



Tony Groves
Mayor

Larry Land
Council Member Place 1

Missi Elliston
Council Member Place 2

Jeffrey Sutton
Council Member Place 3

Jane Huffman
Mayor Pro Tem
Council Member Place 4

Jay May
Council Member Place 5

Erin Corbell
Acting City Manager

Tina Keys
City Secretary

Sharon Hicks
City Attorney

MISSION

The City of Brady strives to share its history and encourage the development of diverse housing, employment, infrastructure, and opportunity through transparent management and financing for all residents and employees.

CITY OF BRADY COUNCIL AGENDA REGULAR CITY COUNCIL MEETING JUNE 7, 2022 AT 6:00 PM

NOTICE is hereby given of a meeting of the City Council of City of Brady, McCulloch County, State of Texas, to be held at 6:00 p.m. June 7, 2022, at the City of Brady Municipal Court Building located 207 S. Elm St., Brady, Texas, for the purpose of considering the following items. The City Council of the City of Brady, Texas, reserves the right to meet in closed session on any of the items listed below should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

2. INVOCATION & PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS: Reserved for items NOT listed on the agenda

Please limit individual public comments to three (3) minutes. In accordance with TX AG opinion, any public comment addressing items not on the agenda, will only be heard by the City Council. No formal action, deliberation, discussion, or comment will be made by City Council. State Law prohibits any deliberation or decisions regarding items presented in public comments. City Council may only make a statement of specific factual information given in response to the inquiry; recite an existing policy; or request staff to place the item on an agenda for a subsequent meeting.

4. CONSENT AGENDA: Reserved for routine items to save time

Any item may be removed from the Consent Agenda at the request of a Council Member and considered separately following the Consent Agenda approval. All items listed on the Consent Agenda are to be with one motion "Move to approve Consent Agenda."

- A. Approval of Minutes for Work Session Meeting on May 16, 2022 and Regular Meeting on May 17, 2022
- B. Discussion, consideration and possible action approving a noise variance as requested by Sharon Tinney for the Cox Reunion to be held on June 11, 2022 at the Brady Lake Pavilion.
- C. Discussion, consideration and possible action regarding the temporary closure of Blackburn and Elm Streets at 3rd and 4th Streets from 10:00 a.m. to 2:00 p.m. on July 2, 2022 for the First United Methodist Church Annual July Jubilee BBQ.

5. PRESENTATIONS

Animal Control – Jamie Klenin

6. PUBLIC HEARING:

- a) Public Hearing to hear comments for or against demolition of property located at 901 Bombay, Lot 9, Block 3 of the Janell Subdivision and to determine if the structure complies with standards set out in Chapter 3, Article 3.200 for demolition of a dangerous premises.
- b) Public Hearing to hear comments for or against a Specific Use Provision (SUP) to allow for a Bed and Breakfast Inn or Facility, in a Single-Family Residential (5,000 S.F.) District for property located at 1004 S. College Street in the Luhr Subdivision, Block 176, Lot 1 as requested by Lisa Berglund.
- c) Public Hearing to receive comments for or against a zoning change from Single Family Residential to Manufactured Home District for property located at 1817 Old Mason Rd., Brady Texas in the Callison J.C. Subdivision, Block 403 as requested by Olee Teague.

7. INDIVIDUAL CONCERNS

City Council Members are to deliberate the following items. Staff will present the item and are prepared to answer City Council Member questions. The Mayor will recognize Council Members as the council discuss the item so everyone is heard. Once the City Council Members finish discussion, the Mayor will recognize attendees who have comments. Attendees and council members need to direct comments to the Mayor as they are recognized. When all comments are complete, the Mayor will call for a motion.

- A. Discussion, consideration, and possible action regarding the **second and final reading of Ordinance 1339** of the City of Brady, Texas to deny and disapprove the proposed rate schedules and service regulations filed with the City of Brady by Oncor Electric Delivery Company, LLC as requested by Oncor Electric Delivery Company LLC.
- B. Discussion, consideration and possible action regarding **Demolition Order 2022-XXX** in accordance with the City of Brady Code of Ordinances Section 3.217 to authorize demolition of dilapidated structures at 901 Bombay, Lot 9, Block 3 of the Janell Subdivision
- C. Discussion, consideration and possible action regarding the **first reading of Ordinance 1340** of the City of Brady, Texas adopting a Specific Use Provision (SUP) as requested by Lisa Berglund to allow for a Bed and Breakfast Inn or Facility, in a Single Family Residential (5,000 S.F.) District for property located at 1004 S. College St.
- D. Discussion, consideration and possible action regarding the **first reading of Ordinance 1341** of the City of Brady, Texas adopting a zoning change from Single Family Residential District to Manufactured Home District for property located at 1817 Old Mason Rd.
- E. Discussion, consideration and possible action on scope of Small Diameter Water Replacement Project
- F. Discussion, consideration and possible action regarding the first reading of Ordinance 1342 to amend the FY 22 Budget to allow for municipal purposes.
- G. Discussion, consideration and possible action approving BEDC Project 2022-001, Joe Sanchez
- H. Discussion, consideration and possible action approving BEDC Project 2022-003, Sandy's Kitchen and Catering

8. STAFF REPORTS

A. Upcoming Special Events/Meetings:

| | |
|-----------------|---|
| June 16 | City Employee Pool Party |
| June 21 | Regular City Council meeting, 6:00 p.m. |
| July 4 | Independence Day Holiday, City offices closed, altered trash schedule |
| July 11, 13, 14 | Budget Work Sessions, 10:00 a.m. to 4:00 p.m. |
| July 18 | Possible additional Budget Work Session, if needed |
| July 28 | HAPPY BIRTHDAY JAY MAY |

9. ANNOUNCEMENTS

Pursuant to the Texas Government Code § 551.0415, City Council Members and City staff may make reports about items of community interest during a meeting of the governing body without having given notice of the report. Items of community interest include: Expressions of thanks, congratulations, or condolence; an honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of a person's public office or public employment is not an honorary or salutary recognition for purposes of this subdivision; Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and announcements involving an imminent threat to public health and safety of people in the municipality that has arisen after the posting of the agenda.

10. EXECUTIVE SESSION

The City Council of the City of Brady will adjourn into Executive Session for the following:

- Pursuant to Section 551.071 (Consultation with Attorney), the City Council will consult with the City Attorney about pending or contemplated litigation or on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act

- Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: Acting City Manager Erin Corbell

11. OPEN SESSION ACTION ON ANY ITEMS COMING OUT OF EXECUTIVE SESSION

12. ADJOURNMENT

I certify that this is a true and correct copy of the City of Brady City Council Meeting Agenda and that this notice as posted on the designated bulletin board at Brady City Hall, 201 E. Main St., Brady, Texas 76825; a place convenient and readily accessible to the public at all times, and said notice was posted on _____ by 6:00 p.m. and will remain posted continuously for 72 hours prior to the scheduled meeting pursuant to Chapter 551 of the Texas Government Code.

Tina Keys, City Secretary

In compliance with the American with Disabilities Act, the City of Brady will provide for reasonable accommodations for persons attending public meetings at City facilities. Requests for accommodations or interpretive services must be received at least 48 hours prior to the meeting. Please contact the City Secretary at 325-597-2152 or tkeys@bradytx.us

Attendance by Other Elected or Appointed Officials: It is anticipated that members of other governmental bodies, and/or city boards, commissions and/or committees may attend the meeting in numbers that may constitute a quorum of the body, board, commission and/or committee. The members of the boards, commissions and/or committees may be permitted to participate in discussion on the same items listed on the agenda, which occur at the meeting, but no action will be taken by such in attendance unless item and action is specifically provided for on an agenda for that body, board, commission or committee subject to the Texas Open Meetings Act.

The City Council of the City of Brady reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed on this agenda as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations regarding Real Property), 551.073 (Deliberations regarding prospective Gifts or Donations), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), 551.086 (Deliberate, vote or take final action on competitive matters of the public power utility), and 551.087 (Deliberation regarding Economic Development).

This agenda has been reviewed and approved by the City's legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes written interpretation of the Texas Government Code Chapter 551 by legal counsel for the governmental body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.104(c) and the meeting is conducted by all participants in reliance on this opinion.

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Budget Work Session on Monday, May 16, 2022, at 10:00 a.m. with Mayor Anthony Groves presiding in person. Council Members present were Jane Huffman, Missi Elliston, Jay May, Larry Land, and Jeffrey Sutton. City staff present were Acting City Manager Erin Corbell, Public Works Director Steven Miller, Finance Director Lisa McElrath, Police Chief Steve Thomas, and City Secretary Tina Keys.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 10:00 a.m. Council quorum was certified.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member May gave the invocation, and the Pledge of Allegiance was recited.

3. PUBLIC COMMENTS

There were no public comments

4. INDIVIDUAL CONCERNS

A. Animal Control Building

Council Member Huffman said 6 years ago, one of the very first conversations when she was elected to office was how one of the biggest problems was animal control. We increased the salary of the Animal Control Officer, added a second ACO officer, created new rules, and she said she doesn't think we have had any change in animal control. We still have dogs chained up. Last month after an incident at her house, she looked at the monthly report. February and March we had 1 citation and 34 warnings. Council Member Huffman said she requested copies of the warnings and ticket. She got a copy of one ticket and one warning. They could argue their warnings are verbal, but they couldn't remember 34 verbal warnings. In the last month there were 7 citations given. We're never going to fix the problem with 7 citations. Council Member Huffman said she had an incident and called dispatch on a Sunday. Jessica responded very quickly. The owner of the dog showed up. There was no warning or citation issued. Nothing was done. Council Member Huffman said ACO Jessica told her they had never seen that dog before but dispatch logs showed different. A lot of the same animals are being called in, but no citations issued. We've got to do something. They are doing a good job with the facility they have and taking care of the jobs but that's not enough. Council Member Elliston said she has three letters from residents who are going to be at council tomorrow night because they are fed up. These people cannot go out their doors without being terrorized. Their pets have been killed by these dogs. They are aggressive animals. There was a situation where a homeowner used a gun against an aggressive dog. It was a pellet gun. The dog was attacking his grandchild. They had called multiple times on this dog. Council Member Huffman said this is a huge issue. Council Member Land asked what's going on. Erin Corbell said she thinks the girls are too compassionate. Mayor Groves said if a dog is threatening a person and you call animal control and they're not there soon, he thinks it's appropriate to call 9-1-1 and say you need an officer.

Council took a break at 12:13 and resumed at 12:20

Council Member Land said it sounds to him like we need to get stricter. Council Member Elliston asked if there have been any reprimands. Erin said no. Erin said these discussions are just now getting started. Council Member Huffman said she would like to talk in a meeting about what is expected. Erin said she will present something for Council Member Huffman to review. Erin mentioned a daily activity log. Chief Thomas said that used to be done. Council Member Huffman said we need some major accountability.

Erin went through the department of state health standards for an animal control facility. She also went over the options: make it work with what we have now, new building or purchase the Paws building. Council Member

Land said he really doesn't think GRW is a good long term solution. Council Member Huffman said we could explore other options; contracting with somebody to get the dogs or contracting with a service to handle the whole thing. Chief Thomas said they outsourced in Taiooga to All American Dogs who patrolled on a regular basis and handled all problems. He said he thinks it cost \$4500. Council Member Huffman said the City Manager needs to outline and relay the expectations. Council Member Elliston asked about putting the ACO officers on a probationary period. Council Member Huffman said to tell them the expectations and that we will re-evaluate in 90 days. Mayor Groves asked if we have asked other cities if they have a place we can quarantine IF we needed to. Erin said we have not. Mayor Groves said it needs to be established that everyone be issued a written a warning then the next time, a citation is issued.

B. Individual Council member priorities for FY22-23 budget sessions

Mayor Groves said update comprehensive plan needs to be updated, and also look at the budget impact on sale of lake properties.

Council Member Sutton asked if we should sit down with different people and ask what they expect or their idea for the sale of lake properties. Like go visit with a commissioner and ask what they think about us selling the property. Council Member Huffman said people can come to us if they have an opinion. Council Member Sutton said if they know about it, they would, but if they don't know they're free to do so, then they won't. Council Member Elliston said it's on the website, it's out there. We have a social media page, ect. Council Member Sutton said he would like them to get their ideas of how it's sold, split, not split, etc. Council Member Land said he thinks the people that would voice their opinions would come to Council. Council Member Huffman thinks a lot of people are fully aware that we're talking about it. She is hearing they think we should break it up; the Mudualstic side. Council Member May said the old Ford Ranch is dividing and selling their properties at around \$8,000 an acre. There's going to be a lot of property that's going to be available. Council Member Huffman added that those properties would not have water rights. Council Member May said San Angelo owns the water rights. Council Member Huffman said as much as this is going to be talked about, people will have an opportunity to be heard. We are not keeping this as a secret.

Council Member Sutton asked, when he goes and buys an old house and he's going to fix it up, what fees does he have to pay? Erin Corbell said you get a building permit and it's based on the value of the remodel. Council Member Huffman said we are light on our tapping fees compared to other municipalities. Erin said she researched other cities tapping fees and we are 50% if not a quarter of other cities amounts.

Council Member Sutton asked what's picked up by the trash guys and what's not. Erin says our ordinance clearly states what we will be picked up and what will not.

Council Member Sutton said Mason and San Saba let people come down in their RVs and let them stay in the RV parks for any length of time. Erin said we brought to Council a plan for long term RV spaces. We have some at the lake. At the time, Council said they didn't want to explore that option in our parks because there are kids playing. Council Member May said we do have places at the lake where people have been for years. He also said there are several reasons why we would not want to do that at the park. If we have events, there won't be any place for people to park. For example, Goat Cook-off, we have to have places for them. Council Member Huffman said we do have several places in Brady that have long term rentals.

Council Member May said he is constantly interested in where we are with the water. Steven Miller said they're still looking at the end of they year for compliance.

Council Member Land asked if the EDC does any kind of a report. Erin said she can put together an update.

Council Member Land asked about the China Street water situation. Miller updated Council on status

Council Member Land said we need to look at some charter changes. Erin said we need people to volunteer on the Charter Review Committee.

Council Member Elliston said police department is a priority. She still feels like they're underpaid even though we've moved them up. Our guys need to be equipped. Council Member Sutton said he has a problem with Council giving certain people raises because he thinks the City Manager should do that. He said Council should approve the overall payroll budget. Council Member Elliston said she disagrees and thinks we need to protect our

people; we struggle to get officers. Council Member Sutton said he just thinks it's not our duty to give individual raises. Council Member Huffman said one of council's biggest job is the financial aspect. With the past City Managers, there were hand picked pay raises as opposed to the council, as a whole, looking at entire salary system, we have a problem with the way the structure is. Council Member Huffman said it is our job to say we need to fix these salaries. Council Member Sutton said we set the budget and City Manager salary and then the rest of it is up to the City Manager. Council Member Huffman said she agreed, but we vote on the budget based on these salaries. Council Member Sutton said he questions the individual action of salaries by the Council. Erin said she and Lisa McElrath have been talking about the step schedule. It's probably time to shift the entire pay schedule. Our superintendents are struggling to start people at step one. So, we are looking at starting them at a higher step. But then they tap out, so that poses another issue. Council Member Huffman said she doesn't think the city manager has to ask the Council if she wants to give a pay raise, but Council need to be notified about it. Lisa McElrath asked Council Member Elliston if she has a percentage in mind. Council Member Huffman said maybe we could do some type of longevity increases for the police department. Council Member Elliston asked if we can work on some type of incentive. Erin said we are looking at that now. Council Member May said he thinks we're going to have a problem with people in general with inflation going the way it is. We're going to have to give some raises or we're not going to have anybody. Erin said we're looking at raising the on-call pay and it would be brought to council at budget

Council Member Elliston said she would like to see lights at the soccer fields. Erin said we're looking at that and it's already in the budget.

Council Member Huffman said she wants to talk to animal control

Mayor Groves said there are a lot of places that do not have street signs. There was a program to replace street signs, but it was stopped a while back, but he would like it started again. Council Member Sutton asked about clearing shrubbery around street signs. Erin said street crews clean around signs but they're so busy.

Council took a break at 11:32 and resumed at 11:48

C. Future work session dates/topics

Erin said to plan for 3 full days with a potential of 4 if we need it. Lisa McElrath said we're giving the budget on June 30th, so any time after that. Lisa thinks usually the 2nd and 3rd week is most practical. Council Member Huffman asked if we could do the week of July 11th. Lisa said if we put 3 days in a row, that makes it hard if she has to work on any numbers. Erin said let's look at July 11, 13 and 14. Everyone said that works, 10:00 a.m. We can do the 18th if we need another day.

D. Discuss Process and Announcements

Erin Corbell said we are going to do an orientation to the budget book on the 11th. If an item is important to the continuation of the program, it is a supplement but it is included in the base budget. Items employees and staff have determined are critical. Lisa said most, if not all, are capital purchases. Lisa McElrath asked if council wants to take that first day for orientation or one day before? Council Member Huffman said they understand the budget books. Council Member Huffman said since we get our books at the end of June, if anyone has any questions, they can go to City Hall and ask. Council Member May said we would maybe need a little refresher but that's it. Council Member Land said a 10 or 15 minute review is great.

Erin said one department head asked for a very significant raise for his entire department this year, Erin said no and told him he can come back with a more reasonable amount of maybe 5 to 10%, then she would present to Council. He said he was not ok with that, so he is going to ask to 15%. Council Member Elliston asked if that 15% includes the 3% COLA raise and Erin said it does. Erin said she is doing a salary survey and will show council where we are at in relation to other cities. Council Member Huffman said she thinks it's time we put our foot down with the county not paying their fair share for Fire/EMS. Erin said she has a meeting Wednesday to discuss. She asked EMS for call numbers. Our department numbers were very different than what the county shows.

5. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 1:25 p.m.

Mayor Anthony Groves

Attest: _____
Tina Keys, City Secretary

STATE OF TEXAS

COUNTY OF McCULLOCH

CITY OF BRADY

The City Council of the City of Brady, Texas met in a Regular Meeting on Tuesday May 17, 2022, at 6:00 pm with Mayor Anthony Groves presiding in person. Council Members present were Jane Huffman, Missi Elliston, Larry Land, and Jeffrey Sutton. City staff present were Acting City Manager Erin Corbell, Public Works Director Steven Miller, Finance Director Lisa McElrath, Police Chief Steve Thomas, Utility Billing Manager Letha Moore, Code Enforcement Officer Connie Echols, Street Superintendent Manny Perez and City Secretary Tina Keys. Also in attendance were Taylor Hoffpauir, James Stewart, Marilyn Roberts, Randy Hinds, Roberta Hinds, T. Don Dodds, Lisa Dodds, Branden Roberts, Charles Bush, Scott Bush, Isaac Moreno, Joanne Moreno, Jimmy Tindol, James Griffin, and James and Norma Zumwalt.

1. CALL TO ORDER, ROLL CALL & CERTIFICATION OF A QUORUM

Mayor Groves called the meeting to order at 6:00 p.m. Council quorum was certified.

2. INVOCATION AND PLEDGE OF ALLEGIANCE

Council Member May gave the invocation, and the Pledge of Allegiance was recited.

3. PUBLIC COMMENTS

Those signed up for public comments elected to speak during agenda item

4. CONSENT AGENDA

- A. Approval of Minutes for Regular Meeting on May 3, 2022.
- B. Discussion, consideration and possible action regarding Resolution 2022-014 to request TxDOT/City street closures for the 95th Annual July Jubilee Parade to be held on Saturday, July 2, 2022.
- C. Discussion, consideration and possible action approving a temporary road closure of the 200 block of N. Church Street as requested by the Brady/McCulloch County Chamber of Commerce and the Heart of Texas Community Foundation for their 2nd Annual Farm to Table Dinner to be held on June 25, 2022 beginning at 2:00 p.m. through 10:30 p.m.

Council Member Elliston moved to approve the Consent Agenda. Seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.

5. PRESENTATIONS:

- April 2022 – Fair Housing Month Proclamation. Council Member Elliston moved to approve the Fair Housing Month Proclamation. The motion was seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.
- Small Diameter Water Main Replacement – Luhr Addition, East – Steven Miller presented to Council.

6. PUBLIC HEARINGS AND INDIVIDUAL CONCERNS ON PUBLIC HEARING

There were no public hearings

7. INDIVIDUAL CONCERNS

- A. Discussion, consideration, and possible action to approve Resolution 2022-012 to designate authorized signatories for contractual documents for the requesting funds pertaining to the 2021 Texas Community Development Block Grant (TxCDBG) program, grant agreement number CDV21-0068. Steven Miller presented. Council Member Land moved to approve Resolution 2022-012 to approve signatory

assignments. Seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.

- B. Discussion, consideration and possible action to approve Resolution 2022-013 regarding Civic Rights and City of Brady adoption of certain federal procedures and obligations as it pertains to and to extent of the acceptance of funds from Texas Department of Agriculture (TDA) pertaining to the Texas Community Development Block Grant (TxCDBG) agreement number CDV21-0068. Steven Miller presented. Council Member Sutton moved to approve Resolution 2022-013 to acknowledge obligations and duties assigned to certain TxCDBG grant funds from TDA. Seconded by Council Member Elliston. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.
- C. Discussion, consideration and possible action to approve Hotel Occupancy Tax (HOT) Funding Application from The Locker Sports Bar and Grill for the Brady Crawfish and Drag Boat Throwdown to be held June 4, 2022. Taylor Hoffpauir presented to Council and let Council know the request was for \$10,000 but there is only \$1,000 remaining for tourism grants. Council Member Ellison moved to approve awarding \$1,000. Seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.
- D. Update and discussion on architectural plans for the remodeled Police Department. Erin Corbell presented. Greg Shon presented to Council.
- E. Status update regarding ongoing code issues at 901 Bombay. Erin Corbell presented and asked Connie Echols, Code Enforcement Officer, to give an update. Connie agreed that it has been an ongoing issue. Connie said she got ahold of the owner and met him at his residence. She went in and told him to board the windows up from the inside first so if they get kicked in, that’s breaking and entering. She also told the owner he has to clean the outside and replace the roof. The odors were overwhelming. It’s unbelievable that people were living there. Echols said they put up no trespass notices. She gave him 10 days to clean up but nothing was done. Echols said she asked Street Department Superintendent Manny Perez to go give a quote for demolition. Manny said when he went over there, and it was clean; nobody had been there, but it’s still not safe. Connie said they went back over there this week, and it was back to the same thing, trash everywhere. Connie told the owner to come to Council. Erin Corbell said they asked for a plan on how he would clean it up but never got one. Erin said there were citations issued in 2019 but they were dismissed for compliance. Mr. Dodd said he has seen the owner, Malstrom, there twice. All he has done is load stuff in the truck and drive off. The roof is still caving in. Lisa Dodd said Malstrom pulled the roof off in August and put plastic over the top and now the plastic is all torn away and is in her trees. He put tar paper in October and that’s coming off too. It’s all over the place. His dogs have charged her and her father. Council Member Land asked if we can legally tear it down. James Stewart said two of the people arrested for the shooting frequent there. City Attorney Sharon Hicks said she’s looking at the timeline. Hicks said we can start the demolition now and can put it on the next agenda to hold a public hearing. She needs to look at the timeline, but can bring it back one more time and get it done. Lisa Dodd said he has done just enough to get everybody off his back then it goes right back to how it was. Erin Corbell said if we find we have posted correct notices in the past then we will start demolition right away. If not, the public hearing will be on the next agenda and go from there. Council Member Elliston moved to direct the City Manager to have the property demolished. The motion was seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.
- F. Discussion, consideration and possible action regarding the first reading of Ordinance 1339 of the City of Brady, Texas to deny and disapprove the proposed rate schedules and service regulations filed with the City of Brady by Oncor Electric Delivery Company, LLC as requested by Oncor Electric Delivery Company

LLC. Mayor Groves presented. Council Member Ellison moved to approve the first reading of Ordinance 1339. Seconded by Council Member Sutton. All Council Members voted “aye” and none “nay”. Motion passed with a 4 – 0 vote.

- G. Discussion to address citizen’s concerns about animal control issues. Erin Corbell said item was added to allow citizens to speak. Council Member Elliston said there are 5 houses in the Irish Addition. They have been terrorized for a while now by animals that are out of control, and they are living in fear. Marilyn Roberts said this has been a problem for over a year. They know animal control number by heart because they’ve called so many times. Craig Davee has 8 pit bulls and other dogs and he turns them loose and they come to their neighborhood. Recently they went to her grandson’s house and one of the dogs attacking the fence was trying to get to the grandson’s dogs. They are also concerned for their grandchildren. Davee’s dogs have already killed 2 dogs on their on that street. Residents are afraid to come out of their house. They have to look out before going out. They’re tired of it. One time she wasn’t able to go out her door because of the dogs. Sometimes animal control comes, sometimes they don’t. One citizen said her granddaughter lives and plays at her house down the road and she’s very worried. She said she told animal control if the dogs get ahold of that little girl, it will be bad. Something needs to be done. The other day two of the dogs were in the citizen’s backyard. They called dispatch and the AC officers came down and asked what color the dog was. ACO told her the dogs were tied up. Citizens aid Davee lives behind them. He has no city utilities, no water, no sewer. There are piles of trash that runs into Brady Creek. Nobody is doing anything. She wants something done. She knows there are laws about how many pets someone can have. Council Member Huffman asked if the dogs are fenced in. Lady said no. Another citizen said the dogs are enclosed but he lets them out. Sometimes the dogs are in kennels, sometimes they’re tied up. Council Member Sutton asked if the dogs have bit anybody. The citizen said no, but showed Council a picture of her dog that was killed. Council Member Huffman asked what number she is calling. Citizen said dispatch. Council Member Huffman said she pulled the call logs and there were several calls. Letha Moore, Animal Control Supervisor, asked what time of day is this happening. Answer from citizens was “all the time”. Another citizen said Davee recently started tying up the dogs. Letha said she is trying to get a timeline. Marilyn Roberts said it’s different hours. Council Member Huffman read off some different times on the call logs. Attorney Hicks asked if citizens believe Davee is letting the dogs out of the enclosure or are they getting out. Man said he believes Davee is letting them out. He said aid you can see pipes running from the creek to his house. Erin Corbell said she did send Code Enforcement, but Connie said she didn’t see a pump of any kind. Connie said Davee told her he carries buckets down and gets water from the creek. Erin said they are working on the issue with Code Enforcement and have been trying to reach the owner to notify them of the state of the property because it does violate several code issues. A citizen said there have been 3 wild hogs turned loose as well; he catches the hogs and brings them in. Marilyn Roberts said the dogs bark all night and day. Erin Corbell asked when the last time was that they saw the dogs. Erin said they did pick up 3 dogs. Citizen said the dogs have not been loose since they picked up the 3 dogs. A citizen said they are aggressive dogs. Marilyn said Mr. Davee drove up to her house one time. He was acting in a threatening manner. Council Member Huffman asked if it was ever called in as a noise complaint. Somebody said yes, he has called in about the barking. Council Member Huffman asked what address was it called in for. Response was 315 Irish. Call was in June of last year. Council Member Elliston said she determined his mom was calling the 456 number. Dispatch said they would respond but they never showed up. Mr. Roberts said his daughter’s dog got out and was fined, so why can’t they get these dogs off the street. He wants the dogs gone. Council Member Huffman asked Brandon Roberts if he has his survey and he said they’re still working on it. Lady’s son said they’re working on theirs too. Erin Corbell asked when Connie mailed the letter. Connie said it was right before we picked up the dogs. Within the past 2 weeks. Council Member Elliston said we talked about this issue yesterday and identified some avenues we can take to help fix the situation. Erin is working on some new procedures for animal control. Council Member Huffman agreed

that it's completely unacceptable. Council Member Huffman said they do have new supervisors and since the new supervisors took over, they have picked up dogs and code enforcement has been going over there. One person said it has been better since she took it over. Somebody said the noise is still bad. Council Member Huffman advised citizens to call dispatch if it's after 10:00. Citizen asked about his revving his motorcycle. Chief Thomas said we all have the right to swear out a complaint in front of a magistrate. You don't have to have anybody from code, you are empowered to go and swear out a complaint. You don't have to call PD. If he or an officer goes over there, they may not think the noise is loud. Anybody can go down to Municipal Court and meet with the judge and swear a complaint and that person will have to go to court. Sharon Hicks advised citizens to pick up their phone and record it. Take pictures. She will work with them to swear a citizens complaint. Council Member Elliston said continue to call dispatch. James Stewart said take mace or a stun gun, protect yourself. Erin Corbell asked Sharon about our ordinance deeming animals as dangerous dogs and having these people swear out statements and submit to animal control. Sharon asked for a day or two to strategize. There are several different issues. Number of dogs, if they're chained up, etc. also need to work with the owner to advise him we have several things going on. Sharon will see what she can do and will work to get them some relief. A citizen said animal control is not doing their jobs. Connie said she did talk to Davee and asked who owns the property and he said he did. She told him no, his name isn't on it, and he said he's buying it. Mayor Groves said we're going to do something about it.

8. STAFF REPORTS

A. Monthly Financial / Utility Reports

B. Monthly Activity Reports: Seniors, Golf, BPD, Fire-EMS Calls, BVFD Expense Report, Animal Control, Airport, Code Enforcement, Chronic Code Complaints and Structures Inhabited without utilities, Municipal Court

C. Upcoming Special Events/Meetings:

| | |
|---------|---|
| May 26 | BISD Early Release – End of school year |
| May 30 | Memorial Day Holiday – City offices closed – Altered Trash Schedule |
| June 7 | Regular City Council Meeting, 6:00 |
| June 16 | City Employee Pool Party, 7:00 |
| June 21 | Regular City Council Meeting, 6:00 |

9. ANNOUNCEMENTS

Erin Corbell told Council that their iPads are under contract which will expire in June and asked if Council would be ok with doing away with the LTE. Council Member Elliston clarified we will still have wi-fi, but will not have cellular.

10. EXECUTIVE SESSION

The City Council of the City of Brady adjourned into Executive Session for the following:

- Pursuant to Section 551.071 (Consultation with Attorney), the City Council will consult with the City Attorney about pending or contemplated litigation or on a matter in which the duty of the attorney to the City under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act
- Pursuant to Section 551.074 (Personnel Matters) City Council will meet to deliberate the appointment, employment, evaluation, reassignment, duties, discipline or dismissal of a public officer or employee: Acting City Manager Erin Corbell

Regular Session was closed at 7:48 p.m. Executive Session was opened at 8:00 p.m. and closed at 8:25 p.m. and Open Session was resumed.

11. OPEN SESSION ACTION ON ANY ITEMS COMING OUT OF EXECUTIVE SESSION

No action was taken as a result of executive session.

12. ADJOURNMENT

There being no further business, the Mayor adjourned the meeting at 8:26 p.m.

Mayor Anthony Groves

Attest: _____
Tina Keys, City Secretary

City Council

City of Brady, Texas

Agenda Action Form

| | | | |
|--|------------|------------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 4.B. |
| AGENDA SUBJECT: | | | |
| Discussion, consideration and possible action approving a noise variance as requested by Sharon Tinney for the Cox Reunion to be held on June 11, 2022 at the Brady Lake Pavilion. | | | |
| PREPARED BY: | Tina Keys | Date Submitted: | 05/19/2022 |
| EXHIBITS: | | | |
| Request Letter | | | |
| BUDGETARY IMPACT: | | | |
| Required Expenditure: | | 0 | |
| Amount Budgeted: | | 0 | |
| Appropriation Required: | | 0 | |
| CITY MANAGER APPROVAL: | | | |

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| SUMMARY: |
| <p>City Council can authorize a noise variance by the City of Brady Municipal Code of Ordinances, Noise Nuisances, Section 8.501.2(c).</p> <p>City Staff received a request letter from Sharon Tinney requesting a noise variance on June 11, 2022. They will be holding their annual Cox Family Reunion at the Brady Lake Pavilion.</p> |

| |
|--------------------------------|
| RECOMMENDED ACTION: |
| Move to approve noise variance |

May 14, 2022

To #Whom it may Concern.

I, Sharon Fay Zinney is
writing this letter to request
a noise variance for the
Brady Lake Pavilion on June 11, 2022
for a Family Reunion Dance.
Thank you for your time.

Sharon Fay Zinney
207E. Marshall
Brady TX 76825
325-456-7369.

P.S. This is for Cox Reunion
which we have held since
2010 at Brady Lake

City Council

City of Brady, Texas

Agenda Action Form

| | | | |
|-------------------------------|--|------------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 4.C. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action regarding the temporary closure of Blackburn and Elm Streets at 3 rd and 4 th Streets from 10:00 a.m. to 2:00 p.m. on July 2, 2022 for the First United Methodist Church Annual July Jubilee BBQ. | | |
| PREPARED BY: | T. Keys | Date Submitted: | 06/01/2022 |
| EXHIBITS: | Request letter | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$00.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: | | | |

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| SUMMARY: |
| <p>The First United Methodist Church is holding its annual Bar-B-Que Fundraiser on July 2, 2022 immediately after the parade and have requested street closure during the fundraising event due to heavy pedestrian traffic around the church.</p> |

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|---------------------------------------|
| RECOMMENDED ACTION: |
| <p>Move to approve street closure</p> |

First United Methodist Church
401 S Blackburn St. – PO Box 1030
Brady, TX 76825
325-597-3436 Fax 325-597-7856

May 31, 2022

City of Brady
Erin Corbell
201 East Main
Brady, Texas 76825

Ms. Corbell:

The First United Methodist Church is holding their annual 4th of July barbecue on July 2nd, 2022. This letter is to request the City block off Blackburn and Elm at 3rd and 4th Street between 10:00 a.m. and 2:00 p.m. If you have any questions or concerns, please contact me at 325-456-5748.

Thank you,

FIRST UNITED METHODIST CHURCH



Sue Owens
Finance Chairman
Barbecue Co-Chairman

NOTICE OF PUBLIC HEARING

Notice is hereby given that the City Council of Brady will hold a public hearing on Tuesday, June 7, 2022, at 6 pm at the Municipal Court Building at 207 S. Elm Street, in the Council Chambers. The purpose of this meeting is to approve the designation declaring 901 Bombay as an unsafe structure, that no repairs have been done and order it to be vacated, repaired, secured, or demolished, and to determine if the structure complies with the standards set out in Chapter 3, Article 3.03 for demolition of a dangerous premises.

Connie Echols
City of Brady

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning and Zoning Commission will hold a Public Hearing on Tuesday, June 7, 2022, at 5:00 P.M., at the Municipal Court Building, located at 207 South Elm St., Brady, Texas, for the purpose to receive comments for/against a Specific Use Provision (SUP) to allow for a Bed and Breakfast Inn or Facility, in a Single-Family Residential (5,000 S.F.) District zone, for property located at 1004 S. College Street, in Luhr Subdivision, Block No. 176, and Lot No. 1

Upon recommendation by the Planning and Zoning Commission, City Council will hold a public hearing on the same request on Tuesday, June 7, 2022, at 6:00 P.M. at the Municipal Court Building located at 207 South Elm St., Brady, Texas.

Silvia Diaz, Secretary

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning and Zoning Commission will hold a Public Hearing on Tuesday, June 7, 2022, at 5:00 P.M., at the Municipal Court Building, located at 207 South Elm St., Brady, Texas, for the purpose to receive comments for/against a zoning change from Single-Family Residential District to Manufactured Home District for property located at 1817 Old Mason Rd, Brady, Texas in the Callison J. C. Subdivision, Block No. 403, Lot No (not listed).

Upon recommendation by the Planning and Zoning Commission, City Council will hold a public hearing on the same request on Tuesday, June 7, 2022, at 6:00 P.M. at the Municipal Court Building located at 207 South Elm St., Brady, Texas.

Silvia Diaz, Secretary

City Council
City of Brady, Texas
Agenda Action Form for Ordinance

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|-------------------------------|--|------------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 7.A. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action regarding the second and final reading of Ordinance 1339 of the City of Brady, Texas to deny and disapprove the proposed changed rate schedules and service regulations filed with the City of Brady by Oncor Electric Delivery Company LLC as requested by Oncor Electric Delivery Company LLC. | | |
| PREPARED BY: | T. Keys | Date Submitted: | 06/03/2022 |
| EXHIBITS: | Ordinance 1339 Letter from Oncor | | |
| BUDGETARY IMPACT: | Required Expenditure: | | \$00.00 |
| | Amount Budgeted: | | \$00.00 |
| | Appropriation Required: | | \$00.00 |
| CITY MANAGER APPROVAL: | | | |

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| SUMMARY: |
| <p>The proposed change in rates filed with the City of Brady, governing body of this municipality, by Oncor Electric Delivery Company LLC. was requested to be denied and disapproved, by Oncor Electric Delivery Company LLC.</p> <p>By passing this ordinance, Oncor will appeal to the PUCT (Public Utility Commission of Texas), who will study the rate case on a systemwide bases instead of each affected City having to address the rate case individually.</p> <p>If approved by the PUCT, the Distribution Cost Recovery Factor ("DCRF") surcharge will be effective September 1, 2022.</p> |

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| RECOMMENDED ACTION: |
| <p>Mayor will ask: <u>"Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter."</u> "Secretary reads preamble"</p> <p>Mayor calls for a motion: Move to approve the second and final reading of Ordinance 1339</p> |

ORDINANCE NO. 1339

AN ORDINANCE DENYING THE PROPOSED CHANGE IN RATES OF ONCOR ELECTRIC DELIVERY COMPANY LLC, FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

BE IT ORDAINED BY THE CITY COUNCIL OF BRADY, TEXAS:

SECTION 1. That the proposed changed rate schedules and service regulations filed with the Governing Body of this municipality by Oncor Electric Delivery Company LLC are hereby denied and disapproved, and Oncor Electric Delivery Company LLC shall continue to provide electric delivery service within this municipality in accordance with its rate schedules and service regulations in effect within this municipality.

SECTION 2. That it is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public and as required by law, and public notice of the time, place and purpose of said meeting was given as required.

Passed and approved on the **FIRST READING** on this ____ day of _____, 2022.

Passed and approved on the **SECOND READING** on this ____ day of _____, 2022.

Anthony Groves, Mayor

ATTEST:

Tina Keys, City Secretary

City Council

City of Brady, Texas

Agenda Form

| | | | |
|-------------------------------|--|------------------------|------------|
| AGENDA DATE: | 5/17/2022 | AGENDA ITEM | 7.B. |
| AGENDA SUBJECT: | Discussion, consideration and possible action regarding Demolition Order 2022-01 in accordance with Code of Ordinances 3.207 to authorize demolition of dilapidated structure at 901 Bombay in the Janell Subdivision, Block 3, Lot 9 | | |
| PREPARED BY: | Connie Echols | Date Submitted: | 06/03/2022 |
| EXHIBITS: | Photos | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$5,385.00 | |
| | Amount Budgeted: | \$30,000.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: | | | |

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| SUMMARY: | <p>Note this address is in the municipal court system at the present time.</p> <p>Joe Davidson is no longer the owner and Code will address Code violations to owner Jerel Malmstrom.</p> <p>11/06/2013 - Discussed violations with Joe Davidson, he disagrees with all the code violation. He is hostile and refuses to do any of the abatements, stating that no one is going to tell him what he can do to his own property. Carey McBride code officer at that time returned with police officer and citation.</p> <p>11/08/2013 - A Citation was issued by Carey McBride, Officer White attended with him.</p> <p>12/04/2013 - Davison does not show for court, and a warrant was issued.</p> <p>05/13/2014 – He called for utilities, Officer Johnson and Carey McBride inspected and witnessed Joe Davidsons’ signature on the citation, Joe Davidson said he understood the citation. Code Informed Joe of (electrical services) who required replacement, service on the low side with ground, in addition copper gas pipe required, plumbing permit, cap gas valves, could not inspect all of interior due to dog and trash build up, gas pressure test, meter base damaged by Joe Davidson, GFI Required.</p> <p>05/13/2014 – Utility Department was notified and declined to activate services by the owner (Joe Davidson).</p> <p>07/20/2016 - Received complaint of code violations.</p> <p>01/13/2017 - Received complaint of Junk and trash in yard.</p> <p>05/08/2017 - Resident complaint regarding the high grass and weeds and the junk and unsightly matter. A courtesy letter was sent.</p> <p>08/28/2017 – Another citation was issued</p> <p>10/27/2017 - This address has not had utilities since March 14, 2014. City Code of Ordinances Section 3.1506(c)(2) states "An owner shall provide and maintain in operating condition a toilet connected to a water source and to a public sewer, where available, in each structure intended for human habitation. 1st Notice of Violation Sent to the owner.</p> <p>11/06/2017 - Kim Davee spoke with Mr. Malmstrom on the phone. He was informed he needed to get a plumber and electrician to assess what would need to be done in order for the utilities to be reconnected. He was asking if the city could turn on the utilities for a monthly minimum charge but not set a meter. She informed him that was not the way it worked. He was also informed that all utilities would need to be connected not just the water. He asked for more time to allow him to get things going with the plumber and</p> |
|-----------------|--|

electrician. She informed him if we saw that permits were pulled that we would give him time to get these things accomplished.

12/19/2017 - Kim Davee spoke with Mr. Malmstrom to get an update on repairs. He says they are getting ready to repair the plumbing so they can get some water on the property. He informed her that he has a condition with his foot and as soon as he is feeling better, he will come visit about the property.

3/28/2019 – Spoke with Municipal Court Clerk Valerie Gonzalez stated there are currently 6 open cases at the property.

4/02/2019 -Walter Holbert sent notice to City Council for discussion of property conditions.

06/30/2021- Notice sent by Walter Holbert to Mr. Jerel Malmstrom on conditions of property.

4/10/2022 – Notice sent by Connie Echols to Mr. Jerel Malmstrom on conditions of property.

4/20/2022 - Phoned Mr. Jerel Malmstrom on condition of property (no answer).

4/25/2022 – Phoned Mr. Jerel Malmstrom he answered the phone and stated he would come on 4/26/2022 and talk with me about property.

4/26/2022 – Mr. Malmstrom met with Myself and Mr. Manuel Perez about demo of property. Mr. Malmstrom stated he would like to clean it and repair it. Mr. Malmstrom was giving 15 days to show progress on property.

5/05/2022 – Letter was mailed to inform Mr. Malmstrom that I was going to start process for demo of property.

5/31/2022 – Mrs. Malmstrom came in the office and spoke with Mrs. Letha Moore and stated they cleaned-up yard and was going to hire a contractor out of Austin, Tx. To do repairs and, 10 days wasn't enough time.

6/01/2022 – I called and spoke with Mr. Malmstrom about the up coming council meeting about this property. Mr. Malmstrom said he had cleaned up the property this weekend and was going to come back over and start some repairs on the roof in hopes of appeasing the neighbors.

6/3/2022 -Received certified mail receipt with a note from the mailman on it.

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| RECOMMENDED ACTION: |
| It is recommended that City Council consider Demolition of said property. |

DEMOLITION ORDER 2022-001

AN ORDER OF THE CITY COUNCIL OF THE CITY OF BRADY, TEXAS TO THE OWNER OF THE PROPERTY LOCATED AT 901 BOMBAY, BRADY, MCCULLOCH COUNTY, TEXAS WITH REGARD TO THE ABATEMENT OF THE SUBSTANDARD AND DANGEROUS PREMISES

WHEREAS, on June 1, 2022, the City provided the owner of the property located at 901 Bombay, Brady, Texas with notice, via certified mail, of a hearing to be held on June 7, 2022; and

WHEREAS, on June 7, 2022, the City Council conducted a public hearing concerning the structure located at 901 Bombay, City of Brady, Texas to determine whether to order the demolition or repair of the structure under Section 3.212 of the Brady Code of Ordinances (Dangerous Premises); and

WHEREAS, the City Council finds that all proper notices have been sent as required by City Ordinances; and

WHEREAS, based upon the evidence presented, the City Council finds that the Property is in violation of the ordinances regarding substandard structures under Section 3.207 of the City of Brady Code of Ordinances (Dangerous Premises); and

WHEREAS, the property owner, Jerel Malmstrom, did/did not appear at the hearing; and

WHEREAS, the City Council finds that the structure is unoccupied; and

WHEREAS, the City Council finds based on the evidence presented at the hearing that the structure contains nuisance conditions that constitute a hazard to the health, safety and welfare of the citizens and are likely to endanger persons and property; and

WHEREAS, the City Council takes notice of and incorporates all evidence presented, including photographs and the issuance of notices, for its consideration of this matter and incorporates the same into the body of this Order for all purposes; and

WHEREAS, based upon the evidence presented, the City Council finds that the Property is in violation of the Dangerous Premises Ordinance; and

WHEREAS, the City Council finds that the structure is dilapidated, substandard and/or unfit for human habitation, constitutes a hazard to the health, safety and welfare of the citizens and likely to endanger persons and property.

NOW THEREFORE, IT IS HEREBY ORDERED BY THE CITY COUNCIL OF THE CITY OF BRADY THAT:

(1) The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes and findings of fact.

(2) The structure located at 901 Bombay, Brady, Texas satisfies one or more of the substandard and dangerous conditions set forth in Section 3.204 of the Brady Code of Ordinances (Dangerous

Premises). Specifically, Subsections (choose 1 – 12) of Section 3.207 of the Code of Ordinances have been violated. Therefore, the City is authorized to demolish the building under Section 3.210 of the City Code of Ordinances

(3) The owner is hereby ordered to demolish the structure located at 901 Bombay, Brady, Texas by no later than 30 days from the date of this Order, which is July 7, 2022; and

(4) This property will be inspected for compliance with this order after July 7, 2022. If the owner fails to demolish and remove the building before July 7, 2022, the City will demolish and remove the building and assess the expenses against the lot, tract, or parcel of land or the premises upon which such expense was incurred.

It is specifically determined that the recitals in this order are incorporated by reference as findings of fact and that the meeting that the City Council passed this order was open to the public, and that the public notice of the time, place, and purpose of the meeting was given as required by the Texas Open Meetings Act.

ORDERED THIS _____ DAY OF _____ 2022.

Anthony Groves, Mayor

Attest: _____
Tina Keys, City Secretary

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jerel Malmstrom
1095 CR 134
Melvin, TX 76858



9590 9402 7062 1225 2144 39

2. Article Number (Transfer from service label)

7021 0950 0000 7636 0563

RECIPIENT: COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☒ Agent

☐ Addressee

B. Received by (Printed Name)

B DEPPICK

C. Date of Delivery

6/1/22

D. Is delivery address different from item 1? ☐ Yes

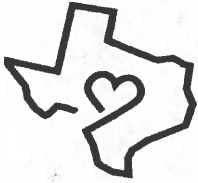
If YES, enter delivery address below: ☒ No

** LEFT IN BOX*
PER CUSTOMER
REQUEST C-19
BD RT3 PROTOCOL

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over \$500)

- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☒ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery



BRADY
THE CITY OF
TEXAS

BULK TRASH and DEMOLITION PICK-UP

ESTIMATE

Address: 901 Bombay

Date: 4/26/22

Account holder name: CODE ENFORCEMENT
(must be listed on utility account)

Phone Number _____

BULK TRASH

_____ \$75 SMALL LOAD x _____ Loads (6 yards or less) *
\$ 3,600⁰⁰ \$90 LARGE LOAD x 40 Loads (greater than 6 yards) *

DEMOLITION, DEBRIS, GENERAL CONSTRUCTION

(excludes concrete, tires & appliances)

\$ 1,785 \$85 PER HOUR X 21 HOURS (est.) *

*must be paid up front before pick up

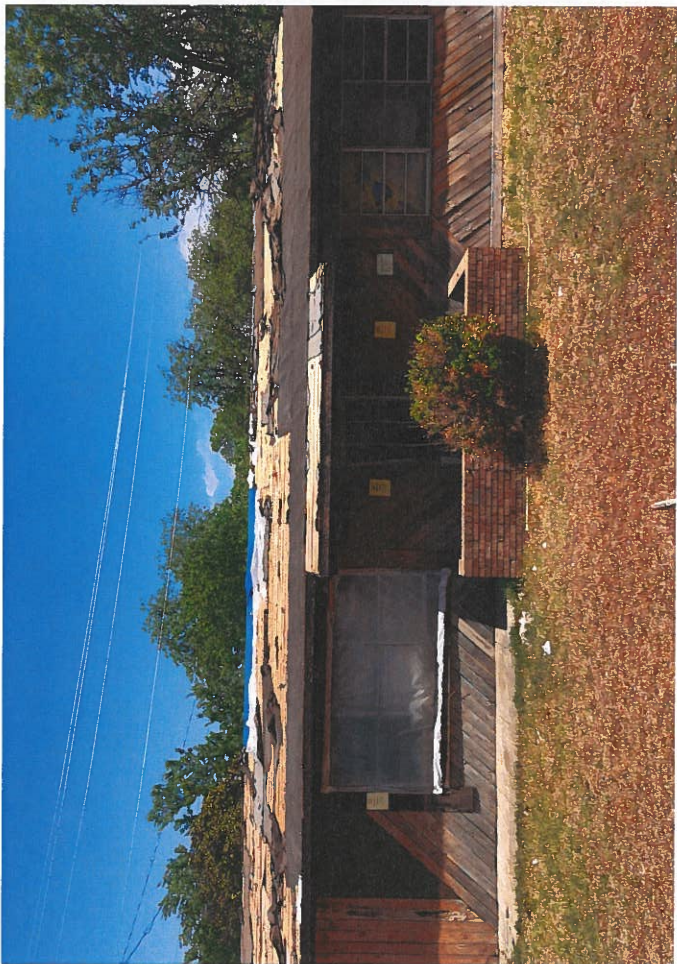
\$ 5,385⁰⁰ TOTAL

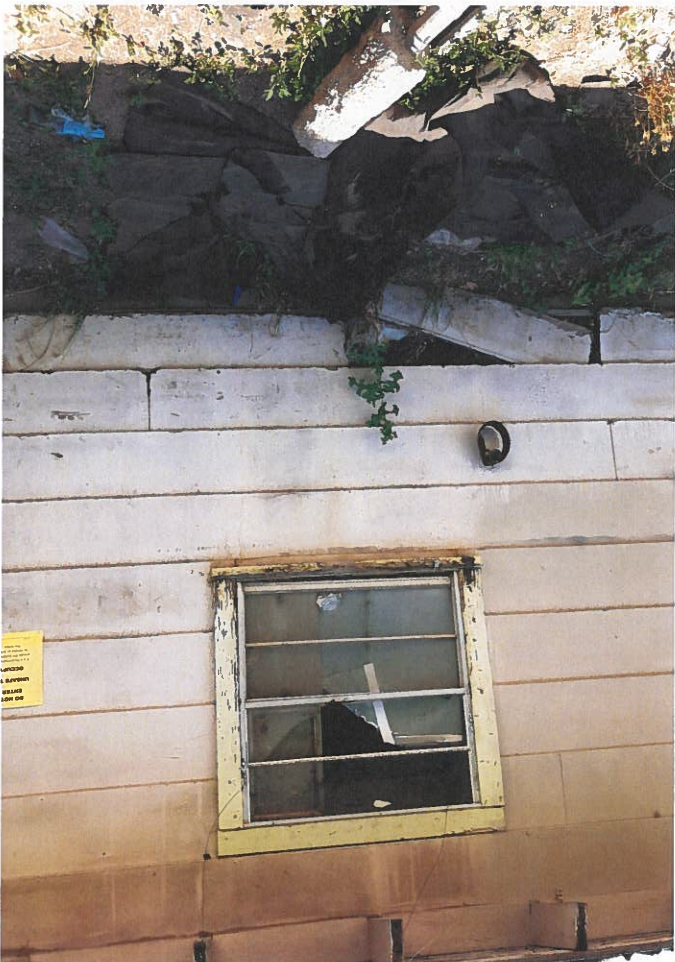
Account holder: _____

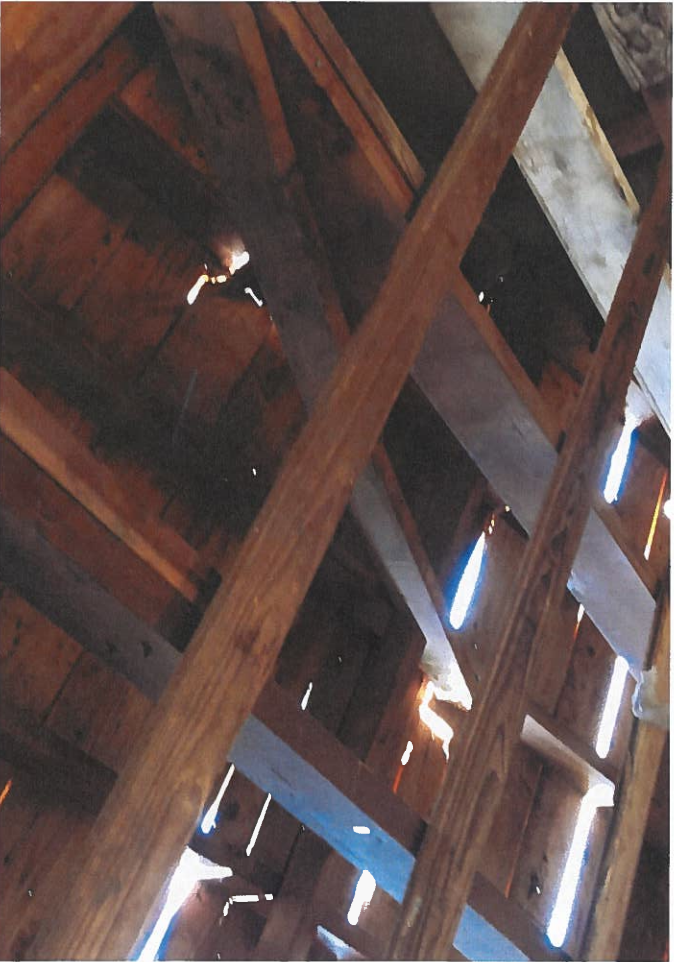
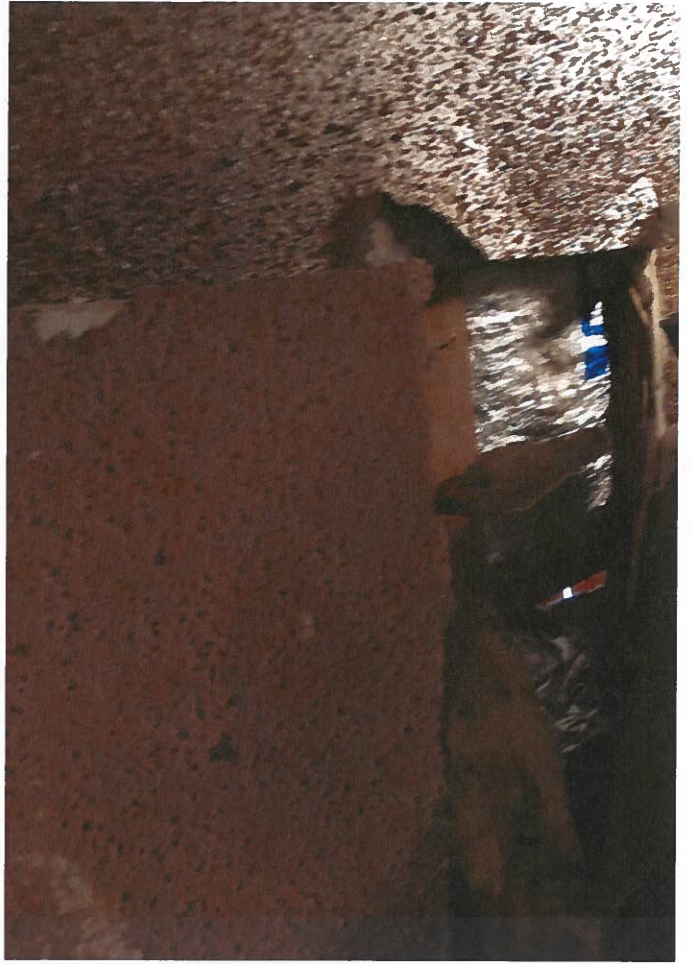
Manuel Perez
Inspected by: _____

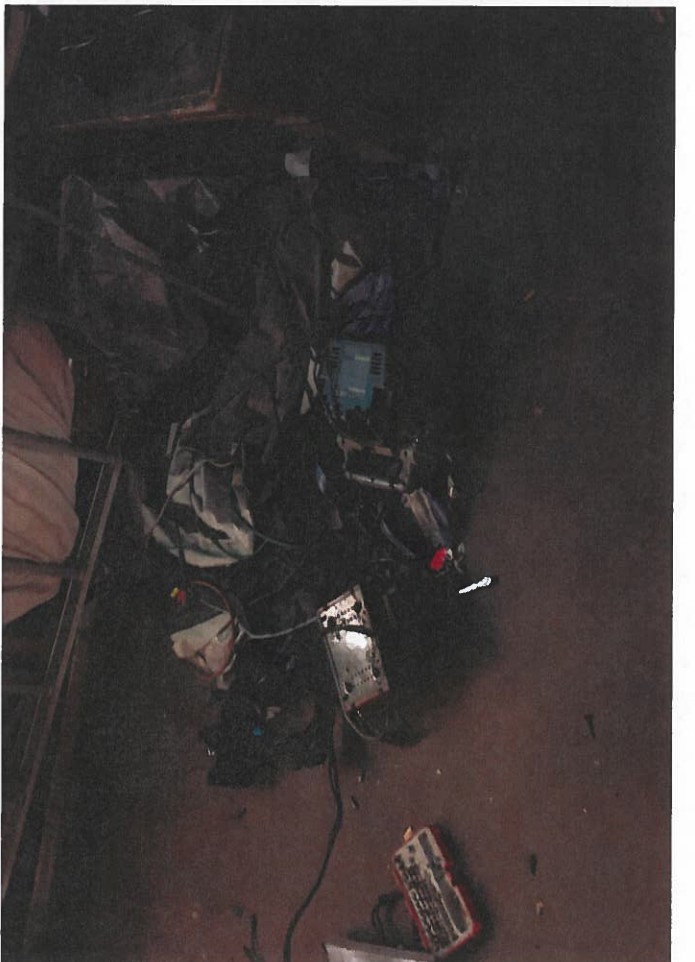
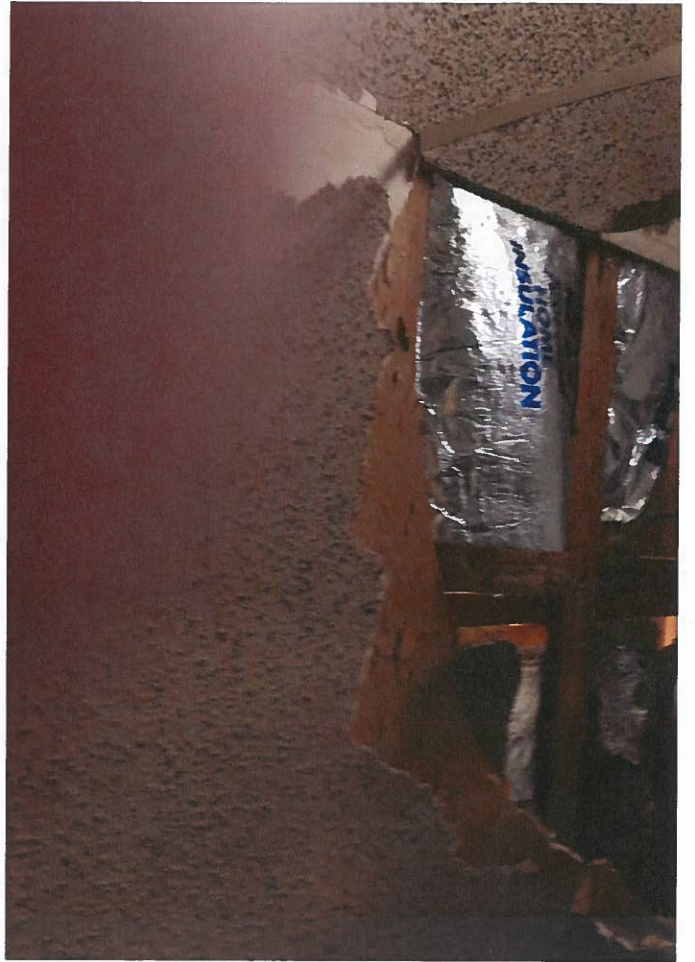
**THIS ESTIMATE MUST BE SIGNED AND RETURNED TO UTILITY BILLING DEPARTMENT
AT CITY HALL FOR A SERVICE ORDER TO BE INITIATED**

Quote good for 30 days from date of inspection by City of Brady personnel

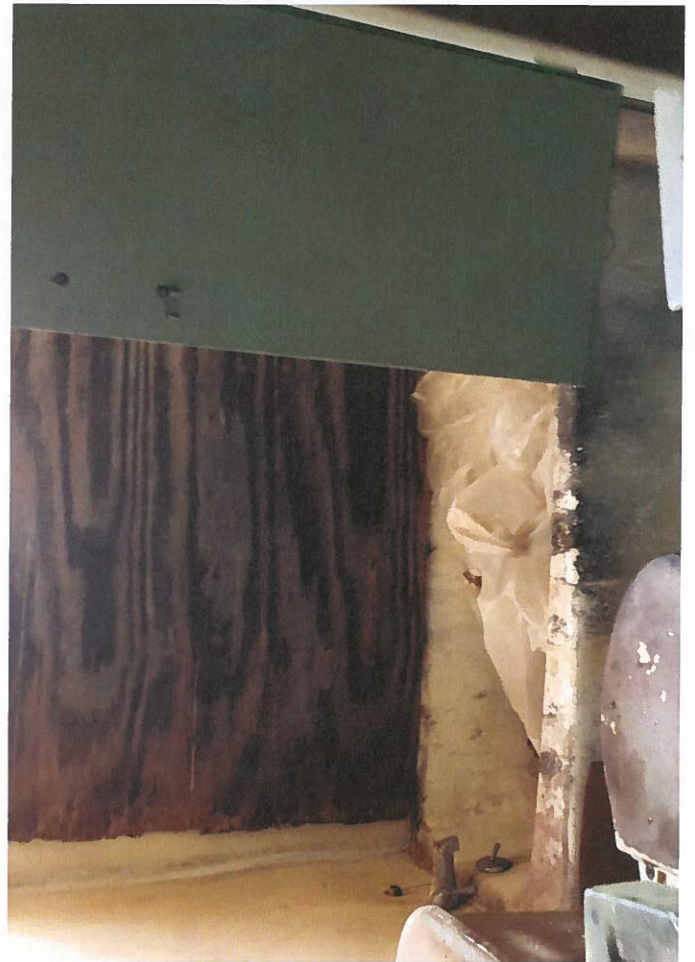


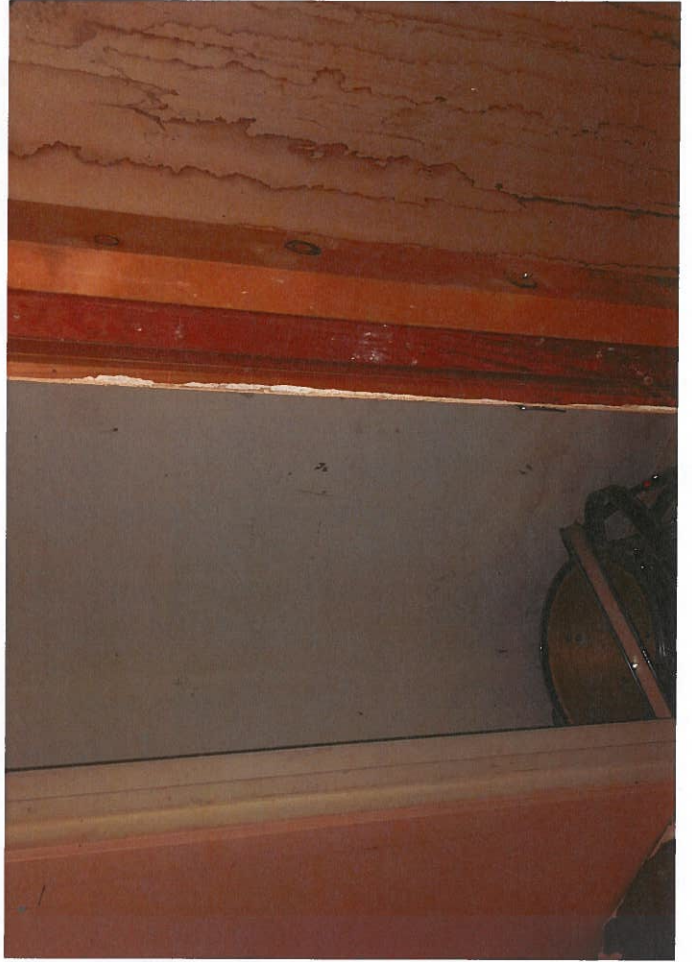


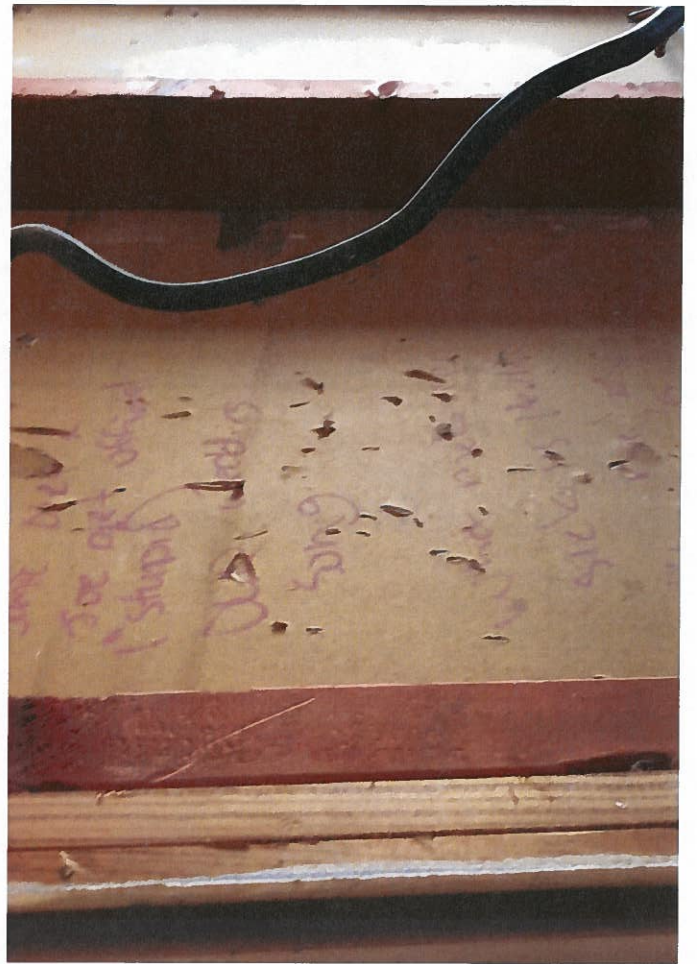




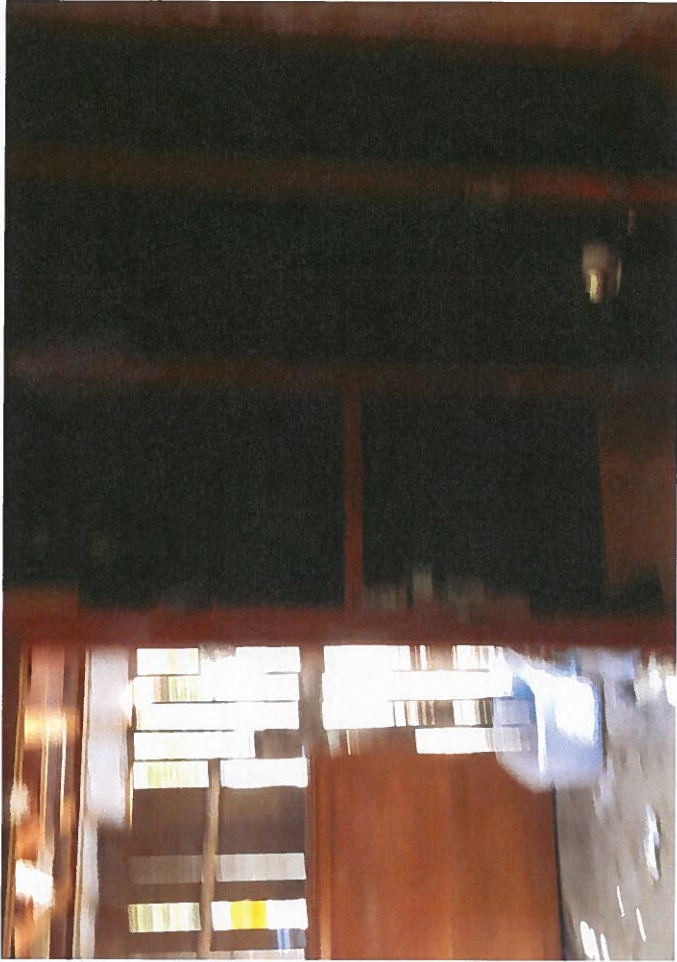


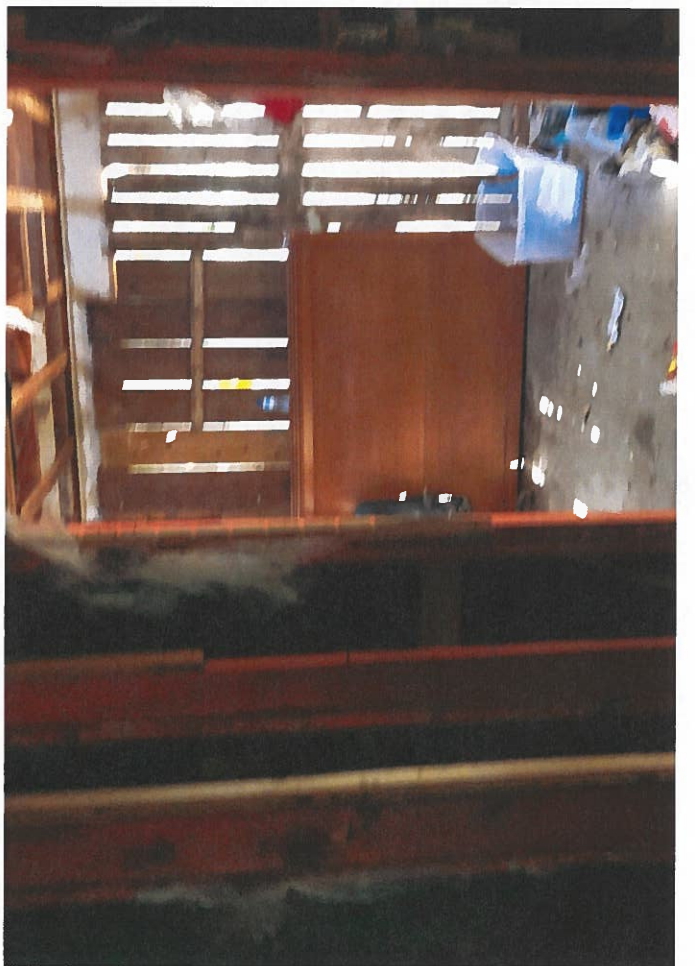












CITY COUNCIL
CITY OF BRADY, TEXAS
AGENDA ACTION FORM for ORDINANCE

| | | | |
|-------------------------------|--|------------------------|----------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 7.C. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action regarding the first reading of Ordinance 1340 of the City of Brady adopting a Specific Use Provision (SUP) as requested by Lisa Berglund to allow for a Bed and Breakfast Inn or Facility, in a Single Family Residential (5,000 S.F.) District for property located at 1004 S. College. (P&Z action 06/07/2022) | | |
| PREPARED BY: | S. Diaz / T. Keys | Date Submitted: | 6/2/2022 |
| EXHIBITS: | Ordinance 1340 Zoning Application Maps | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$00.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: | | | |

| | |
|-----------------|--|
| SUMMARY: | <p>Ms. Lisa Berglund contacted the Code Office requesting permission to operate a Bed and Breakfast Inn or Facility for a short-term rental use on her property.</p> <p>The property to the West, East, South and North is Single-Family Residential District property.</p> <p>The zoning application was filed on April 14, 2022.</p> <p>The City immediately published the proper notice for property located at 1004 S. College Street, Luhr Subdivision, Block 176, Lot 1, Brady Texas, for the purpose to request a Specific Use Provision and gave proper notice to all property owners within 200 feet. Due to quorum not met on Regular Meeting on Tuesday, May 10, 2022, publication for notice of public hearing was reissued.</p> |
|-----------------|--|

| | |
|----------------------------|--|
| RECOMMENDED ACTION: | <p>Mayor will ask: <u>“Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter.”</u> “Secretary reads preamble”</p> <p>Mayor calls for a motion: Move to approve first reading of Ordinance 1340</p> |
|----------------------------|--|

ORDINANCE NO. 1340

AN ORDINANCE OF THE CITY OF BRADY, TEXAS, GRANTING A SPECIFIC USE PROVISION (SUP) TO ALLOW FOR A BED AND BREAKFAST INN OR FACILITY FOR PROPERTY LOCATED AT 1004 S COLLEGE STREET, IN THE LUHR SUBDIVISION, BLOCK NO. 176, LOT 1.

WHEREAS, Chapter 211 of the Texas Local Government Code empowers the City of Brady, Texas to enact zoning regulations and provide for their administration, enforcement and amendment; and

WHEREAS, the City has previously deemed it necessary and desirable to adopt zoning regulations to provide for the orderly development of property within the City in order to promote the public health, safety, morals and general welfare of the residents of the City, and

WHEREAS, Chapter 14 of the Brady Code of Ordinances constitutes the City's Zoning Regulations and requires property to be zoned in accordance with proper designations as defined by the City; and

WHEREAS, Ms. Lisa Berglund has requested a Specific Use Provision (SUP), and

WHEREAS, the Planning and Zoning Commission of the City provided adequate notice and held a public hearing on June 7, 2022, in accordance with the Brady Code of Ordinances and Chapter 211 of the Texas Local Government Code; and

WHEREAS, the Planning and Zoning Commission of the City recommended approval of the zoning change of the designated property and confirmed that the zoning change is uniform and conforms to the plan design of the City's Zoning regulations; and

WHEREAS, the City Council believes the zoning change will not adversely affect the character of the area of the neighborhood in which it is proposed; will not substantially depreciate the value of adjacent or nearby properties; will be in keeping with the spirit and intent of the City's Zoning Ordinance; will comply with applicable standards of the district in which located; and will not adversely affect traffic, public health, public utilities, public safety and the general welfare of the residents of the City;

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

A Specific Use Provision (SUP) to allow for a Bed and Breakfast Inn or Facility is granted for property located at 1004 South College Street in the Luhr Subdivision, Block No. 176, Lot 1.

PASSED AND APPROVED on its First Reading on this the _____ day of _____ 2022.

PASSED AND APPROVED on its Second reading this the _____ day of _____ 2022.

Anthony Groves, Mayor

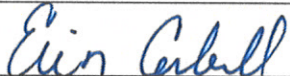
ATTEST:

Tina Keys, City Secretary

PLANNING AND ZONING COMMISSION

City of Brady, Texas

Agenda Action Form

| | | | |
|-------------------------------|---|------------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 3.B.1. |
| AGENDA SUBJECT: | Discussion, consideration, and possible recommendation to City Council on a request for a Specific Use Provision to allow for a Bed and Breakfast Inn or Facility in a Single-Family Residential (5,000 S.F.) District zone, for property located at 1004 S. College Street, in Luhr Subdivision, Block No. 176, and Lot No. 1. | | |
| PREPARED BY: | Silvia Diaz | Date Submitted: | 04/14/2022 |
| EXHIBITS: | Zoning Application Maps of Location Legal Description Proof of Ownership | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$00.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: |  | | |

Ms. Lisa Berglund contacted the Code Office requesting permission to operate a Bed and Breakfast Inn or Facility for a short-term rental use on her property.

The property to the West, East, South and North is Single-Family Residential District property.

The zoning application was filed on April 14, 2022.

The City immediately published the proper notice for property located at 1004 S. College Street, Luhr Subdivision, Block 176, Lot 1, Brady Texas, for the purpose to request a Specific Use Provision and gave proper notice to all property owners within 200 feet. Due to quorum not met on Regular Meeting on Tuesday, May 10, 2022, publication for notice of public hearing was reissued.

RECOMMENDED ACTION:

It is recommended that the P&Z Commission make a recommendation to City Council to approve the request for a Specific Use Provision to allow for a Bed and Breakfast Inn or Facility in a Single-Family Residential District zone.

Brady Code
Enforcement Division
325-597-2244 (phone)
325-597-0556 (fax)

City of Brady

Zoning Application

City of Brady
1405 N. Bridge Street
P.O. Box 351
Brady, TX 76825

Property Owner Information:

Owner: Jon & Lisa^{*} Berglund Cell 303-249-1493 J
Phone No.: 303-810-2304 L

Cell No.: _____ Email: jon@theberglunds.org ; justdoitlisa@gmail

Address: 1004 S College St Brady TX 76825

Owner Signature: _____

If the property owner is represented by an authorized agent, please sign below.

Agent Signature: _____

Existing Property Information:

Subdivision: Luhr Addition Lot: 1 Block: 176 (all of block)

Address: 1004 S. College St No. of Lots: 1

Current Zoning District (Please note chart below): SF-5

(A) Agriculture (BLR) Brady Lake Recreational (C) Commercial District (O) Office District (R) Retail District
(SF-5) Single Family Residential (CBD) Central Business District (MF) Multi-Family District (I) Industrial District
(MH) Manufactured Home District (PD) Planned Development District (SUP) Specific Use Provision

Application Request:

☐ Zoning Change ☒ Specific Use

Use or Zoning Requested: Bed & Breakfast Inn or Facility, i.e. Air Band B

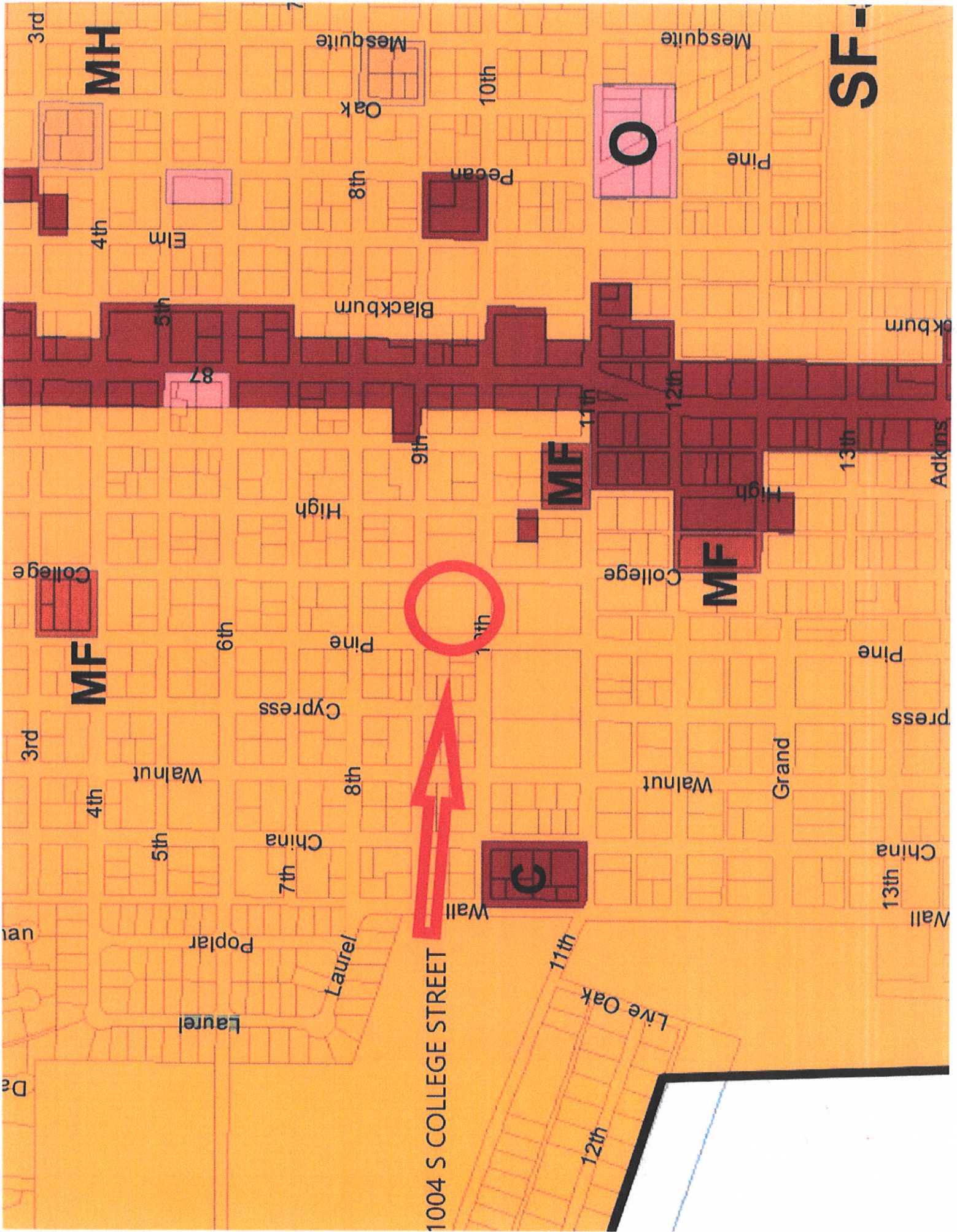
Reason for Request: To legally offer for short-term rental use the 'Bunk House' on our lot - see site plan

The Code Enforcement Division will only accept complete applications. This includes a completed application for, proof of ownership, non-refundable filing fee made payable to the City of Brady, legal description or surveyed plat drawn by a Licensed Surveyor, and a Comprehensive Site Plan (if applicable). Planning and Zoning Commission meetings are held on the 2nd Tuesday of each month at 5:30 p.m. Applications are due thirty (30) days prior to the meeting date.

Office Use Only:

☒ Complete Application ✓
☐ \$200.00 Fee
☒ Proof of Ownership ✓
☒ Surveyed Plat ✓
☐ Comprehensive Site Plan (for PD or SUP)

Received by: April 14, 2022
Filing Date: _____
Planning and Zoning Date: May 10, 2022
1st City Council Date: May 17, 2022
2nd City Council Date: June 7, 2022



Parcels

City Limits

| 0 | 0.01 | 0.03 | 0.06 mi |
|-----------|------|------|---------|
| 1.2, 2.01 | | | |

0 0.03 0.05 0.1 km

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

McCulloch County Appraisal District, BIS Consulting • www.bisconsulting.com

CITY COUNCIL
CITY OF BRADY, TEXAS
AGENDA ACTION FORM for ORDINANCE

| | | | |
|-------------------------------|---|------------------------|----------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 7.D. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action regarding the first reading of Ordinance 1341 of the City of Brady adopting a zoning change from Single Family Residential District to Manufactured Home District for property located at 1817 Old Mason Rd., Brady, Texas in the Callison J S SR Subdivision, Block No. 403. (P&Z action 06/07/2022) | | |
| PREPARED BY: | S. Diaz / T. Keys | Date Submitted: | 6/2/2022 |
| EXHIBITS: | Ordinance 1341 Zoning Application Maps | | |
| BUDGETARY IMPACT: | Required Expenditure: | | \$00.00 |
| | Amount Budgeted: | | \$00.00 |
| | Appropriation Required: | | \$00.00 |
| CITY MANAGER APPROVAL: | | | |

| |
|--|
| SUMMARY: |
| <p>Ms. Olee Teague contacted the Code Office to request a zoning change from Single-Family Residential District to Manufactured Home District for her property. Ms. Teague has plans to move a new manufactured home to her property for a homestead for her stepdaughter.</p> <p>The property to the West and East is Single-Family Residential District, and North is Manufactured Home District and South is county property.</p> <p>The zoning application was filed on March 21, 2022.</p> <p>The City immediately published the proper notice for property located at 1817 Old Mason Rd., Brady, Tx, Callison J C SR Subdivision, Block 403, Brady Texas, for the purpose to rezone and gave proper notice to all property owners within 200 feet. Due to quorum not met on Regular Meeting on Tuesday, May 10, 2022, publication for notice of public hearing was reissued.</p> |

| |
|---|
| RECOMMENDED ACTION: |
| <p>Mayor will ask: <u>“Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter.”</u> “Secretary reads preamble”</p> <p>Mayor calls for a motion: Move to approve first reading of Ordinance 1341</p> |

ORDINANCE NO. 1341

AN ORDINANCE OF THE CITY OF BRADY, TEXAS, GRANTING A ZONING CHANGE FROM SINGLE FAMILY RESIDENTIAL TO MANUFACTURED HOME DISTRICT FOR PROPERTY LOCATED AT 1817 OLD MASON RD. IN THE CALLISON J S SR SUBDIVISION, BLOCK NO. 403.

WHEREAS, Chapter 211 of the Texas Local Government Code empowers the City of Brady, Texas to enact zoning regulations and provide for their administration, enforcement and amendment; and

WHEREAS, the City has previously deemed it necessary and desirable to adopt zoning regulations to provide for the orderly development of property within the City in order to promote the public health, safety, morals and general welfare of the residents of the City, and

WHEREAS, Chapter 14 of the Brady Code of Ordinances constitutes the City's Zoning Regulations and requires property to be zoned in accordance with proper designations as defined by the City; and

WHEREAS, Ms. Olee Teague has requested a zoning change to Manufactured Home District, and

WHEREAS, the Planning and Zoning Commission of the City provided adequate notice and held a public hearing on June 7, 2022, in accordance with the Brady Code of Ordinances and Chapter 211 of the Texas Local Government Code; and

WHEREAS, the Planning and Zoning Commission of the City recommended approval of the zoning change of the designated property and confirmed that the zoning change is uniform and conforms to the plan design of the City's Zoning regulations; and

WHEREAS, the City Council believes the zoning change will not adversely affect the character of the area of the neighborhood in which it is proposed; will not substantially depreciate the value of adjacent or nearby properties; will be in keeping with the spirit and intent of the City's Zoning Ordinance; will comply with applicable standards of the district in which located; and will not adversely affect traffic, public health, public utilities, public safety and the general welfare of the residents of the City;

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

A Zoning Change from Single Family Residential to Manufactured Home District is granted for property located at 1817 Old Mason Rd in the Callison J S SR Subdivision, Block No. 403.

PASSED AND APPROVED on its First Reading on this the _____ day of _____ 2022.

PASSED AND APPROVED on its Second reading this the _____ day of _____ 2022.

Anthony Groves, Mayor

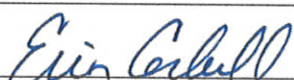
ATTEST:

Tina Keys, City Secretary

PLANNING AND ZONING COMMISSION

City of Brady, Texas

Agenda Action Form

| | | | |
|-------------------------------|---|------------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 3.A.1 |
| AGENDA SUBJECT: | Discussion, consideration, and possible recommendation to City Council on a zoning change from Single-Family Residential District to Manufactured Home District for property located at 1817 Old Mason Rd., Brady, Texas, in the Callison J. C. Subdivision, Block No. 403, Lot No. (not listed). | | |
| PREPARED BY: | Silvia Diaz | Date Submitted: | 03/21/2022 |
| EXHIBITS: | Zoning Application Maps of Location Legal Description Proof of Ownership | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$00.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: |  | | |

Ms. Olee Teague contacted the Code Office to request a zoning change from Single-Family Residential District to Manufactured Home District for her property. Ms. Teague has plans to move a new manufactured home to her property for a homestead for her stepdaughter.

The property to the West and East is Single-Family Residential District, and North is Manufactured Home District and South is county property.

The zoning application was filed on March 21, 2022.

The City immediately published the proper notice for property located at 1817 Old Mason Rd., Brady, Tx, Callison J C SR Subdivision, Block 403, Lot (not listed), Brady Texas, for the purpose to rezone and gave proper notice to all property owners within 200 feet. Due to quorum not met on Regular Meeting on Tuesday, May 10, 2022, publication for notice of public hearing was reissued.

RECOMMENDED ACTION:

It is recommended that the P&Z Commission make a recommendation to City Council to approve the zoning change as requested by Olee Teague, for property located at 1817 Old Mason Rd. from Single-Family Residential to Manufactured Home District.

Brady Code
Enforcement Division
325-597-2244 (phone)
325-597-0556 (fax)

City of Brady Zoning Application

City of Brady
1405 N. Bridge Street
P.O. Box 351
Brady, TX 76825

Property Owner Information:

Owner: Olee League Phone No.: 325-456-9098
Cell No.: 325 456 9098 Email: NA
Address: 1817 Old mason Rd.
Owner Signature: Olee League

If the property owner is represented by an authorized agent, please sign below.

Agent Signature: _____

Existing Property Information:

Subdivision: Callison JC SR Lot: _____ Block: 403
Address: 1817 Old mason Rd. No. of Lots: 1
Current Zoning District (Please note chart below): SF/5
(A) Agriculture (BLR) Brady Lake Recreational (C) Commercial District (O) Office District (R) Retail District
(SF-5) Single Family Residential (CBD) Central Business District (MF) Multi-Family District (I) Industrial District
(MH) Manufactured Home District (PD) Planned Development District (SUP) Specific Use Provision

Application Request:

☒ Zoning Change ☐ Specific Use

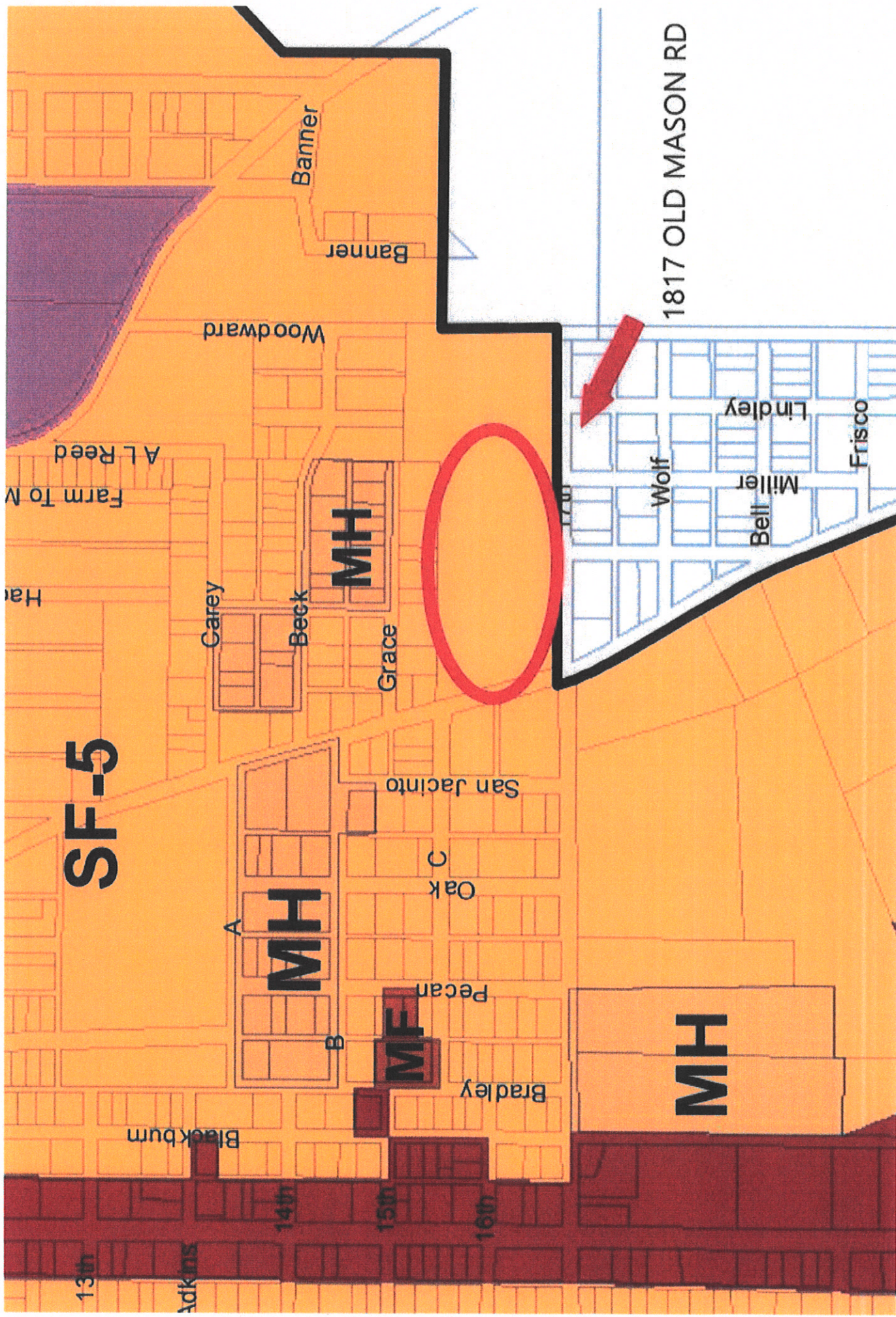
Use or Zoning Requested: MH
Reason for Request: Wanting to place manufactured Home Brand new on property

The Code Enforcement Division will only accept complete applications. This includes a completed application for, proof of ownership, non-refundable filing fee made payable to the City of Brady, legal description or surveyed plat drawn by a Licensed Surveyor, and a Comprehensive Site Plan (if applicable). Planning and Zoning Commission meetings are held on the 2nd Tuesday of each month at 5:30 p.m. Applications are due thirty (30) days prior to the meeting date.

Office Use Only:

☒ Complete Application
☒ \$200.00 Fee
☒ Proof of Ownership
☒ Surveyed Plat
☐ Comprehensive Site Plan (for PD or SUP)

Received by: Steve Diaz
Filing Date: _____
Planning and Zoning Date: May 10, 2022
1st City Council Date: May 17, 2022
2nd City Council Date: June 7, 2022



SF-5

MH

MH

MF

MH

1817 OLD MASON RD

1:4,514

Sources: Esri, HERE, Garmin, FAO, NOAA, USGS, OpenStreetMap contributors, and the GIS User Community. Source: Esri, DigitalGlobe,

McCulloch County Appraisal District, BIS Consulting - www.bisconsulting.com

Disclaimer: This product is for informational purposes only and has not been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of boundaries.

City Council

City of Brady, Texas

Agenda Action Form

| | | | |
|---|---|-----------------------|------------|
| AGENDA DATE: | 06/07/2022 | AGENDA ITEM | 7. E. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action on scope of Small Diameter Water Main Replacement Project. | | |
| PREPARED BY: | S. Miller / G. Jacobson | Date Submitted | 06/01/2022 |
| EXHIBITS: | Overall City Water Distribution Map | | |
| BUDGETARY IMPACT: | Required Expenditure: | | \$00.00 |
| | Amount Budgeted: | | \$00.00 |
| | Appropriation Required: | | \$00.00 |
| CITY MANAGER APPROVAL: | | | |
| SUMMARY: | | | |
| <p>City staff presents two (2) feasible selections for city council consideration involving replacement of small diameter water mains in a localized area of town or a more distributed locations across the entire city – see exhibit. Select engineering services has been determined and direction from city council is desired to establish preferred path forward for developing design plans & specifications. Intent is to release sealed bid document in FY2023 or Fall of this year utilizing excess fund balance from Water Fund.</p> | | | |
| RECOMMENDED ACTION: | | | |
| Direct staff as desired. | | | |

City Council
City of Brady, Texas
Agenda Action Form for Ordinance

| | | | |
|-------------------------------|---|------------------------|------------------------|
| AGENDA DATE: | 6-7-2022 | AGENDA ITEM | 7. F. |
| AGENDA SUBJECT: | Discussion, consideration, and possible action regarding the first reading of Ordinance 1342 to amend the FY 22 Budget to allow for municipal purposes. | | |
| PREPARED BY: | Lisa McElrath | Date Submitted: | 6-2-2022 |
| EXHIBITS: | Ordinance 1342 Amendment Request Summary – Exhibit A* Amendment Request Write-ups for new expenditure requests | | |
| BUDGETARY IMPACT: | Required Expenditure: | | See attached exhibit * |
| | Amount Budgeted: | | |
| | Appropriation Required: | | |
| CITY MANAGER APPROVAL: | | | |

| | |
|-----------------|--|
| SUMMARY: | <p>The Finance Director and City Manager met and discussed with each Division the progress of actual performance compared to the current budget and recommend the following budget amendments to provide for the remaining fiscal year goals. While several expenditure accounts are projected to be less than originally budgeted, several revenue sources are also identified to supplement projected/requested increases to the budget activity.</p> <p>The recommended amendments, if approved, will be reflected in the FY 23 budget planning report. The General Fund ending fund balances for the FY 22 year is projected to be further reduced by \$29,000. All other fund balances will not be impacted by the recommended amendment.</p> <p><u>General Fund:</u></p> <p>Four events are primarily the reason staff is requesting budget line-item adjustments and amending the overall appropriations of the General Fund by \$29,000.</p> <p>After the FY 22 Budget was adopted:</p> <ol style="list-style-type: none"> 1. The Council approved to conduct a survey of the lake for \$30,000 2. The Council approved to purchase land from Brady National Bank (Funding for additional architect fees will be required to develop a future Fire/EMS Station) 3. The Council approved to purchase body/vehicle cameras for the Police Department 4. Staff is requesting to provide new funding for the cost of reworking the HVAC system at City Hall. A detailed write up is included with this AAF. <p>Providing funding for these items are additional Sales Tax collections expected over original projections, loan proceeds, sale of assets and excess payroll funds from un-filled positions in the Police and Community Services Administration Divisions.</p> <p>Additional / various line-item adjustments are included that are considered significant in nature and additionally support funding for the requested new / additional budget items.</p> |
|-----------------|--|

General Construction Fund:

Formal approval in the budget is needed to reflect that the city will have the funds to buy property from Brady National Bank to be developed for a future Fire/EMS Station.

Additional architect fees are expected to expand the scope of the building.

Funding is recommended to come from the General Fund.

A detailed write up is included with this AAF.

Electric Fund:

The commercial and analog meters need to be replaced. Due to an expected wait time of 1 year from ordering, staff would like to request that we begin the process this year. A new budget must be established in order to place a purchase order.

A detailed write up is included with this AAF.

Water/Sewer Fund, Water Construction and WWTP Construction Funds:

Auditor requests that we reflect the debt service cost for the 2 construction projects in each construction fund. Therefore, we will need to establish a debt service budget for each construction fund and budget for a transfer from the Water/Sewer Fund in the amount of the debt service to provide the funding needed to pay the debt obligations.

Currently the debt service is reflected in the Water/Sewer fund only, this amendment will reflect that the Water/Sewer Fund will transfer money to the construction funds and the payment of construction debt will now be posted in the respective construction funds.

Utility Support Fund:

Fees to the city from credit card agencies are significantly higher than expected, and fee collections from users is tracking close to current budget projections. Staff proposes to reduce funding originally allocated for technology replacement to cover the additional expenditure of city fees for FY 22.

RECOMMENDED ACTION:

Mayor will ask: “Madam City Secretary please read the Ordinance Preamble for the record in accordance with the City Charter.” “Secretary reads preamble”

Mayor calls for a motion:

Move to approve the **first** reading of Ordinance 1342.

ORDINANCE NO. 1342

**AN ORDINANCE OF THE CITY OF BRADY, TEXAS AMENDING THE FISCAL
YEAR 2021-2022 BUDGET**

An ordinance amending the 2021-2022 Fiscal Year Budget for municipal purposes as follows:

Increasing the General Fund expenditures by \$393,000; the General Construction Fund expenditures by \$252,000; the Water Construction Fund expenditures by \$330,000; the WWTP Construction Fund expenditure budget by \$265,000; and the Water / Sewer Fund expenditure budget by \$49,900 per attached summary, Exhibit A, made a part of this ordinance.

Adopted amendments, including additional revenue sources identified in Exhibit A, could result in a net decrease to the General Fund Balance by \$29,000; and a decrease to the Water / Sewer Fund Balance by \$49,900 for Fiscal Year 2022.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
BRADY TEXAS** that the FY 2021-2022 budget be amended accordingly for municipal
purposes.

APPROVED UPON FIRST READING THIS THE 7th DAY OF JUNE 2022,

**APPROVED AND PASSED UPON SECOND READING THIS THE 21st DAY OF JUNE
2022.**

Anthony Groves, Mayor

ATTEST: _____
Tina Keys, City Secretary

CITY OF BRADY

Ordinance 1342 - EXHIBIT A

FY 22 Mid-Year Budget Amendment Requests - Summary

6-7-22

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|---|----------------------------|----------------------|-----------------------------|-----------------------|
| GENERAL FUND - 10 | | | | |
| REVENUES | | | | |
| Increase projected collections to trend | \$ 80,000 | 10-4-01-606.00 | Sales Tax | \$ 1,030,000 |
| Increase projected sales to trend | \$ 20,000 | 10-4-02-646.00 | 100 LL Sales | \$ 70,000 |
| Decrease projected sales to trend | \$ (50,000) | 10-4-02-647.00 | Military Sales | \$ 50,000 |
| Increase loan \$ for 4 PD vehicles and Body Cameras | \$ 211,000 | 10-4-08-690.00 | Loan Proceeds | \$ 302,000 |
| Represents trade-in \$ for 3 PD vehicles | \$ 31,000 | 10-4-08-899.00 | Sale of Fixed Assets | \$ 31,000 |
| Increase projected collections to trend | \$ 65,000 | 10-4-17-632.00 | Municipal Ct Fines and Fees | \$ 135,000 |
| Increase projected collections to trend | \$ 7,000 | 10-4-17-635.00 | Collection Agency Fees | \$ 8,000 |
| Total Net Increased Revenue Sources | \$ 364,000 | | | |
| EXPENDITURES | | | | |
| Council approved Lake survey work | \$ 30,000 | 10-5-01-203.00 | Professional Fees | \$ 40,000 |
| Decrease to actual trend | \$ (37,000) | 10-5-01-208.00 | City Attorney | \$ 15,000 |
| Decrease to actual trend | \$ (7,000) | 10-5-01-302.00 | Supplies | \$ 20,216 |
| New request - Rework City Hall HVAC | \$ 104,850 | 10-5-01-402.00 | Capital Equipment | \$ 104,850 |
| Provide funding for Land and Architect fees | \$ 252,000 | 10-5-01-910.11 | Transfers out to Fund 11 | \$ 252,000 |
| Increase to actual trend | \$ 16,500 | 10-5-02-303.02 | 100 LL Fuel | \$ 62,500 |
| Decrease to actual trend | \$ (31,400) | 10-5-02-303.03 | Jet A Fuel | \$ 100,000 |
| Decrease to actual trend | \$ (18,000) | 10-5-04-208.00 | City Attorney | \$ 10,000 |
| Decrease to actual trend | \$ (2,000) | 10-5-04-322.00 | Election Expense | \$ - |
| Increase to actual trend | \$ 11,500 | 10-5-07-303.00 | Fuel | \$ 25,000 |
| Decrease to actual trend | \$ (50,000) | 10-5-08-101.00 | Payroll | \$ 759,946 |
| Reflect first 0% int payment for body cameras | \$ 33,200 | 10-5-08-398.01 | Principal Debt Requirement | \$ 103,200 |
| Council approved body cameras purchase | \$ 144,450 | 10-5-08-402.00 | Capital Equipment | \$ 325,500 |
| Position not hired for the year- no candidates | \$ (80,000) | 10-5-11-101.00 | Payroll | \$ 245 |
| Position not hired for the year- no candidates | \$ (2,700) | 10-5-11-107.00 | Car Allowance | \$ - |
| Position not hired for the year- no candidates | \$ (11,000) | 10-5-11-110.00 | Insurance | \$ 832 |
| Position not hired for the year- no candidates | \$ (8,000) | 10-5-11-111.00 | Municipal Retirement | \$ 564 |
| Position not hired for the year- no candidates | \$ (6,000) | 10-5-11-114.00 | Payroll Tax | \$ 942 |
| Additional collections expected to remit | \$ 25,000 | 10-5-17-200.00 | Comptroller Fees | \$ 50,000 |
| Increase fee pmts due to increased fine collections | \$ 5,600 | 10-5-17-203.00 | Professional Fees | \$ 8,000 |
| Reclassify to overtime budget | \$ (15,000) | 10-5-29-101.00 | Payroll | \$ 939,254 |
| Increase to actual trend | \$ 38,000 | 10-5-29-102.00 | Overtime | \$ 110,000 |
| Total Net Increased Expenditures | \$ 393,000 | | | |
| Net Decrease to Fund Balance | \$ (29,000) | | | |

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|--|----------------------------|----------------------|---------------------------|-----------------------|
| GENERAL CONSTRUCTION FUND - 11 | | | | |
| REVENUES | | | | |
| Increase funding for Land and Architect fees | \$ 252,000 | 11-4-28-910.10 | Transfers in from Fund 10 | \$ 252,000 |
| EXPENDITURES | | | | |
| New Request-Land and Architect fee pmts | \$ 252,000 | 11-5-28-400.00 | EMS/FIRE Station | \$ 367,000 |
| Net impact to Fund Balance | \$ - | | | |

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|---|----------------------------|----------------------|---------------------------|-----------------------|
| ELECTRIC FUND - 20 | | | | |
| EXPENDITURES | | | | |
| Decrease to actual trend | \$ (30,000) | 20-5-22-101.00 | Payroll | \$ 219,476 |
| Decrease to actual trend | \$ (10,000) | 20-5-22-110.00 | Insurance | \$ 37,328 |
| Decrease to actual trend | \$ (5,000) | 20-5-22-213.00 | Contract Labor | \$ 45,000 |
| | \$ (10,000) | 20-5-22-30201 | Transformers | \$ 35,000 |
| New Request - Order Meters - CML and Analog | \$ 55,000 | 20-5-22-302.02 | Meters | \$ 60,000 |
| Net impact to Fund Balance | \$ - | | | |

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|---|----------------------------|----------------------|-------------------------------|-----------------------|
| WATER/SEWER FUND -30 | | | | |
| EXPENDITURES | | | | |
| Move debt service expense to Fund 33 | \$ (330,000) | 30-5-31-900.00 | Principal requirement expense | \$ 383,100 |
| | \$ 330,000 | 30-5-31-910.33 | Transfer to Fund 33 | \$ 330,000 |
| Move debt service expense to Fund 35 | \$ (40,880) | 30-5-23-398.00 | Interest expense | \$ 8,420 |
| | \$ (225,000) | 30-5-23-900.00 | Principal requirement expense | \$ 125,000 |
| | \$ 265,880 | 30-5-23-910.35 | Transfer to Fund 35 | \$ 265,880 |
| Purchase a pump for the Sewer Treatment Plant | \$ 49,900 | 30-5-23-402.00 | Capital Outlay - Equipment | \$ 60,900 |
| Net Decrease to Fund Balance | <u>\$ (49,900)</u> | | | |

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|--|----------------------------|----------------------|-------------------------------|-----------------------|
| WATER CONSTRUCTION FUND -33 | | | | |
| REVENUES | | | | |
| Transfer Water funds in - for debt service | \$ 330,000 | 33-4-33-910.30 | Transfers in from Fund 30 | \$ 330,000 |
| EXPENDITURES | | | | |
| Record construction debt service expense | \$ 330,000 | 33-5-33-900.00 | Principal requirement expense | \$ 330,000 |
| <hr/> | | | | |
| Net impact to Fund Balance | \$ - | | | |

| | | | | |
|--|------------|----------------|-------------------------------|------------|
| WWTP CONSTRUCTION FUND -35 | | | | |
| REVENUES | | | | |
| Transfer Sewer funds in - for debt service | \$ 265,880 | 35-4-25-910.30 | Transfers in from Fund 30 | \$ 265,880 |
| EXPENDITURES | | | | |
| Record construction debt service expense | \$ 40,880 | 35-5-25-398.00 | Interest expense | \$ 40,880 |
| Record construction debt service expense | \$ 225,000 | 35-5-25-900.00 | Principal requirement expense | \$ 225,000 |
| <hr/> | | | | |
| Net impact to Fund Balance | \$ - | | | |

| <u>REQUEST</u> | <u>AMOUNT</u> INC/(DEC) | <u>BUDGET NUMBER</u> | <u>BUDGET DESCRIPTION</u> | <u>AMENDED BUDGET</u> |
|--|----------------------------|----------------------|---------------------------|-----------------------|
| UTILTY SUPPORT FUND - 50 | | | | |
| EXPENDITURES | | | | |
| Increase to actual trend | \$ 3,900 | 50-5-50-202.00 | Utilities | \$ 26,900 |
| Increase to actual trend | \$ 13,000 | 50-5-50-319.00 | Credit Card Fees | \$ 59,000 |
| Reallocate funds to utilities and Credit Card fees | \$ (16,900) | 50-5-50-554.00 | Technology Replacement | \$ 10,200 |
| <hr/> | | | | |
| Net impact to Fund Balance | \$ - | | | |

FY 22 AMENDMENT REQUEST

| | | | | | |
|-------------------------|----|--|---|----------------------------------|--|
| Fund : General | | Department : Administration | | Date : 6/7/22 | |
| Fund Number | 10 | Department Head : E.Corbell | | Prepared By : L. McElrath | |
| Category: | 5 | Maintenance of Existing Program : | X | Department Rank : | |
| Division Number: | 01 | New/Expanded Program Request : | | City Manager Rank : | |

Description:

Rework failing HVAC system in City Hall

Justification:

The system is over 30 years old and is believed to have been installed in the 1980's. It has been repaired many times and currently not functioning as designed as a result of antiquated commercial parts that have been removed or replaced, changing the function of the system. This past year the boiler failed on multiple occasions, leaving City Hall temperatures at sub 55 degrees. It is not uncommon for the temperatures to rise to intolerable heat conditions in the summer as well. These conditions are unreasonable to expect the employees and customers to be exposed to on a regular basis. Due to the age and complexity of the system, the frequency of malfunctions are a regular occurrence. Due to inflating market conditions, staff is requesting that we be allowed to pursue reworking the HVAC system now. A quote from Duncan Mechanical (A TIPS -pricing member) from San Angelo, TX has been obtained. They are a commercial HVAC company that is familiar with these systems and have recently assisted with temporary repairs. Pricing is subject to increase as much as \$40,000 if we are unable to secure a PO before the end of the year. Lead time for ordering is also several months. It would be appreciated if we could get a resolve before the winter cold comes again.

| Salaries and Benefits | | | Capital / Commodities / Services | | | |
|-----------------------------|------------|-----------------------------------|----------------------------------|-----|-----------|-----------------|
| JOB CLASSIFICATION | Amount | Description | Obj. Code | No. | Unit Cost | Total |
| 101.00 REGULAR PAY | | COMPUTER | | | | |
| 102.00 OVERTIME PAY | | DESK | | | | |
| 107.00 CAR ALLOWANCE | | VEHICLE | | | | |
| 110.00 HOSPITAL INSURANCE | | CAPITAL OUTLAY - PROJECTS | 401.00 | | | |
| 111.00 MUNICIPAL RETIREMENT | | CAPITAL OUTLAY - VEHICLES & EQUIP | 402.00 | | | \$85,000 |
| 112.00 WORKER'S COMP INS | | | | | | |
| 113.00 UNEMPLOYMENT INS | | | | | | |
| 114.00 PAYROLL TAXES | | | | | | |
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| TOTAL | \$0 | | | | | |
| | | | GRAND TOTAL | | | \$85,000 |

FY 22 AMENDMENT REQUEST

| | | | | | |
|------------------------------------|----|--|---|----------------------------------|--|
| Fund : General Construction | | Department : | | Date : 6/7/22 | |
| Fund Number | 11 | Department Head : E. Corbell | | Prepared By : L. McElrath | |
| Category: | 5 | Maintenance of Existing Program : | | Department Rank : | |
| Division Number: | 28 | New/Expanded Program Request : | | City Manager Rank : | |
| | | | X | | |

Description:

Approve expenditure for the land purchase at \$125,000 and additional architect fees of 127,000 for an EMS/Fire Station. If approved, this will require a transfer of funds from the General Fund 10 to General Construction Fund 11 to provide funding for the expenditure.

Justification:

On 5-3-22 Council agreed to purchase land adjacent to the current Police Station from Brady National Bank in order to provide for a better functioning layout for an EMS/Fire Station. Additionally, now that the space to construct the station has changed, the fees to design the layout has increased. The FY 22 amendment request is to accomodate the design fees only. Construction management fees will have to be budgeted in the FY 23 budget process.

| Salaries and Benefits | | | Capital / Commodities / Services | | | |
|-----------------------------|------------|-----------------------------------|----------------------------------|-----|-----------|------------------|
| JOB CLASSIFICATION | Amount | Description | Obj. Code | No. | Unit Cost | Total |
| 101.00 REGULAR PAY | | COMPUTER | | | | |
| 102.00 OVERTIME PAY | | DESK | | | | |
| 107.00 CAR ALLOWANCE | | VEHICLE | | | | |
| 110.00 HOSPITAL INSURANCE | | CAPITAL OUTLAY - EMS/Fire Station | 400.00 | | | \$252,000 |
| 111.00 MUNICIPAL RETIREMENT | | | | | | |
| 112.00 WORKER'S COMP INS | | | | | | |
| 113.00 UNEMPLOYMENT INS | | | | | | |
| 114.00 PAYROLL TAXES | | | | | | |
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| TOTAL | \$0 | | | | | |
| | | | GRAND TOTAL | | | \$252,000 |

FY 22 AMENDMENT REQUEST

| | | | | | |
|------------------|----|-----------------------------------|---|---------------------------|--|
| Fund : Electric | | Department : Electric | | Date : 6/7/22 | |
| Fund Number | 20 | Department Head : S. Miller | | Prepared By : L. McElrath | |
| Category: | 5 | Maintenance of Existing Program : | X | Department Rank : | |
| Division Number: | 22 | New/Expanded Program Request : | | City Manager Rank : | |

Description:

Replace aging commercial meters that are 10 years old and are experiencing mechanical / technical failures and analog meters that are 20 years old.

Justification:

Billing, Meter and Electrical staff have determined that the large commercial meters (392) have reached their useful life and should be replaced. The large commercial meters represent about 25% of the City's electric sales; therefore it is critical that we have well maintained meters. The analog meters have been in the field for 20 years and the likely hood of these failing soon is probable. Overall, we would like to order/replace these meters over 3 fiscal years, starting with FY 22 due to the 50-week (one year!) lead time for the meters to arrive once we place the order. Therefore, we would like to initiate a PO this summer for the 9-S, 45-S and analog meters.

The debt used to buy the current meters will be paid in full as of October 2022. The total cost of replacing the commercial and analog meters is \$135,000. We would like to re-assign debt service budget dollars (\$45,000 available in FY 23 and \$35,000 in FY 24) to pay for the new meters.

A Base Budget Supplemental will be presented with the FY 23 budget to continue the process of ordering meters. The Electrical division has not been able to be fully staffed this year and other operational line item budgets indicate there are funds available to provide the \$55,000 needed to start the ordering process. We will carry-over these funds into FY 23 as payment is not due until the product arrives.

| Salaries and Benefits | | | Capital / Commodities / Services | | | |
|-----------------------------|------------|-------------------------------------|----------------------------------|-----|-----------|-----------------|
| JOB CLASSIFICATION | Amount | Description | Obj. Code | No. | Unit Cost | Total |
| 101.00 REGULAR PAY | | COMPUTER | | | | |
| 102.00 OVERTIME PAY | | DESK | | | | |
| 107.00 CAR ALLOWANCE | | VEHICLE | | | | |
| 110.00 HOSPITAL INSURANCE | | CAPITAL OUTLAY - Projects | 401.00 | | | |
| 111.00 MUNICIPAL RETIREMENT | | CAPITAL OUTLAY - VEHICLES AND EQUIP | 402.00 | | | |
| 112.00 WORKER'S COMP INS | | | | | | |
| 113.00 UNEMPLOYMENT INS | | METERS | 302.03 | | | \$55,000 |
| 114.00 PAYROLL TAXES | | | | | | |
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| TOTAL | \$0 | | | | | |
| | | | GRAND TOTAL | | | \$55,000 |

FY 22 AMENDMENT REQUEST

| | | | | | |
|----------------------|----|---|---|-------------------------|--|
| Fund : Water / Sewer | | Department : Sewer Treatment Plant | | Date : 6/7/22 | |
| Fund Number | 30 | Department Head : S. Miller - M. Martin | | Prepared By : S. Miller | |
| Category: | 5 | Maintenance of Existing Program : | X | Department Rank : | |
| Division Number: | 23 | New/Expanded Program Request : | | City Manager Rank : | |

Description:

New Bypass Pump Unit on trailer mounted carrier.

Justification:

Sewage treatment facility has encountered a serious operational failure in sludge pump room in basement. The existing pumps have become unreliable due to uncontrolled debris entering the plant and has reached a point where a high risk of sludge bypass to the adjacent stream bed is likely. A major bypass occurred in April and a minor bypass occurred in May. This proposed pump unit is to be configured to bypass return sludge decant at the head of the plant back to the carousel basin and allowing operators to shutdown the sludge pump room in the basement facility.

| Salaries and Benefits | | | Capital / Commodities / Services | | | | |
|-----------------------|----------------------|--------|-------------------------------------|-------------|-----|-----------|----------|
| JOB CLASSIFICATION | | Amount | Description | Obj. Code | No. | Unit Cost | Total |
| 101.00 | REGULAR PAY | | COMPUTER | | | | |
| 102.00 | OVERTIME PAY | | DESK | | | | |
| 107.00 | CAR ALLOWANCE | | VEHICLE | | | | |
| 110.00 | HOSPITAL INSURANCE | | CAPITAL OUTLAY - Projects | 401.00 | | | |
| 111.00 | MUNICIPAL RETIREMENT | | CAPITAL OUTLAY - VEHICLES AND EQUIP | 402.00 | | | \$49,900 |
| 112.00 | WORKER'S COMP INS | | | | | | |
| 113.00 | UNEMPLOYMENT INS | | | | | | |
| 114.00 | PAYROLL TAXES | | | | | | |
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| | | | | | | | |
| TOTAL | | \$0 | | | | | |
| | | | | GRAND TOTAL | | | \$49,900 |

City Council

City of Brady, Texas

Agenda Action Form

| | | | |
|-------------------------------|---|------------------------|--------|
| AGENDA DATE: | 6/7/22 | AGENDA ITEM | 7.G. |
| AGENDA SUBJECT: | Discussion, consideration and possible action approving BEDC Project 2022-001, Joe Sanchez. | | |
| PREPARED BY: | E. Corbell | Date Submitted: | 6/2/22 |
| EXHIBITS: | Performance agreement, promissory note | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$125,000.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: | | | |

| | |
|-----------------|--|
| SUMMARY: | <p>On May 5, 2022, the Brady Economic Development Corporation approved a proposal from Joe Sanchez to receive a loan to purchase commercial property at 803 San Angelo Highway. The property is located within the city's ETJ and the project will be subject to approval from the County Commissioners at their next meeting. BEDC can still fund the project with their authorization.</p> <p>BEDC approved a \$125,000 loan for a period of 15 years at 2% interest. Sanchez agrees to add a minimum of three full time employees by the end of the second year. If the employment agreement is met and maintained, the remainder of the loan will be forgiven at year ten. BEDC will have received \$79,107.89 in principal payments and \$17,418.41 in interest payments in that time.</p> <p>BEDC will be placed as a lien holder on the property at 803 San Angelo Highway.</p> |
|-----------------|--|

| | |
|----------------------------|---|
| RECOMMENDED ACTION: | Approve BEDC project 2022-001, Joe Sanchez, in the amount of \$125,000. |
|----------------------------|---|

PROMISSORY NOTE

Dated: _____, 20__

Brady Monument Works, LLC
803 San Angelo Hwy.
Brady, Texas 76825

Principal Amount \$125,000

BEDC Loan No.: 2022-001

1. **PROMISE TO PAY:** For value received, Brady Monument Works, LLC, a Texas Limited Liability Corporation, (the "Borrower"), promises to pay to the order of the Brady Type B Economic Development Corporation, (BEDC, the "Lender"), at Lender's place of business in Brady, McCulloch County, Texas, or such other place as the Lender may from time to time designate, the principal sum of One Hundred Twenty Five Thousand and No/100 Dollars (\$125,000), the unpaid principal amount, in lawful money of the United States of America, at the interest rate and at the time and in the manner specified herein.
2. **INTEREST RATE:** Two Percent (2.0%) per annum. All past-due amounts shall bear interest at Five Percent (5%) per annum beginning on the 11th day after the due date.
3. **PAYMENT SCHEDULE and FORGIVENESS:** Borrower shall begin payments on the 1st day of the month after the passage of thirty (30) days from closing on property purchase, in accordance with the schedule of Amounts as shown in Attachment 1 to this Exhibit A (Payment Schedule). Payment shall thereafter be due on the 1st of each month for a period of fifteen (15) years, and an additional late fee shall accrue at 5% per annum for any remaining late amounts, beginning on the eleventh (11th) day after the due date, if same is not paid by the tenth (10th) day. At the end of the fifteen-year period, all of the unearned outstanding balance shall be due at maturity and shall bear interest at the interest rate as stated herein. A portion of this Note shall be forgivable under the following circumstance, and only under the following circumstance:

If Brady Monument Works creates and retains three (3) new full time positions within two years of signing the Performance Agreement and a consistent effort has been made to keep the positions filled, as determined at the sole discretion of Lender for the duration of ten (10) years, and Borrower has been on schedule under all terms of this note, then if the Lender makes a formal determination that the Borrower has maintained its job creation and requirement terms pursuant to the Economic Development Performance Agreement between the Parties, then the remaining amount of principal and remaining interest shall be forgiven and considered a grant, and this Note and the terms hereunder shall terminate of their own accord and the Deed of Trust acting as security hereunder shall be released for all purposes.
4. **PURPOSE:** The purpose of this loan is to provide permanent financing to purchase Borrower's commercial facility located at 803 San Angelo Hwy., Brady, McCulloch

County, Texas.

5. **WAIVER:** The Borrower waives demand, presentment for payment, notice of non-payment, protest, notice of intent to accelerate, notice of acceleration, and other notice, filing of suit and diligence in collecting this note or enforcing any security given therefor, and agree to any substitution, exchange, release to the Borrower or third parties or impairment (including but not limited to failure to perfect any security interest) of any security now or hereafter given for this note or the release of any party primarily or secondarily liable hereon. Borrower and all other liable parties on this note further agree that it will not be necessary for the Lender or any holder hereof, in order to enforce payment of this note, to first institute or exhaust its remedies against any maker or other party liable therefor or to enforce its rights against any security for this note and hereby consent to all renewals, extensions, refinancing, accelerations, modifications of interest rate or changes in the time and manner of payment from time to time of this note, and to any other indulgence with respect hereto, without notice of any such renewals, extensions, refinancing, accelerations, modifications of interest rate or changes in the time and manner of payment or any other indulgence.
6. **EVENTS OF DEFAULT:** Subject to the notice and cure provisions as stated in Article VIII in the Economic Development Performance Agreement, if any of the following events of default shall occur, the outstanding balance due Lender according to the terms of this Note and other binding documents shall be due and payable on demand and Lender shall have no further obligation to Borrower under this Note:
 - a) Failure of Borrower to perform any term, covenant or agreement contained in this Note, Economic Development Performance Agreement, Deed of Trust, or in any related document(s);
 - b) The Lender and/or City of Brady determines that any representation or warranty contained herein or in any financial statement, certificate, report or opinion submitted to Lender in connection with or pursuant to the requirement of this Note was incorrect or misleading in any material respect when made;
 - c) Any judgment is assessed against Borrower or any attachment or other levy against the Facility of Borrower or the Facility located at 104 E. 8th St. Cisco, Texas, with respect to a claim remains unpaid, unstayed on appeal, undischarged, not bonded or not dismissed for a period of 30 days;
 - d) Borrower makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts generally as they become due; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; petitions or applies to any tribunal for any receiver or any trustee of Borrower or any substantial part of its property, commences any action relating to Borrower under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in

effect; or if there is commenced against Borrower any such action and such action remains undismissed or unanswered for a period of sixty (60) days from such filing; or Borrower by an act indicated its consent to or approval of any trustee of Borrower or any substantial part of its property; or suffers any such receivership or trustee to and such appointment remains unvacated for a period of sixty (60) days;

- e) Borrower knowingly grants, suffers or permits future liens on or security interests in Borrower's assets pledged to Lender, other than Lender, or fails to promptly pay all lawful claims, whether for labor, materials or otherwise which are not being contested by Borrower in good faith;
- f) Borrower substantially changes its present senior management or ownership without written notification to Lender thirty (30) days in advance of such changed; or
- g) Borrower changes the general character of business as conducted at the date hereof, or engages in any type of business not reasonably related to its business as presently and normally conducted.

- 7. **RIGHTS OF LENDER AFTER DEFAULT:** Following an event of default, and after exhausting the notice and cure provisions as stated in Article VIII of the Economic Development Performance Agreement, at the sole election of Lender, without any additional notice, demand or opportunity to cure the default, all of which the Borrower and all other liable parties waive, the Lender may elect to declare the principal sum and all interest on this note immediately due and payable and such principal sum and interest shall then become immediately due and payable, and the Lender may proceed to take possession and to foreclose upon any collateral in any lawful manner permitted by agreement between the parties, in the event of such acceleration, all other indebtedness and obligations owed by the Borrower to the Lender shall at the option of Lender also become at once due and payable. The failure to exercise any option shall not constitute a waiver of the right of the Lender to exercise the option upon the occurrence of any subsequent event of default.
- 8. **JOINT AND SEVERAL:** All the obligations of this note are the joint and several obligations of Borrower, and all other liable parties.
- 9. **COSTS OF COLLECTION AND ATTORNEY'S FEES:** If this note is placed in the hands of an attorney for collection or collected through lawsuit, bankruptcy, probate proceedings or any other judicial proceedings, Borrower agrees to pay in addition to all other sums due and payable hereunder costs of collection and a reasonable attorney's fees.
- 10. **APPLICATION OF PAYMENTS:** Lender shall apply any payment first to interest and then to principal.
- 11. **SECURITY:** Payment of this note is secured by the Borrower's property located at 803 San Angelo Hwy., Brady, Texas more fully described in the document(s) creating the

security interest or lien, which document(s) may be a security agreement, deed of trust and/or other collateral document(s). Collateral securing any other obligation or indebtedness of the Borrower or any other liable party to the Lender may also secure payment of this note.

LENDER:

Brady Type B Economic Development Corp.
201 E. Main
Brady, Texas 76825

By:

Erin Corbell
Executive Director

Attest:

Name
Title

Approved:

BEDC Attorney

BORROWER:

Brady Monument Works, LLC
803 San Angelo Hwy.
Brady, Texas 76825

By:

Name
Title

Attest:

Name
Title

**Attachment 1
to Exhibit A**

Payment Schedule

(to be created based upon date of execution)

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Performance Agreement (“Agreement”) is entered into to be effective as of the Effective Date (as defined in Article III below), by and between the Brady Type B Economic Development Corporation, located in McCulloch County, Texas (hereinafter called “BEDC”), a Texas non-profit economic development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act and Brady Monument Works, LLC (hereinafter called “BMW”, a Domestic Limited Liability Company, otherwise known as the “Parties” to this Agreement.

RECITALS

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq., Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires a performance agreement to provide at a minimum a capital investment to be made as consideration for any direct incentives provided or expenditures made by the BEDC under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, BMW desires to purchase a commercial location located at 803 San Angelo Highway, Brady, Texas 76825; and

WHEREAS, the commercial building is located in the city’s ETJ and the county’s governing body has approved the project; and

WHEREAS, the BEDC Boards of Directors finds that the purchase of such building, as proposed, is required or suitable for use to promote or develop new or expanded business enterprises that creates or retains primary jobs in accordance with Texas Local Government Code § 505.155; and

WHEREAS, such purchase will contribute to the economic development of the City of Brady by creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Brady, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy; and

WHEREAS, the BEDC desires to offer an incentive to BMW to enable BMW to purchase its commercial building located at 903 San Angelo Highway, Brady, Texas pursuant to this Agreement in substantial conformity with the Act; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms and obligations of the Parties with respect to such matters; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings, if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The BEDC's execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the BEDC. The BEDC acknowledges that BMW is acting in reliance upon the BEDC's performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project, hereinafter established.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by mutual agreement of the Parties, or in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between BMW and the BEDC for the granting funds to cover certain costs associated with the Project as defined in Article III of this Agreement, as well as to specifically state the covenants, representations of the Parties, and the incentives associated with BMW's commitment to abide by the provisions of the Act and to abide by the terms of this Agreement, which has been approved by the BEDC and BMW as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any

obligation by BMW may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the BEDC.

4. Administration of Agreement. Upon the Effective Date, the BEDC delegates the administration and oversight of this Agreement to the Executive Director of the BEDC, or its designee. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the BEDC.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

“Bankruptcy” shall mean the dissolution or termination of a Party’s existence as an ongoing business, insolvency, appointment of receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“Default”, unless otherwise specifically defined or limited by this Agreement, shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant.

“Effective Date” shall be the date of the last signing by a party to this Agreement.

“Expiration Date” shall mean the earlier of:

1. The 15th anniversary of the date upon which the BMW receives the funding under this Agreement; or
2. The date of termination provided for under Article VII of this Agreement.

“Facility” shall mean the building located at 803 San Angelo Hwy., Brady, Texas, 76825.

“Force Majeure” shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions or floods, strikes, slowdowns or work stoppages.

“Project” shall mean the purchase and business operations of a facility located at 803 San Angelo Hwy, Brady, Texas 76825.

ARTICLE IV BEDC OBLIGATION

1. Loan.

- (a) The BEDC shall enter into a loan agreement with BMW pursuant to the attached Promissory Note, as executed concurrently with this document and made a part hereof for all purposes. Such loan to be in the amount of \$125,000 at 2.0% interest per annum for a period of fifteen (15) years, with payment being due on the 1st of each month, and a 5% late fee being incurred after the 10th day of the month and other terms as identified in that Promissory Note, as shown in Exhibit A, hereto, and made a part hereof for all purposes.
- (b) A portion of this loan will be forgivable, as specified in the Promissory Note, if BMW complies with certain terms of this Performance Agreement

2. Current Revenue. The funds distributed hereunder shall be paid solely from lawfully available funds of the BEDC. Under no circumstances shall the obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

ARTICLE V PERFORMANCE OBLIGATIONS OF BMW

The obligation of the BEDC to pay funds under this Agreement shall be conditioned upon BMW's continued compliance with, and satisfaction of each of, the performance obligations set forth in this Agreement.

2. Loan.

- (a) BMW shall enter into a loan agreement with BEDC pursuant to the attached Promissory Note, as executed concurrently with this document and made a part hereof for all purposes. Such loan to be in the amount of \$125,000.00 at 2.0% interest for a period of fifteen (15) years, with payment being due on the 1st of each month, and a 5% late fee being incurred after the 10th day of the month and other terms as identified in that Promissory Note, as shown in Exhibit A, hereto, and made a part hereof for all purposes.
- (b) BMW further agrees that as part of the Loan in and through the Promissory Note, that BEDC shall be named as a co-insured on the Facility as defined in Article III.

3. Job Creation. BMW shall create three (3) full time positions within two (2) years of purchase of the facility.

4. Certified Payroll. BMW agrees that during the course of this agreement, it shall provide to BEDC a certified payroll on a quarterly basis in January, April, July and October of each year showing that the jobs as created in Section 4 above are retained or that there has been a consistent effort to keep these positions filled.

5. Continual Operation of the Project. Commencing upon the effective date of this agreement and continuing throughout the term of the Agreement, BMW shall remain in continual operation. Continual operation shall mean that the Facility is open for business to the public for a minimum of 24 hours per week during the term of this Agreement. Failure to be in continual operation during the term of this Agreement shall void the BEDC obligations under Article IV.1 of this Agreement. In addition, failure of BMW to remain in continual operation shall result in the have the obligation to repay any monies previously paid to BMW within thirty (30) days of the written demand by the BEDC and the repayment requirements shall survive the Agreement termination.

6. Payment of Legal Fees. BMW shall reimburse the BEDC for the reasonable and necessary legal fees in the preparation of any amendment to this Agreement requested by BMW. Timely payment shall be made within thirty (30) days of submittal of an invoice to BMW by the BEDC or its assigns. Each Party shall bear its own legal fees in connection with the negotiation of this Agreement.

ARTICLE VI COVENANTS AND DUTIES

1. BMW's Covenants and Duties. BMW makes the following covenants and warranties to the BEDC and agrees to timely and fully perform the obligations and duties contained in Articles V of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by BMW.

- (a) BMW is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas, with the Texas Comptroller of Public Accounts, and the United States of America during any term of this Agreement.
- (b) The individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in contravention of any law, rule, regulation, or of any agreement or instrument to which BMW is a party to or by which it may be bound.

- (c) BMW is not a party to any Bankruptcy proceedings currently pending or contemplated, and BMW has not been informed of any potential involuntary Bankruptcy proceedings.
- (d) To its current, actual knowledge, BMW has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City of Brady and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.
- (e) BMW shall timely and fully comply with all the terms and conditions of this Agreement.
- (f) BMW agrees to obtain, or cause to be obtained, all necessary permits and approvals from the City of Brady and/or all other governmental agencies having jurisdiction over the construction of any improvements to the Facility.
- (g) BMW shall cooperate with the BEDC in providing all necessary information to assist them in complying with this Agreement.
- (h) During the term of this Agreement, BMW agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), BMW shall be in Default (subject to the remedies in Article V above).
- (i) BMW shall not be in arrears and shall be current in the payment of all City and State taxes and fees.
- (j) BEDC has the right to periodically (and with reasonable advance notice) verify the terms and conditions of this Agreement.
- (k) Under Texas Law, the BEDC may not enter into a contract with a BMW for goods and services unless the contract contains a written verification from the BMW that it; (i) does not boycott Israel; and (ii) will not boycott Israel during the term of the contract. (Texas Government Code, Chapter 2270.002) by accepting this rider, ~~the~~ BMW hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as that term is defined in the Texas Government Code, Section 808.001, as amended. Further, the BMW hereby certifies that it is not a BMW identified under Texas Government Code, Section 2252.152 as a BMW engaged in business with Iran, Sudan, or Foreign Terrorist Organization.

2. BEDCs' Covenants and Duties. BEDC agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the BEDC.

3. Compliance and Default. Failure by BMW to timely comply with any performance requirement, duty, or covenant shall be considered an act of Default and shall give the BEDC the right to terminate this Agreement or void any of its relevant obligations under the Agreement.

ARTICLE VII TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by BMW (at the option of the BEDC);
- (d) Failure under the Promissory Note~~E~~ by the parties to those agreements "Integrated Parties" (at the option of the BEDC).

ARTICLE VIII DEFAULT & REMEDIES

1. BMW Events of Default.

(a) Failure of BMW to perform any term, covenant or agreement contained in Articles V and VI; or

(b) Any representation or warranty contained herein or in any financial statement, certificate, report or opinion submitted to BEDC in connection with or pursuant to the requirements of this Agreement was incorrect or misleading in any material respect when made; or

(c) Any judgment is assessed against BMW or the Integrated Parties, or any attachment or other levy against the property of BMW or the Integrated Parties with respect to a claim remains unpaid, unstayed on appeal, undischarged, not bonded or not dismissed for a period of sixty (60) days; or

(d) BMW or any of the Integrated Parties, makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts generally as they become due; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; petitions or applies to any tribunal for any receiver or any trustee of BMW or the Integrated Parties or any substantial part of its/their property, commences any action relating to BMW or the Integrated Parties under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or if there is commenced against BMW or the Integrated Parties any such action and such action remains undismissed or unanswered for a period of sixty (60) days from such filing, or BMW or the Integrated Parties by

any act indicates its consent to or approval of any trustee of BMW or the Integrated Parties or any substantial part of its property; or suffers any such receivership or trustee to and such appointment remains unvacated for a period of sixty (60) days; or

(e) BMW substantially changes its present ownership without written notification to BEDC within thirty (30) days of such change, provided however, BMW may cure such failure by providing the requisite written notification prior to BEDC exercising its right to terminate this Agreement; or

(f) BMW materially changes the general character of business from the type of business on the date hereof.

2. BEDC Events of Default.

(a) BEDC materially fails to fulfill an obligation set forth within Article IV.

3. Remedies for Default.

(a) For BEDC any remedy as provided for in this Agreement.

(b) BMW's sole remedy under this Agreement is specific performance for BEDC's default of its obligation under Section IV of this Agreement.

ARTICLE IX MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Executive Director of the BEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the BEDC, on behalf of the Parties related thereto.

2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. The BEDC represents and warrants to BMW that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction. BMW represents and warrants to the BEDC that it has the requisite authority to enter into this Agreement.

4. Assignment. BMW shall have the right to assign all of its rights, duties, and obligations under this Agreement to a duly qualified third party with prior written approval of the

BEDC, which approval shall not be unreasonably withheld, conditioned or delayed. Any assignment provided for herein shall not serve to enlarge or diminish the obligations and requirements of this Agreement, nor shall they relieve BMW of any liability to the BEDC, including any required indemnity in the event that any Assignee hereof shall at any time be in Default of the terms of this Agreement. The BEDC may demand and receive adequate assurance of performance including the deposit or provision of reasonable financial security by any proposed Assignee prior to its approval of an assignment.

5. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, BMW at no time will be acting as an agent of the BEDC and that all consultants or contractors engaged by BMW respectively will be independent contractors of BMW; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the BEDC will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by BMW respectively under this Agreement, unless any such claims are due to the fault of the BEDC.

(b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the BEDC with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of the BEDC, or any board member, or agent of the BEDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, or on the first business day after depositing the same in the hands of a reputable overnight courier (such as United States Postal Service, FedEx or UPS) and addressed to the Party at the address set forth below:

7.

If intended for BEDC:

Brady Type B Economic Development Corporation
201 E. Main
Brady, Texas 76825
Attn: Executive Director

With a copy to:

Denton, Navarro, Rocha, Bernal, & Zech PC
Attention: Charles E. Zech
2500 W. William Cannon
Austin, TX 78745

If to the BMW:

Brady Monument Works, LLC
Attn: Joe Sanchez
803 San Angelo Hwy
Brady, TX 76825

Any Party may designate a different address at any time upon written notice to the other Parties.

8. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

- (a) Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement (subject to the dispute resolution mechanisms of Article VIII above) shall be in the Courts of McCulloch County. The Parties agree to submit to the personal and subject matter jurisdiction of said court.
- (b) Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors of the BEDC and paid for by the BMW.

9. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the Board of Directors of the BEDC.

11. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

12. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

13. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

14. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

15. Indemnification.

BMW AGREES TO DEFEND, INDEMNIFY AND HOLD THE BEDC AND THE CITY OF BRADY ("CITY"), AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, JUDGMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO ANY OF THE FOLLOWING: ANY CLAIMS OR DEMANDS BY THE STATE OF TEXAS THAT THE BEDC HAS BEEN ERRONEOUSLY OR OVER-PAID SALES AND USE TAX FOR ANY PERIOD DURING THE TERM OF THIS AGREEMENT AS A RESULT OF THE FAILURE OF BMW TO MAINTAIN A PLACE OF BUSINESS AT THE PROPERTY OR IN THE CITY OF BRADY, OR AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY BMW UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE BEDC OR CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY, IT BEING THE INTENTION OF THE PARTIES THAT BMW SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY FUNDS PAID AND PROPERTY GRANTED TO BMW HEREIN THAT INCLUDES CITY SALES TAX RECEIPTS THAT THE STATE OF TEXAS HAS DETERMINED WAS ERRONEOUSLY PAID, DISTRIBUTED OR ALLOCATED TO THE BEDC.

16. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

17. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the BMW, the BMW shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

[SIGNATURE PAGE FOLLOWS]

Executed on this _____ day of _____, 20____.

BRADY MONUMENT WORKS, LLC

By: _____

Name:

Title:

STATE OF TEXAS }
COUNTY OF MCCULLOCH }

This information was acknowledged before me on this _____ day of _____,
_____, by _____ for the Brady Monument Works, LLC.

Notary Public, State of Texas

Notary's typed or printed name

My commission expires

Executed on this _____ day of _____, 20____.

**BRADY TYPE B ECONOMIC
DEVELOPMENT CORPORATION (BEDC)**

By: _____

Name: Erin Corbell

Title: Executive Director, Brady Type B EDC

STATE OF TEXAS }
COUNTY OF MCCULLOCH }

This information was acknowledged before me on this _____ day of _____, _____, by Erin Corbell for the Brady Type B Economic Development Corporation, a Texas non-profit economic development corporation on behalf of said corporation.

Notary Public, State of Texas

Notary's typed or printed name

My commission expires

Performance Agreement

Promissory Note

[SEE ATTACHED]

City Council

City of Brady, Texas

Agenda Action Form

| | | | |
|-------------------------------|--|------------------------|--------|
| AGENDA DATE: | 6/7/22 | AGENDA ITEM | 7.H. |
| AGENDA SUBJECT: | Discussion, consideration and possible action approving BEDC Project 2022-003, Sandy's Kitchen and Catering. | | |
| PREPARED BY: | E. Corbell | Date Submitted: | 6/2/22 |
| EXHIBITS: | Performance agreement, promissory note | | |
| BUDGETARY IMPACT: | Required Expenditure: | \$40,543.00 | |
| | Amount Budgeted: | \$00.00 | |
| | Appropriation Required: | \$00.00 | |
| CITY MANAGER APPROVAL: | | | |

| | |
|-----------------|--|
| SUMMARY: | <p>On May 5, 2022, the Brady Economic Development Corporation approved a proposal from Kelsey and Aaron Garcia of Sandy's Kitchen and Catering, requesting a total of \$40,543 for improvements to and equipment for their business. BEDC approved their request providing a grant of \$15,543 for interior and exterior improvements to their building and the purchase of certain commercial kitchen equipment and a loan in the amount of \$25,000 to purchase a truck to haul catering equipment and trailer, at 2% interest for five years.</p> <p>As part of the agreement, Sandy's Kitchen will hire two full time equivalent employees. BEDC will be the lien holder on the purchased truck.</p> |
|-----------------|--|

| | |
|----------------------------|---|
| RECOMMENDED ACTION: | Approve BEDC project 2022-003, Sandy's Kitchen and Catering, in the amount of \$40,543. |
|----------------------------|---|

Exhibit A
PROMISSORY NOTE

Dated: _____, 20____

Kelsey Larson
101 E 15th
Brady, TX 76825

Principal Amount \$25,000

BEDC Loan No.: 2022-003

1. **PROMISE TO PAY:** For value received, Kelsey Larson, d.b.a Sandy's Kitchen and Catering, a Texas Sole Proprietorship, (the "Borrower"), promises to pay to the order of the Brady Type B Economic Development Corporation, (BEDC, the "Lender"), at Lender's place of business in Brady, McCulloch County, Texas, or such other place as the Lender may from time to time designate, the principal sum of Twenty five thousand and no/100 (\$25,000), the unpaid principal amount, in lawful money of the United States of America, at the interest rate and at the time and in the manner specified herein.
2. **INTEREST RATE:** One Percent (2.0%) per annum. All past-due amounts shall bear interest at Five Percent (5%) per annum beginning on the 11th day after the due date.
3. **PAYMENT SCHEDULE:** Borrower shall begin payments on the 1st day of the month after the passage of sixty (60) days from the effective date of this Note, in accordance with the schedule of Amounts as shown in Attachment 1 to this Exhibit A (Payment Schedule). Payment shall thereafter be due on the 1st of each month for a period of five (5) years, and an additional late fee shall accrue at 5% per annum for any remaining late amounts, beginning on the eleventh (11th) day after the due date, if same is not paid by the eleventh (11th) day. At the end of the seven-year period, all of the unearned outstanding balance shall be due at maturity and shall bear interest at the interest rate as stated herein.
4. **PURPOSE:** The purpose of this loan is to provide financing to purchase a vehicle that will be used for business purposes for the Borrower to transport catering materials and a trailer.
5. **WAIVER:** The Borrower waives demand, presentment for payment, notice of non-payment, protest, notice of intent to accelerate, notice of acceleration, and other notice, filing of suit and diligence in collecting this note or enforcing any security given therefor, and agree to any substitution, exchange, release to the Borrower or third parties or impairment (including but not limited to failure to perfect any security interest) of any security now or hereafter given for this note or the release of any party primarily or secondarily liable hereon. Borrower and all other liable parties on this note further agree that it will not be necessary for the Lender or any holder hereof, in order to enforce payment of this note, to first institute or exhaust its remedies against any maker or other party liable therefor or to enforce its rights against any security for this note and hereby consent to all

renewals, extensions, refinancing, accelerations, modifications of interest rate or changes in the time and manner of payment from time to time of this note, and to any other indulgence with respect hereto, without notice of any such renewals, extensions, refinancing, accelerations, modifications of interest rate or changes in the time and manner of payment or any other indulgence.

6. **EVENTS OF DEFAULT:** Subject to the notice and cure provisions as stated in Article VIII in the Economic Development Performance Agreement, if any of the following events of default shall occur, the outstanding balance due Lender according to the terms of this Note and other binding documents shall be due and payable on demand and Lender shall have no further obligation to Borrower under this Note:

- a) Failure of Borrower to perform any term, covenant or agreement contained in this Note, Economic Development Performance Agreement, Deed of Trust, or in any related document(s);
- b) The Lender and/or City of Brady determines that any representation or warranty contained herein or in any financial statement, certificate, report or opinion submitted to Lender in connection with or pursuant to the requirement of this Note was incorrect or misleading in any material respect when made;
- c) Any judgment is assessed against Borrower or any attachment or other levy against the Facility of Borrower with respect to a claim remains unpaid, unstayed on appeal, undischarged, not bonded or not dismissed for a period of 30 days;
- d) Borrower makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts generally as they become due; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; petitions or applies to any tribunal for any receiver or any trustee of Borrower or any substantial part of its property, commences any action relating to Borrower under any reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or if there is commenced against Borrower any such action and such action remains undismissed or unanswered for a period of sixty (60) days from such filing; or Borrower by an act indicated its consent to or approval of any trustee of Borrower or any substantial part of its property; or suffers any such receivership or trustee to and such appointment remains unvacated for a period of sixty (60) days;
- e) Borrower knowingly grants, suffers or permits future liens on or security interests in Borrower's assets pledged to Lender, other than Lender, or fails to promptly pay all lawful claims, whether for labor, materials or otherwise which are not being contested by Borrower in good faith;

- f) Borrower substantially changes its present senior management or ownership without written notification to Lender thirty (30) days in advance of such changed; or
- g) Borrower changes the general character of business as conducted at the date hereof, or engages in any type of business not reasonably related to its business as presently and normally conducted.

- 7. **RIGHTS OF LENDER AFTER DEFAULT:** Following an event of default, and after exhausting the notice and cure provisions as stated in Article VIII of the Economic Development Performance Agreement, at the sole election of Lender, without any additional notice, demand or opportunity to cure the default, all of which the Borrower and all other liable parties waive, the Lender may elect to declare the principal sum and all interest on this note immediately due and payable and such principal sum and interest shall then become immediately due and payable, and the Lender may proceed to take possession and to foreclose upon any collateral in any lawful manner permitted by agreement between the parties, in the event of such acceleration, all other indebtedness and obligations owed by the Borrower to the Lender shall at the option of Lender also become at once due and payable. The failure to exercise any option shall not constitute a waiver of the right of the Lender to exercise the option upon the occurrence of any subsequent event of default.
- 8. **JOINT AND SEVERAL:** All the obligations of this note are the joint and several obligations of Borrower, and all other liable parties.
- 9. **COSTS OF COLLECTION AND ATTORNEY'S FEES:** If this note is placed in the hands of an attorney for collection or collected through lawsuit, bankruptcy, probate proceedings or any other judicial proceedings, Borrower agrees to pay in addition to all other sums due and payable hereunder costs of collection and a reasonable attorney's fees.
- 10. **APPLICATION OF PAYMENTS:** Lender shall apply any payment first to interest and then to principal.
- 11. **SECURITY:** Payment of this note is secured by the vehicle that the Borrower is to purchase more fully described in the document(s) creating the security interest or lien, which document(s) may be a security agreement, deed of trust and/or other collateral document(s). Collateral securing any other obligation or indebtedness of the Borrower or any other liable party to the Lender may also secure payment of this note.

LENDER:

Brady Type B Economic Development Corp.
201 E. Main
Brady, Texas 76825

By:

Erin Corbell
Executive Director

Attest:

Name
Title

Approved:

BEDC Attorney

BORROWER:

Kelsey Larson
101 E 15th
Brady, Texas 76825

By:

Name
Title

Attest:

Name
Title

**Attachment 1
to Exhibit A**

Payment Schedule

(to be created based upon date of execution)

ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT

This Performance Agreement (“Agreement”) is entered into to be effective as of the Effective Date (as defined in Article III below), by and between the Brady Type B Economic Development Corporation, located in McCulloch County, Texas (hereinafter called “BEDC”), a Texas non-profit economic development corporation under the Development Corporation Act and governed by TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act and Kelsey Larson, d.b.a. Sandy’s Kitchen and Catering, a Texas Sole Proprietorship (hereinafter called “SANDY’S”) otherwise known as the “Parties” to this Agreement.

RECITALS

WHEREAS, the Development Corporation Act of 1979, as amended (Section 501.001 et seq., Texas Local Government Code, formerly the Development Corporation Act of 1979) (the “Act”) authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make an expenditure on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires a performance agreement to provide at a minimum a capital investment to be made as consideration for any direct incentives provided or expenditures made by the BEDC under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, SANDY’S desires to purchase commercial grade kitchen equipment, a pickup truck and perform some building improvements to their restaurant located at 101 E. 15th, Brady, Texas 76825; and

WHEREAS, the BEDC Boards of Directors finds that the purchase of such building, as proposed, is required or suitable for use to promote or develop new or expanded business enterprises that creates or retains primary jobs in accordance with Texas Local Government Code § 505.155; and

WHEREAS, such purchase will contribute to the economic development of the City of Brady by creating new jobs and increased employment, promoting and developing expanded business enterprises, increased development, increased real property value and tax revenue for the City of Brady, and will have both a direct and indirect positive overall improvement/stimulus in the local and state economy; and

WHEREAS, the BEDC desires to offer an incentive to SANDY’S to enable SANDY’S to purchase commercial grade kitchen equipment, a pickup truck and perform some building improvements to their restaurant located at 101 E. 15th, Brady, Texas pursuant to this Agreement in substantial conformity with the Act; and

WHEREAS, the Parties are executing and entering into this Agreement to set forth certain terms

and obligations of the Parties with respect to such matters; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings, if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, the Parties agree as follows:

ARTICLE I RECITALS

1. Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

ARTICLE II AUTHORITY AND TERM

1. Authority. The BEDC's execution of this Agreement is authorized by the Act and constitutes a valid and binding obligation of the BEDC. The BEDC acknowledges that SANDY'S is acting in reliance upon the BEDC's performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Project, hereinafter established.

2. Term. This Agreement shall become enforceable upon the Effective Date, hereinafter established, and shall continue until the Expiration Date, hereinafter established, unless terminated sooner or extended by mutual agreement of the Parties, or in the manner provided for herein.

3. Purpose. The purpose of this Agreement is to formalize the agreements between SANDY'S and the BEDC for the granting funds to cover certain costs associated with the Project as defined in Article III of this Agreement, as well as to specifically state the covenants, representations of the Parties, and the incentives associated with SANDY'S commitment to abide by the provisions of the Act and to abide by the terms of this Agreement, which has been approved by the BEDC and SANDY'S as complying with the specific requirements of the Act. It is expressly agreed that this Agreement constitutes a single transaction. A failure to perform any obligation by

SANDY'S may constitute a breach of the entire Agreement and terminate any further commitments (if any) by the BEDC.

4. Administration of Agreement. Upon the Effective Date, the BEDC delegates the administration and oversight of this Agreement to the Executive Director of the BEDC, or its designee. Any proposed amendments to the Agreement shall require the approval of the Board of Directors of the BEDC.

ARTICLE III DEFINITIONS

As used in this Agreement, the following terms shall have the meanings ascribed below. All undefined terms shall retain their usual and customary meaning as ascribed by common and ordinary usage.

"Bankruptcy" shall mean the dissolution or termination of a Party's existence as an ongoing business, insolvency, appointment of receiver for any part of such Party's property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against such party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

"Default", unless otherwise specifically defined or limited by this Agreement, shall mean failure by any Party to timely and substantially comply with any performance requirement, duty, or covenant.

"Effective Date" shall be the date of the last signing by a party to this Agreement.

"Expiration Date" shall mean the earlier of:

1. The 5th anniversary of the date upon which the SANDY'S receives the funding under this Agreement; or
2. The date of termination provided for under Article VII of this Agreement.

"Facility" shall mean the building located at 101 E. 15th, Brady, Texas, 76825.

"Force Majeure" shall mean any contingency or cause beyond the reasonable control of a party, including, without limitation, acts of God or the public enemy, war riot, civil commotion, insurrection, government or de facto governmental action (unless caused by the intentionally wrongful acts or omissions of a party), fires, explosions or floods, strikes, slowdowns or work stoppages.

"Project" shall mean the purchase of commercial grade kitchen equipment, a pickup truck and performance of some building improvements to their restaurant located at 101 E. 15th, Brady, Texas 76825.

ARTICLE IV BEDC OBLIGATION

1. Loan.

- (a) The BEDC shall enter into a loan agreement with SANDY'S for the purchase of a pickup truck pursuant to the attached Promissory Note, as executed concurrently with this document and made a part hereof for all purposes. Such loan to be in the amount of \$25,000 at 2.0% interest per annum for a period of five (5) years, with payment being due on the 1st of each month, and a 5% late fee being incurred after the 10th day of the month and other terms as identified in that Promissory Note, as shown in Exhibit A, hereto, and made a part hereof for all purposes.

2. Grant.

- (a) The BEDC shall grant SANDY'S funds in the amount of \$15,543 for the purchase of commercial grade kitchen equipment and for improvements to SANDY'S building located at 101 E. 15th.

3. Current Revenue. The funds distributed hereunder shall be paid solely from lawfully available funds of the BEDC. Under no circumstances shall the obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. None of the obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

ARTICLE V PERFORMANCE OBLIGATIONS OF SANDY'S

The obligation of the BEDC to pay funds under this Agreement shall be conditioned upon SANDY'S's continued compliance with, and satisfaction of each of, the performance obligations set forth in this Agreement.

2. Loan.

- (a) SANDY'S shall enter into a loan agreement with BEDC pursuant to the attached Promissory Note, as executed concurrently with this document and made a part hereof for all purposes. Such loan to be in the amount of \$25,000.00 at 2.0% interest for a period of five (5) years, with payment being due on the 1st of each month, and a 5% late fee being incurred after the 10th day of the month and other terms as identified in that Promissory Note, as shown in Exhibit A, hereto, and made a part hereof for all purposes.
- (b) SANDY'S further agrees that as part of the Loan in and through the Promissory Note, that BEDC shall be named as a co-insured on the Vehicle as defined in Article III.

3. Job Creation. SANDY'S shall create the equivalent of two (2) full time positions within one (1) years of the execution of this document.

4. Certified Payroll. SANDY'S agrees that during the course of this agreement, it shall provide to BEDC a certified payroll on a quarterly basis in January, April, July and October of each year showing that the jobs as created in Section 4 above are retained or that there has been a consistent effort to keep these positions filled.

5. Continual Operation of the Project. Commencing upon the effective date of this agreement and continuing throughout the term of the Agreement, SANDY'S shall remain in continual operation. Continual operation shall mean that the Facility is open for business to the public for a minimum of 24 hours per week during the term of this Agreement. Failure to be in continual operation during the term of this Agreement shall void the BEDC obligations under Article IV.1 of this Agreement. In addition, failure of SANDY'S to remain in continual operation shall result in the have the obligation to repay any monies previously paid to SANDY'S within thirty (30) days of the written demand by the BEDC and the repayment requirements shall survive the Agreement termination.

6. Payment of Legal Fees. SANDY'S shall reimburse the BEDC for the reasonable and necessary legal fees in the preparation of any amendment to this Agreement requested by SANDY'S. Timely payment shall be made within thirty (30) days of submittal of an invoice to SANDY'S by the BEDC or its assigns. Each Party shall bear its own legal fees in connection with the negotiation of this Agreement.

ARTICLE VI COVENANTS AND DUTIES

1. SANDY'S's Covenants and Duties. SANDY'S makes the following covenants and warranties to the BEDC and agrees to timely and fully perform the obligations and duties contained in Articles V of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by SANDY'S.

- (a) SANDY'S is authorized to do business and is in good standing in the State of Texas and shall remain in good standing in the State of Texas, with the Texas Comptroller of Public Accounts, and the United States of America during any term of this Agreement.
- (b) The individual signing this Agreement is empowered to execute such Agreement and bind the entity. Said authorization, signing, and binding effect is not in

contravention of any law, rule, regulation, or of any agreement or instrument to which SANDY'S is a party to or by which it may be bound.

- (c) SANDY'S is not a party to any Bankruptcy proceedings currently pending or contemplated, and SANDY'S has not been informed of any potential involuntary Bankruptcy proceedings.
- (d) To its current, actual knowledge, SANDY'S has acquired and maintained all necessary rights, licenses, permits, and authority to carry on its business in the City of Brady and will continue to use its best efforts to maintain all necessary rights, licenses, permits, and authority.
- (e) SANDY'S shall timely and fully comply with all the terms and conditions of this Agreement.
- (f) SANDY'S agrees to obtain, or cause to be obtained, all necessary permits and approvals from the City of Brady and/or all other governmental agencies having jurisdiction over the construction of any improvements to the Facility.
- (g) SANDY'S shall cooperate with the BEDC in providing all necessary information to assist them in complying with this Agreement.
- (h) During the term of this Agreement, SANDY'S agrees to not knowingly employ any undocumented workers as part of the Project, and, if convicted of a violation under 8 U.S.C. Section 1324a(1), SANDY'S shall be in Default (subject to the remedies in Article V above).
- (i) SANDY'S shall not be in arrears and shall be current in the payment of all City and State taxes and fees.
- (j) BEDC has the right to periodically (and with reasonable advance notice) verify the terms and conditions of this Agreement.
- (k) Under Texas Law, the BEDC may not enter into a contract with a SANDY'S for goods and services unless the contract contains a written verification from the SANDY'S that it; (i) does not boycott Israel; and (ii) will not boycott Israel during the term of the contract. (Texas Government Code, Chapter 2270.002) by accepting this rider, ~~the~~ SANDY'S hereby verifies that it does not boycott Israel, and agrees that, during the term of this agreement, will not boycott Israel as that term is defined in the Texas Government Code, Section 808.001, as amended. Further, the SANDY'S hereby certifies that it is not a SANDY'S identified under Texas Government Code, Section 2252.152 as a SANDY'S engaged in business with Iran, Sudan, or Foreign Terrorist Organization.

2. BEDCs' Covenants and Duties. BEDC agrees to timely and fully perform the obligations and duties contained in Article IV of this Agreement. Any false or substantially misleading statements contained herein or failure to timely and fully perform those obligations and duties within this Agreement shall be an act of Default by the BEDC.

3. Compliance and Default. Failure by SANDY'S to timely comply with any performance requirement, duty, or covenant shall be considered an act of Default and shall give the BEDC the right to terminate this Agreement or void any of its relevant obligations under the Agreement.

ARTICLE VII TERMINATION

1. Termination. This Agreement shall terminate upon the earliest occurrence of any one or more of the following:

- (a) The written agreement of the Parties;
- (b) The Agreement's Expiration Date;
- (c) Default by SANDY'S (at the option of the BEDC);
- (d) Failure under the Promissory Note~~E~~ by the parties to those agreements "Integrated Parties" (at the option of the BEDC).

ARTICLE VIII DEFAULT & REMEDIES

1. SANDY'S Events of Default.

(a) Failure of SANDY'S to perform any term, covenant or agreement contained in Articles V and VI; or

(b) Any representation or warranty contained herein or in any financial statement, certificate, report or opinion submitted to BEDC in connection with or pursuant to the requirements of this Agreement was incorrect or misleading in any material respect when made; or

(c) Any judgment is assessed against SANDY'S or the Integrated Parties, or any attachment or other levy against the property of SANDY'S or the Integrated Parties with respect to a claim remains unpaid, unstayed on appeal, undischarged, not bonded or not dismissed for a period of sixty (60) days; or

(d) SANDY'S or any of the Integrated Parties, makes an assignment for the benefit of creditors; admits in writing its inability to pay its debts generally as they become due; files a petition in bankruptcy; is adjudicated insolvent or bankrupt; petitions or applies to any tribunal for any receiver or any trustee of SANDY'S or the Integrated Parties or any substantial part of its/their property, commences any action relating to SANDY'S or the Integrated Parties under any reorganization, arrangement, readjustment

of debt, dissolution or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or if there is commenced against SANDY'S or the Integrated Parties any such action and such action remains undismissed or unanswered for a period of sixty (60) days from such filing, or SANDY'S or the Integrated Parties by any act indicates its consent to or approval of any trustee of SANDY'S or the Integrated Parties or any substantial part of its property; or suffers any such receivership or trustee to and such appointment remains unvacated for a period of sixty (60) days; or

(e) SANDY'S substantially changes its present ownership without written notification to BEDC within thirty (30) days of such change, provided however, SANDY'S may cure such failure by providing the requisite written notification prior to BEDC exercising its right to terminate this Agreement; or

(f) SANDY'S materially changes the general character of business from the type of business on the date hereof.

2. BEDC Events of Default.

(a) BEDC materially fails to fulfill an obligation set forth within Article IV.

3. Remedies for Default.

(a) For BEDC any remedy as provided for in this Agreement.

(b) SANDY'S's sole remedy under this Agreement is specific performance for BEDC's default of its obligation under Section IV of this Agreement.

ARTICLE IX MISCELLANEOUS

1. Binding Agreement. The terms and conditions of this Agreement shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. The Executive Director of the BEDC shall be responsible for the administration of this Agreement and shall have the authority to execute any instruments, duly approved by the BEDC, on behalf of the Parties related thereto.

2. Mutual Assistance. The Parties will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

3. Representations and Warranties. The BEDC represents and warrants to SANDY'S that this Agreement is within their authority, and that they are duly authorized and empowered to enter into this Agreement, unless otherwise ordered by a court of competent jurisdiction.

SANDY'S represents and warrants to the BEDC that it has the requisite authority to enter into this Agreement.

4. Assignment. SANDY'S shall have the right to assign all of its rights, duties, and obligations under this Agreement to a duly qualified third party with prior written approval of the BEDC, which approval shall not be unreasonably withheld, conditioned or delayed. Any assignment provided for herein shall not serve to enlarge or diminish the obligations and requirements of this Agreement, nor shall they relieve SANDY'S of any liability to the BEDC, including any required indemnity in the event that any Assignee hereof shall at any time be in Default of the terms of this Agreement. The BEDC may demand and receive adequate assurance of performance including the deposit or provision of reasonable financial security by any proposed Assignee prior to its approval of an assignment.

5. Independent Contractors.

(a) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, SANDY'S at no time will be acting as an agent of the BEDC and that all consultants or contractors engaged by SANDY'S respectively will be independent contractors of SANDY'S; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the BEDC will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by SANDY'S respectively under this Agreement, unless any such claims are due to the fault of the BEDC.

(b) By entering into this Agreement, except as specifically set forth herein, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the BEDC with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.

(c) No employee of the BEDC, or any board member, or agent of the BEDC, shall be personally responsible for any liability arising under or growing out of this Agreement.

6. Notice. Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, or on the first business day after depositing the same in the hands of a reputable overnight courier (such as United States Postal Service, FedEx or UPS) and addressed to the Party at the address set forth below:

7.

If intended for BEDC:

Brady Type B Economic Development Corporation
201 E. Main
Brady, Texas 76825
Attn: Executive Director

With a copy to:

Denton, Navarro, Rocha, Bernal, & Zech PC
Attention: Charles E. Zech
2500 W. William Cannon
Austin, TX 78745

If to the SANDY'S:

Kelsey Larson, d.b.a. Sandy's Kitchen and Catering, a
Texas Sole Proprietorship
Attn: Kelsey Larson
101 E. 15th
Brady, TX 76825

Any Party may designate a different address at any time upon written notice to the other Parties.

8. Governmental Records. All invoices, records and other documents required for submission to the City pursuant to the terms of this Agreement are Governmental Records for the purposes of Texas Penal Code Section 37.10.

- (a) Governing Law. The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement (subject to the dispute resolution mechanisms of Article VIII above) shall be in the Courts of McCulloch County. The Parties agree to submit to the personal and subject matter jurisdiction of said court.
- (b) Amendment. This Agreement may be amended by mutual written agreement of the Parties, as approved by the Board of Directors of the BEDC and paid for by the SANDY'S.

9. Legal Construction. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.

Each of the Parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. Regardless of which Party prepared the initial draft of this Agreement, this Agreement shall, in the event of any dispute, whatever its meaning or application, be interpreted fairly and reasonably and neither more strongly for or against any Party.

10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the Board of Directors of the BEDC.

11. Paragraph Headings. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.

12. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

13. Exhibits. Any Exhibits attached hereto are incorporated by reference for all purposes.

14. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

15. Indemnification.

SANDY'S AGREES TO DEFEND, INDEMNIFY AND HOLD THE BEDC AND THE CITY OF BRADY ("CITY"), AND THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES, HARMLESS FROM AND AGAINST ANY AND ALL REASONABLE LIABILITIES, DAMAGES, CLAIMS, LAWSUITS, JUDGMENTS, ATTORNEY FEES, COSTS, EXPENSES AND ANY CAUSE OF ACTION THAT DIRECTLY RELATES TO ANY OF THE FOLLOWING: ANY CLAIMS OR DEMANDS BY THE STATE OF TEXAS THAT THE BEDC HAS BEEN ERRONEOUSLY OR OVER-PAID SALES AND USE TAX FOR ANY PERIOD DURING THE TERM OF THIS AGREEMENT AS A RESULT OF THE FAILURE OF SANDY'S TO MAINTAIN A PLACE OF BUSINESS AT THE PROPERTY OR IN THE CITY OF BRADY, OR AS A RESULT OF ANY ACT OR OMISSION OR BREACH OR NON-PERFORMANCE BY SANDY'S UNDER THIS AGREEMENT EXCEPT THAT THE INDEMNITY PROVIDED HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE ACTION OR OMISSIONS OF THE BEDC OR CITY. THE PROVISIONS OF THIS SECTION ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY, IT BEING THE INTENTION OF THE PARTIES THAT SANDY'S SHALL BE RESPONSIBLE FOR THE REPAYMENT OF ANY FUNDS PAID AND PROPERTY GRANTED TO SANDY'S HEREIN THAT INCLUDES CITY SALES TAX RECEIPTS THAT THE STATE OF TEXAS HAS DETERMINED WAS ERRONEOUSLY PAID, DISTRIBUTED OR ALLOCATED TO THE BEDC.

16. Additional Instruments. The Parties agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

17. Force Majeure. Whenever a period of time is herein prescribed for action to be taken by the SANDY'S, the SANDY'S shall not be liable or responsible for, and there shall be excluded from the computation of any such period of time, any delays due to causes of any kind whatsoever which are caused by Force Majeure.

[SIGNATURE PAGE FOLLOWS]

Executed on this _____ day of _____, 20____.

**KELSEY LARSON, D.B.A. SANDY'S
KITCHEN AND CATERING, A TEXAS SOLE
PROPRIETORSHIP**

By: _____

Name:

Title:

STATE OF TEXAS }
COUNTY OF MCCULLOCH }

This information was acknowledged before me on this _____ day of _____, _____,
by _____ for the Kelsey Larson, d.b.a. Sandy's Kitchen and
Catering, a Texas Sole Proprietorship.

Notary Public, State of Texas

Notary's typed or printed name

My commission expires

Executed on this _____ day of _____, 20____.

**BRADY TYPE B ECONOMIC
DEVELOPMENT CORPORATION (BEDC)**

By: _____

Name: Erin Corbell

Title: Executive Director, Brady Type B EDC

STATE OF TEXAS }
COUNTY OF MCCULLOCH }

This information was acknowledged before me on this _____ day of _____, _____, by Erin Corbell for the Brady Type B Economic Development Corporation, a Texas non-profit economic development corporation on behalf of said corporation.

Notary Public, State of Texas

Notary's typed or printed name

My commission expires

Performance Agreement

Promissory Note

[SEE ATTACHED]