF GIFTS OR CASH AND PERSONAL PROPERTY TO THE CITY OF BRENHAM, TEXAS, AND PROVIDING FOR OTHER RELATED MATTERS.**

**WHEREAS**, from time to time the City is the recipient of gifts of cash or personal property which are designated for use for public purposes; and

**WHEREAS**, it is desirable for the City to acknowledge the receipt of such gifts;

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

Section 1. All proposed donations to the City of Brenham must be reviewed by the city manager prior to formal acceptance by either the city manager or city council in accordance with this section. The term "donation" shall include, but shall not be limited to, all monetary gifts, equipment, land, buildings, personal services, or any other item not acquired through normal purchasing procedures.

Section 2. Directors may accept donations on behalf of the City up to an amount of *five hundred dollars (\$500.00)*. Donations above *five hundred dollars (\$500)* to *fifteen thousand dollars (\$15,000.00)* in value must be approved by the city manager. **All donations above fifteen thousand dollars (\$15,000.00) in value or those that require the transfer of title must be approved by the city council.**

Section 3. All donations accepted by the city will become the irrevocable property of the City of Brenham to be used at the discretion of the city. In cases where restrictions are placed upon the use of donations, the donor must specify in writing all such instructions as to the desired use of these donations prior to city acceptance. All donations other than monetary gifts must include a statement of estimated value by the donor. An acceptable receipt will be provided.

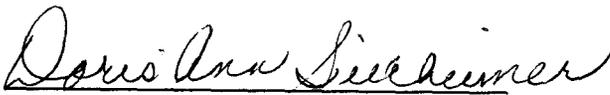
Section 4. Upon acceptance of any donations by the city, all information relating to those donations, including the amount involved and any restrictions or other instructions, shall be immediately submitted to the finance department for deposit and inclusion in the city's normal reporting and control systems. Proceeds for proposed donations shall not be used by any city department until formal acceptance by the city and their submission to the finance department for formal incorporation into the city's normal financial and other recordkeeping records. All such donations shall be disbursed or used in accordance with all City of Brenham ordinances and other administrative policies. Assignment of such donations to any individual or department shall be approved by the city manager.

Section 5. This resolution shall be effective immediately of and from adoption.

**PASSED AND APPROVED** this the 16 day of March, 2000.

  
WALTER SCHWARTZ, Mayor

**ATTEST:**

  
DORIS ANN SEILHEIMER, City Secretary



## AGENDA ITEM 16

<b>DATE OF MEETING:</b> January 23, 2014	<b>DATE SUBMITTED:</b> January 15, 2014	
<b>DEPT. OF ORIGIN:</b> Fire	<b>SUBMITTED BY:</b> Alan Finke, Fire Marshal	
<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, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham		
<b>SUMMARY STATEMENT:</b> During a review of Chapter 8 of the Code of Ordinances which deals with various fire-related topics, an assessment was made of the 1,000 gallon limit currently placed on the capacity of aboveground petroleum fuel storage tanks located in the city. BFD staff acknowledges that the current limits may be impractical and overly restrictive for certain industrial operations using diesel fuel for fleet operations. Fire Marshal recommends that the City Council amend Chapter 8, Article II of the Code to allow for the issuance of permits by the Fire Marshal, with approval of City Council, for the operation of “over-sized aboveground fuel storage tanks” storing diesel fuel or other high flash point combustible liquids, at locations that are zoned “Industrial”, providing that such fuel tanks also meet the requirements of the International Fire Code, 2012 Edition and the NFPA Flammable and Combustible Liquids Code – Standard 30, 2012 edition. Such permits would be issued only for storage of combustible liquid fuel with a flash point higher than 100° F. Tanks containing flammable liquids with a low flash point, such as gasoline, or tanks containing compressed or liquefied petroleum gases (propane, liquefied natural gas, or compressed natural gas) would be excluded from the over-sized permitting process. Staff further recommends the adoption of the “International Fire Code – 2012 Edition” as the fire prevention code of the city, replacing the 2003 edition currently in place.		
<b>STAFF ANALYSIS (For Ordinances or Regular Agenda Items):</b>		
<b>A. PROS:</b> Will allow for more efficient use of storage capacity and dispensing equipment for diesel fuel in industrial settings without posing a significant increase in the hazard level associated with more volatile fuels such as gasoline. Adoption of the 2012 IFC to replace the 2003 edition is needed so that new developments in fire safety technology can be utilized to better protect the citizens of Brenham from fire.		
<b>B. CONS:</b> None.		

**ALTERNATIVES (In Suggested Order of Staff Preference):** Take no action on Chapter 8, Section II, leaving the old Fire Code in place and fuel tank capacity restrictions as they are now.

**ATTACHMENTS:** (1) Redlined from Chapter 8 showing recommended changes; and (2) Clean version of the Ordinance

**FUNDING SOURCE (Where Applicable):** Not applicable.

**RECOMMENDED ACTION:** Approve an Ordinance on its first reading amending Chapter 8, Fire Protection and Prevention, Article II, Fire Prevention Code, of the Code of Ordinances of the City of Brenham

**APPROVALS:** Terry K. Roberts

**CHAPTER 8  
ARTICLE II. FIRE PREVENTION CODE**

**Sec. 8-20. Adoption.**

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2012 International Fire Code, including Appendices B, C, D, F and H, and all revisions thereto, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, said code as revised herein also being sometimes referred to as the fire prevention code. A copy of the 2012 International Fire Code shall be filed in the office of the planning & development services department, and in the office of the Fire Marshal. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Section shall take effect, the provisions thereof shall be controlling within the limits of the city.

**Sec. 8-21. Establishment and duties of the Bureau of Fire Prevention.**

(a) The fire prevention code shall be enforced by members of the Bureau of Fire Prevention, within the fire department of the city, which is hereby established and which shall be operated by the Fire Marshal, under the direction of the chief of the fire department.

(b) The Fire Marshal, shall be in charge of the Bureau of Fire Prevention and is hereby designated as the fire code official for purposes of enforcement of fire-related codes and ordinances of the city.

(c) The chief of the fire department may employ, properly certified fire inspectors as is necessary for the operation of the fire department.

(d) A report of the Bureau of Fire Prevention shall be made annually by the Fire Marshal and transmitted to the Fire Chief. Such report shall contain all proceedings under and incidents of enforcement of this fire prevention code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the report which, in his judgment, shall be desirable.

**Sec. 8-22. Definitions.**

(a) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean this city.

(b) Where the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for this city.

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**Sec. 8-23. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.**

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited are hereby established as the city limits.

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**Sec. 8-24. Regulation of use and placement of fuel storage tanks.**

(a) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Article:

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*Aboveground* shall mean any storage tank, as defined herein, which any portion thereof is aboveground, excluding valves and pipes into and out of the tank.

*Combustible liquid* shall mean a liquid having a flash point of one hundred degrees (100°) Fahrenheit or higher per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

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*Flammable liquid* shall mean a liquid having a flash point of less than one hundred degrees (100°) Fahrenheit per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

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*Storage location* shall mean any area which contains no less than one hundred (100) square feet within which one (1) or more fuel storage tanks are to be located. Each storage location shall be located no less than one hundred (100) linear feet from any other storage location.

*Storage tanks* shall mean any container in excess of one hundred (100) gallons, which is used to store any hydrocarbon material including, but not limited to, gasoline, diesel and kerosene.

(b) *Permit required.* Every owner shall obtain a permit from the Fire Marshal for any of the following prior to the commencement of construction of such facilities:

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(1) A belowground (or underground), liquefied natural gas, liquefied petroleum gas, or flammable or combustible liquid storage tank.

(2) An aboveground storage tank for liquefied natural gas, or liquefied petroleum gas. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than two thousand (2,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.

(3) An aboveground storage tank for a flammable or combustible liquid. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than one thousand (1,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than ~~two~~ thousand (~~2,000~~) gallons.

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(c) *Proper tank for aboveground storage of flammable or combustible liquids.* Any new tank or tank system used in the city for aboveground storage of flammable or combustible liquids shall be designed, constructed, installed, operated and maintained in accordance with NFPA-30, titled "Flammable and Combustible Liquid Code, ~~2012~~ Edition," and as amended thereafter.

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(d) *Proper tank for aboveground storage of liquefied natural gas.* Any new tank or tank system used in the city for aboveground storage of liquid natural gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-59A, titled "Liquefied Natural Gas, ~~2009~~ Edition," and as amended thereafter.

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Deleted: (h) *Duration and fee.* Each permit shall be valid for a period of twelve (12) months. The fee for said permit is five dollars (\$5.00).¶

¶  
(i) *Provisional Permit.* The fire marshal may issue a provisional permit for not more than three (3) months to allow a firm an opportunity to bring its facility into compliance.

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(e) *Proper tank for aboveground storage of liquefied petroleum gas.* Any new tank or tank system used in the city for aboveground storage of liquefied petroleum gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-58, titled "Liquefied Petroleum Gas, ~~2011~~ Edition," and as amended thereafter.

(f) *Tank location.* In addition to location restrictions listed in NFPA-30, "Flammable and Combustible Liquid Code, ~~2012~~ Edition," no new tank used for the aboveground storage of flammable or combustible liquids may be placed or used within one hundred feet (~~100'~~) of property zoned ~~or used~~ for residential use. New tanks added to existing bulk plants are excluded from this provision.

(g) *Noncompliance; denial or revocation of certificate; order to cease operations.* Upon finding of non-compliance with this ~~Article~~, the ~~Fire~~ ~~Marshal~~ may revoke or deny the renewal of a permit and order the person or firm owning or operating the tank to cease all or part of its operation in this city until in compliance. No one shall operate or own a storage tank without a valid permit.

~~(h) Establishment of limits of districts in which storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited. The storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited within the areas of the city zoned as "B-3, Historical and Central Business" district(s). New bulk loading and unloading facilities for tank cars, tank vehicles and similar equipment involved in the storage or transportation of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas, in aboveground tanks, are prohibited within the city limits.~~

~~(i) Special Permit Required For Tank Exceeding Volumes Limits Established in Subsections 8-24(b)(2) and 8-24(b)(3). Any person or firm desiring to own, install, or operate one or more aboveground tanks for the storage of combustible liquids in excess of the volume limits stated in Subsections 8-24(b)(2) and 8-24(b)(3) hereinabove, shall submit an application to the Fire Marshal for a special permit allowing for an increase in the volume capacity of the tank(s). To be considered for such special permit, the owner or operator of the tank facility shall demonstrate to the satisfaction of the Fire Marshal or his deputy that the aboveground tank(s):~~

~~(1) Shall be located only on property zoned as Industrial;~~

~~(2) Shall be registered and licensed in compliance with all rules and regulations of the Texas Commission on Environmental Quality;~~

~~(3) Shall be designed, built and operated in compliance with all applicable provisions of the International Fire Code, 2012 Ed. and the National Fire Protection Association Standard 30 entitled "Flammable and Combustible Liquids Code" as referenced by the International Fire Code; and~~

~~(4) Shall contain only combustible liquids having a flash point of greater than one hundred degrees (100°) Fahrenheit, including but not limited to, diesel fuel, bio diesel, motor oil, hydraulic oil and like substances.~~

~~Special permits may not be issued for aboveground storage tanks containing gasoline or other flammable liquids having a flash point of less than one hundred degrees (100°) Fahrenheit and with a capacity greater than the volume limits detailed in subsections 8-24(b)(2) and 8-24(b)(3) herein above.~~

~~Within forty-five (45) after determining that a special permit application meets the requirements of this Section, the Fire Marshal, or his deputy, shall present the matter to the City Council for its consideration. No special permit for a tank or tanks exceeding the quantities shown in Subsections 8-24(b)(2) and 8-24(b)(3) may be issued without approval by the City Council. The Fire Marshal, or his deputy, shall inspect all tank(s) installed pursuant to a special permit to determine compliance with the requirements of this Section.~~

~~Special permits approved and issued pursuant to this Section shall be revocable. The City Council, upon request of the Fire Marshal and after written notice and opportunity to be heard being issued to the permit holder, is authorized to revoke a special permit for non-compliance with the provisions of this Section or other applicable law. Where an immediate hazard to life or property exists, however, the Fire Marshal in such an emergency may order a permit holder to take immediate action, without prior written notice, to correct the issues of non-compliance with the fire prevention code and the provisions of this Article or to immediately abate all conditions creating the immediate hazard to life or property. The Fire Marshal, in such an emergency and without prior written notice to the permit holder, may also order the permit holder to cease any and all operations, occupancy or activity at the affected site. A permit holder that violates an order of~~

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the Fire Marshal shall be subject to the penalties provided for in Section 8-27 of this Article and as otherwise allowed by law. In the event a permit holder does not immediately comply with an emergency order of the Fire Marshal, the Fire Marshal, without prior written notice to the permit holder, may take any and all actions necessary to immediately abate all conditions creating the immediate hazard to life or property.

**Sec. 8-25, Modifications.**

The Fire Marshal, as the fire code official of the city, shall have power to approve exceptions any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such exceptions when granted or allowed and the decision of the Fire Marshal thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

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**Sec. 8-26, Appeals.**

Whenever the Fire Marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the City Council within thirty (30) days from the date of the decision appealed.

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**Sec. 8-27, Penalties.**

(a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in Section 1-5 of the Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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¶ The governing body, the chief of the fire department and the chief of the bureau of fire prevention shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in the fire prevention code. The chief of the bureau of fire prevention shall post such list in a conspicuous place in his office, and distribute copies thereof to interested persons. ¶  
(Ord. of 11-20-67, § 10)¶
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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, AMENDING CHAPTER 8, FIRE PROTECTION AND PREVENTION, ARTICLE II, FIRE PREVENTION CODE, OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS FOR THE PURPOSE OF PRESCRIBING REGULATIONS GOVERNING FIRE PREVENTION; REGULATING THE USE AND PLACEMENT OF FUEL STORAGE TANKS; PROVIDING FOR A REPEALER AND SAVINGS CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; 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**, in order to enhance, promote, and protect the health, safety, and general welfare of the citizens of Brenham, Texas, the City Council must from time to time amend and/or adopt new regulations; and

**WHEREAS**, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the City Council desires to amend or modify the International Fire Code, sometimes referred to as the Fire Prevention Code; and

**WHEREAS**, the City Council desires to amend or modify the regulation and use of fuel storage tanks, including establishing guidelines for use, location and permitting process; and

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

**SECTION 1.**

Chapter 8, Article II, of the Code of Ordinances of the City of Brenham is hereby amended to read as follows:

**CHAPTER 8  
FIRE PROTECTION AND PREVENTION**

**ARTICLE II  
FIRE PREVENTION CODE**

### **Sec. 8-20. Adoption.**

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the 2012 International Fire Code, including Appendices B, C, D, F and H, and all revisions thereto, and the whole thereof, save and except such portions as are hereinafter deleted, modified or amended, said code as revised herein also being sometimes referred to as the fire prevention code. A copy of the 2012 International Fire Code shall be filed in the office of the planning & development services department, and in the office of the Fire Marshal. The same is hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this Section shall take effect, the provisions thereof shall be controlling within the limits of the city.

### **Sec. 8-21. Establishment and duties of the Bureau of Fire Prevention.**

(a) The fire prevention code shall be enforced by members of the Bureau of Fire Prevention, within the fire department of the city, which is hereby established and which shall be operated by the Fire Marshal, under the direction of the chief of the fire department.

(b) The Fire Marshal shall be in charge of the Bureau of Fire Prevention and is hereby designated as the fire code official for purposes of enforcement of fire-related codes and ordinances of the city

(c) The chief of the fire department may employ properly certified fire inspectors as is necessary for the operation of the fire department.

(d) A report of the Bureau of Fire Prevention shall be made annually by the Fire Marshal and transmitted to the Fire Chief. Such report shall contain all proceedings under and incidents of enforcement of this fire prevention code, with such statistics as the chief of the fire department may wish to include therein; the chief of the fire department shall also recommend any amendments to the report which, in his judgment, shall be desirable.

### **Sec. 8-22. Definitions.**

(a) Wherever the word "municipality" is used in the fire prevention code, it shall be held to mean this city.

(b) Where the term "corporation counsel" is used in the fire prevention code, it shall be held to mean the attorney for this city.

**Sec. 8-23. Establishment of limits of districts in which storage of explosives and blasting agents is to be prohibited.**

The limits referred to in the fire prevention code in which storage of explosives and blasting agents is prohibited are hereby established as the city limits..

**Sec. 8-24. Regulation of use and placement of fuel storage tanks.**

(a) *Definitions.* The following definitions shall apply in the interpretation and enforcement of this Article:

*Aboveground* shall mean any storage tank, as defined herein, which any portion thereof is aboveground, excluding valves and pipes into and out of the tank.

*Combustible liquid* shall mean a liquid having a flash point of one hundred degrees (100°) Fahrenheit or higher per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

*Flammable liquid* shall mean a liquid having a flash point of less than one hundred degrees (100°) Fahrenheit per NFPA-30, the Flammable and Combustible Liquid Code, 2012 Edition, and as amended thereafter.

*Storage location* shall mean any area which contains no less than one hundred (100) square feet within which one (1) or more fuel storage tanks are to be located. Each storage location shall be located no less than one hundred (100) linear feet from any other storage location.

*Storage tanks* shall mean any container in excess of one hundred (100) gallons, which is used to store any hydrocarbon material including, but not limited to, gasoline, diesel and kerosene.

(b) *Permit required.* Every owner shall obtain a permit from the Fire Marshal for any of the following prior to the commencement of construction of such facilities:

- (1) A belowground (or underground), liquefied natural gas, liquefied petroleum gas, or flammable or combustible liquid storage tank.
- (2) An aboveground storage tank for liquefied natural gas, or liquefied petroleum gas. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than two thousand (2,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than four thousand (4,000) gallons.

- (3) An aboveground storage tank for a flammable or combustible liquid. No new storage locations shall be permitted which will contain a fuel storage tank with a liquid capacity of more than one thousand (1,000) gallons or which will contain two (2) or more fuel storage tanks with an aggregate liquid capacity of more than two thousand (2,000) gallons.

(c) *Proper tank for aboveground storage of flammable or combustible liquids.* Any new tank or tank system used in the city for aboveground storage of flammable or combustible liquids shall be designed, constructed, installed, operated and maintained in accordance with NFPA-30, titled "Flammable and Combustible Liquid Code, 2012 Edition," and as amended thereafter.

(d) *Proper tank for aboveground storage of liquefied natural gas.* Any new tank or tank system used in the city for aboveground storage of liquid natural gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-59A, titled "Liquefied Natural Gas, 2009 Edition," and as amended thereafter.

(e) *Proper tank for aboveground storage of liquefied petroleum gas.* Any new tank or tank system used in the city for aboveground storage of liquefied petroleum gas shall be designed, constructed, installed, operated and maintained in accordance with NFPA-58, titled "Liquefied Petroleum Gas, 2011 Edition," and as amended thereafter.

(f) *Tank location.* In addition to location restrictions listed in NFPA-30, "Flammable and Combustible Liquid Code, 2012 Edition," no new tank used for the aboveground storage of flammable or combustible liquids may be placed or used within one hundred feet (100') of property zoned or used for residential use. New tanks added to existing bulk plants are excluded from this provision.

(g) *Noncompliance; denial or revocation of certificate; order to cease operations.* Upon finding of non-compliance with this Article, the Fire Marshal may revoke or deny the renewal of a permit and order the person or firm owning or operating the tank to cease all or part of its operation in this city until in compliance. No one shall operate or own a storage tank without a valid permit.

(h) *Establishment of limits of districts in which storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited.* The storage of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas in aboveground tanks is prohibited within the areas of the city zoned as "B-3, Historical and Central Business" district(s). New bulk loading and unloading facilities for tank cars, tank vehicles and similar equipment involved in the storage or transportation of flammable or combustible liquids, liquefied petroleum gas, or liquefied natural gas, in aboveground tanks, are prohibited within the city limits.

(i) *Special Permit Required For Tank Exceeding Volumes Limits Established in Subsections 8-24(b)(2) and 8-24(b)(3)*. Any person or firm desiring to own, install or operate one or more aboveground tanks for the storage of combustible liquids in excess of the volume limits stated in Subsections 8-24(b)(2) and 8-24(b)(3) hereinabove, shall submit an application to the Fire Marshal for a special permit allowing for an increase in the volume capacity of the tank(s). To be considered for such special permit, the owner or operator of the tank facility shall demonstrate to the satisfaction of the Fire Marshal or his deputy that the aboveground tank(s):

(1) Shall be located only on property zoned as Industrial;

(2) Shall be registered and licensed in compliance with all rules and regulations of the Texas Commission on Environmental Quality;

(3) Shall be designed, built and operated in compliance with all applicable provisions of the International Fire Code, 2012 Ed. and the National Fire Protection Association Standard 30 entitled "Flammable and Combustible Liquids Code" as referenced by the International Fire Code; and

(4) Shall contain only combustible liquids having a flash point of greater than one hundred degrees (100°) Fahrenheit, including but not limited to, diesel fuel, bio-diesel, motor oil, hydraulic oil and like substances.

Special permits may not be issued for aboveground storage tanks containing gasoline or other flammable liquids having a flash point of less than one hundred degrees (100°) Fahrenheit and with a capacity greater than the volume limits detailed in subsections 8-24(b)(2) and 8-24(b)(3) herein above.

Within forty-five (45) after determining that a special permit application meets the requirements of this Section, the Fire Marshal, or his deputy, shall present the matter to the City Council for its consideration. No special permit for a tank or tanks exceeding the quantities shown in Subsections 8-24(b)(2) and 8-24(b)(3) may be issued without approval by the City Council. The Fire Marshal, or his deputy, shall inspect all tank(s) installed pursuant to a special permit to determine compliance with the requirements of this Section.

Special permits approved and issued pursuant to this Section shall be revocable. The City Council, upon request of the Fire Marshal and after written notice and opportunity to be heard being issued to the permit holder, is authorized to revoke a special permit for non-compliance with the provisions of this Section or other applicable law. Where an immediate hazard to life or property exists, however, the Fire Marshal in such an emergency may order a permit holder to take immediate action, without prior written notice, to correct the issues of non-compliance with the fire prevention code and the provisions of this Article or to immediately abate all conditions creating the immediate hazard to life or property. The Fire Marshal, in such an emergency and without prior written notice to the permit holder, may also order the permit holder to cease any and all operations, occupancy or activity at the affected site. A permit holder that violates an order of the Fire Marshal shall be subject to the penalties provided for in Section 8-27 of this Article and as otherwise allowed by law. In the event a permit holder does not immediately comply with an emergency order of the Fire Marshal, the Fire Marshal, without prior written

notice to the permit holder, may take any and all actions necessary to immediately abate all conditions creating the immediate hazard to life or property.

**Sec. 8-25. Modifications.**

The Fire Marshal, as the fire code official of the city, shall have power to approve exceptions any of the provisions of the fire prevention code upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such exceptions when granted or allowed and the decision of the Fire Marshal thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Sec. 8-26. Appeals.**

Whenever the Fire Marshal shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the fire prevention code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Marshal to the City Council within thirty (30) days from the date of the decision appealed.

**Sec. 8-27. Penalties.**

(a) Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in Section 1-5 of the Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

**SECTION 2.**  
**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 3.**  
**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 4.**  
**REPEALER**

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

**SECTION 5.**  
**EFFECTIVE DATE**

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

**SECTION 6.**  
**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 \_\_\_\_\_, 2014.

**PASSED AND APPROVED** on its second reading this the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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

**ATTEST:**

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