



**NOTICE OF A REGULAR MEETING
THE BRENHAM CITY COUNCIL
THURSDAY, MAY 19, 2011 AT 1:00 P.M.
SECOND FLOOR CITY HALL
COUNCIL CHAMBERS
200 W. VULCAN
BRENHAM, TEXAS**

- 1. Call Meeting to Order**
- 2. Invocation and Pledges to the US and Texas Flags – Councilmember Charlie Pyle**
- 3. Citizens Comments**
- 4. Administer Oath of Office to Elected Officials and Issue Certificates of Election for Unopposed Council Positions:**

Milton Y. Tate, Jr.	Mayor, At Large
Danny Goss	Place 4, Ward 4
- 5. Proclamation
Hurricane Preparedness Week – May 22 – 28, 2011**

CONSENT AGENDA

6. 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.

6-a. Minutes from the May 5, 2011 Council Meeting

6-b. Second Reading of Ordinance No. O-11-005 Amending Chapter 2 of the City of Brenham's Code of Ordinances to Include Section 2 - 12.4 Municipal Court Delinquent Fee Collection

REGULAR AGENDA

- 7. Discuss and Possibly Act Upon the Election by Council of Mayor Pro Tem**
- 8. Discuss and Possibly Act Upon a Contract for Municipal Court Fines and Fees Collection Services and Authorize the Mayor to Execute any Necessary Documentation**
- 9. Discuss and Possibly Act Upon an Ordinance on its First Reading Adopting a Revised City of Brenham Drought Contingency Plan and Water Conservation Plan for 2010-2015**
- 10. Discuss and Possibly Act Upon Change Order 1 and Final Payment to Rhodes Building Systems Inc. for Construction of a Warehouse Addition for the Electric Department and Authorize the Mayor to Execute any Necessary Documentation**
- 11. Discuss and Possibly Act Upon a Request for a Noise Variance from the Citizens for Community Progress to Hold a Band Concert at Henderson Park from 4:00 p.m. to 7:00 p.m. on May 22, 2011**

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

12. Administrative/Elected Officials Report

Adjourn

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

CERTIFICATION

I certify that a copy of the May 19, 2011 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 16, 2011 at _____ Am Pm.

Tammy Cook, Deputy City Secretary

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

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the _____ day of _____, 2011 at _____ Am Pm.

Signature

Title

IN THE NAME AND BY THE AUTHORITY OF
THE STATE OF TEXAS, COUNTY OF WASHINGTON
CITY OF BRENHAM

OATH OF OFFICE

I, **Milton Y. Tate, Jr.**, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of Mayor for the City of Brenham, Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of this State, and of this City. So help me God.

Signed: _____

Sworn to and subscribed before me, at Brenham, Texas, this 19th day of May, 2011.

Presiding Judge Julian E. Weisler
City of Brenham Municipal Court

IN THE NAME AND BY THE AUTHORITY OF
THE STATE OF TEXAS, COUNTY OF WASHINGTON
CITY OF BRENHAM

OATH OF OFFICE

I, **Danny Goss**, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of a Councilmember for the City of Brenham, Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States, and of this State, and of this City. So help me God.

Signed: _____

Sworn to and subscribed before me, at Brenham, Texas, this 19th day of May, 2011.

Presiding Judge Julian E. Weisler
City of Brenham Municipal Court

**STATEMENT OF
ELECTED/APPOINTED OFFICER**

(Pursuant to Tex. Const. art. XVI, §1(b), amended 2001)

I, **Milton Y. Tate, Jr.**, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Date

Officer's Signature

**Mayor
Brenham, Washington County, Texas**

**STATEMENT OF
ELECTED/APPOINTED OFFICER**

(Pursuant to Tex. Const. art. XVI, §1(b), amended 2001)

I, **Danny Goss**, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING STATEMENT AND THAT THE FACTS STATED THEREIN ARE TRUE.

Date

Officer's Signature

**Councilmember for Ward Four
Brenham, Washington County, Texas**



**In the name of and by the
authority of
The State of Texas**

THIS IS TO CERTIFY, that on March 24, 2011 an Order
was passed canceling the May 14, 2011 General Election;
therefore,

MILTON Y. TATE, JR.
was duly elected
Mayor

In testimony whereof, I have hereunto signed my name
and caused the Seal of Brenham to be affixed at the
City of Brenham, this the 19th day of May, 2011.

Signature of Presiding Officer of Brenham

Date



**In the name of and by the
authority of
The State of Texas**

THIS IS TO CERTIFY, that on March 24, 2011 an Order
was passed canceling the May 14, 2011 General Election;
therefore,

DANNY GOSS
was duly elected
Councilmember Ward Four (4)

In testimony whereof, I have hereunto signed my name
and caused the Seal of Brenham to be affixed at the
City of Brenham, this the 19th day of May, 2011.

Signature of Presiding Officer of Brenham

Date

PROCLAMATION

WHEREAS, Texas hurricane season officially begins June 1 and ends November 30; and

WHEREAS, The Texas Gulf Coast and areas further inland are vulnerable to the devastating effects of a hurricane or tropical storm; and

WHEREAS, the National Weather Service, the Texas Division of Emergency Management and the City of Brenham's Office of Emergency Management are joining together to designate the week of May 22-28, 2011 as Hurricane Preparedness Week;

WHEREAS, The City of Brenham, through the Office of Emergency Management, is committed to ensuring the safety of all our citizens by providing accurate information regarding severe weather issues; and the best defense is preparedness and public education; and

WHEREAS, It is right and just for the City Council to join together with the citizens and the Office of Emergency Management to encourage everyone to take the time to be prepared in the event of a disaster; and

Now, THEREFORE I, Milton Y. Tate, Jr. Mayor of the City of Brenham, Texas do Hereby Proclaim the week of May 22 – 28, 2011 as

HURRICANE PREPAREDNESS WEEK

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

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

ORDINANCE NO. O-11-005

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES OF THE CITY OF BRENHAM, TEXAS; PROVIDING FOR FINDINGS; PROVIDING FOR COLLECTION SERVICES AND A FEE TO DEFRAY COSTS OF COLLECTING DELINQUENT FINES, FEES, COURT COSTS, AND OTHER DEBTS PURSUANT TO ARTICLE 103.0031 OF THE TEXAS CODE OF CRIMINAL PROCEDURE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; A PROVIDING FOR A SAVINGS CLAUSE; AND PROVIDING FOR PROPER NOTICE AND OPEN MEETING.

WHEREAS, pursuant to Texas Local Government Code section 51.001, the City of Brenham, Texas (“City”) has the authority to adopt ordinances and regulations that are for the good government, peace and order of the City; and

WHEREAS, Article 103.0031 of the Texas Code of Criminal Procedure authorizes the City of Brenham to contract with a private attorney or a public or private vendor for the collection of the fees listed above and to impose an additional fee in the amount of thirty percent (30%) on each debt or account receivable that is more than sixty (60) days past due and which has been referred to an attorney or private vendor for collection; and

WHEREAS, the City of Brenham deems it in the public interest to pass this Ordinance authorizing collection services contracts and an additional collection fee for the collection of delinquent fines, fees, court costs, and other debts;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Brenham, Texas, that:

SECTION 1. **FINDINGS**

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City of Brenham and made a part of this Ordinance for all purposes and findings of fact.

SECTION 2. **COLLECTION FEE**

That Chapter 2 of the Code of Ordinances of the City of Brenham, Texas is hereby amended by adding Section 2.12.4 to read as follows:

Sec. 2-12.4 Municipal Court; collection services contracts and fees.

(a) In accordance with Article 103.0031 of the Texas Code of Criminal Procedure, the City may contract with a private attorney or a public or private vendor for the provision of collection services for the following items:

- (1) debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, and restitution ordered paid by:
 - (A) the Brenham Municipal Court; or
 - (B) a hearing officer serving the municipality under Chapter 682, Transportation Code;
- (2) amounts in cases in which the accused has failed to appear:
 - (A) as promised under Subchapter A, Chapter 543, Transportation Code, or other law;
 - (B) in compliance with a lawful written notice to appear issued under Article 14.06(b) of the Texas Code of Criminal Procedure or other law;
 - (C) in compliance with a lawful summons issued under Article 15.03(b) of the Texas Code of Criminal Procedure or other law;
 - (D) in compliance with a lawful order of the Brenham Municipal Court; or
 - (E) as specified in a citation, summons, or other notice authorized by Section 682.002, Transportation Code, that charges the accused with a parking or stopping offense; and
- (3) false alarm penalties or fees imposed by the City under an ordinance regulating alarms.

(b) If the City enters into a contract with a private attorney or private vendor pursuant to subsection 2-12.4(a), there is hereby imposed an additional fee in the amount of thirty percent (30%) on all items described in subsection 2-12.4(a)(1) – (3) that are more than sixty (60) days past due and have been referred to a private attorney or a private vendor for collection services.

SECTION 3. **SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, and the remainder of this Ordinance shall be enforced as written.

SECTION 4. **REPEALER**

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

SECTION 5.
SAVINGS CLAUSE

The repeal of any ordinance or part of ordinances effected by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions any ordinances at the time of passage of this Ordinance.

SECTION 6.
EFFECTIVE DATE

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

SECTION 7.
PROPER NOTICE AND MEETINGS

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

PASSED AND APPROVED, on its first reading at the meeting of the City Council held on this the _____ day of _____, 2011.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the _____ day of _____, 2011.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary



AGENDA FORM

DATE OF MEETING: May 19, 2011	DATE SUBMITTED: May 13, 2011	
DEPT. OF ORIGIN: Administration	SUBMITTED BY: Terry K. Roberts	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1 ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2 ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon the Election by Council of Mayor Pro-Tem		
SUMMARY STATEMENT: There is an agenda item on this agenda following the oaths of office for the recently elected Council members for the Council to select its Mayor Pro-Tem. Article III, Section 12 of the City Charter sets forth the powers and duties of the Mayor Pro-Tem.		
The Charter language reads as follows: “The city Council shall elect one of their members as Mayor pro-tempore, who in the absence or inability of the Mayor to act may exercise all the powers and authority appertaining to the office of the Mayor.”		
The Mayor’s duties are set forth in the same section. I have included a copy of that page of the Charter in your agenda packet for review.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Section from City Charter dealing with duties of the Mayor and Mayor Pro-tempore.		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Appoint a member of City Council to serve as Mayor Pro-tempore.		
APPROVALS: Terry Roberts		

Sec. 10. [Regular election days].

The regular municipal elections of the City of Brenham shall be held on the first Saturday in May every year.

(Char. Amend. of 5-6-89, § 2)

Sec. 10A. Runoff elections.

In the event any candidate for the Council (including the Mayor) fails to receive a majority of all votes cast for his particular office, at any regular or special election, the Mayor or, if he fails to do so, the Council shall on the first day following the completion of the official count of ballots cast the first election order a runoff election to be held within thirty (30) days following the preceding election, at which election the two (2) candidates receiving the highest number of votes cast for such particular office in the first election at which no one was elected to such office by receiving a majority of all votes cast for all candidates for such particular office shall be voted on again, and the candidate who receives the majority of the votes cast for the particular office in the runoff election shall be elected to such office and shall take office as soon thereafter as he is qualified. In runoffs for the office of Mayor or Councilmembers elected at large, the registered voters of the city as a whole shall vote. In runoffs of Councilmembers for single wards, being any of the Councilmembers from Ward One, Ward Two, Ward Three or Ward Four, only those registered voters in the particular ward shall vote in the runoff election for that particular position.

(Char. Amend. of 4-6-85, § 1; Char. Amend. of 5-6-89, § 9)

Sec. 11. [Special elections; state election laws control elections].

All elections provided for in this Charter, except the regular election held on the first Saturday in May of every year, shall be called special elections, and all elections shall be conducted and results canvassed and announced by the election authorities as prescribed by the general election laws of the State of Texas relating to cities and towns, and said general election laws shall control in all municipal elections, except as otherwise herein provided.

(Char. Amend. of 5-6-89, § 5)

Sec. 12. [General powers and duties of Mayor; Mayor pro tempore].

The Mayor of the City shall be the presiding officer of the City Council. He shall vote as a member of the City Council on all matters coming before the body; sign all bonds, warrants and other official documents; be the official head of the City, and exercise all powers and perform all duties imposed upon him by this Charter and by the ordinances of the City, and resolutions of the City Council.

The City Council shall elect one of their number as Mayor pro tempore, who in the absence or inability of the Mayor to act, may exercise all the powers and authority appertaining to the office of Mayor.

(Char. Amend. of 5-6-89, § 9)



AGENDA FORM

DATE OF MEETING: May 19, 2011	DATE SUBMITTED: May 12, 2011	
DEPT. OF ORIGIN: Municipal Court	SUBMITTED BY: Rhonda Kuehn	
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 Contract for Municipal Court Fines and Fees Collection Services and Authorize the Mayor to Execute any Necessary Documentation		
SUMMARY STATEMENT: This contract will allow the Municipal Court to submit past due court cases over 60 days old to the firm of Perdue, Brandon, Fielder, Collins & Mott, LLP to pursue collections/closure of those cases.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
<p>A. PROS: Outstanding Court cases will actively be pursued for collection and/or closure on a regular basis. The firm will notify defendants by mail and/or by phone at no extra cost to the Court. The firm will research defendants for better address and contact info utilizing various skip tracing methods that are not available to the Court for use. The Collections firm and City Marshal will work closely in sharing address and contact info between the two agencies.</p> <p>B. CONS:</p>		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Contract for Court Fines and Fees Collection Services		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve a contract for municipal court fines and fees collection services and authorize the mayor to execute any necessary documentation		
APPROVALS: Carolyn Miller		

CONTRACT FOR COURT FINES AND FEES COLLECTION SERVICES

STATE OF TEXAS §
 §
COUNTY OF WASHINGTON §

SECTION I. PARTIES TO THE CONTRACT

THIS CONTRACT, hereinafter called “Contract”, is made and entered into by and between the City of Brenham, Texas, acting herein by and through its governing body, hereinafter called “the City” and **Perdue, Brandon, Fielder, Collins & Mott, L.L.P.**, hereinafter called “Perdue”.

THIS CONTRACT supersedes all prior oral and written agreements between the parties, and can only be amended if done so in writing and signed by all parties. Furthermore, this Contract cannot be transferred or assigned by either party without the written consent of all parties.

The City agrees to employ and does hereby employ Perdue to enforce the collection of delinquent court fines, fees, and court costs pursuant to the terms and conditions described in this Contract.

NOW, THEREFORE, in consideration of the covenants, conditions and agreements hereinafter set forth, the adequacy of which is hereby acknowledged, the City and Perdue agree as follows:

SECTION II. CITY’S COLLECTION OBLIGATIONS

A. The City agrees to refer all delinquent accounts, as defined below, to Perdue for collection on or about the first (1st) or the fifteenth (15th) day of each month. The City shall refer all delinquent accounts by electronic or magnetic medium, if available, or in any other way that is most favorable to the City. All delinquent accounts should be in a specified format that will allow Perdue to process the account data.

B. An account is considered delinquent when not paid within sixty (60) days of the scheduled appearance date (if the defendant failed to appear), or from any granted extension, or from the date of conviction or judgment, or other court specified due date.

C. The City will provide Perdue with copies of, or access to, the information and documentation necessary to collect the fines, fees, and court costs that are subject to this Contract.

SECTION III. PERDUE'S COLLECTION OBLIGATIONS

A. Perdue agrees to refer all payments and correspondence directly to the court that has assessed or levied the fines, fees, and court costs being collected pursuant to this Contract. Perdue reserves the right to return any accounts not collected within one (1) year of referral by the City. Neither party will have any obligation to the other with regard to returned accounts.

B. Perdue agrees to use its best efforts to collect the delinquent accounts received from the City. Perdue shall comply with all provisions of state and federal law and regulations promulgated pursuant thereto in the rendition of collection services contemplated by this Contract.

C. If requested by the City, Perdue agrees to provide legal advice to the City on its delinquent accounts at no additional cost to the City.

SECTION IV. COLLECTION FEE

The City agrees to pay Perdue as follows:

(1) Fifteen percent (15%) of the collected fines, fees, and court costs referred to Perdue by the City imposed on all unadjudicated offenses committed on or before June 18, 2003.

(2) Thirty percent (30%) of the collected fines, fees, and court costs referred to Perdue imposed on all adjudicated offenses committed on or before June 18, 2003; and

(3) Thirty percent (30%) of the collected fines, fees, and court costs referred to Perdue imposed on all offenses occurring after June 18, 2003.

The thirty percent (30%) collection fee shall be added to the amount owed by a defendant that is more than sixty (60) days past due pursuant to Article 103.0031, Texas Code of Criminal Procedure.

SECTION V. EXCEPTIONS TO THE COLLECTION FEE

Pursuant to Article 103.0031(b), Texas Code of Criminal Procedure, Perdue cannot collect from a defendant the percentages referred to in Section IV. COLLECTION FEE if the defendant has been determined by the court of original jurisdiction to be indigent, or has insufficient resources or income, or is otherwise unable to pay all or part of the underlying fine or costs. The collection fee does not apply to a case that has been dismissed by a court of competent jurisdiction or to any amount that has been satisfied through time-served credit or community service.

The collection fee shall, however, be applied to any balance remaining after a partial credit for time-served or community service if the balance is more than sixty (60) days past due.

SECTION VI. METHOD OF PAYMENT

Absent an agreement otherwise, the City shall calculate and receive the amount of any collection fee due to Perdue. Said fee shall be paid to Perdue by check on a monthly basis. All compensation shall become the property of Perdue at the time of payment.

SECTION VII. COMMENCEMENT AND TERMINATION OF CONTRACT

This Contract shall commence on the _____ day of _____, 2011, and shall remain in effect until the _____ day of _____, 2012. This Contract shall automatically renew annually for subsequent one (1) year period, unless either Party terminates this Contract by giving notice to the other Party in the manner provided Section VIII at least thirty (30) days prior to the end of the then current term. Provided, however, that either party to this Contract shall have the right to terminate this Contract at any time by giving the other party thirty (30) days written notice of their desire and intention to terminate this Contract. Upon termination Perdue shall have an additional six (6) months to complete work on all delinquent accounts referred from the City prior to the notice of termination and will be entitled to compensation on such accounts if collected.

SECTION VIII. NOTICES

For purposes of sending notice under the terms of this Contract, all notices from the City shall be sent to Perdue by certified United States mail, or delivered by hand or courier, and addressed as follows:

Perdue, Brandon, Fielder, Collins & Mott, LLP
Attn: Mike Darlow
BY U.S. MAIL OR BY COURIER DELIVERY:
1235 North Loop West, Suite 600
Houston, Texas 77008
Telephone Number: 713-862-1860

All notices from Perdue shall be sent to the City by certified United States mail, or delivered by hand or courier, and addressed as follows:

City of Brenham
Attn: Municipal Court
200 West Vulcan
Brenham, Texas 77834
Telephone Number: 979-337-7599

SECTION IX. VENUE AND CONTROLLING LAW

This Contract is made and is to be interpreted under the laws of the State of Texas. Exclusive venue for any dispute, action, claim, lawsuit, or other legal proceeding involving this Contract shall be in a court of competent jurisdiction in Washington County, Texas.

SECTION X. ACCEPTANCE OF EMPLOYMENT

In consideration of the terms and compensation herein stated, Perdue hereby accepts said employment and undertakes performance of said Contract as set forth above. However, notwithstanding any provision in the Contract, Perdue shall perform the work to be done hereunder as an independent contractor and shall not be deemed an employee of City.

SECTION XI. SEVERABILITY

Every provision of this Contract is intended to be severable. If any term or provision hereof is hereafter deemed by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, for any reason or to any extent whatsoever, such illegality, invalidity, or unenforceability shall not affect the validity of the remainder of this Contract, it being intended that such remaining provisions shall be construed in a manner most closely approximating the intention of the parties with respect to the illegal, invalid, void or unenforceable provision or part thereof.

SECTION XII. BREACH

The failure of either Party to comply with the terms and conditions of this Contract shall constitute a breach of this Contract. If either Party commits a breach in the performance of any obligation or covenant herein, the non-breaching party may enforce the performance of this Contract in any manner provided by law. This Contract may be terminated at the non-breaching Party's discretion if such breach continues for a period of thirty (30) days after written notification of such breach and of the intention of the non-breaching Party to declare this Contract terminated. Such notice shall be sent by the non-breaching Party to the Party in breach. If the breaching Party has not cured the breach within the time period referenced herein, this Contract may be terminated by the non-breaching Party, and the non-breaching Party may pursue any other remedies available in law or equity. In the event this Contract is terminated for breach, Perdue shall immediately cease work on the delinquent accounts, return all files and records to the City, and shall not have the right continue to work on any delinquent accounts after the date of termination.

SECTION XIII. INDEMNIFICATION

Perdue agrees to save and hold harmless City and its officers and employees from all damages, costs, claims and liabilities due to activities of Perdue and Perdue's agents or employees performed under this Contract, to the extent caused by or which result from the negligent error, omission, negligent act, or willful misconduct of Perdue or of any person employed by Perdue or under Perdue's direction or control.

SECTION XIV. PRIOR AGREEMENTS SUPERSEDED

This Contract constitutes the sole agreement of the parties hereto, and supersedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein. This Contract may only be amended or supplemented by mutual agreement of the parties hereto in writing.

SECTION XV. ATTORNEY'S FEES

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

SECTION XVI. NON-ASSIGNMENT

The obligations or rights of the Perdue under this Contract shall not be assigned without the prior written approval of the City.

This Contract is executed on behalf of the City by the presiding officer of its governing body who is authorized to execute this instrument by action of the governing body and recorded in its minutes. This Contract may be executed in any number of counterparts, and each counterpart shall be deemed an original for all purposes. Signed facsimiles or electronically signed Contracts executed on behalf of the City by the presiding officer of its governing body authorized to execute this instrument shall be binding and enforceable.

WITNESS the signature of all parties hereto this ____ day of _____, 2011.

City of Brenham, Texas
Washington County

By: _____
Name

Title

PERDUE, BRANDON, FIELDER, COLLINS & MOTT, L.L.P.

By: _____
For the Firm



AGENDA FORM

DATE OF MEETING: May 19, 2011	DATE SUBMITTED: May 6, 2011	
DEPT. OF ORIGIN: Public Utilities	SUBMITTED BY: Dane Rau	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING
<input type="checkbox"/> EXECUTIVE SESSION	<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> RESOLUTION
	<input type="checkbox"/> WORK SESSION	
AGENDA ITEM DESCRIPTION: Discuss and Possibly Act Upon an Ordinance on Its First Reading Adopting a Revised City of Brenham Drought Contingency and Water Conservation Plan for 2010-2015		
SUMMARY STATEMENT: This ordinance pertains to the City of Brenham Drought Contingency and Water Conservation Plan. This plan is mandated by the Texas Commission on Environmental Quality (TCEQ) and is required to be revised and adopted every 5 years. The Drought Contingency and Water Conservation Plan includes quantified five-year and ten-year targets for water savings to include goals for water loss programs and goals for municipal use, in gallons per capita per day. The plan also includes current rate schedules, statistics for domestic water usage and updated contracts from the Brazos River Authority and the Brenham State School. This plan establishes criteria for the initiation and termination of drought response stages, establishing restrictions on certain water uses, establishes penalties for the violation of and provisions for enforcement of these restrictions, establishes procedures for granting variances and provides severability and an effective date.		
Changes in this plan compared to the 2005 Drought Contingency and Water Conservation Plan are as follows:		
<ol style="list-style-type: none"> 1. Updated Fact Sheet with the most current Brazos River Authority agreement numbers which include a maximum of 4,200 acre feet per year and an average of 3,751,232 gallons per day. 2. Replaced 2006 Rate Tariffs with current City of Brenham rate schedules for both Water and Wastewater which were adopted after the 2005 revision. 3. Updated specific and quantified 5 and 10 year targets relating to daily per capita water use and total reduction in daily per capita water use 4. Updated utility profile with prior 5 year history 5. Updated water demand projections through 2060 6. Updated Water System description with addition of West Side Water Tower 7. Replaced old BRA contract with current 2007 BRA System Water Availability Agreement 8. Updated BRA water use accounting for the City of Brenham for past 10 years 9. Updated BRA system price projection based on 7% increase per year through 2015 10. Added TCEQ 2011 Approval Letter of Plan 		

Other changes in the revised plan include population statistics and updated water customers throughout the service area.

Within the Drought Contingency Plan there are five drought stages in which the City of Brenham can implement during extreme conditions. These stages are based upon limiting treatment factors associated at the Brenham Water Treatment Plant and must occur for 3 consecutive days. The stages are MILD, MODERATE, SEVERE, CRITICAL, and EMERGENCY. In order to implement the MILD stage, the plant must reach 80% of its designed capacity for 3 consecutive days. Currently the Water Treatment Plant is designed at 6.98 million gallon per day. Once the plant reaches 5,600,000 gallon per day for 3 consecutive days then the MILD stage of the Drought Contingency Plan will be activated. This stage calls for voluntary water rationing of irrigation uses by residents by address, those with even numbers are encouraged to water on Sundays and Thursdays and odd addresses will be encouraged to water on Saturdays and Wednesdays. As the conditions become more extreme the stages will increase and at that time become mandatory based on the descriptions with each stage.

Currently the City of Brenham Water Treatment Plant is producing approximately 3,500 gallon per minute which equates to 5,040,000 million gallons per day. As stated above, the first stage of the plan does not get implemented until the plant reaches 80% of its capacity which is 5,600,000 million gallons per day or 3,888 gallon per minute for 3 consecutive days. The City of Brenham has been fortunate in the past despite drought conditions and has not had to implement the Drought Contingency Plan. If weather conditions along with high usage continue it is a very good chance that we could see the Drought Contingency Plan implemented this summer.

An entire copy of the revised 2010 - 2015 Drought Contingency and Water Conservation Plan is available in the City Secretary's office for further review. The body of the ordinance has not changed and is contains the same language as the ordinance that was adopted in 2005.

STAFF ANALYSIS (For Ordinances or Regular Agenda Items):

A. PROS: Have a current Drought Contingency and Water Conservation Plan in place and will be ready to implement when triggers are reached throughout system.

B. CONS:

ALTERNATIVES (In Suggested Order of Staff Preference):

ATTACHMENTS: (1) Ordinance with Exhibit "A" and "B"

FUNDING SOURCE (Where Applicable):

RECOMMENDED ACTION: Act upon an ordinance on its first reading adopting a revised City of Brenham Drought Contingency and Water Conservation Plan for 2010-2015

APPROVALS: Lowell Ogle, Jr.

ORDINANCE NO. O-11 - _____

AN ORDINANCE OF THE CITY OF BRENHAM, TEXAS, ADOPTING A REVISED DROUGHT CONTINGENCY PLAN AND WATER CONSERVATION PLAN; ESTABLISHING CRITERIA FOR THE INITIATION AND TERMINATION OF DROUGHT RESPONSE STAGES; ESTABLISHING RESTRICTIONS ON CERTAIN WATER USES; ESTABLISHING PENALTIES FOR THE VIOLATION OF AND PROVISIONS FOR ENFORCEMENT OF THESE RESTRICTIONS; ESTABLISHING PROCEDURES FOR GRANTING VARIANCES; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Brenham, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, Section 11.1272 of the Texas Water Code and applicable rules of the Texas Commission on Environmental Quality require all public water supply systems in Texas to prepare a drought contingency plan; and

WHEREAS, as authorized under applicable law, and in the best interests of the citizens of Brenham, Texas, the City Council deems it expedient and necessary to establish certain rules and policies for the orderly and efficient management of limited water supplies during drought and other water supply emergencies, and to revise and update said rules and policies;

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

SECTION 1: That the City of Brenham, Texas Drought Contingency Plan and Water Conservation Plan, as revised, attached hereto as Exhibit "A" and Exhibit "B" respectively and made part hereof for all purposes be, and the same are hereby, adopted as official regulations of the City.

SECTION 2: That all ordinances that are in conflict with the provisions of this Ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

SECTION 3: Should any paragraph, sentence, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4: This Ordinance shall take effect immediately from and after its passage and publication, as the law in such cases provides.

PASSED AND APPROVED, on its first reading at the meeting of the City Council held on this the _____ day of _____, 2011.

PASSED AND APPROVED, on its second reading at the meeting of the City Council held on this the _____ day of _____, 2011.

Milton Y. Tate, Jr.
Mayor

ATTEST:

Jeana Bellinger, TRMC
City Secretary

**CITY OF BRENHAM
DROUGHT CONTINGENCY PLAN**

September 1999, Revised July 2001, Revised August 2005, Revised April 2011

I. INTRODUCTION

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Brenham (the City) hereby adopts the following regulations and restrictions on the delivery and consumption of water.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section X of this Plan.

II. PUBLIC INVOLVEMENT

Opportunity for the public to provide input into the preparation of the Plan was provided by the City by means of providing public notice in a newspaper of general circulation and a public hearing to accept input on the Plan.

The City will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage.

III. NOTIFICATION

Public notification of the initiation or termination of drought response stages shall be by publication in a newspaper of general circulation, utility bill inserts, public service announcements, signs posted in public places, or other means as determined by the City.

When mandatory restrictions are enacted (Stages 2-6), the City shall notify the TCEQ directly.

IV. COORDINATION WITH REGIONAL WATER PLANNING GROUPS

The service area of the City is located within the Region G Water Planning Group and the City has provided a copy of this Plan to the Region G Water Planning Group.

V. AUTHORIZATION

The Mayor, or his/her designee is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The Mayor, or his/her designee, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

VI. APPLICATION

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City. The terms "person" and "customer" as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

VII. DEFINITIONS

For the purposes of this Plan, the following definitions shall apply:

- A. Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.
- B. Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.
- C. Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.
- D. Customer: any person, company, or organization using water supplied by the City.
- E. Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.
- F. Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.
- G. Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.
- H. Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

- I. Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:
 1. irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
 2. use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
 3. use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced area;
 4. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 5. flushing gutters or permitting water to run or accumulate in any gutter or street;
 6. use of water to fill, refill, or add to any indoor or outdoor swimming pools or jacuzzi-type pools;
 7. use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
 8. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s); and
 9. use of water from hydrants for construction purposes or any other purposes other than fire fighting.

- J. Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

VIII. TRIGGERING CRITERIA

The City shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan. The triggering criteria described below are based on known system capacity limits.

Stage 1 - Mild

- A. Requirements for initiation (Voluntary) - Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water provided in Section IX of this Plan when the demand on the water supply

facilities reaches or exceeds eighty percent (80%) of the capacity of such facilities for a period of three (3) consecutive days.

- B. Requirements for termination - Stage 1 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Stage 2 - Moderate

- A. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when the demand on the water supply facilities reaches or exceeds eighty-five percent (85%) of the capacity of such facilities for a period of three (3) consecutive days.
- B. Requirements for termination - Stage 2 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 - Severe

- A. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when the demand on the water supply facilities reaches or exceeds ninety percent (90%) of the capacity of such facilities for a period of three (3) consecutive days.
- B. Requirements for termination - Stage 3 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 - Critical

- A. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan when the demand on the water supply facilities reaches or exceeds ninety-five percent (95%) of the capacity of such facilities for a period of three (3) consecutive days.
- B. Requirements for termination - Stage 4 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days. Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 - Emergency

- A. Requirements for initiation - Customers shall be required to comply with the requirements and restrictions provided in Section IX of this Plan when a water supply emergency exists based on:
1. Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
 2. Natural or man-made contamination of the water supply source(s).
- B. Requirements for termination - Stage 5 of the Plan may be rescinded when all of the conditions listed as triggering events have ceased to exist for a period of three (3) consecutive days.

Stage 6 - Water Allocation

Water allocation is not included in the Plan at this time. The City will most likely be constrained by system capacity before shortage of supply.

IX. DROUGHT RESPONSE STAGES

The City, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a water shortage condition exists and shall implement the following stages of the Plan.

Stage 1 Response - Mild

Water Use Restrictions (Voluntary):

- B. Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m to midnight on designated watering days.
- C. All operations of the City shall adhere to water use restrictions prescribed for Stage 2 of the Plan.
- D. Water customers are requested to practice water conservation and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response - Moderate

Water Use Restrictions. Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

- B. Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.
- C. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.
- D. Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.
- E. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- F. Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City.
- G. Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City, the facility shall not be subject to these regulations.

- H. All restaurants are prohibited from serving water to patrons except upon request of the patron.
- I. The following uses of water are defined as non-essential and are prohibited:
 - 1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
 - 2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
 - 3. use of water for dust control;
 - 4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
 - 5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response - Severe

Water Use Restrictions. All requirements of Stage 2 shall remain in effect during Stage 3 except:

- A. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, drip irrigation, or permanently installed automatic sprinkler system only. The use of hose-end sprinklers is prohibited at all times.
- B. The watering of golf course greens, tees, and fairways is prohibited unless the golf course utilizes a water source other than that provided by the City.
- C. The use of water for construction purposes from designated fire hydrants under special permit is to be discontinued.

Stage 4 Response - Critical

Water Use Restrictions. All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- A. Irrigation of landscaped areas shall be limited to designated watering days between the hours of 6:00 a.m. and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight and shall be by means of hand-held hoses, hand-held buckets, or drip

irrigation only. The use of hose-end sprinklers or permanently installed automatic sprinkler systems are prohibited at all times.

- B. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited. Further, such vehicle washing at commercial car washes and commercial service stations shall occur only between the hours of 6:00 a.m. and 10:00 a.m. and between 6:00 p.m. and 10 p.m.
- C. The filling, refilling, or adding of water to swimming pools, wading pools, and jacuzzi-type pools is prohibited.
- D. Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- E. No application for new, additional, expanded, or increased-in-size water service connections, meters, service lines, pipeline extensions, mains, or water service facilities of any kind shall be approved, and time limits for approval of such applications are hereby suspended for such time as this drought response stage or a higher-numbered stage shall be in effect.

Stage 5 Response - Emergency

Water Use Restrictions. All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

- A. Irrigation of landscaped areas is absolutely prohibited.
- B. Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

Stage 6 Response - Water Allocation

Water allocation is not included in the Plan at this time. The City will most likely be constrained by system capacity before shortage of supply.

X. ENFORCEMENT

- J. No person shall knowingly or intentionally allow the use of water from the City for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by the City, in accordance with provisions of this Plan.

- K. Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than two thousand dollars (\$2,000). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge and any other costs incurred by the City in discontinuing service. In addition, suitable assurance must be given to the City that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- L. Any person, including a person classified as a water customer of the City, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person's property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents' control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- M. Any police officer or other designated City employee, may issue a citation to a person he/she reasonably believes to be in violation of this Plan. The citation shall be prepared in duplicate and shall contain the name and addresss of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation. The alleged violator shall be served a copy of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over fourteen (14) years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant.

XI. VARIANCES

The City may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- A. Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.

- B. Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Plan shall file a petition for variance with the City within five (5) days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City and shall include the following:

- A. Name and address of the petitioner(s).
- B. Purpose of the water use.
- C. Specific provision(s) of the Plan from which the petitioner is requesting relief.
- D. Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if the petitioner complies with this Plan.
- E. Description of the relief requested.
- F. Period of time for which the variance is sought.
- G. Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- H. Other pertinent information.

Variances granted by the City shall be subject to the following conditions, unless waived or modified by the City:

- A. Variances granted shall include a timetable for compliance.
- B. Variances granted shall expire when the Plan is no longer in effect, unless the petitioner has failed to meet specified requirements.

No variance shall be retroactive or otherwise justify any violation of this Plan occurring prior to the issuance of the variance.

XII. SEVERABILITY

It is hereby declared to be the intention of the City that the sections, paragraphs, sentences, clauses, and phrases of this Plan are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Plan, since the same would not have been enacted by the City without the incorporation into this Plan of any such unconstitutional phrase, clause, sentence, paragraph, or section.

**CITY OF BRENHAM
WATER CONSERVATION PLAN**

September 1999, Revised July 2001, Revised August 2005, Revised April 2011

I. INTRODUCTION

The City of Brenham (The City) obtains its water supply by surface water from Lake Somerville. The City has carried out water conservation efforts through public information and education, plumbing retrofit and conservation rates. The objective of this Water Conservation Plan (The Plan) is to improve the efficiency in the use of water through practices and techniques that will reduce the consumption of water, reduce the loss of water, and increase the reuse of water so that a water supply is made available for future uses.

II. SERVICE AREA DESCRIPTION

The service area of the City water system is the area within the City Limits of Brenham, Texas, and some small areas just outside the City Limits. Water is also delivered through the system to the Brenham State School, where it is distributed through the State School's private water distribution system. The City provides both water and wastewater services to customers within its service area. If the City contracts to sell water to other utilities, such contracts will require that the respective customer agree to comply with this Plan or have a Texas Water Development Board or Texas Commission on Environmental Quality approved Water Conservation Plan.

III. WATER CONSERVATION BENEFITS

Many communities throughout the United States have used conservation measures to successfully cope with various water and wastewater problems. Reductions in water use of as much as twenty-five percent (25%) or more have been achieved, while the normal range is from five to fifteen percent (5-15%). As a result of reduced water use, wastewater flows have also been reduced by five to ten (5-10%) percent. There are many benefits to water conservation, including:

- A. Reduced capital and operating costs for water and wastewater systems,
- B. Delaying the time when new water or wastewater systems must be built,
- C. Reduced demand on limited supplies, thus making these supplies available for future use;
- D. Reduced peak demand on water treatment and distribution systems;
- E. Drought-proofing water systems so that rationing, such as restrictions on lawn watering, can be avoided or the need for such measures reduced;

- F. Reduced wastewater flows to overloaded wastewater treatment facilities and reduced potential for water pollution;
- G. Enhanced potential to continue certain economic activities, such as agricultural irrigation, in the face of declining or limited water supplies; and
- H. Significant dollar savings to the state's citizens through both reduced water use and associated reductions in energy use.

IV. WATER CONSERVATION GOALS

The City of Brenham will continue existing water conservation policies and increase its emphasis on water conservation measures in order to reduce per capita water use by 16 percent (16%) by the year 2020 (See Exhibit A attached). These efforts are necessary in order to ensure existing supplies will be sufficient to meet the needs of the City as its population increases. The specific water conservation goals are as follows:

- A. Continue the distribution of water conservation information to the citizens;
- B. Provide information to the public on the effects of xeriscape landscaping and the use of native plants and grasses to reduce lawn water demands;
- C. Continue the testing, repair, and replacement of water meters as well as implement leak detection efforts in order to reduce unaccounted for water to below 15 percent (15%);
- D. Continue the use of increasing block water and wastewater rates to discourage high usage; and
- E. Continue the City's active involvement with the Brazos River Authority in the development of Demand Management Plans.

V. MEASUREMENT AND ACCOUNTING FOR WATER DELIVERIES

The City meters the quantity of water that is delivered to each residential and commercial customer, and to all public uses except for a few of the City park facilities. An effort is currently being made to meter these remaining un-metered City facility sites. Meters are read and the quantities are recorded once per month, with billings made monthly for residential and commercial customers.

VI. WATER CONSERVATION PLAN

The Water Conservation Plan elements are described below.

- A. Public Information and Education

The City will:

1. Designate a City staff member to assist other City staff in carrying out the City's water conservation programs;
2. Make water conservation presentations at institutions, organizations, and groups;
3. Conduct or sponsor exhibits on water conservation and water saving devices to promote water conservation and efficiency;
4. Provide and distribute water conservation brochures to citizens. Materials are available from the Texas Agriculture Extension Service and the Texas Water Development Board.
5. Work in cooperation with builders, developers and governmental agencies to provide exhibits of xeriscape landscaping;
6. Work in cooperation with schools to establish an education program and provide conservation videos, brochures, and teaching aids;
7. Issue press releases on water conservation tips;
8. Issue public service announcements for use by local news media;
9. Make the City's conservation rules available to the public;
10. Provide water conservation information to new water and wastewater customers at the time service is established;
11. Continue City Staff distribution of water conservation information through the Chamber of Commerce.
12. Continue City staff attendance and participation in water conservation program training offered by state agencies and professional organizations; and
13. Ask the public to voluntarily cut back on lawn watering to no more than once every five (5) days with no more than one inch (1") of water at a time. To avoid evaporation, water before 10 a.m. or after 8 p.m. If it rains more than one inch (1"), wait for five (5) days to water.

B. Water Conservation Plumbing Fixtures

The City has adopted the 2003 International Plumbing Code which encourages the use of water conserving plumbing fixtures for residential and commercial

construction. In 1991, the Texas Legislature passed legislation requiring that plumbing fixtures sold in Texas after January 1, 1992 meet the following standards:

1. Shower Heads: No more than 2.75 gallons per minute at 80 pounds per square inch of pressure.
2. Lavatory/Sink Faucets and Aerators: no more than 2.2 gallons per minute at 60 pounds per square inch of pressure.
3. Wall Mounted, Flushometer Toilets: No more than 2.0 gallons per flush.
4. All Other Toilets: No more than 1.6 gallons per flush.
5. All Urinals: No more than 1.0 gallons per flush.
6. Drinking Water Fountains: Must be self closing.

The above standards are enforced through requirements placed directly on the manufacturers, importers, and suppliers of new fixtures in Texas. In addition, the City encourages the following water conservation measures:

1. Copper water distribution lines are to be a minimum of Schedule L and must be sleeved with an eighty (80) psi continuous flexible poly pipe.
2. All water piping on exterior lines to be protected from freezing.

New Plumbing fixtures that replace or renovate existing plumbing fixtures should follow the residential and commercial construction requirements.

C. Water Conservation Retrofit Program

Retrofit of existing plumbing fixtures is being accomplished through the voluntary efforts of individual consumers and business operators. There is currently no rebate program for the replacement of existing commodes with low flush models.

D. Water Conservation Oriented Rates

The Brenham City Council has adopted a rate structure which is cost-based and does not encourage the excessive use of water (See Attachment A, Rate Schedule) .

E. Metering and Meter Repair and Replacement

The City meters the amount of water diverted from the source of supply (Lake Somerville) with metering devices which have an accuracy of plus or minus 5.0%. These metering devices are tested annually to insure accuracy.

The City meters all water sales and most public uses, and operates a meter replacement program with the objective of replacing all meters that have been in service longer than fifteen (15) years. Major commercial meters are tested annually and replaced as necessary.

F. Water Conserving Landscape

The City encourages and supports the use of xeriscape landscaping techniques and will be available to offer information and make presentations at public meetings on water conserving landscaping and lawn watering methods.

G. Leak Detection and Water Audits

When leaks are found, repairs are made as soon as possible. The City plans to implement a scheduled leak detection plan in which the entire distribution system is surveyed every four (4) years.

An annual audit of the water system is performed to determine illegal connections sources or other areas of unaccounted-for uses of water.

H. Wastewater Reuse and Recycling

The City does currently reuse treated wastewater for certain spray wash functions at the wastewater treatment plant and uses mechanical chemical induction devices instead of water for its chlorine feed.

I. Water Record Management System

The City maintains a record management system that records water pumped, water deliveries, water sales and water losses, which allows for the desegregation of water sales and uses into the following two (2) user classes.

1. Residential
2. Commercial

The City will begin the process of transforming the system to allow for the desegregation of water sales and uses into the following four (4) user classes:

1. Residential
2. Commercial
3. Public and institutional

4. Industrial

VII. IMPLEMENTATION AND ENFORCEMENT

The Mayor, or his/her designee is hereby authorized and directed to implement and enforce the applicable provisions of this Plan.



AGENDA FORM

DATE OF MEETING: May 19, 2011	DATE SUBMITTED: May 16, 2011	
DEPT. OF ORIGIN: Public Utilities	SUBMITTED BY: Dane Rau	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND 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 Change Order #1 and Final Payment to Rhodes Building Systems Inc. for Construction of a Warehouse Addition for the Electric Department and Authorize the Mayor to Execute any Necessary Documentation		
<p>SUMMARY STATEMENT: On March 3, 2011 City Council awarded Bid #11-008 to Rhodes Building Systems Inc. to construct a 4,225 sq. ft. building addition located at 410 W. 2nd St. (Electric Department Warehouse). The bid awarded was for \$85,239.00. Construction on the building is now complete and due to one minor change there was one change order with the job. The change order #1 consisted of modifying the roof panels in order to add natural lighting to the inside of the building. Rhodes Building Systems Inc. upon our request changed out 6 metal roof panels and replaced them with fiberglass sky lights which would add additional lighting during the daytime. These panels will provide a natural lighting source to the storage building during the daytime hours, which will eliminate the need for interior lighting during these times. Interior lighting will be used during the nighttime hours when personnel are utilizing the building. The total cost of change order #1 was \$697.00.</p> <p>The building was built to our satisfaction and will serve the Electric Department for many years. The total cost of the project was \$85,936.00. Total amount budgeted during the 2010-11 budget was \$84,000. The remaining over budget amount will be paid for by savings from our current operating funds.</p>		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
<p>A. PROS: Building will allow for additional storage and protection of equipment from outside conditions</p> <p>B. CONS: Project was slightly over budget.</p>		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Invoice from Rhodes Building Systems, Inc.; and (2) Change Order #1		

FUNDING SOURCE (Where Applicable): 102-5-161-802.00

RECOMMENDED ACTION: Approve final payment and change order #1 in the amount of \$85,936.00 to Rhodes Building Systems Inc. for the building addition located at 410 W. 2nd St and authorize the Mayor to execute any necessary documentation.

APPROVALS: Lowell Ogle, Jr.

CHANGE ORDER

RBS DOCUMENT B103

- OWNER
- ARCHITECT
- CONTRACTOR
- FIELD
- OTHER

PROJECT: City of Brenham
 (name, address) 200 West Vulcan St.
 Brenham, Texas 77833

CHANGE ORDER NUMBER: # 1
 ARCHITECT'S JOB NO: 2011-009

TO (Contractor)
 RHODES BUILDING SYSTEMS, INC.
 P.O. BOX 39
 SOMERVILLE, TEXAS 77879

CONTRACT FOR: Construction
 CONTRACT DATE:

You are hereby directed to make the following changes to the original Contract:

- Exchange 6 metal roof panels for fiberglass sky lights

\$ 697.00

The Base Contract Sum was.....	\$	-	85,239.00
The net change by previous Change Orders.....	\$	-	0.00
The Contract Sum previous to this Change Order was.....	\$	-	85,239.00
The Contract Sum will be increased/(decreased) by this Change Order....	\$	-	697.00
The revised Current Contract Sum including this Change Order will be.....	\$	-	85,936.00
The new Contract Time will be increased/(decreased) by.....		0	Days
The new Completion Date including this Change Order therefore is			

ARCHITECT	CONTRACTOR	OWNER
Address	RHODES BUILDING SYSTEMS, INC. Address P.O. BOX 39 SOMERVILLE, TEXAS 77879	City of Brenham Address 200 West Vulcan St. Brenham, Texas 77833
BY	BY <i>[Signature]</i>	BY <i>[Signature]</i>
DATE	DATE 4/20/11	DATE 4/30/11



AGENDA FORM

DATE OF MEETING: May 19, 2011	DATE SUBMITTED: May 13, 2011	
DEPT. OF ORIGIN: Public Works	SUBMITTED BY: Kim Hodde	
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 Request for a Noise Variance from the Citizens for Community Progress to Hold a Band Concert at Henderson Park from 4:00 p.m. to 7:00 p.m. on May 22, 2011		
SUMMARY STATEMENT: The Citizens for Community Progress have requested a variance to the noise ordinance for a band concert that is being held at Henderson Park on May 22, 2011 from 4:00 pm to 7:00 pm. They will be using various musical instruments, including drums. The Brenham Police Department does not object to granting the variance, and therefore, asks the City Council to approve the variance request.		
STAFF ANALYSIS (For Ordinances or Regular Agenda Items):		
A. PROS:		
B. CONS:		
ALTERNATIVES (In Suggested Order of Staff Preference):		
ATTACHMENTS: (1) Noise Variance Request		
FUNDING SOURCE (Where Applicable):		
RECOMMENDED ACTION: Approve the request for a noise variance form the Citizens for Community Progress to hold a band concert at Henderson Park from 4:00 p.m. to 7:00 p.m. on May 22, 2011		
APPROVALS: Brenham Police Department & Brenham Fire Department.		

NOISE VARIANCE REQUEST

Application Fee \$10.00

1. Name of sponsoring organization: CITIZENS FOR COMMUNITY PROGRESS
2. Name and address of individual making application on behalf of sponsoring organization: EDDIE E HARRISON
3. Purpose of the Event: PROVIDE WHOLESOME ACTIVITY FOR COMMUNITY
4. Location of Event: HENDERSON PARK
5. Date of the event: MAY 22, 2011
6. Time of Event: 4:00 PM — 7:00 PM
7. Event Set-up: From: 4:00 PM To: 4:30 PM
Event Clean-up: From: 6:30 PM To: 7:00 PM

8. You are required to describe the following:

a) Types of Activities Planned and any additional information specific to this event: _____

BAND CONCERT

b) Bands/Musical Instruments: DRUMS

c) Sound amplification equipment: NONE

d) Cleanup provisions: TRASH CANS

EDDIE E HARRISON
Name of Applicant (Printed or Typed)

Date: MAY 13, 2011

Eddie E Harrison
Applicant or Authorized Person's Signature

Phone: 979 451 3133

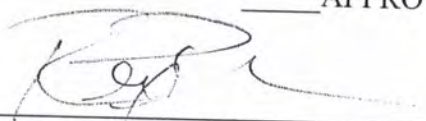
Have you ever been found guilty of a criminal offense involving crimes against property, moral turpitude, and/or a felony by any Court?
Yes; No. If "Yes", please identify the offense, State of conviction and penalty imposed (attach additional sheets if necessary):

CITY STAFF REVIEW

Date received: 5-13-11

APPROVED

DENIED



Rex Phelps, Chief of Police

Date: _____

Comments/Reason for Denial: _____

APPROVED

DENIED



Ricky Bocker, Chief of Fire Department

Date: 5-13-11

Comments/Reason for Denial: _____

Noise Variance Approved by the City Council on the _____ day of _____, 2011.

Milton Y. Tate, Jr., Mayor

Date: _____

ATTEST:

Jeana Bellinger, City Secretary
