



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 21, 2015 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Mayor Pro Tem Gloria Nix**
- 3. Administer Oaths of Office to Elected Officials and Issue Certificates of Election for Council Positions:**

**Mayor, At Large
Place 2 (4 Year Term)
Place 4 (4 Year Term)**

**Milton Y. Tate, Jr.
Weldon C. Williams, Jr.
Daniel H. “Danny” Goss**

- 4. Citizens Comments**

CONSENT AGENDA

5. Statutory Consent Agenda

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

- 5-a. Minutes from the April 2, 2015 and April 16, 2015 Regular City Council Meetings and April 20, 2015 Special City Council Meeting **Pages 1-24****

5-b. Ordinance No. O-15-017 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Residential Single Family (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as Section 1, Lot 1, Old Mill Creek Subdivision, Being a Corner Lot at the Intersection of Old Mill Creek Road and U. S. Highway 290 West in Brenham, Washington County, Texas

Pages 25-26

5-c. Ordinance No. O-15-018 on Its Second Reading Amending the Official Zoning Map of the City of Brenham, to Change the Zoning District from a Residential Single Family (R-1) District to a Local Business/Residential Mixed Use (B-1) District on a Tract of Land Described as Section 2, Lots 1-4, Old Mill Creek Subdivision, Being 4 Lots Located at the Corner of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas

Pages 27-28

5-d. Ordinance No. O-15-019 on Its Second Reading to Grant a Non-Exclusive Franchise to General Site Services (GSS) to Operate a Roll-Off Container Service for Residents, Businesses, and Industries Inside Brenham City Limits

Pages 29-40

WORK SESSION

6. Presentation of the 2014 Municipal Court Statistics

Pages 41-42

REGULAR AGENDA

7. Discuss and Possibly Act Upon a Temporary License Agreement with Texas Ninety Six West, LLC. for the Construction of a Parklet on Baylor Street in Downtown Brenham and Authorize the Mayor to Execute Any Necessary Documentation

Pages 43-57

8. Discuss and Possibly Act Upon Change Order No. 1 (Reconciliation) and Authorize Final Payment to Supak Construction, Inc. for the 2014 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Pages 58-68

9. Discuss and Possibly Act Upon the Purchase of Body Cameras for the Police Department from Special Revenue Funds and Authorize the Mayor to Execute Any Necessary Documentation

Pages 69-72

10. Discuss and Possibly Act Upon the Extension of a Contract with Marvin Koehne (dba Triple K Cattle) for the Lease of the Old Landfill Property and Authorize the Mayor to Execute Any Necessary Documentation

Pages 73-87

11. Administrative/Elected Officials Report

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 salutary 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.

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 Negotiation

CERTIFICATION

I certify that a copy of the May 21, 2015 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 May 18, 2015 at **11:45AM.**

Jeana Bellinger, TRMC

City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2015 at _____ AM PM.

Signature

Title

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on April 2, 2015 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

None

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, City Engineer Grant Lischka, Chief Financial Officer Carolyn Miller, Stacy Hardy, Susan Nienstedt, Sara Parker, Kaci Konieczny, Cynthia Longhofer, Director of Community Services Wende Ragonis, Fire Chief Ricky Boeker, Deputy Fire Chief Alan Finke, Police Chief Rex Phelps, Chris Jackson, Billy Rich, Amanda Carker, Public Works Director Dane Rau, Leslie Kelm, Public Utilities Director Lowell Ogle, Debbie Gaffey, Development Services Manager Erik Smith, Kim Hodde, David Doelitsch, Janie Mehrens, Dale Steinfeld, Angela Hahn, Pam Ruemke, Jenna Gonzales, Tony Tavary, Stephen Reynolds and Kevin Schmidt

Citizens present:

Angela Knauss

Media Present:

Arthur Hahn, Brenham Banner Press; and Mary-Janet Reyes, KWHI

1. Call Meeting to Order

2. **Invocation and Pledges to the US and Texas Flags – Councilmember Keith Herring**

3. **Service Recognitions**

- **Dale Steinfeld, Street Department** **20 Years**
- **Kim Hodde, Development Services** **25 Years**
- **Pam Ruemke, Information Technology** **30 Years**

4. **Citizens Comments**

There were no citizen comments.

WORK SESSION

5. **Discussion and Presentation Amending the Rate Tariff Schedule(s) for the City of Brenham’s Collection Station**

Public Works Director Dane Rau presented this item. Rau advised over the last year staff has been evaluating operations at the Collection Station located at 2009 Old Chappell Hill Road. Rau explained that one area operating at a deficit is the brush grinding operation; this operation is falling behind in covering its costs on an annual basis. Rau noted that this past year total revenue was \$126,000 with total expenditures at the \$183,000 mark. Rau explained that revenues were comprised of mulch sales and charging for commercial brush. Rau noted that due to the past droughts, his department has been receiving more material than they can grind and sell through mulching. Rau also advised that in the next few years the tub grinder will need to be replaced.

Rau advised staff is recommending the following rate changes:

- **Allocating 18% of the brush grinding costs to our Residential Collection Department. (\$33,000 in expected revenue to Collection Station).** City residents bring in on average 18% of the total amount of brush throughout the year and the City does not charge our citizens for this service.
- **Raising commercial brush rates an additional \$5 per ton, to a total of \$20/ton (\$17,000 in expected revenue to Collection Station).** Since commercial collection contributes 55% of the total brush brought in to the collection station staff feels that this rate needs to be raised.
- **Establish a rate of \$10/ton for the Washington County Work Crew and the Washington County Road and Bridge for material brought to Collection Station (\$6,000 in expected revenue to Collection Station based off of history)** In the past Washington County has not been charged for material brought into the collection Station as it relates to wood waste. Rau explained that overall Washington County Road and Bridge contributes 5.5% of the total brush to the Collection Station and the County Work Crew contributes 4.5% to the Collection Station.

Rau stated that staff has also looked at raising disposal rates on tires. Rau advised that the City has had the same rates for over 10 years and within the last 3 years the City has been getting charged to dispose of used tires by the pound rather than by the tire. Rau explained that in order to balance this change staff recommends raising the rates as follows:

| <u>Size</u> | <u>Current Rate</u> | <u>Recommended Rate</u> |
|-------------------------|---------------------|-------------------------|
| 15” and below | \$2.00/tire | \$2.50/tire |
| 16” and above | \$5.00/tire | \$7.50/tire |
| Large Truck and Tractor | \$35.00 | \$45.00 |

Councilmembers Ebel and Barnes-Tilley stated that they believe the commercial brush rate should be at least \$7.50 per ton for the commercial brush. A majority of the Council agreed with this recommended rate.

6. Discussion and Presentation Regarding an Events Policy for the City of Brenham

City Secretary Jeana Bellinger presented this item. Bellinger explained that non-City sponsored events held in the city have become very time consuming for staff and some events can have an unexpected fiscal impact on departmental budgets. Bellinger advised that during Work Session on March 5th, staff presented a draft Special Events Policy to Council and based on the feedback received from Council, she made the following adjustments to the policy:

- Created a new definition for a “Special Event”. These events would be anything that required closure of state right-of-way for longer than four (4) hours, required electrical hook-ups and/or service, and/or any special equipment or services to be provided by the City (i.e. stage, roll-off dumpster, etc...).
- Removed BISD, Blinn College and other governmental entities from the exemption list.
- In regards an “Event” – added an application fee of \$25 and an event fee of \$100
- In regards a “Special Event” – added an application fee of \$50 and an event fee of \$2,000
- Added notification language.

Councilmember Barnes-Tilley advised that \$2,000 seems high for a special event and it should possibly be based on just their electrical usage. Bellinger noted that she based that amount on what is comparable to other rental places in the community. Barnes-Tilley stated that we should do a cost per item being used or charge a maximum amount of \$2,000.

Councilmember Goss stated that just having an event and a special event are two different things and we need to differentiate between the two with clear guidelines.

Councilmember Herring stated that he would like to see a clause written that if an organization still has a balance from a prior event and would like to do another event, that Council should be able to decline the upcoming event. City Attorney Cary Bovey stated that would be a good idea and that would need to be written into the agreement. Bovey also noted that if an organization uses any city property would Council want that organization to have insurance in case there is an accident. Councilmember Barnes-Tilley advised that the cost of insurance for an outside entity hosting an event on city property should be checked into.

7. Discussion and Presentation Regarding the Construction of a New Animal Shelter and the Expansion/Renovation of the City Library

Police Chief Rex Phelps presented information related to the construction of the new animal shelter. Phelps advised that city staff, the project architect and the low bidder have been working to value engineer this project since the bids came in significantly higher than the projected costs.

Phelps explained that approximately \$1,900,000 in funding is secured, this number includes the City's commitment to provide \$1,000,000 and the Animal Shelter Task Force raising the other \$900,000 dollars.

Phelps explained that there are two viable options related to cost cutting measures while still providing the service requirements of a new shelter.

- Option#1A will have the same square footage as the original bid minus the sally port area. This option will enable the shelter to still have three times the sheltering capability as the current facility. The construction costs of Option#1A is estimated at \$2,699,005.
- Option#1B has the largest reduction in square footage. Both the sally port and the middle kennel run area or corridor would be removed. If this option is chosen there will be an additional re-design fee of approximately \$12,000 and this value engineering option is \$439,079 less than the lowest bid. The construction costs of Option #1B is estimated at \$2,520,921.

Phelps advised Council that staff's recommendation is to award the bid to Collier Construction with change order Option #1A.

Director of Community Services Wende Ragonis presented information related to the expansion and renovation of the city library. Ragonis advised that the purchasing staff has received a favorable base bid for the asbestos abatement, demolition and construction of the facility, and IT and the engineering staff have tallied the projected costs for tasks which are outside of the general contractor's base bid of \$3,083,000.

REGULAR AGENDA

8. Discuss and Possibly Act Upon Bid No. 15-005 for the Purchase of Refuse Bags for the Sanitation Department and Bin Liners for the Parks Department and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau noted that on March 3, 2015 bids were opened for the purchase of refuse bags and bin liners for various departments. Rau advised there were 11 bids sent out with 6 bids received. Rau stated that since two different products were bid staff broke them out separately on the bid packet and indicated that each item could be awarded independently.

Rau advised that Central Poly was the low bidder on the 12,500 refuse bags at \$6.70/roll and provides the best value and product to the City of Brenham. Rau stated the City has used Central Poly in the past and they have provided a very durable bag that meets our minimum bid standards and has proven to hold up to the conditions in which we use them.

Rau stated the bin liners are a product that we have added to the bid and have previously quoted them out as we needed them. Rau advised these bags are used in the parks system and downtown area on a weekly basis for the larger trash bins. Rau advised that he is recommending awarding the bid for bin liners to All American Poly whose bid was \$20.52 per carton; based on "best value" to the City since All American Poly was not the lowest bidder.

A motion was made by Councilmember Williams and seconded by Councilmember Herring to award Bid No. 15-005 for the purchase of 12,500 rolls of refuse bags to Central Poly in the amount of \$6.70 per roll; and 250 cartons of bin liners to All American Poly in the amount of \$20.52 per carton and authorize the Mayor to execute any necessary documentation.

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

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

9. Discuss and Possibly Act Upon Bid/Job No. 1006.087-WG/WH for 2015 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation

Public Utilities Director Lowell Ogle presented this item. Ogle stated that on March 3, 2015 bids were opened by O’Malley Strand Associates, Inc. for the 2015 water distribution system improvements.

Ogle advised that staff would like to recommend the Council award the Base Bid, the Additive Alternate Bid A, and the Deductive Change Order No. 1 to Mercer Construction Co. in the amount of \$347,575.00.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to award Bid No. 1006.087-WG/WH to Mercer Construction Company in the amount of \$347,575.00 for the base bid, the alternate bid A, and the concurrent Change Order No. 1 and authorize the Mayor to execute any necessary documentation.

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

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

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending Chapter 12, Health and Sanitation, Article III, Junked Vehicles, of the Code of Ordinances of the City of Brenham

Development Services Manager Erik Smith presented this item. Smith advised that as of March 1st state law changed related to the inspection and registration sticker requirement on motor vehicles and because of the new law, the City’s Code needed to be updated accordingly.

Smith also explained that there were some other minor amendments staff is proposing to Chapter 12 in order to clean up some other language in the Code. Those amendments include:

- A definition of a lawful aircraft and watercraft and the applicable notification process.
- Changes to the junk vehicle notification process

A motion was made by Pro Tem Mayor Nix and seconded by Councilmember Ebel to approve an ordinance on its first reading amending Chapter 12, Health and Sanitation, Article III, Junked Vehicles, of the Code of Ordinances of the City of Brenham.

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

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

11. Discuss and Possibly Act Upon Resolution No. R-15-011 Expressing Official Intent to Reimburse Certain Costs Related to Construction of a New Animal Shelter and the Expansion/Renovation of the City Library

Chief Financial Officer Carolyn Miller presented this item. Miller advised that in reviewing the Work Session item for the construction of a new animal shelter and the expansion/renovation of the City library, the possibility of issuing additional certificates of obligation was discussed among staff.

Miller explained that if Council decides to award the bids for these two construction projects, they will need to decide how to fund the costs overage. Miller stated that the Reimbursement Resolution is on this agenda to get Council's direction in order to keep the timeline of approving or rejecting the Animal Shelter bids before they expire.

Miller stated that while a decision is needed today on the Reimbursement Resolution, the issuance of debt would not have to occur until later in fiscal year 2015 or early in calendar year 2016. Miller noted that the City has sufficient funds to begin the projects, but in order for Council to award the bid, we need to decide if Council wants to issue additional debt to complete these capital projects. Miller advised this Reimbursement Resolution would allow the City to declare reimbursement of certain costs related to the construction and equipping of the animal shelter and expanded/renovated library from the issuance of Certificates of Obligation.

A motion was made by Councilmember Goss and seconded by Councilmember Ebel to approve Resolution No. R-15-011 expressing official intent to reimburse certain costs related to construction of a new animal shelter and the expansion/renovation of the city library.

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 |

12. Discuss and Possibly Act Upon Bid No. 15-003 for the Construction of the City of Brenham’s Pet Adoption and Animal Care Facility and Authorize the Mayor to Execute Any Necessary Documentation

A motion was made by Councilmember Ebel and seconded by Councilmember Herring to remove this item from the Table for discussion.

Police Chief Rex Phelps presented this item. Phelps stated the City has recently accepted bids to construct the new shelter. Phelps advised the original intent was to build a health conscious facility to serve the community for many years by tripling the sheltering capabilities. Phelps noted that all the bids were significantly over the estimated projections; however, staff and the architect have engaged in numerous meetings with the low bidder, Collier Construction, in an attempt to value engineer the project.

Phelps advised that Bid Option #1A has very little square footage reduction with significant value engineering cuts to bring the construction costs to \$2,699,005 and that Bid Option #1B has a much more significant square footage reduction that does impact sheltering capabilities with virtually the same value engineering cuts to bring the construction costs to \$2,520,921.

A motion was made by Councilmember Herring and seconded by Councilmember Ebel to award Bid No. 15-003 for the construction of the City of Brenham’s Pet Adoption and Animal Care Facility, including Change Order No. 001A, to Collier Construction Company in the amount of \$2,699,005 and authorize the Mayor to execute any necessary documentation.

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

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

13. Discuss and Possibly Act Upon Bid No. 15-006 for the Construction and Rehabilitation of the Nancy Carol Roberts Memorial Library and Authorize the Mayor to Execute Any Necessary Documentation

Director of Community Services Wende Ragonis presented this item. Ragonis advised that Purchasing Services opened bids for the Nancy Carol Roberts Memorial Library (NCRML) modernization project on March 23, 2014. Ragonis stated three bids were received and sent via overnight mail to the City’s architect, Komatsu Architecture, for their review.

Ragonis explained to Council that Bid No. 15-006 was for two alternate structures in addition to the base bid. Ragonis stated that both staff and Komatsu’s team recommend Council award the base bid of \$3,083,000 and the alternate structure of an outdoor reading room in the amount of \$25,000 to Collier Construction.

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Williams to award Bid No. 15-006 for the base bid in the amount of \$3,083,000 and the outdoor reading room in the amount of \$25,000 to Collier Construction and authorize the Mayor to execute any necessary documentation.

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

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

14. Discuss and Possibly Act Upon an Events Policy for the City of Brenham and Authorize the Mayor to Execute Any Necessary Documentation

This item was passed.

15. Discuss and Possibly Act Upon a Request for a Noise Variance from the Brenham Maifest Association for the Maifestival Events to be Held on May 1, 2015 from 6:00 p.m. – Midnight, May 2, 2015 from 6:00 p.m. – Midnight, and May 3, 2015 from Noon – 4:00 p.m. at Fireman’s Park and Authorize the Mayor to Execute Any Necessary Documentation

City Secretary Jeana Bellinger presented this item. Bellinger advised that Charlie Pyle with the Brenham Maifest Association is requesting a Noise Variance for concerts at Fireman’s Park from May 1-3, 2015; Friday is 6pm-Midnight, Saturday is 6pm-Midnight, and Sunday is Noon-4pm. Bellinger noted they will have bands and a sound amplification system, which require a Noise Variance. Bellinger advised Council that the Police Department and the Fire Department have approved the noise variance request.

A motion was made by Councilmember Barnes-Tilley and seconded by Mayor Pro Tem Gloria Nix to approve a request for a noise variance from the Brenham Maifest Association for the Maifestival Events to be held on May 1, 2015 from 6:00 p.m. – Midnight, May 2, 2015 from 6:00 p.m. – Midnight, and May 3, 2015 from Noon – 4:00 p.m. at Fireman’s Park and authorize the Mayor to execute any necessary documentation.

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

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

Council adjourned into Executive Session at 3:02 p.m.

EXECUTIVE SESSION

- 16. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Discussion Regarding the Appointments of a Presiding Judge and City Prosecutor for the Brenham Municipal Court, Both for an Unexpired Term Ending December 31, 2016**
- 17. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters – Consider Compensation for Municipal Court Judges and City Prosecutor**
- 18. Section 551.074 – Texas Government Code – Deliberation Regarding Personnel Matters - Discussion Regarding the Upcoming Retirement of the Assistant City Manager**

Executive Session adjourned at 4:07 p.m.

RE OPEN REGULAR AGENDA

19. Discuss and Possibly Act Upon the Appointments of a Presiding Judge and a City Prosecutor for the Brenham Municipal Court, Both for an Unexpired Term Ending December 31, 2016

A motion was made by Councilmember Ebel and seconded by Councilmember Williams to appoint Bill Kendall as the Presiding Judge for the Brenham Municipal Court.

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 | No |
| Councilmember Keith Herring | Yes |
| Councilmember Mary E. Barnes-Tilley | Yes |
| Councilmember Weldon Williams | Yes |

A motion was made by Councilmember Ebel and seconded by Mayor Pro Tem Nix to appoint Jonas Lacina as the City Prosecutor for term to expire on December 31, 2016. His appointment will also include a six (6) month probationary period.

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 | No |
| Councilmember Keith Herring | Yes |
| Councilmember Mary E. Barnes-Tilley | Yes |
| Councilmember Weldon Williams | Yes |

20. Discuss and Possibly Act Upon Compensation for Municipal Court Judges and City Prosecutor

A motion was made by Councilmember Barnes-Tilley and seconded by Councilmember Ebel to increase the annual salary of the Presiding Judge to \$21,000; and the annual salary of the Associate Judge to \$18,000; and to set the annual salary for the City Prosecutor at \$18,000.

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 | No |
| Councilmember Keith Herring | Yes |
| Councilmember Mary E. Barnes-Tilley | Yes |
| Councilmember Weldon Williams | Yes |

21. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- The signal light at Chappell Hill Street is being constructed and will be in operation at the intersection with Market Street

Director of Community Services Wende Ragonis reported on the following:

- The Easter Egg Hunt will be held at Hohlt Park tonight

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

Brenham City Council Minutes

A regular meeting of the Brenham City Council was held on April 16, 2015 beginning at 1:00 p.m. in the Brenham City Hall, City Council Chambers, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

None

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Attorney Cary Bovey, City Secretary Jeana Bellinger, Chief Financial Officer Carolyn Miller, Stacy Hardy, Kaci Konieczny, Cynthia Longhofer, Director of Community Services Wende Ragonis, Jennifer Eckermann, Fire Chief Ricky Boeker, Police Chief Rex Phelps, Public Works Director Dane Rau, Casey Redman, Public Utilities Director Lowell Ogle, Development Services Manager Erik Smith and Angela Hahn

Citizens present:

Felisha Green, Rhonda James, Tami Redshaw, Edward Smith III, Carol Hutchens, Suzy Hankins, Linda Loggins, Susan Cantey, Mary B. Ragland, Tom Whitehead, Melinda Faubion, Brad Stufflebeam and Debbie Bartley

Media Present:

Arthur Hahn, Brenham Banner Press; and Mary-Janet Reyes, KWHI

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Barnes-Tilley**

- 3. **Proclamation**
 - *Motorcycle Awareness Month*
- 4. **Special Presentation**
 - *GFOA Budget Award*
- 5. **Citizens Comments**

There were no citizen comments.

CONSENT AGENDA

- 6. **Statutory Consent Agenda**
 - 6-a. **Minutes from the March 5, 2015 and March 19, 2015 Regular City Council Meetings**
 - 6-b. **Ordinance No. O-15-011 on Its Second Reading Amending Chapter 12, Health and Sanitation, Article III, Junked Vehicles, of the Code of Ordinances of the City of Brenham**

A motion was made by Councilmember Herring and seconded by Mayor Pro Tem Nix to approve the Statutory Consent Agenda Items 6-a and 6-b as presented.

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 |

WORK SESSION

7. Discussion and Presentation Regarding Parklets in the Downtown Area

Director of Community Services Wende Ragonis presented this item. Ragonis explained that in many communities across the United States there is a focus on providing green spaces in downtown areas to make the pedestrian experience more pleasing. Ragonis stated these green spaces provide opportunities for the public to sit, relax and enjoy the downtown experience. Ragonis noted that one program that allows for additional green space in a downtown area is a parklet. Ragonis explained that parklets are public seating platforms that convert curbside parking spaces into vibrant community spaces.

Ragonis explained that the authority to extend into the right of way is granted by the owner of the right of way, and for the purposes of the parklet program in downtown Brenham the owner of the right of way is the City of Brenham. Ragonis explained that a license is issued to an applicant, and the costs to build the parklet structure are the responsibility of the applicant. Ragonis noted applicants are typically business owners of whose property fronts the parklet space. Ragonis explained that several studies have been done that verify the benefits of parklets and that Texas, cities like Austin, San Marcos, Waco and Houston have implemented a parklet programs.

Ragonis explained to Council that she has been approached by one local business owner about building a parklet in Downtown. Ragonis advised that the local business owner has been working with a local architect to design a parklet and that they have already obtained the support of the businesses on their block. Ragonis stated that the Main Street Advisory Board is supportive of implementing a parklet program in downtown Brenham and hopes the Council will seriously consider the issue

Councilmember Barnes-Tilley asked if the parklet area will be part of the business and only for their customers or if it will be for anyone. Ragonis stated that because the business owner is funding the parklet then their patrons will get to use it, but it will also be a public space.

Mayor Tate questioned the time frame for a parklet license. Ragonis advised that due to the parklet being the business owner's investment, the license would be good for two years. Ragonis noted that only streets with City of Brenham right-of-way would be issued a license for a parklet.

Councilmember Ebel asked who would be responsible for the drainage and trash issues. Ragonis stated that those things would be the responsibility of the applicant. Ragonis advised that the applicant would be working with a licensed architect to design the parklet and therefore, there should be a plan for drainage issues.

Councilmember Herring asked if there would be a deposit required in case the business would close. Attorney Cary Bovey stated that would need to be written into the contract as to how the City would handle an issue like that.

Councilmember Goss questioned how the applicant would reserve the parklet area for their patrons if the area was to also be open to the public. Ragonis stated that the applicant would need to reserve the area for when they would be using it in regards to their hours of operation. Ragonis advised that they do want to keep the concept of the parklet being open to the public as well. Ragonis noted that there are some details that would need to be addressed.

Mayor Tate advised Ragonis to continue looking into the idea of the parklet and bring back the details at a future Council meeting.

8. Discuss and Review the FY2014-15 First Quarter Financial Report

Chief Financial Officer Carolyn Miller presented this item. Miller advised the status of the General Fund and the five major utility funds in the report. Miller reported that the City experienced favorable performance in the General Fund and all utility funds posted positive net revenues over expenditures, with the exception of the Gas Fund which posted a net loss for the quarter due to the timing of the “true-up” for gas purchased costs for the first quarter of FY2014-15.

REGULAR AGENDA

9. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Placement of a Stop Sign on Becker Drive at its Intersection with South Market Street

Public Works Director Dane Rau presented this item. Rau explained that with the Chappell Hill Street improvements nearing completion, the signal at the intersection of Becker Drive and South Market Street will be removed and replaced with a stop sign. Rau explained that the traffic on South Market Street will not have a stop sign or a signal at Becker Drive.

A motion was made by Councilmember Herring and seconded by Councilmember Williams to approve an ordinance on its first reading authorizing the placement of a stop sign on Becker Drive at its intersection with South Market Street.

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 |

10. Discuss and Possibly Act Upon an Ordinance on Its First Reading for the Placement of a Stop Sign on S. Chappell Hill Street at its Intersection with U.S. Highway 290 East

City Engineer Grant Lischka presented this item. Lischka advised the new section of Chappell Hill Street on the south side of U.S. Highway 290 requires a stop sign to regulate the traffic traveling north. Lischka explained that traffic traveling on the 290 frontage road will not have a stop sign.

A motion was made by Councilmember Barnes-Tilley and seconded by Mayor Pro Tem Nix to approve an ordinance on its first reading authorizing the placement of a stop sign on S. Chappell Hill Street at its intersection with U.S. Highway 290 East.

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 |

11. Discuss and Possibly Act Upon an Ordinance on Its First Reading Amending the Rate Tariff Schedule(s) for the City of Brenham Collection Station Rates and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau stated that over the last year staff has been evaluating their operations at the Collection Station. Rau explained that one area that is operating at a deficit is the brush grinding operation; therefore he would like to recommend the following rate changes:

- Allocating 18% of the brush grinding costs to our Residential Collection Department. (\$33,000 in expected revenue to Collection Station).
- Raising commercial brush rates an additional \$7.50 per ton, to a total of \$22.50/ton, \$17.50/min/ton (\$27,000 in expected revenue to Collection Station).
- Establish a rate of \$10/ton for the Washington County Work Crew and the Washington County Road and Bridge for material brought to Collection Station. (\$6,000 in expected revenue to Collection Station based off of history).

Rau noted that his department would also look at raising the disposal rates on tires as follows:

| <u>Size</u> | <u>Current Rate</u> | <u>Recommended Rate</u> |
|-------------------------|---------------------|-------------------------|
| 15" and below | \$2.00/tire | \$3.00/tire |
| 16" and above | \$5.00/tire | \$7.50/tire |
| Large Truck and Tractor | \$35.00/tire | \$45.00/tire |

A motion was made by Mayor Pro Tem Nix and seconded by Councilmember Williams to approve an ordinance on its first reading amending the Rate Tariff Schedule for the City of Brenham Collection Station Rates.

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 |

12. Discuss and Possibly Act Upon a One-Year Contract Extension with Gene's Services, LLC for the Mowing and Cleanup Services for Various City Departments and Authorize the Mayor to Execute Any Necessary Documentation

Public Works Director Dane Rau presented this item. Rau advised that on February 21, 2013, the City Council awarded the annual Mowing and Cleanup Services contract to Gene's Services. Rau stated this contract pertains to numerous sites that are city parkland, right-of-way/medians and city properties. Rau noted it also contains the code enforcement lots that David Doelitsch oversees.

Rau advised Council that Gene's Servicers has performed these services very well for the past two years and that staff would like to recommend that Council extend the contract with Gene's Services for the additional year.

A motion was made by Councilmember Herring and seconded by Councilmember Barnes-Tilley to approve a one-year contract extension with Gene's Services, LLC for mowing and cleanup services for various city departments and authorize the Mayor to execute any necessary documentation.

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

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

13. Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Building Setback Requirements as Outlined in Section 23-22(1) of the City of Brenham's Code of Ordinances, for the Old Mill Creek Subdivision Sections 1 and 2

Development Services Manager Erik Smith presented this item. Smith stated that staff is requesting a building line variance for all lots abutting Old Mill Creek Road in the Old Mill Creek Subdivision, Sections 1 & 2.

Smith explained that Chapter 23, Subdivisions, of the Code of Ordinances requires that the building setback line on arterial and collector streets should not be closer than 25 feet from the side of a lot that abuts a collector or arterial street.

Smith advised that the Old Mill Creek Subdivision consists of 14 lots, 10 of which abut Old Mill Creek Road, which is considered a minor collector street. Smith noted the subdivision is being platted for single family residential units and the typical single family residential lots are only required to have a 10 foot side yard which is why staff is requesting the variance for Old Mill Creek Subdivision.

Smith advised Council that the Planning and Zoning Commission approved the variance request unanimously and also approved the plat, but requested that a deed be filed for the properties to not allow a driveway along Old Mill Creek Road for all lots except Lot 1.

A motion was made by Councilmember Goss and seconded by Councilmember Williams to approve an ordinance on its first reading authorizing a variance to building setback requirements as outlined in Section 23-22(1) of the City of Brenham's Code of Ordinances, for the Old Mill Creek Subdivision Sections 1 and 2.

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 |

14. Discuss and Possibly Act Upon an Ordinance on Its First Reading Authorizing a Variance to Rural Lot Size Requirements, as Outlined in Section 23-21(3)(b) of the City of Brenham’s Code of Ordinances, for the Strangmeier Subdivision Section Two

Development Services Manager Erik Smith presented this item. Smith advised that Jones and Carter, on behalf of Felix Andrade, have submitted a request for a variance to Chapter 23 – Subdivisions of the City’s Code of Ordinances. Smith stated the subdivision is located within the City’s extra territorial jurisdiction (ETJ) therefore the City is allowed to enforce the subdivision ordinance. Smith advised the request is for a reduction in lot depth for a rural lot in the Strangmeier Subdivision, Section Two subdivision. Smith advised Council that the front of the property is bounded by Strangmeier Road and the rear of the property is bounded by BNSF Railroad. Smith stated the property does not have sufficient depth to comply with the 200 foot depth requirement and additional property cannot be acquired.

Smith stated the Planning and Zoning Commission met on April 6, 2015 and were in favor of the variance.

A motion was made by Councilmember Williams and seconded by Councilmember Ebel to approve an ordinance on its first reading authorizing a variance to rural lot size requirements, as outlined in section 23-21(3)(b) of the City of Brenham’s Code of Ordinances, for the Strangmeier Subdivision, Section Two.

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 |

15. Administrative/Elected Officials Report

City Manager Terry Roberts reported on the following:

- Monday, April 20th is the Council Pre-Budget Retreat
- Business After Hours will be today at Brenham National Bank
- Brenham Independent School District will be introducing their new superintendent today
- There will be a retirement party for Janie Mehrens on Thursday, April 23rd
- City Secretary Jeana Bellinger will be holding a charter information meeting on Thursday, April 23rd beginning at 5:15 in Council Chambers
- There will be a candidate forum on Thursday, April 23rd at the Brenham National Bank
- Maifest will be held May 1st through May 3rd
- The Chappell Hill Street construction project is in its final stages of completion

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

Brenham City Council Minutes

A special meeting of the Brenham City Council was held on April 20, 2015 beginning at 8:30 a.m. in the Brenham City Hall, Conference Room 2-A, at 200 W. Vulcan Street, Brenham, Texas.

Members present:

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

Members absent:

Councilmember Weldon Williams, Jr.

Others present:

City Manager Terry Roberts, Assistant City Manager Kyle Dannhaus, City Secretary Jeana Bellinger, Deputy City Secretary Kacey Weiss, Chief Financial Officer Carolyn Miller, Police Chief Rex Phelps, Development Services Manager Erik Smith, Fire Chief Ricky Boeker, Public Works Director Dane Rau, City Engineer Grant Lischka, Public Utilities Director Lowell Ogle, Community Services Director Wende Ragonis, Stacy Hardy, Kaci Konieczny, and Debbie Gaffey

Citizens present:

None

Media Present:

None

1. Call Meeting to Order

2. **Fiscal Year 2015 – 16 Pre-Budget Planning**

City Manager, Terry Roberts, welcomed everyone and explained that the budget team has taken a strategic look at where the City is financially as the City begins looking at the FY2015-16 budget. Roberts advised Council that Chief Financial Officer, Carolyn Miller, and her finance staff have assembled a significant amount of financial data to help Council better understand the City's financial position. Roberts then turned the presentation over to Chief Financial Officer, Carolyn Miller.

Miller explained that the workshop was to give Council an idea of what to expect during the FY2015-16 budget process. The following topics were discussed:

- **Community Services funding**

The Council discussed FY2015-16 funding levels for the Community Services budget. Mayor Tate advised that as in year's past the FY15-16 funding level should stay between \$170,000 and \$175,000.

- **Hotel Occupancy Tax (HOT) funding allocation**

Chief Financial Officer Carolyn Miller recommended that City departments have their HOT funds allocated by the Council during the budget workshops in July and have the HOT Board distribute any remaining funds to outside organizations during their funding meeting.

- **Commercial sanitation collection service**

Public Works Director Dane Rau and Regulatory Compliance Manager Debbie Gaffey proposed that the City resume operation of commercial garbage collection when the contract with Texas Commercial Waste (TCW) expires in 2016. Rau and Gaffey explained this service could bring an additional \$119,000 in revenue to the Sanitation Fund.

- **Use of residual proceeds from the 2012 Certificates of Obligation and the sale of property in Chappell Hill**

Chief Financial Officer Carolyn Miller reminded Council that residual bond proceeds from the 2012 CO's can only be spent on capital transportation projects. She explained that the bond proceeds and the sale of the Chappell Hill land was a total combined amount of \$999,313 (\$470,200 in residual bond proceeds and \$529,113 from the sale of the Chappell Hill property). The Council agreed that the funds should only be used for one-time long term capital projects such as Cantey Street, Saeger Street and Salem Road

- **Future issuance of Certificates of Obligation**

Chief Financial Officer Carolyn Miller reminded Council that Financial Advisor Garry Kimball advised earlier in the year that the City should retain fund balance reserves (liquidity) and issue debt to finance any large capital projects. Miller suggested the following projects as possible funding options:

- General Government Projects
 - Reimbursement for expenditures related to the construction and/or renovation of the library and animal shelter
 - Fire Station living quarters renovation
 - Library furniture and technology needs
- Utility Projects
 - Gas Fund: Second gate project
 - Water Fund: AC pipe replacement
 - Sanitation Fund: Commercial sanitation collection
 - Electric Fund: Copper wire change-out

The meeting was adjourned.

Milton Y. Tate, Jr.
Mayor

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-15-017

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP FROM A RESIDENTIAL SINGLE FAMILY (R-1) DISTRICT TO A LOCAL BUSINESS/RESIDENTIAL MIXED USE (B-1) DISTRICT ON .507 ACRES OUT OF A 3.272 ACRE TRACT OF LAND DESCRIBED AS SECTION 1, LOT 1, OLD MILL CREEK SUBDIVISION, BEING A CORNER LOT AT THE INTERSECTION OF OLD MILL CREEK ROAD AND US HIGHWAY 290 WEST IN 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; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning amendments within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on May 4, 2015; and

WHEREAS, this amendment is in compliance with the City of Brenham’s “Envision 2020” Comprehensive Plan; and

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 by changing a Residential (R-1) District to Local Business/Residential Mixed Use (B-1) District on 0.507 acres out of a 3.272 acre tract of land described as Section 1, Lot 1, Old Mill Creek Subdivision, being a corner lot at the intersection of Old Mill Creek Road and U. S. Highway 290 West in Brenham, Washington County, Texas.

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 7th day of May, 2015.

PASSED and APPROVED on its second reading this the 21st day of May, 2015.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-15-018

AN ORDINANCE AMENDING APPENDIX A - "ZONING" OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS, AMENDING THE OFFICIAL ZONING MAP FROM A RESIDENTIAL SINGLE FAMILY (R-1) DISTRICT TO A LOCAL BUSINESS/RESIDENTIAL MIXED USE (B-1) DISTRICT ON 1.069 ACRES OF LAND DESCRIBED AS SECTION 2, LOTS 1 - 4, OLD MILL CREEK SUBDIVISION, BEING FOUR LOTS LOCATED AT THE CORNER OF OLD MILL CREEK ROAD AND S. SAEGER STREET IN 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; and

WHEREAS, Appendix A – “Zoning” of the City of Brenham Code of Ordinance authorizes the City Council to grant zoning amendments within the various zoning districts; and

WHEREAS, this amendment was recommended for approval by the City of Brenham Planning and Zoning Commission during its regular meeting on May 4, 2015;

WHEREAS, this amendment is in compliance with the City of Brenham’s “Envision 2020” Comprehensive Plan; and

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 by changing a Residential (R-1) District to Local Business/Residential Mixed Use (B-1) District on 1.069 acres of land described as Section 2, Lots 1 - 4, Old Mill Creek Subdivision, being four lots located at the corner of Old Mill Creek Road and S. Saeger Street in Brenham, Washington County, Texas.

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 7th day of May, 2015.

PASSED and APPROVED on its second reading this the 21st day of May, 2015.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

ORDINANCE NO. O-15-019

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

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

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

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

WHEREAS, the City of Brenham hereinafter referred to as “CITY” desires to grant this franchise to GENERAL SITE SERVICES (GSS), under the terms of this Agreement as set out below.

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

SECTION 1. DEFINITIONS

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

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

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

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

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

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

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

General Site Services (GSS). Herein-after referred to as "GENERAL SITE SERVICES (GSS)". The party contracting with the CITY for roll-off container and/or commercial compactor service, which contains demolition/construction debris or solid waste.

SECTION 2. GENERAL DESCRIPTION OF SERVICES TO BE PROVIDED

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

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

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

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

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

**SECTION 5.
RATES TO BE CHARGED**

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

**SECTION 6.
PAYMENTS TO CITY**

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

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

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

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

SECTION 7. ACCESS TO RECORDS & REPORTING

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

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

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

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

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

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

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

SECTION 8. PLACEMENT OF CONTAINERS

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

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

SECTION 9. CONTAINER MAINTENANCE

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

SECTION 10. COMPLAINTS REGARDING SERVICE/SPILLAGE

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

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

SECTION 11. OBEISANCE OF LAWS

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

SECTION 12. UNDERSTANDINGS PERTAINING TO NON-EXCLUSIVITY

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

SECTION 13. OWNERSHIP OF MATERIALS COLLECTED

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

SECTION 14. INTERRUPTION OF SERVICE OR DEFAULT

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

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

SECTION 15. FAILURE TO PERFORM

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

SECTION 16. INDEMNIFICATION

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

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

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

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

SECTION 17. INSURANCE

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

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

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

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

A. STANDARD INSURANCE POLICIES REQUIRED

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

B. GENERAL REQUIREMENTS APPLICABLE TO ALL POLICIES

1. General Liability and Automobile Liability insurance shall be written by a carrier with a better rating in accordance with the current Best Key Rating Guide.
2. Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
3. Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
4. Claims Made Policies will not be accepted.
5. The CITY, its officials, employees and volunteers are to be added as "Additional Insured" to the General Liability and the Automobile Liability policies. The coverage shall contain no special limitations on the scope of protection afforded to the CITY, its officials, employees or volunteers.

6. A Waiver of Subrogation in favor of the CITY with respect to the General Liability, Automobile Liability, and Workers' Compensation insurance must be included.
7. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
8. Upon request, certified copies of all insurance policies shall be furnished to the CITY.

C. COMMERCIAL GENERAL LIABILITY

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

D. AUTOMOBILE LIABILITY

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

E. WORKERS' COMPENSATION

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

F. CERTIFICATES OF INSURANCE

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

**SECTION 18.
ASSIGNMENT**

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

**SECTION 19.
SAFETY**

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

**SECTION 20.
AD VALOREM TAXES**

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

**SECTION 21.
NOTICES**

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

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

ATTN: _____

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

**SECTION 22.
AMENDMENTS**

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

**SECTION 23.
SEVERABILITY**

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

**SECTION 24.
TERM OF AGREEMENT**

The term of this Agreement shall be effective beginning on the _____ day of _____, 20_____, being the date of acceptance by GSS and shall terminate on September 30, 2015.

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

**SECTION 25.
ACCEPTANCE OF AGREEMENT**

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

**SECTION 26.
AUTHORIZATION TO EXECUTE**

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

**SECTION 27.
PUBLIC MEETING**

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

PASSED and APPROVED on its first reading this the 7th day of May, 2015.

PASSED and APPROVED on its second reading this the 21st day of May, 2015.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA ITEM 6

| | | | |
|---|--|--|--|
| DATE OF MEETING: May 21, 2015 | | DATE SUBMITTED: May 15, 2015 | |
| DEPT. OF ORIGIN: Municipal Court | | SUBMITTED BY: Rhonda Kuehn | |
| MEETING TYPE: | | CLASSIFICATION: | |
| <input checked="" type="checkbox"/> REGULAR | | <input type="checkbox"/> PUBLIC HEARING | |
| <input type="checkbox"/> SPECIAL | | <input type="checkbox"/> CONSENT | |
| <input type="checkbox"/> EXECUTIVE SESSION | | <input type="checkbox"/> REGULAR | |
| | | <input checked="" type="checkbox"/> WORK SESSION | |
| ORDINANCE: | | | |
| <input type="checkbox"/> 1 ST READING | | | |
| <input type="checkbox"/> 2 ND READING | | | |
| <input type="checkbox"/> RESOLUTION | | | |
| AGENDA ITEM DESCRIPTION: Presentation of the 2014 Municipal Court Statistics | | | |
| SUMMARY STATEMENT: The Municipal Court statistics will be discussed and presented by Municipal Court Administrator Rhonda Kuehn. | | | |
| STAFF ANALYSIS (For Ordinances or Regular Agenda Items): | | | |
| A. PROS: | | | |
| B. CONS: | | | |
| ALTERNATIVES (In Suggested Order of Staff Preference): | | | |
| ATTACHMENTS: (1) Municipal Court Statistics | | | |
| FUNDING SOURCE (Where Applicable): | | | |
| RECOMMENDED ACTION: | | | |
| APPROVALS: Carolyn D. Miller | | | |

| MUNICIPAL COURT STATISTICS | | | | | | |
|---|--------------|--------------|------------|------------|-----------------|---------|
| | FY11 | FY12 | FY13 | FY14 | FY 15 (Oct-Mar) | |
| Total Cases Filed | 7347 | 7906 | 4081 | 4401 | | 3827 |
| Traffic Misdemeanors | | | | | | |
| Non-Parking | 3,842 | 4,544 | 2,091 | 2,544 | | 2,628 |
| Parking | 64 | 44 | 39 | 105 | | 89 |
| Dispositions Prior to Court Appearance or Trial | 2,476 | 2,425 | 1,991 | 1,838 | | 1,315 |
| Dispositions at Court Appearance or Trial | 93 | 155 | 159 | 123 | | 54 |
| Cases Dismissed | 1,646 | 706 | 1,241 | 781 | | 844 |
| Non-Traffic Misdemeanors | | | | | | |
| State Law | 3,336 | 3,213 | 1,778 | 1,595 | | 1,038 |
| City Ordinance | 105 | 105 | 173 | 157 | | 72 |
| Dispositions Prior to Court Appearance or Trial | 1,847 | 1,867 | 1,426 | 1,307 | | 657 |
| Dispositions at Court Appearance or Trial | 173 | 201 | 370 | 372 | | 114 |
| Cases Dismissed | 312 | 412 | 678 | 580 | | 206 |
| Juvenile Activity | 223 | 213 | 160 | 101 | | 65 |
| Warrants Issued | 2,858 | 963 | 2,042 | 1,428 | | 922 |
| Total Revenue Collected | \$ 1,214,732 | \$ 1,121,043 | \$ 799,954 | \$ 873,606 | \$ | 647,054 |
| Total Remitted to State | \$ 353,415 | \$ 297,787 | \$ 220,994 | \$ 260,631 | \$ | 217,149 |
| General Gov't Revenues | \$ 861,317 | \$ 823,256 | \$ 578,955 | \$ 612,969 | \$ | 429,903 |



AGENDA ITEM 7

| | | |
|--|---|--|
| DATE OF MEETING: May 21, 2015 | DATE SUBMITTED: May 15, 2015 | |
| DEPT. OF ORIGIN: Main Street | SUBMITTED BY: Wende Ragonis | |
| MEETING TYPE: | CLASSIFICATION: | ORDINANCE: |
| <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 ST READING |
| <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 ND READING |
| <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |
| | <input type="checkbox"/> WORK SESSION | |
| AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon a Temporary License Agreement with Texas Ninety Six West, LLC. for the Construction of a Parklet on Baylor Street in Downtown Brenham and Authorize the Mayor to Execute Any Necessary Documentation | | |
| SUMMARY STATEMENT: Staff presented the concept of a Parklet Program in the downtown area during a work session at the April 16, 2015 Council meeting. As directed by Council, staff has begun the process of drafting procedures and technical specifications for the Parklet Program. Those standards and requirements are attached and have been reviewed by the City Attorney. Staff is not confident that all of the necessary ordinances needed to govern this program long term can be completed in a timeframe suitable to Ninety Six West. To facilitate this investment in the downtown area, staff would like to request that Council approves a temporary license (12 months) to encroach into the City's right of way for Ninety Six West located at 103 S. Baylor Street. This will give staff the necessary time to complete all documentation including all ordinances necessary to govern this program. | | |
| STAFF ANALYSIS (For Ordinances or Regular Agenda Items): | | |
| <p>A. PROS: Private business, Ninety Six West can begin investment into the parklet structure to add public leisure space in the Downtown area which will encourage pedestrian traffic.</p> <p>B. CONS: There is a loss of three parking places which are directly in front of that business.</p> | | |
| ALTERNATIVES (In Suggested Order of Staff Preference): | | |
| ATTACHMENTS: (1) Brenham Parklet Temporary License Agreement; (2) Exhibit A – Standards and Requirements; (3) Renderings of Parklet Structure. | | |
| FUNDING SOURCE (Where Applicable): No funds required from the City of Brenham. | | |

RECOMMENDED ACTION: Approve a temporary license agreement with Texas Ninety Six West, LLC. for the construction of a parklet on Baylor Street in Downtown Brenham and authorize the Mayor to execute any necessary documentation.

APPROVALS: Terry K. Roberts

LICENSE AGREEMENT - PARKLET

This License Agreement ("**Agreement**") is made this ____ day of _____, 2015 ("**Effective Date**") by and between the **CITY OF BRENHAM** ("**City**"), and **TEXAS NINETY SIX WEST, LLC** a Texas limited liability company with its address at 103 S. Baylor St., Brenham, Texas 77833 ("**Licensee**").

Background

A. The City has established Parklet Standards and Requirements to temporarily place a parklet in up to three parking spaces in accordance with the Parklet Standards and Requirements attached to this Agreement as **Attachment "A"** and incorporated herein for all purposes pertinent.

B. Licensee desires to establish, operate and maintain a Parklet located at _____ ("**Parklet Location**") in accordance with the terms of this Agreement and Licensee's Parklet Plans and Specification attached to this Agreement as **Attachment "B"** ("**Plans**") (the Parklet to be established and maintained in the Parklet Location by Licensee in accordance with this Agreement and all attachments hereto is referred to herein as the "**Parklet.**" All references to the Parklet shall include the Parklet Location).

NOW THEREFORE, in consideration of the mutual promises set forth in this Agreement, the City and Licensee, intending to be legally bound by this Agreement, agree as follows:

1. License; Conditions.

A. License. Subject to the terms of this Agreement, the City grants a temporary, nonexclusive, revocable and nonassignable license to Licensee to enter the Parklet Location to establish, operate and maintain a Parklet in accordance with all Applicable Laws and the terms and conditions of this Agreement, including the Licensee's commitments set forth in the Application.

B. Prior to entering the Parklet Location to commence installation of the Parklet, Licensee shall secure all necessary permits, licenses, and approvals from all appropriate departments, agencies, boards, or commissions of the City or other governmental entities that may be required by Applicable Law.

2. Title; AS-IS Condition of Parklet Location

A. At all times, the Parklet Location shall remain a public right-of-way. No legal title or any other interest in real estate shall be deemed or construed to have been created by anything contained in this Agreement.

B. Licensee acknowledges and agrees that they accept this license to enter the Parklet Location in its "AS-IS, WHERE-IS, AND WITH ALL FAULTS" condition, including all

defects known or unknown, and the City makes no representation or warranty, express or implied, as to (a) any encumbrances, restrictions and conditions which may affect the Parklet Location, (b) the nature or condition of the Parklet Location for installation and operation of the Parklet, and (c) compliance of the Parklet with Applicable Law (defined below). Licensee is relying on its own independent investigation of the condition of the Parklet Location in entering this Agreement.

3. Term.

3.1 The term ("**Term**") of this Agreement shall be for one (1) year commencing on the Effective Date [**OR DATE TO BE DETERMINED**] and shall terminate on the ___ day of _____, 2016, unless terminated earlier pursuant to the provisions of this Agreement.

4. Maintenance Obligations; Use Restrictions; Approvals.

A. Licensee's Maintenance Obligations. Licensee hereby covenants and agrees, for itself, its successors, and assigns to be fully responsible for the costs of designing, constructing, installing, repairing, operating and maintaining the Parklet as set forth in this Agreement. Licensee shall use and maintain the Parklet in a wholly safe condition; shall maintain any and all stands, tables, chairs, and other structures, and the grounds adjacent thereto in a clean and sanitary fashion, free of all waste, rubbish, accumulation of garbage, papers, and debris; shall provide and maintain adequate and proper drainage and not permit any drainage to fall or flow across the footways or roadways; shall permit free and unobstructed ingress and egress to, from, and around the Parklet for the protection or facilitation of pedestrian traffic; shall properly store and dispose of all waste matter and trash in accordance with the City's regulations and keep the Parklet and adjacent sidewalk free and clear of rubbish, trash and waste materials; and, except as approved in accordance with this Agreement or Applicable Law, shall not permit encroachments upon or obstructions of the streets.

B. City's Maintenance Obligations. The City shall not be required to furnish any services or facilities to the Parklet, or to make any repairs or alterations to the Parklet. The City shall not be responsible for any loss or damage to personal property on the Parklet. Licensee assumes sole responsibility for the operation, maintenance and management of the Parklet.

C. Licensee's Use; Use Restrictions. Licensee is hereby authorized to use the Parklet only in association with the operation of its restaurant business located at _____ ("Restaurant"), said Restaurant operations to include: 1) customer seating, and 2) food and beverage service and consumption. Licensee is further hereby authorized to limit use of the Parklet for Restaurant customers only during the Restaurant's hours of operation. At all other times the general public's use of the Parklet shall not be limited by Licensee. Licensee agrees that it shall not: permit any use of the Parklet except as specified in this Agreement; permit anything unlawful on the Parklet; permit a public or private nuisance on the Parklet; permit any

Hazardous Substances (defined below) on the Parklet; permit an implied dedication of the Parklet; permit anything that disturbs or damages the surrounding properties; permit vehicle parking on the Parklet Location; permit smoking of any substance on the Parklet; permit any commercial or for-profit activity of any kind on the Parklet except as specified in this Agreement; permit commercial advertising of any kind, or non-commercial advertising of any kind without the advance written approval of the City; permit any structures on the Parklet unless specifically permitted by this Agreement; permit alcoholic beverages or illegal drugs on the Parklet Location, except for alcoholic beverages served to Licensee's customers as authorized by a license/permit validly issued by the Texas Alcoholic Beverage Commission; permit fires on the Parklet; permit personal property to be displayed, stored or sold on the Parklet unless specifically permitted by this Agreement; or permit standing water to accumulate on the Parklet Area.

D. Approvals by City. Unless otherwise stated in this Agreement or in accordance with Applicable Law, any review, approval, permission, or consent that Licensee is required to obtain from the City under this Agreement shall not be valid or effective unless obtained from the City Manager or the City Manager's designee (the "City Manager"). The review, approval, or consent by the City Manager of any plans, specifications, work or materials submitted or performed by Licensee under this Agreement does not constitute any representation, warranty, or guarantee by the City as to the quality or substance of the matter reviewed or approved or its compliance with Applicable Laws. Licensee must use its own independent judgment as to the accuracy and quality of all such matters and its compliance with Applicable Laws. Review, approval, or consent by the City Manager under this Agreement does not constitute any review, approval, consent, license or permit otherwise required under Applicable Laws by any City department, board, commission, or official. Licensee agrees that the Parklet, after construction and installation as approved by the City, shall not be expanded, enlarged or altered in any way without the prior written approval of the City.

5. Compliance with Applicable Laws; Hazardous Substances.

A. Applicable Laws. "**Applicable Laws**" shall mean all applicable present and future Federal, State and City laws, ordinances, orders, rules, regulations, guidelines and requirements.

B. Hazardous Substances. "**Hazardous Substance**" shall mean: (a) asbestos, flammables, volatile hydrocarbons, industrial solvents, explosives, chemicals, radioactive material, petroleum, petroleum products and by-products, natural gas, synthetic gas, and shall include but not be limited to, substances defined as "hazardous substances", "hazardous wastes", "toxic substances", "pollutants" or "contaminants" as those terms are defined in any of the Applicable Laws; and (b) any and all other materials or substances that any government entity shall determine from time to time are harmful, toxic, or dangerous.

6. Entry on Parklet Location By City; City Inspection. The City may enter the Parklet at any time, for any reason, including inspecting the Parklet and/or Parklet Area. Nothing contained

in this Section shall create a duty on the City to make any repairs or do any work on the Parklet Location. City inspections shall not be a representation, guaranty, or warranty by the City to Licensee, as to Licensee's compliance with the terms of this Agreement or Applicable Laws.

7. **Non-exclusive:** The License granted by this Agreement is nonexclusive and is subject to any existing utility, drainage or communications facilities located in, on, under or upon the City's streets or other rights-of-way, any utility or communication company, public or private, to all vested rights presently owned by any utility or communication company, public or private for the use of the Parklet for facilities presently located within the boundaries of the right-of-way and to any easement, lease, license, or other interest in the Parklet Location granted by City to any individual, corporation or other entity, public or private.

8. **Environmental Protection:** Licensee shall not use or permit the use of the Parklet for any purpose that may be in violation of any environmental laws or regulations, and any amendments thereto, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Resource Conservation and Recovery Act of 1976 ("RCRA"), the Texas Water Code and the Texas Solid Waste Disposal Act. Licensee warrants that the permitted use of the Parklet will not result in the disposal or other release of any hazardous substance or solid waste in, on, upon, under or to the Parklet, and that it will take all steps necessary to ensure that no such hazardous substance or solid waste will ever be discharged in, on, upon, under or onto the Parklet or property adjoining the Parklet by Licensee. The terms "hazardous substance and waste" shall have the meaning specified in CERCLA and the term solid waste and disposal (or dispose) shall have the meaning specified in the RCRA; provided, however, that in the event either CERCLA or RCRA is amended so as to broaden the meaning of any term defined thereby, such broader meaning shall apply subsequent to the effective date of such amendment; and provided further, at the extent that the laws of the State of Texas establish a meaning for hazardous substance, release, solid waste, or disposal which is broader than that specified in the CERCLA or RCRA, such broader meaning shall apply. **Licensee shall indemnify and hold City harmless against all costs, expenses, fines and fees related to environmental cleanup of the Parklet and surrounding the Parklet resulting, directly or indirectly, from Licensee's use of the Parklet under this Agreement.**

9. **Insurance.** At all times during the Term of this Agreement, the Licensee shall maintain procure and maintain insurance in the types and amounts as specified below.

Licensee shall, at its sole cost and expense, procure and maintain in full force and effect, for the Term of the License Agreement, covering its obligations under this Agreement, the types and minimum limits of insurance specified below. All insurance shall be procured from insurers authorized to do business in the State of Texas and acceptable to the City. All insurance required herein shall be written on an "occurrence" basis and not a "claims-made" basis.

(i) WORKERS COMPENSATION AND EMPLOYERS LIABILITY

(a) Workers Compensation: Statutory limits

(b) Employers Liability: \$100,000 each Accident - Bodily Injury by Accident; \$100,000

Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit -Bodily Injury by Disease.

(c) All States coverage and Texas Endorsement.

(ii) GENERAL LIABILITY INSURANCE

(a) Limit of liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability;

(b) Coverage: Premises operations; blanket contractual liability; personal injury liability (employee exclusion deleted); products and completed operations; independent contractors; employees and volunteers as insureds; cross liability; and broad form property damage (including loss of use) liability.

(iii) AUTOMOBILE LIABILITY INSURANCE

(a) Limit of Liability:

\$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

(b) Coverage: Owned, hired and non-owned vehicles.

The City of Brenham, its officers, employees, and agents, shall be named as additional insureds on the General Liability Insurance Policy. Also, an endorsement is required stating that the coverage afforded the City and its officers, employees and agents as additional insureds will be primary to any coverage available to them. The City reserves the right to require Licensee to furnish certified copies of the original policies of all insurance required hereunder at any time upon ten (10) days prior written notice to Licensee. All such policies shall include an endorsement stating that the coverage afforded to these parties as additional insureds will be primary to any other coverage available to them.

Certificates of insurance evidencing the required coverage shall be submitted to the City Secretary, City of Brenham, 200 W. Vulcan Street, Brenham, Texas 77833 within ten (10) days after the Effective Date of this Agreement. Licensee shall furnish certified copies of the original policies of all insurance required under this Agreement, at any time, within ten (10) days after written request by the City.

All insurance policies shall provide for a least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled, or not renewed. At least ten (10) days prior to the expiration of each policy, Licensee shall deliver to the City a Certificate of Insurance evidencing a replacement policy to become effective immediately upon the termination of the previous policy.

The insurance requirements set forth herein shall in no way be intended to modify, limit or reduce the indemnifications made in this Agreement by Licensee to City, its officers, employees, and agents, or to limit Licensee's liability under this Agreement to the limits of the policies of insurance required to be maintained by Licensee hereunder.

10. Indemnification; Release.

A. Licensee agrees to defend, indemnify, and hold harmless the City, its departments, commissions, boards, officers, employees or agents, from and against all actions, causes, suits, demands, losses, and liabilities, including the cost of litigation and attorney's fees, by reason of injury (including death) to persons and damage to property in any way arising in connection with this Agreement or rights granted to Licensee hereunder; provided that nothing herein contained shall be deemed to confer upon any third person any right against City, or to vest in said third person any cause of action against City, or to authorize any such person to institute any such suit or suits against City, its departments, commissions, boards, officers, employees or agents. Licensee is not obligated to indemnify, defend, and hold harmless the City against losses, costs, claims, suits, actions, damages, liabilities, and expenses that arise exclusively from the negligence or willful misconduct of the City. This Section 8 shall survive the expiration or earlier termination of this Agreement.

B. In consideration of the license extended to Licensee by this Agreement, Licensee, and for Licensee's its contractors, and invitees and all persons claiming through any of them (collectively, including Licensee the "Releasing Parties") do hereby remise, quitclaim, release and forever discharge, the City, its departments, commissions, boards, officers, employees or agents, from any and all, and all manner of, actions and causes of action, suits, claims, and demands whatsoever in law or in equity which the Releasing Parties may have against the City its departments, commissions, boards, officers, employees or agents, relating in any way whatsoever to any condition on the Parklet Location, or relating in any way to Licensee's entry onto the Parklet Location, or Licensee's use of the Parklet Location. Licensee voluntarily assumes all risk of loss, damage, or injury, including death, that may be sustained by the Licensee, its contractors, or invitees, while in, on or about the Licensed Property. This Section 10 shall survive the expiration or earlier termination of this Agreement.

11. Relocation; Termination of this Agreement.

A. Relocation. Licensee understands and agrees that it shall, upon request of the City, relocate the Parklet, and/or remove the Parklet, including chairs, tables, or underground structures, either publicly or privately owned, and that Licensee will absorb all costs and expenses necessary for the performance of such relocation work.

B. Termination: This Agreement may be terminated in any of the following ways:

- a. Written agreement of both parties;
- b. By either party giving the other party thirty (30) days prior written notice; or
- c. By City upon failure of Licensee to perform its obligations as set forth in this Agreement;

Licensee shall further agree that upon termination of this Agreement, Licensee shall vacate the Parklet and leave it in a clean condition, clear of all property and debris and restore the Parklet Area to the satisfaction and approval of the City within thirty (30) days after receiving such notice, all at Licensee's sole cost and expense. The City shall not be liable to Licensee for any compensation, reimbursement or other expenses related to this Agreement.

Licensee agrees that in the event the Parklet is not removed from the Parklet Area and/or if the Parklet Area is not restored to its original condition, the City shall have the right and privilege, at its option, of removing said Parklet, and restoring the City right-of-way to its original condition and in event of the City so doing, Licensee shall pay to the City, within thirty (30) days written notice or demand, the costs expended by the City in such removal and/or restoration.

12. Notice.

All notices, requests, and other communications under this License shall be in writing and shall be sent by United States registered or certified mail, return receipt requested, postage prepaid, or by overnight or hand delivery service with receipt requested, and addressed to Licensee as provided on the first page of this License and to the City as follows:

City Manager
City of Brenham
200 W. Vulcan Street
Brenham, Texas 77833

13. Governing law: This Agreement is governed by the laws of the State of Texas; and exclusive venue for any action shall be in a court of competent jurisdiction in Washington

County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

14. Attachments. Any and all attachments to this Agreement are incorporated herein by reference.

15. Binding effect: This Agreement shall be binding upon and inure to the benefit of the executing parties and their respective successors and assigns.

16. Entire Agreement: This Agreement embodies the entire agreement between the parties and supersedes all prior agreements, understandings, if any, relating to the Licensed Premises and the matters addressed herein and may be amended or supplemented only by written instrument executed by the party against whom enforcement is sought.

LICENSOR: CITY OF BRENHAM

Date: _____

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

ATTEST:

Jeana Bellinger, TRMC, City Secretary
City of Brenham, Texas

LICENSEE: TEXAS NINETY SIX WEST, LLC

Date: _____

Tami Redshaw, Managing Member
Texas Ninety Six West, LLC

ATTEST:

By:
Title:

EXHIBIT “A”

City of Brenham, Texas Parklet Standards and Requirements

GENERAL DESIGN REQUIREMENTS

DESIGN PROFESSIONAL: A licensed architect or engineer must seal Licensee’s proposed plans and supervise construction and installation of parklet.

LICENSE AGREEMENT: A License Agreement from the City of Brenham is required before the parklet may be installed. All parklets are subject to the terms and conditions in the License Agreement and attachments thereto.

ACCESSIBILITY REQUIREMENTS: All parklets must comply with the Americans with Disabilities Act (ADA) and be accessible to all users, including people with physical disabilities, wheelchair users, and those with impaired vision.

ADVERTISING: With the exception of an approved plaque recognizing the Licensee, advertising on a parklet is prohibited.

SMOKING: Smoking is not allowed in parklets.

PRE-APPROVED USE AND DESIGN: Parklet design, plans, specifications and uses must be approved by the City.

BUILDING PERMIT: A building permit is not required for a deck corresponding to the approved parking space dimensions and flush with the sidewalk, including built-in planters and/or railings. A building permit is required for any other structures, such as a raised platform or roof.

PARKLET SITE SELECTION CRITERIA

SPEED LIMIT: The parklet site must be located in an area with a posted speed limit of 25 mph or less.

CITY OF BRENHAM RIGHT-OF-WAY: Parklets will not be allowed on TxDOT right-of-way (Main and Alamo Streets).

CORNER LOCATIONS: The parklet site shall be located at least one (1) parking spot from an intersection.

PARKING SPACES: Parklets may be located along the curb line on streets where on-street parking spaces exist. Parklets will be considered for parallel, angled, or perpendicular parking. Others will be considered on a case by case basis.

STREET SLOPE: The street on which a parklet is located shall have a grade of no greater than 5%. If greater than 5%, additional design requirements and review will be required prior to approval of the parklet.

UTILITIES: Parklets will not be allowed in front of fire department connections and fire hydrants, or over manhole covers or catch basins. The City of Brenham will make maps available of known utility lines under the proposed parklet locations.

BUFFER FROM ADJACENT PARKING SPACES: In cases where there are adjacent parking spaces, parklets will be required to have soft hit posts, wheels stops of some other acceptable form of buffer to prevent conflicts with parking cars.

PARKLET PLATFORM REQUIREMENTS

BOLTING: Bolting into the street or penetrating the surface of the roadway in any way is not allowed. Parklets may be bolted to the existing curb, with specific restoration requirements provided for in the parklet plans and specifications.

PLATFORM SURFACE: The top of the parklet platform must be flush with the sidewalk with a maximum gap of one-half inch between the parklet platform and the sidewalk.

SURFACE MATERIALS: Loose particles, such as sand or loose stone, are not permitted on the parklet.

DRAINAGE: The parklet must not impede the flow of curbside drainage. Licensee is strongly encouraged to cover openings at either end of the parklet with screens to prevent blockage from debris.

PLATFORM CROSS SLOPE: Parklet platforms rest areas must not exceed 2% cross slopes. Licensee's final construction drawings must show spot elevations for both the sidewalk and platform areas.

PARKLET ENCLOSURE REQUIREMENTS

BUFFERS ON THE EDGES: Parklets must have an edge to buffer the street. The buffer may take the form of planters, railing, cabling, or some other appropriate buffer. The height and scale of the buffer required will vary depending on characteristics and context of the parklet site.

MAINTAIN A VISUAL CONNECTION TO THE STREET: Parklet design must maintain a visual connection to the street and not obstruct sight lines to existing businesses or roadway signage. Continuous opaque walls above forty-two inches (42") that block views into the parklet from the surrounding streetscape are prohibited.

EXTEND THE SIDEWALK: Parklets should be designed as an extension of the sidewalk, with multiple points of entry along the curbside edge.

CONSIDER THE BACK OF THE PARKLET: While not visible from the sidewalk the parklet's back is highly visible from across the street. Large blank walls are not permitted.

MATERIALS: All materials used for construction of a parklet must be high quality, durable and capable of withstanding heavy use and exposure to the elements. Choose materials that are easy to maintain. Plastic of any kind is discouraged. Have a plan to replace or repair damaged features such as plants, railings or other elements. Licensee is responsible for making sure their parklet is kept clean and in good repair.

PARKLET AMENITIES

Integrate amenities into the parklet structure. Parklets should include some permanently seating integrated into its structure. Bike racks or landscaped areas should also be considered as part of the design.

MOVEABLE SEATING: If Licensee chooses to use moveable tables and chairs, they should be durable and comfortable for individuals and groups of all ages and abilities.

PLANTING: Integrated planting is strongly encouraged.

LIGHTING: Lighting elements are permitted by may require a separate permit. Parklets may not be powered by extension cords or generators.

ADDITIONAL RESPONSIBILITIES OF PARKLET LICENSEE

CONSTRUCTION COMPLETION: Licensee must complete construction and installation of the parklet within fourteen (14) calendar after the effective date of the License Agreement.

CLEANING: Licensee is required to keep the parklet free of debris, grime, and graffiti. Licensee must clean the surface of the parklet and rinse out the area beneath the parklet at least once per week.

LANDSCAPING: Licensee must maintain plants on the parklet in good health, including watering, weeding, and trimming when necessary.

MOVABLE FURNITURE: Any movable items, such as tables and chairs, should either be locked down at night or taken inside. Unsecured furniture that is not a permanent feature of the parklet is not permitted on the parklet outside of business hours.

REPORTING: Licensee shall prepare an annual report documenting the performance of each individual parklet, and the program as a whole. Licensee shall provide a copy of said annual report to City Secretary within ten (10) days after preparation of annual report.







AGENDA ITEM 8

| | | |
|--|---|--|
| DATE OF MEETING: May 21, 2015 | DATE SUBMITTED: May 15, 2015 | |
| DEPT. OF ORIGIN: Public Utilities | SUBMITTED BY: Lowell Ogle | |
| MEETING TYPE: | CLASSIFICATION: | ORDINANCE: |
| <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 ST READING |
| <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 ND READING |
| <input type="checkbox"/> EXECUTIVE SESSION | <input type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |
| | <input type="checkbox"/> WORK SESSION | |
| AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon Change Order No. 1 (Reconciliation) and Authorize Final Payment to Supak Construction, Inc. for the 2014 Water Distribution System Improvements and Authorize the Mayor to Execute Any Necessary Documentation | | |
| SUMMARY STATEMENT: Supak Construction, Inc. has completed work replacing approximately 2,700 linear feet of AC water lines with 6" C-900 PVC along Drumm, Edward, and Eldon streets. Change Order No. 1 (Reconciliation) resulted in a reduction of the original contract of \$267,152.50. With Change Order No. 1, final construction cost was \$262,469.00, a total of \$4,683.50 below original contract price. | | |
| STAFF ANALYSIS (For Ordinances or Regular Agenda Items): A. PROS: B. CONS: | | |
| ALTERNATIVES (In Suggested Order of Staff Preference): | | |
| ATTACHMENTS: (1) Application for Payment No. 8 & Final; (2) Change Order No. 1 (Reconciliation); (3) Certificate of Substantial Completion; and (4) Consent of Surety to Final Payment | | |
| FUNDING SOURCE (Where Applicable): | | |
| RECOMMENDED ACTION: Approve Change Order No. 1, a reduction in the amount of \$4,683.50 and approve final payment to Supak Construction, Inc. in the amount of \$29,171.90 and authorize the Mayor to execute any necessary documentation. | | |
| APPROVALS: Terry K. Roberts | | |

APPLICATION FOR PAYMENT NO. 8 & Final

TO OWNER: City of Brenham, 200 West Vulcan, Brenham, Texas 77833
 FROM CONTRACTOR: Supak Construction, Inc., P.O. Box 325, Orchard, TX 77464
 PROJECT: 2014 Water Distribution System Improvements
 JOB NO. 1006.082-WG/WH, Strand Project No. 3900.008

CONTRACT AWARDED: May 1, 2014
 PERIOD FROM: March 1, 2015
 CONST. TIME ALLOTTED: 100 Calendar Days

START OF CONTRACT TIME: August 11, 2014
 PERIOD TO: March 24, 2015
 TIME USED: 226

| Item No. | Description | Contract Quantity | Completed Quantity | | | Unit Price | Total Value of Work Completed |
|---------------------------------|---|-------------------|--------------------|----------------|-------|-------------|-------------------------------|
| | | | Previous Period | Current Period | Total | | |
| 1 | Furnish and install 6" AWWA C-900 DR 18 PVC water line by open cut, with trace wire | 2,850 LF | 2,850 | 0 | 2,850 | \$ 37.75 | \$ 107,587.50 |
| 2 | Furnish and install 6" gate valve and valve box | 10 EA | 9 | 0 | 9 | \$ 875.00 | \$ 7,875.00 |
| 3 | Furnish all labor and materials and make 6" wet connection to existing 6" water line | 5 EA | 5 | 1 | 6 | \$ 1,250.00 | \$ 7,500.00 |
| 4 | Remove existing fire hydrant and deliver to City | 3 EA | 3 | 0 | 3 | \$ 300.00 | \$ 900.00 |
| 5 | Furnish and install fire hydrant unit | 3 EA | 3 | 0 | 3 | \$ 3,550.00 | \$ 10,650.00 |
| 6 | Furnish all labor and materials and make 1" service connection | 40 EA | 37 | 0 | 37 | \$ 275.00 | \$ 10,175.00 |
| 7 | Furnish and install 1" SDR 9 CTS Polyethylene service line | 700 LF | 618 | 0 | 618 | \$ 8.50 | \$ 5,253.00 |
| 8 | Furnish all labor and materials and tie new 1" Poly service line into existing meter | 40 EA | 37 | 0 | 37 | \$ 200.00 | \$ 7,400.00 |
| 9 | Furnish and install ductile iron fittings | 1.6 TON | 1.6 | 0.0 | 1.6 | \$ 6,250.00 | \$ 10,000.00 |
| 10 | Furnish all labor and materials and obliterate existing valve box | 4 EA | 4 | 0 | 4 | \$ 100.00 | \$ 400.00 |
| 11 | Furnish all labor and materials to plug and abandon existing water lines in place | 1 LS | 1 | 0 | 1 | \$ 150.00 | \$ 150.00 |
| 12 | Perform trench safety per Technical Specification Section 31 50 00, all depths | 200 LF | 0 | 0 | 0 | \$ 1.00 | \$ - |
| 13 | Furnish all materials and perform traffic control in accordance with the Texas MUTCD | 1 LS | 1.0 | 0.0 | 1.0 | \$ 1,250.00 | \$ 1,250.00 |
| 14 | Furnish all labor and materials to perform asphalt pavement repair in City right-of-way | 2,750 LF | 2,697 | 0 | 2,697 | \$ 10.00 | \$ 26,970.00 |
| 15 | Furnish all labor and materials to perform concrete pavement repair | 15 LF | 15 | 0 | 15 | \$ 57.50 | \$ 862.50 |
| 16 | Perform seeding in all areas disturbed by construction | 1 LS | 1.0 | 0.0 | 1.0 | \$ 750.00 | \$ 750.00 |
| ADDITIVE ALTERNATE BID A | | | | | | | |
| A1 | Furnish and install 6" AWWA C-900 DR 18 PVC water line by open cut, with trace wire | 900 LF | 900 | 0 | 900 | \$ 37.75 | \$ 33,975.00 |
| A2 | Furnish and install 6" gate valve and valve box | 2 EA | 2 | 0 | 2 | \$ 875.00 | \$ 1,750.00 |
| A3 | Furnish all labor and materials and make 6" wet connection to existing 6" water line | 2 EA | 2 | 0 | 2 | \$ 1,250.00 | \$ 2,500.00 |
| A4 | Remove existing fire hydrant and deliver to City | 1 EA | 1 | 0 | 1 | \$ 300.00 | \$ 300.00 |

| Item No. | Description | Contract Quantity | Completed Quantity | | | Unit Price | Total Value of Work Completed |
|----------|---|-------------------|--------------------|----------------|-------|-------------|-------------------------------|
| | | | Previous Period | Current Period | Total | | |
| A5 | Furnish and install fire hydrant unit | 1 EA | 1 | 0 | 1 | \$ 3,550.00 | \$ 3,550.00 |
| A6 | Furnish all labor and materials and make 1" service connection | 20 EA | 16 | 0 | 16 | \$ 275.00 | \$ 4,400.00 |
| A7 | Furnish and install 1" SDR 9 CTS Polyethylene service line | 370 LF | 301 | 0 | 301 | \$ 8.50 | \$ 2,558.50 |
| A8 | Furnish all labor and materials and tie new 1" Poly service line into existing meter | 20 EA | 6 | 10 | 16 | \$ 200.00 | \$ 3,200.00 |
| A9 | Furnish and install ductile iron fittings | 0.45 TON | 0.45 | 0.00 | 0.45 | \$ 6,250.00 | \$ 2,812.50 |
| A10 | Furnish all labor and materials to plug and abandon existing water lines in place | 1 LS | 1 | 0 | 1 | \$ 150.00 | \$ 150.00 |
| A11 | Perform trench safety per Technical Specification Section 31 50 00, all depths | 20 LF | 0 | 0 | 0 | \$ 1.00 | \$ - |
| A12 | Furnish all materials and perform traffic control in accordance with the Texas MUTCD | 1 LS | 1 | 0 | 1 | \$ 1,250.00 | \$ 1,250.00 |
| A13 | Furnish all labor and materials to perform asphalt pavement repair in City right-of-way | 890 LF | 930 | 0 | 930 | \$ 7.50 | \$ 6,975.00 |
| A14 | Furnish all labor and materials to perform concrete pavement repair | 10 LF | 10 | 0 | 10 | \$ 57.50 | \$ 575.00 |
| A15 | Perform seeding in all areas disturbed by construction | 1 LS | 1 | 0 | 1 | \$ 750.00 | \$ 750.00 |

Original Contract: \$ 267,152.50
Plus Additions: \$ -
Less Deductions: \$ 4,683.50
Adjusted Contract: \$ 262,469.00

Value of Work Performed to Date \$ 262,469.00
Plus Materials Stored at Close of Period
Net Amt Earned to Date \$ 262,469.00
Less 0% Retainage \$ -
Subtotal \$ 262,469.00
Less Previous Pay Applications \$ 233,297.10
Amount Due this Application \$ 29,171.90

AFFIDAVIT & CERTIFICATION OF PAY APPLICATION BY CONTRACTOR

STATE OF TEXAS
COUNTY OF Fort Bend

WHEREAS, the undersigned, Arnold Supak, who being duly sworn, on oath, says that he is the legal representative of Supak Construction, Inc., has been employed by City of Brenham to furnish labor and materials for the installation of 2014 Water Distribution System Improvements in Brenham, Texas.

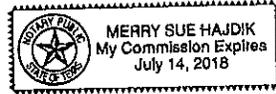
The undersigned Contractor certifies that: (1) all previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Applications for Payment; (2) title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

BY: Arnold Supak DATE: 4-15-2015
SUPAK CONSTRUCTION, INC.

PRINTED NAME: Arnold Supak TITLE: President

SWORN TO AND SUBSCRIBED BEFORE ME THIS 15th DAY OF April, 2015

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



RECOMMENDED BY: Karen Hayes DATE: 4.16.2015
O'MALLEY STRAND ASSOCIATES

APPROVED BY: _____ DATE: _____
CITY OF BRENHAM

CHANGE ORDER NO. 1 - Reconciliation of Final Quantities
 CITY OF BRENHAM
 2014 WATER DISTRIBUTION SYSTEM IMPROVEMENTS
 JOB NO.: 1006.082-WH, Strand Project No. 3900.008
 April 6, 2015

REASON: Reconciliation of Final Quantities.

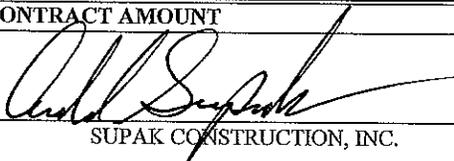
| Item No. | Description | Contract Quantity | Final Quantity | Quantity Increase/ (Decrease) | Unit Price | Amount Increase | Amount Decrease |
|--------------------------------|---|-------------------|----------------|-------------------------------|-------------|-----------------|-----------------|
| 1 | Furnish and install 6" AWWA C-900 DR 18 PVC water line by open cut, with trace wire | 2,850 LF | 2,850 | 0 | \$ 37.75 | - | - |
| 2 | Furnish and install 6" gate valve and valve box | 10 EA | 9 | (1) | \$ 875.00 | - | \$ (875.00) |
| 3 | Furnish all labor and materials and make 6" wet connection to existing 6" water line | 5 EA | 6 | 1 | \$ 1,250.00 | \$ 1,250.00 | - |
| 4 | Remove existing fire hydrant and deliver to City | 3 EA | 3 | 0 | \$ 300.00 | - | - |
| 5 | Furnish and install fire hydrant unit | 3 EA | 3 | 0 | \$ 3,550.00 | - | - |
| 6 | Furnish all labor and materials and make 1" service connection | 40 EA | 37 | (3) | \$ 275.00 | - | \$ (825.00) |
| 7 | Furnish and install 1" SDR 9 CTS Polyethylene service line | 700 LF | 618 | (82) | \$ 8.50 | - | \$ (697.00) |
| 8 | Furnish all labor and materials and tie new 1" Poly service line into | 40 EA | 37 | (3) | \$ 200.00 | - | \$ (600.00) |
| 9 | Furnish and install ductile iron fittings | 1.6 TON | 1.6 | 0 | \$ 6,250.00 | - | - |
| 10 | Furnish all labor and materials and obliterate existing valve box | 4 EA | 4 | 0 | \$ 100.00 | - | - |
| 11 | Furnish all labor and materials to plug and abandon existing water lines in place | 1 LS | 1 | 0 | \$ 150.00 | - | - |
| 12 | Perform trench safety per Technical Specification Section 31 | 200 LF | 0 | (200) | \$ 1.00 | - | \$ (200.00) |
| 13 | Furnish all materials and perform traffic control in accordance with the Texas MUTCD | 1 LS | 1.0 | 0 | \$ 1,250.00 | - | - |
| 14 | Furnish all labor and materials to perform asphalt pavement repair in City right-of-way | 2,750 LF | 2,697 | (53) | \$ 10.00 | - | \$ (530.00) |
| 15 | Furnish all labor and materials to perform concrete pavement repair | 15 LF | 15 | 0 | \$ 57.50 | - | - |
| 16 | Perform seeding in all areas disturbed by construction | 1 LS | 1.0 | 0 | \$ 750.00 | - | - |
| ADITIVE ALTERNATE BID A | | | | | | | |
| A1 | Furnish and install 6" AWWA C-900 DR 18 PVC water line by open cut, with trace wire | 900 LF | 900 | 0 | \$ 37.75 | - | - |
| A2 | Furnish and install 6" gate valve and valve box | 2 EA | 2 | 0 | \$ 875.00 | - | - |
| A3 | Furnish all labor and materials and make 6" wet connection to existing 6" water line | 2 EA | 2 | 0 | \$ 1,250.00 | - | - |
| A4 | Remove existing fire hydrant and deliver to City | 1 EA | 1 | 0 | \$ 300.00 | - | - |
| A5 | Furnish and install fire hydrant unit | 1 EA | 1 | 0 | \$ 3,550.00 | - | - |

| Item No. | Description | Contract Quantity | Final Quantity | Quantity Increase/ (Decrease) | Unit Price | Amount Increase | Amount Decrease |
|------------------------------|---|-------------------|----------------|-------------------------------|-------------|-----------------|-----------------|
| A6 | Furnish all labor and materials and make 1" service connection | 20 EA | 16 | (4) | \$ 275.00 | - | \$(1,100.00) |
| A7 | Furnish and install 1" SDR 9CTS Polyethylene service line | 370 LF | 301 | (69) | \$ 8.50 | - | \$ (586.50) |
| A8 | Furnish all labor and materials and tie new 1" Poly service line into | 20 EA | 16 | (4) | \$ 200.00 | - | \$ (800.00) |
| A9 | Furnish and install ductile iron fittings | 0.45 TON | 0.45 | 0 | \$ 6,250.00 | - | - |
| A10 | Furnish all labor and materials to plug and abandon existing water lines in place | 1 LS | 1 | 0 | \$ 150.00 | - | - |
| A11 | Perform trench safety per Technical Specification Section 31 50 00, all depths | 20 LF | 0 | (20) | \$ 1.00 | - | \$ (20.00) |
| A12 | Furnish all materials and perform traffic control in accordance with the Texas MUTCD | 1 LS | 1 | 0 | \$ 1,250.00 | - | - |
| A13 | Furnish all labor and materials to perform asphalt pavement repair in City right-of-way | 890 LF | 930 | 40 | \$ 7.50 | \$ 300.00 | - |
| A14 | Furnish all labor and materials to perform concrete pavement repair | 10 LF | 10 | 0 | \$ 57.50 | - | - |
| A15 | Perform seeding in all areas disturbed by construction | 1 LS | 1 | 0 | \$ 750.00 | - | - |
| SUBTOTAL FOR AMOUNT INCREASE | | | | | | \$ 1,550.00 | |
| SUBTOTAL FOR AMOUNT DECREASE | | | | | | | \$(6,233.50) |
| NET CONTRACT DECREASE | | | | | | | \$(4,683.50) |

ADJUSTED CONTRACT AMOUNT (FINAL)

| | |
|--|---------------|
| ORIGINAL CONTRACT AMOUNT | \$ 267,152.50 |
| LESS CHANGE ORDER NO. 1 - RECONCILIATION (NET CONTRACT DECREASE) | \$ (4,683.50) |
| REVISED CONTRACT AMOUNT | \$ 262,469.00 |

REQUESTED BY:


SUPAK CONSTRUCTION, INC.

4-14-15

DATE

RECOMMENDED BY:


O'MALLEY STRAND ASSOCIATES, INC.

4.16.2015

DATE

APPROVED BY:

CITY OF BRENHAM

DATE

CERTIFICATE OF SUBSTANTIAL COMPLETION

DATE OF ISSUANCE April 6, 2015

OWNER City of Brenham

CONTRACTOR Supak Construction, Inc.

Contract: _____

Project: 2014 Water Distribution System Improvements

OWNER's Contract No. N/A

ENGINEER's Project No. 1006.082-WH

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

To CITY OF BRENHAM
OWNER

And To SUPAK CONSTRUCTION, INC.
CONTRACTOR

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

MARCH 24, 2015
DATE OF SUBSTANTIAL COMPLETION

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

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

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

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

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

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

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

N/A

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

Executed by ENGINEER on 4-16-2015
Date

O'MALLEY STRAND ASSOCIATES, INC.
ENGINEER

By: 
(Authorized Signature)

CONTRACTOR accepts this Certificate of Substantial Completion on 4-15-15
Date

SUPAK CONSTRUCTION, INC.
CONTRACTOR

By: 
(Authorized Signature)

OWNER accepts this Certificate of Substantial Completion on _____
Date

CITY OF BRENHAM
OWNER

By: _____
(Authorized Signature)

OWNER

ARCHITECT

CONTRACTOR

SURETY

OTHER _____

**CONSENT OF SURETY
TO FINAL PAYMENT**

Conforms with the American Institute of
Architects, AIA Document G707

TO OWNER: City of Brenham
(Name and address)

ARCHITECT'S PROJECT NO.:
1006.082-WH, Strand Project No. 3900.008

c/o O'Malley Engineers PO Box 1976, Brenham,
TX 77833

CONTRACT FOR:
2014 Water Distribution System Improvements

PROJECT: 2014 Water Distribution System Improvements
(Name and address)

CONTRACT DATED:
May 1, 2014

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

West American Insurance Company

9450 Seward Rd, Fairfield, OH 45014

, SURETY,

on bond of
(Insert name and address of Contractor)

Supak Construction, Inc.

P.O. Box 325, Orchard, TX 77464

, CONTRACTOR,

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

City of Brenham

c/o O'Malley Engineers PO Box 1976, Brenham, TX 77833

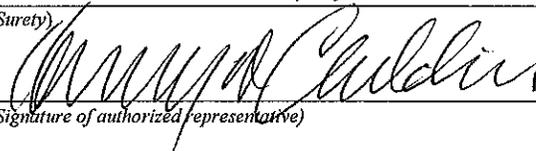
, OWNER,

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date: April 21, 2015
(Insert in writing the month followed by the numeric date and year.)

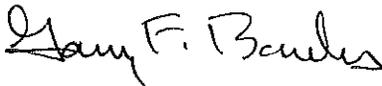
West American Insurance Company

(Surety)



(Signature of authorized representative)

Attest:



Henry D. Childers, Attorney-in-Fact

(Printed name and title)

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

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

Certificate No. 6490658

American Fire and Casualty Company
The Ohio Casualty Insurance Company

Liberty Mutual Insurance Company
West American Insurance Company

POWER OF ATTORNEY

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

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

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 18th day of March, 2014.

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

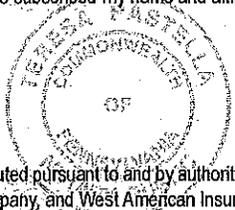
By: David M. Carey
David M. Carey, Assistant Secretary



STATE OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 18th day of March, 2014, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of American Fire and Casualty Company, Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

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



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2017
Member, Pennsylvania Association of Notaries

By: Teresa Pastella
Teresa Pastella, Notary Public

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

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

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

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

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

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

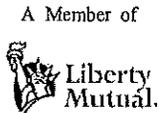
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 21st day of April, 2015.

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



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

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



West American Insurance Company

TEXAS IMPORTANT NOTICE

To obtain information or make a complaint:

You may call toll-free for information or to make a complaint at

1-800-843-6446

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at

1-800-252-3439

You may write the Texas Department of Insurance
P. O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-Mail: ConsumerProtection@tdi.state.tx.us

PREMIUM OR CLAIM DISPUTES:

Should you have a dispute concerning your premium or about a claim you should contact the agent or call 1-800-843-6446. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

TEXAS AVISO IMPORTANTE

Para obtener informacion o para someter una queja:

Usted puede llamar al numero de telefono gratis para informacion o para someter una queja al

1-800-843-6446

Puede comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al

1-800-252-3439

Puede escribir al Departamento de Seguros de Texas
P. O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.state.tx.us>
E-Mail: ConsumerProtection@tdi.state.tx.us

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse o llamar 1-800-843-6446. Si no se resuelve la disputa, puede entonces comunicarse con el departamento (TDI)

UNA ESTE AVISO A SU POLIZA:

Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.



AGENDA ITEM 9

| | | |
|--|---|--|
| DATE OF MEETING: May 21, 2015 | DATE SUBMITTED: May 15, 2015 | |
| DEPT. OF ORIGIN: Police Department | SUBMITTED BY: Dant Lange | |
| MEETING TYPE: | CLASSIFICATION: | ORDINANCE: |
| <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 ST READING |
| <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 ND READING |
| <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |
| | <input type="checkbox"/> WORK SESSION | |
| AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Purchase of Body Cameras for the Police Department from Special Revenue Funds and Authorize the Mayor to Execute Any Necessary Documentation | | |
| SUMMARY STATEMENT: The Police Department has been testing and evaluating body-worn camera systems for the officers. The body cameras are to be used for recording documentation of police interaction with the community. These cameras will be utilized for the protection of both officers and community members during law enforcement encounters; they will ensure the Department serves with as much transparency as possible and maintains the existing community partnership. The Department has received a quote from Safety Vision, the vendor that provides the infrastructure for our mobile data terminals (in-car cameras) for a body camera system. Our research indicates other vendors can supply the body cameras at comparable costs; however, they are not compatible with the existing infrastructure we have in place. It is our recommendation that we purchase the body cameras from Safety Vision for a total of \$21,035.00. An additional \$13,550 will be used to purchase a server for storage. The total cost for the body camera system will be approximately \$34,585. Money to purchase the cameras will come from a special revenue source that is funded through private donations. If we were to use any other vendor the storage requirements for a system that is not compatible with our existing system would increase this cost considerably. The Police Department has a long standing relationship with the vendor Safety Vision (ICOP); that combined with the close proximity to their offices in Houston provides an additional benefit to the department in choosing Safety Vision. | | |
| STAFF ANALYSIS (For Ordinances or Regular Agenda Items): | | |
| <p>A. PROS: Body cameras will assist in the documentation of police encounters and help both officers and community members capture the accurate event of law enforcement encounters.</p> <p>B. CONS: Choosing another vendor will create the need for additional infrastructure that will be costly.</p> | | |
| ALTERNATIVES (In Suggested Order of Staff Preference): | | |
| ATTACHMENTS: (1) Computer Helpers quote for additional server; and (2) Proposal from Safety Vision | | |

FUNDING SOURCE (Where Applicable): Private donations

RECOMMENDED ACTION: Approve the purchase of body cameras for the Police Department from Safety Vision in the amount of \$21,035.00 as well as an additional data storage server from Computer Helpers in the amount of \$13,550.00, both from special revenue funds, and authorize the Mayor to execute any necessary documentation

APPROVALS: Terry K. Roberts

Computer Helpers

2303 South Day Street
Brenham, Texas 77833
helpers@brenham.com
(979) 836-6098



REPRINTED

Bill To: City of Brenham
City of Brenham
P.O. Box 1059
Brenham, TX 77834-1059

| UPC | Item Name | Item Description | Orig Price | Disc % | Qty | Price | Ext Price |
|-----|----------------------------|------------------|-------------|--------|-----|-------------|-------------|
| | Drobo B1200I-72GB | | \$12,750.00 | | 1 | \$12,750.00 | \$12,750.00 |
| | Drobo 1Year 24X7 DroboCare | | \$800.00 | | 1 | \$800.00 | \$800.00 |

Subtotal: 13,550.00
Exempt 0 % Tax: + \$0.00

RECEIPT TOTAL: 13,550.00

Thanks for shopping with us!

| | | |
|-----------|------|---------------|
| DATE: | PAGE | ORDER NUMBER: |
| 1/29/2015 | 1 | P015436 |

PROPOSAL

Thanks for your request for proposal.

If you have any questions or issues, just call us **TOLL FREE** at 1-800-880-8855

Tight Budget? Ask about affordable leasing options through Safety Vision's partnership with American Express. Please contact your Account Executive for a firm quote."

| |
|---|
| BILL TO ACCOUNT# BRENMPD |
| Brenham Police Department 1800 Longwood Drive Brenham, TX 77833 |

| |
|---|
| SHIP TO: |
| Brenham Police Department 1800 Longwood Drive Brenham, TX 77833 |

| | |
|-----------------------|----------------------------------|
| EXPIRE DATE: 5/5/2015 | SALESPERSON: SRS - Sean Slattery |
|-----------------------|----------------------------------|

| CUSTOMER PO: QUOTE | ORDER DATE: 1/29/2015 | SHIP VIA: FED GROUND | TERMS: Net 30 Days | | | |
|--------------------|--|----------------------|--------------------|--------|-----------|--|
| ITEM NUMBER | DESCRIPTION | QTY | SHIPPED | PRICE | AMOUNT | |
| SV-PRIMAFACE32E | 32GB Police Body Camera external input | 35.00 | 0.00 | 425.00 | 14,875.00 | |
| PFM3CABLE | cbl for body cam motorola XTS series radio | 35.00 | 0.00 | 69.00 | 2,415.00 | |
| SV-PF-EXTCAM | button camera for prima | 35.00 | 0.00 | 90.00 | 3,150.00 | |
| SV-PRIMABASE8 | 8 bay prima charger | 1.00 | 0.00 | 595.00 | 595.00 | |
| /WAR2 | 2 Year Advanced Replacement | 25.00 | 0.00 | 0.00 | 0.00 | |

TERMS Net 30 Days FROM INVOICE DATE, 7 DAYS SHIPPING.

ALL PRICES FIRM FOR SIXTY (60) DAYS.

PROPOSAL DOES NOT INCLUDE INSTALLATION UNLESS STATED ABOVE.

FOR A DETAILED INSTALLATION PROPOSAL, CONSULT YOUR ACCOUNT EXECUTIVE.

LEASING OPTIONS, PRICES QUOTED BELOW IS A \$1.00 BUYOUT. MINIMUM AND EXCLUSIONS APPLY.

24 MONTHS \$1,014.94 36 MONTHS \$724.24
48 MONTHS \$580.15 60 MONTHS \$494.95

| | |
|----------------|-----------|
| Net Order: | 21,035.00 |
| Less Discount: | 0.00 |
| Freight: | 0.00 |
| Sales Tax: | 0.00 |
| | 21,035.00 |

ACCOUNT MANAGER: _____ DATE: _____



AGENDA ITEM 10

| | | |
|---|---|--|
| DATE OF MEETING: 5/21/2015 | | DATE SUBMITTED: 5/14/15 |
| DEPT. OF ORIGIN: Public Works | | SUBMITTED BY: Dane Rau |
| MEETING TYPE: | CLASSIFICATION: | ORDINANCE: |
| <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> PUBLIC HEARING | <input type="checkbox"/> 1 ST READING |
| <input type="checkbox"/> SPECIAL | <input type="checkbox"/> CONSENT | <input type="checkbox"/> 2 ND READING |
| <input type="checkbox"/> EXECUTIVE SESSION | <input checked="" type="checkbox"/> REGULAR | <input type="checkbox"/> RESOLUTION |
| | <input type="checkbox"/> WORK SESSION | |
| AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Extension of a Contract with Marvin Koehne (dba Triple K Cattle) for the Lease of the Old Landfill Property and Authorize the Mayor to Execute Any Necessary Documentation | | |
| <p>SUMMARY STATEMENT: For the past 5 years the City of Brenham has leased the Old Landfill site to Marvin Koehne for hay production. This portion of the property consists of 108.90 acres. In January the City of Brenham notified Mr. Koehne of its intent not to renew the annual hay lease due to another endeavor that consisted of a film producer looking at utilizing this property for stage props and partnering with the City of Brenham, BISD, and BNSF. Staff felt that by supplying Mr. Koehne with his 90 day not to renew notification that this would not put the City at risk for another year if the film producer was ready to move forward with his project. We spoke to Mr. Koehne about this and he understood the situation and we explained to him that on May 12, 2015 his lease would expire but if the film producer was not ready by this time that we would pursue a month to month lease on this property for the hay production. It has come to the point now where we are ready to pursue a month to month lease while the film producer is continuing to explore his options and financing. By allowing Mr. Koehne to continue to cut the hay it benefits the city by not having to send personnel out there to maintain the property. Once the final decision is made on the film production setup we either enter into a deal with the film producer or re-bid the hay lease if it falls through. The lease with Mr. Koehne has been in effect since 2010 and being that it is 5 years old we would like to re-bid if the opportunity presents itself.</p> <p>Mr. Koehne currently pays a yearly lease of \$4,553.11 for the 108.90 acres. Going month to month his monthly amount will be \$379.42. At the end of the month to month agreement we will settle up with Mr. Koehne. The conditions of the lease will be the same as the 2010 agreement.</p> | | |
| STAFF ANALYSIS (For Ordinances or Regular Agenda Items): | | |
| A. PROS: Still will receive revenue on the lease and prevents staff from having to maintain property | | |
| B. CONS: None | | |

| |
|--|
| ALTERNATIVES (In Suggested Order of Staff Preference): |
| ATTACHMENTS: (1) 90 day Notification Letter; and (2) 2010 Contract |
| FUNDING SOURCE (Where Applicable): |
| RECOMMENDED ACTION: Approve a month-to-month lease agreement, in the amount of \$379.42 per month, with Marvin Koehne (dba Triple K Cattle) for the lease of the Old Landfill Property and authorize the Mayor to execute any necessary documentation |
| APPROVALS: Terry K. Roberts |



January 4, 2015

Marvin Koehne, dba Triple K Cattle
2700 Old Chappell Hill Rd
Brenham, TX 77833

Reference: Old Landfill Lease of Land 90-day Notification

Marvin

As stated over the phone, the City of Brenham would like to notify you of its intent not to renew the Old Landfill Property Lease that relates to Bid #10-008 for the 2015-2016 season. The original agreement for the lease of 133.90 acres (108.90 being utilized) began on May 13, 2010. This lease has continuously renewed as stated in the agreement from one year to the next with a May 12th termination date. This letter follows the 90 day written notice that is required for non-renewal.

We appreciate your partnership over the past 5 years. We will be in contact with you in the future as our plans for this property allow. Thanks again for working with us on this lease.

Sincerely

Dane Rau
Director of Public Works
(979) 337-7407

CITY OF BRENHAM
PUBLIC UTILITIES DEPARTMENT

REQUEST FOR BID

**LEASE OF LAND
OLD LANDFILL SITE**

BID NO. 10-008
BID OPENING: THURSDAY, APRIL 15, 2010, 2:00 P.M.

**City of Brenham
200 West Vulcan Street
P.O. Box 1059
Brenham, Texas 77834-1059**

(979) 337-7550

GENERAL INFORMATION AND CONDITIONS

1. The successful bidder and the City of Brenham shall enter into a lease agreement, which shall become effective from date of approval and execution by the City of Brenham. The lease agreement shall remain in effect for a term of one (1) year, and shall automatically renew annually for a term of one (1) year, unless one party gives the other a ninety (90) days written notice of its intent not to renew.
2. The Lessee shall procure and maintain at its sole cost and expense, for the duration of the lease agreement, a general liability insurance policy, minimum of \$100,000 per occurrence, for injuries to persons or damages to property that may arise from or in connection with the lease agreement or the use of the property by the Lessee, his agents, representatives, volunteers, or employees. A valid Certificate of Insurance shall be furnished to the City before the Lessee commences use of the property.
3. If, through any cause, the Lessee violates any of the provisions of the lease agreement, the City may terminate the lease agreement upon 30 calendar day written notice. Termination of the lease for cause shall be deemed as sufficient evidence and cause to remove the Vendor's name from the bidder's list for receiving future bids.
4. The lease agreement cannot be transferred or assigned to another party without written consent of the City and may be subject for cancellation by the City if such consent is requested.
5. The City of Brenham shall retain the right of ingress and egress to said property during the period of this lease agreement, and to partition off the property planned for future use of the City as described in these bid documents.
6. The City restricts the use of this land solely for planting, raising, and harvesting hay and no other purpose, unless otherwise approved by the City Council. Individuals interested in grazing livestock on this property must coordinate with the city to ensure that only approved areas are utilized. Exceptions may be approved by the City Council.
7. The Lessee must obtain prior written approval from the City for the construction of any permanent and/or temporary buildings, sheds, pens, corrals or any other improvements on the property.
8. Any alteration, additions or removal of a gate and/or fence must be approved by the Director of Public Utilities.
9. Lease payment shall be paid annually, in advance, to the City of Brenham, Attention: Accounts Payable, P.O. Box 1059, Brenham, Texas 77834-1059. NOTE: Other forms of payment can be negotiated before beginning the lease.
10. The terms and conditions noted in these bid documents may be changed or amended by addendum if the bidder demonstrates just reason for the change provided the City has ten (10) days notice prior to bid opening.
11. Bid must be submitted on this bid form only. Bidders are required to submit one (1) original and one (1) copy. All bids submitted must be itemized with prices extended when practical. Bidder must return the entire original bid document with bid. No change to the bid document is permitted after the bid opening.

12. Bid must be sealed, and to ensure proper recognition upon its arrival, list the Bid Number, Bid Description and the Bid Opening Date on the outside of your envelope.
13. Bids must be received by the Purchasing Department prior to the time indicated on this form. Late bids will not be opened and will be returned to the bidder upon written request.
14. The City of Brenham reserves the right to accept or reject any or all bids, to waive any informalities and technicalities, to accept the offer considered most advantageous in order to obtain the best value for the City.
15. Information concerning this bid request may be obtained by contacting the Purchasing Agent at 979/337-7550.

REQUEST FOR BID

Item1. 133.90 Acres

Scope: The old landfill property consists of a 91.58 acre tract and a 42.32 acre tract, a total of 133.90 acres, located between the junction of Old Navasota Rd and New Years Creek Rd.

Due to planned projects at the property, the total amount of acres to bid on will be 108.90 acres. The Lessee will be allowed to utilize the entire 133.90 acre site until notified by city staff that the projects will begin. Upon notification by the City, the Lessee shall immediately cease use of the areas to be used by the City. Attached is a map that shows the areas planned for future use by the City of Brenham.

The City of Brenham will require the Lessee to be responsible for the following:

1. All open landfill acreage will be mowed at least three (3) times per year.
2. All fences will be maintained to prevent livestock from entering or exiting the property.
3. The city is currently using this property for applying water plant sludge and wastewater bio-solids. All markers must be kept intact and not be moved or damaged.
4. Absolutely no plowing, digging, or disking activities.
5. The use of any chemicals on this land is not allowed.
6. Absolutely no discharge of firearms or hunting, of any kind, will be permitted on this property.
7. Trapping of feral hogs must be approved by the City of Brenham.

Comments:

Lease Agreement

Date: May 13, _____, 2010

Landlord: The City of Brenham, a Texas Home-Rule Municipality

Landlord's Address:

City of Brenham
Attn: Accounts Payable
P.O. Box 1059
Brenham, Texas 77834-1059

Tenant: Marvin Koehne, dba Triple K Cattle

Tenant's Address:

2700 Old Chappel Hill
Brenham, Texas 77833

Premises: SURFACE ONLY of approximately a 91.58 acre tract and a 42.32 acre tract, a total of 133.90 acres, which is located between the junction of Old Navasota Road and New Year's Creek Road, situated in Washington County, Texas, more fully described in Exhibit "A" attached hereto and incorporated herein for all purposes ("Land").

Due to planned projects at the Premises, the Tenant will be allowed to utilize the entire 133.90 acre site until notified by the City staff that projects will begin. Upon notification by the City, the Tenant shall immediately cease use of the areas to be used by the City, and the Premises shall be reduced to 108.90 acres. The area of the Land that is subject to use by the City for City projects is identified in the shaded area in Exhibit "A" and incorporated herein for all purposes.

Base Rent:

\$ 4553.11 paid annually, in advance, to the City of Brenham, Lease payment shall be addressed to:

The City of Brenham
Attention: Accounts Payable
P.O. Box 1059
Brenham, Texas 77834-1059

Term (months): The Lease Agreement shall remain in effect for a term of one (1) year, and shall automatically renew annually for a term of one (1) year, unless either party gives the other party ninety (90) days written notice of its intent not to renew.

Commencement Date: May 13, 2010

Termination Date: May 12, 2011

Permitted Use: Solely for planting, raising, and harvesting hay and no other purpose, unless otherwise approved by the City Council.

Tenant's Insurance: As required by Insurance Addendum

Definitions

"Injury" means (a) harm to or impairment or loss of property or its use or (b) harm to or death of a person.

"Landlord" means Landlord, the City of Brenham, and its agents, employees, invitees, licensees, or visitors.

"Rent" means Base Rent plus any other amounts of money payable by Tenant to Landlord.

"Tenant" means Tenant and its agents, contractors, employees, invitees, licensees, or visitors.

Clauses and Covenants

A. Tenant agrees to -

1. Lease the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date, said Lease being subject to and subordinate to Landlord's use of Premises as a land application site for water plant and wastewater plant sludge. This Lease shall not affect Landlord's right of ingress and egress to the Premises, and the Landlord's continuing right during the term of this Lease to use the Premises as a land application site for water plant and wastewater plant sludge.
2. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use. Tenant acknowledges and agrees that Landlord utilizes the leased Premises as a land application site for water plant and wastewater plant sludge.
3. Obey all laws, ordinances, orders, and rules and regulations applicable to the use,

condition, and occupancy of the Premises, including the rules and regulations of the United States Department of Agriculture and the Texas Agriculture Commissioner.

4. Pay the Base Rent when it is due to Landlord at Landlord's Address.
5. Pay a late charge of 5 percent of any Rent not received by Landlord by the tenth day after it is due.
6. Pay for all labor, fuel, and utility services used by Tenant.
7. Pay all taxes on the crops raised on and Tenant's personal property located on the Premises.
8. Allow Landlord to retain the right of ingress and egress to said property, and allow Landlord to enter the Premises to inspect the Premises and show the Premises to prospective purchasers or tenants. Tenant also agrees to partition off the property planned for future use of the Landlord as described in this Lease Agreement.
9. Maintain all fences to prevent livestock from entering or exiting the property; repair, replace, and maintain any part of the Premises used by Tenant.
10. Repair any damage to the Premises, Land, or Excluded Improvements caused by Tenant.
11. Maintain the insurance coverage described in the attached Insurance Addendum.
12. INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) ARISING OUT OF TENANT'S USE OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.**
13. Vacate the Premises on the last day of the Term.
14. Pay all costs of planting, raising, and harvesting the hay.

15. Cultivate the Premises in a timely, thorough, and farmerlike manner, employing the best methods of farming customarily practiced on like hay crops in the area.
16. Keep all gates on the Premises closed and locked.
17. Enter and exit the Premises only at those places designated by Landlord.
18. Mow all open landfill acreage at least three (3) times per year.

B. Tenant agrees not to -

1. Use the Premises for any purpose other than the Permitted Use.
2. Create or allow a nuisance or permit any waste of the Premises.
3. Change Landlord's lock system.
4. Alter the Premises, including clearing new roads, moving or erecting any fences, or locating on the Premises any type of manufactured housing or mobile home, unless otherwise authorized to do so by the City.
5. Transfer or assign this lease or sublease any portion of the Premises without Landlord's written consent. If such consent is requested, the Lease Agreement may be subject to cancellation by the Landlord.
6. Allow hunting of any kind, fishing, or the discharge of firearms on the Premises.
7. Litter or leave trash or debris on the Premises.
8. Allow a lien to be placed on the Premises.
9. Allow plowing, digging, or disking activities on the Premises.
10. Allow the use of any chemicals on the Premises.
11. Allow trapping of feral hogs on the Premises, unless otherwise approved by the Landlord.

C. Landlord agrees to -

1. Lease to Tenant the Premises for the entire Term beginning on the Commencement Date and ending on the Termination Date.

2. Return the Security Deposit to Tenant, less itemized deductions, if any, within sixty days after the last day of the Term.

D. Landlord agrees not to -

1. Allow any use of the Premises inconsistent with the Permitted Use as long as Tenant is not in default, except for the City projects planned as provided hereinabove.
2. Unreasonably withhold consent to a proposed assignment or sublease.

E. Landlord and Tenant agree to the following:

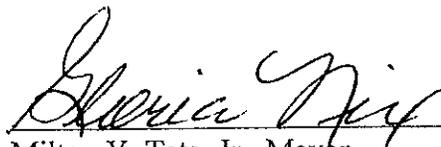
1. *Alterations.* The Tenant must obtain written approval from the City for the construction of any permanent and/or temporary buildings, sheds, pens, corrals, or any other improvements on the property. Any alteration, additions, or removal of a gate and/or fence must be approved by the Director of Public Utilities. Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at termination of this lease and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the Commencement Date, normal wear excepted.
2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.
3. *Release of Claims/Subrogation.* **TENANT RELEASES LANDLORD FROM ALL CLAIMS OR LIABILITIES FOR ANY INJURY TO TENANT OR TO TENANT'S PROPERTY LOCATED ON THE PREMISES. THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD.**
4. *Condemnation/Substantial or Partial Taking*
 - a. If the Premises cannot be used for the Permitted Use because of condemnation or purchase in lieu of condemnation, this lease will terminate.
 - b. If there is a condemnation or purchase in lieu of condemnation and this lease is not terminated, the Rent payable during the unexpired portion of the Term will be adjusted as may be fair and reasonable.

- c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.
5. *Default by Landlord/Events.* A default by Landlord is the failure to comply with any provision of this lease that is not cured within thirty days after written notice.
 6. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages and terminate this lease.
 7. *Default by Tenant/Events.* Defaults by Tenant are (a) failing to pay timely Rent; (b) abandoning or vacating a substantial portion of the Premises; and (c) failing to comply within 30 days after written notice of the violation of any provision of this lease other than the defaults set forth in (a) and (b) above.
 8. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, after which Landlord may relet the Premises on behalf of Tenant and receive the Rent directly by reason of the reletting, and Tenant agrees to reimburse Landlord for any expenditures made in order to relet; (b) enter the Premises and perform Tenant's obligations; and (c) terminate this lease by written notice and sue for damages. Landlord may enter and take possession of the Premises by self-help, by picking or changing locks if necessary, and may lock out Tenant or any other person who may be farming the Premises, until the default is cured, without being liable for damages. Termination of this Lease Agreement for default shall be deemed sufficient evidence and cause to deem the Tenant ineligible to lease the Land pursuant to a future bid process, or in accordance with any other process approved by the City.
 9. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this lease does not preclude pursuit of other remedies in this lease or provided by law. Landlord and Tenant have a duty to mitigate damages.
 10. *Holdover.* If Tenant does not vacate the Premises following termination of this lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.
 11. *Attorney's Fees.* If either party retains an attorney to enforce this lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.
 12. *Venue.* Exclusive venue is in Washington County, Texas.
 13. *Entire Agreement.* This lease, together with the attached exhibits and riders, is the

entire agreement of the parties, and there are no oral representations, warranties, agreements, or promises pertaining to this lease or to any expressly mentioned exhibits and riders not incorporated in writing in this lease.

14. *Amendment of Lease.* This lease may be amended only by an instrument in writing signed by Landlord and Tenant.
15. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.
16. *Notices.* Any notice required or permitted under this lease must be in writing. Any notice required by this lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.
17. *Mineral Interests.* This lease is subordinate to any present or future oil, gas, or other mineral exploration agreements and leases relating to the Land. Landlord will not be liable to Tenant for any damages for actions attributable to those agreements and will receive all consideration paid therefor.

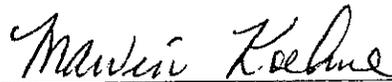
LANDLORD - City of Brenham, Texas



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

Mrs. Gloria Nix, Mayor - Pro Tem

TENANT



Printed Name: MARVIN KOEHNE

Title

Insurance Addendum to Lease

Lease

Date: May 13, 2010

Landlord: The City of Brenham, a Texas home-rule municipality

Tenant: Marvin Koehne, dba Triple K Cattle

This insurance addendum is part of the lease.

Tenant agrees to -

1. Maintain the liability insurance policies required below during the Term and any period before or after the Term when Tenant is present on the Premises:

| Type of Insurance | Minimum Policy Limit |
|--|---|
| Commercial general liability (occurrence basis) endorsed to cover farm operations, and for injuries to persons or damages to property that may arise from or in connection with the lease agreement or the use of the property by the Lessee, his agents, representatives, volunteers, or employees. | Per occurrence: \$100,000 Aggregate: \$100,000 |

2. Comply with the following additional insurance requirements:

a. All liability policies must be endorsed to name Landlord as an "additional insured" on a form that does not exclude coverage for the sole or contributory ordinary negligence of Landlord and must not be endorsed to exclude the sole negligence of Landlord or Lienholder from the definition of "insured contract."

b. Certificates of Insurance and copies of any additional insured and waiver of subrogation endorsements must be delivered by Tenant to Landlord before Tenant enters the Premises or commences use of the Premises, and thereafter at least ten days before the expiration of the policies.