

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> May 26, 2015		<b>DATE SUBMITTED:</b> May 19, 2015	
<b>DEPARTMENT OF ORIGIN:</b> CMO		<b>SUBMITTED BY:</b> Joey Dunn	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of correction to a resolution establishing a program providing for the placement of private donor engraved recognition bricks in designated areas of the public rights-of-way in Downtown Bryan, and finding that the Downtown Bryan Association (DBA) and its "Save the Queen" historic renovation project satisfy the requirements of the program.			
<b>SUMMARY STATEMENT:</b> On May 12, 2015, City Council approved a program providing for the placement of private donor engraved bricks in public rights-of-way, and granted approval for DBA to conduct their Queen Theatre brick paver fundraiser along the sidewalk directly in front of the Queen, as well as the center median within Main Street from 26 <sup>th</sup> Street to 27 <sup>th</sup> Street in Downtown Bryan.			
This item is submitted to modify and correct language within the approved program, clarifying that, as discussed at the May 12 meeting, only "individual" donors' names are allowed to be shown on engraved bricks.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> Staff recommends approval of the modified language in the attached Program, attached as Exhibit "A". Approval of the corrected program language will allow DBA to execute an agreement consenting to the terms of the program, and will allow the Queen Theatre paver fundraising program to get underway.			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. Approve resolution with corrected language</li> <li>2. Modify and then approve the resolution, which may require consideration at a future City Council meeting</li> <li>3. Do not approve corrections</li> </ol>			
<b>ATTACHMENTS:</b>			
<ol style="list-style-type: none"> <li>1. Proposed resolution, including corrected Exhibit "A": Program for the Placement of Private Donor Recognition Bricks in Public Right-of-Way for Non-Profit Historic Renovation Projects.</li> </ol>			
<b>FUNDING SOURCE:</b> Costs associated with the program will be paid for by the DBA.			
<b>APPROVALS:</b> Hugh R. Walker, 05/20/2015			
<b>APPROVED FOR SUBMITTAL: CITY MANAGER</b>			
<b>APPROVED FOR SUBMITTAL: CITY ATTORNEY</b>			

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE BRYAN CITY COUNCIL AMENDING RESOLUTION NO. 3609 ESTABLISHING A PROGRAM PROVIDING FOR THE PLACEMENT OF ENGRAVED PRIVATE DONOR RECOGNITION BRICKS AT THE DIRECTION OF THE CITY IN DESIGNATED AREAS OF THE PUBLIC RIGHTS-OF-WAY AND ON PUBLIC PROPERTY IN DOWNTOWN BRYAN AND IN OTHER SIMILARLY SITUATED AREAS OF THE CITY, IN ORDER TO CORRECT A SCRIVENER'S ERROR; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council established, by Resolution No. 3609 passed on May 12, 2015, a program allowing brick pavers to be placed in the public right-of-way in certain instances as a public benefit to the City in order to encourage and promote the revitalization of Historic Downtown Bryan and the preservation of historically significant buildings in downtown, and in other similarly situated areas of the City, by recognizing the historic renovation projects of qualifying non-profit organizations and the donors of the projects through the placement of engraved private donor recognition bricks, in designated areas of the public rights-of-way and on public property, as directed by the City; and

**WHEREAS**, after the passage of the resolution establishing the program, a scrivener's error was found in the approved program, attached to the resolution as Exhibit "A", which did not reflect the discussion or agreed action of the City Council; and

**WHEREAS**, the City Council wishes to ensure that the program moves forward as intended.

**NOW THEREFORE, BE IT RESOLVED** by the City of Bryan City Council that:

1. Exhibit "A" of Resolution No. 3609 shall be replaced by the corrected Exhibit "A," attached.
2. This resolution shall become effective immediately upon adoption.

Approved and adopted this 26<sup>th</sup> day of May, 2015.

**ATTEST:**

**CITY OF BRYAN:**

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

\_\_\_\_\_  
Jason P. Bienski, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Janis K. Hampton, City Attorney

## EXHIBIT "A"

### **Program For The Placement of Private Donor Recognition Bricks In Public Rights-of –Way and on Public Property for Qualifying Historic Renovation Projects By Non-Profit Organizations.**

#### **Qualifying Entities.**

1. Only non-profit organizations that serve a civic purpose are eligible to participate in the Program.
2. The building to be renovated must have historical significance either from an architectural point of view or a historical use or event that would tend to attract tourists to the building's location.
3. The building must be located in either the (DT-N) Downtown North or (DT-S) Downtown South zoning districts, and may be allowed in all other zoning districts where a legally non-conforming building of great historic significance to the city, as determined by the City Council, is constructed on the property line immediately adjacent to the public right-of-way.
4. The non-profit organization must offer the donor recognition bricks pursuant to a fundraising campaign open to the public for the purpose of raising funds for the renovation of a building owned by the non-profit organization and that is determined by the City Council to be of great historic significance to the City of Bryan.
5. The placement of private donor recognition bricks in the public rights-of-way and on private property shall be allowed only at the direction of the City.

#### **Program Guidelines and Procedures.**

Approved qualifying non-profit organizations wishing to participate in the program must sign an agreement consenting to and agreeing to comply with the following terms of the program:

1. The non-profit organization will be responsible for 100% of the costs of the bricks and would be allowed to engrave the bricks with (i) the name of the historic building which is the subject of the preservation project and may include the historic building's logo or (ii) the name of the fundraising event for the preservation project (subject to approval by the City), and (iii) the name of an individual who is a donor to the fundraising campaign or in whose name a donation is made to the fundraising campaign. No business, corporation partnership, organization, company or association names.
2. No advertising or promotion of a commercial business, or other statements or sentiments will be allowed.
3. The City will administer the program and shall approve the types of bricks, the vendor, the number of bricks, color, size, the allowable design, engraving dimensions for the bricks and shall ensure the content is limited to only: the name and/or logo of the historic building which is the subject of the preservation project; the name of a fundraising event for the preservation project (if

approved by the City); and names of individuals. Bricks must be appropriate to Downtown motif. The non-profit agency shall be responsible for purchasing the bricks from the approved vendor and supplying the bricks to the City, and removing existing bricks and installing the new donor recognition bricks.

4. The non-profit organization shall submit a written request to the Planning Department identifying the building and its historic significance, along with a description or diagram of the proposed location for brick placement and whether there are currently bricks installed at that location, the proposed number of donor recognition bricks to be installed, color, vendor, engraving dimensions and proposed layout.
5. City Council approval of the applicant's proposal is required for the project to be included in the Program. The number of bricks to be installed and location where the bricks will be installed must be approved by the City Council by resolution. The City shall direct the placement of the bricks, or may determine no appropriate location is available, at its sole discretion.
6. The non-profit organization will be responsible for the removal of existing bricks and the installation of the donor recognition bricks. If the non-profit organization intends to perform any of the work itself, it will be required to maintain general liability insurance in an amount of \$500,000 per incident. The City shall be named as an additional insured on the policy. If work is performed on the sidewalks within the public rights-of-way, all abutting property owners within the stretch of sidewalk affected shall also be named as additional insureds. If the non-profit organization contracts the work, the contractor must satisfy the same insurance requirements and must provide proof of insurance coverage to the city. Any contractor retained by the non-profit organization to perform work on public property or in the public rights-of-way must be approved by the city manager.
7. The City of Bryan may remove the donor recognition bricks at any time and for any reason, and shall not be responsible for reimbursing the nonprofit organization or the donor for the cost of the engraved bricks. The bricks become the property of the City once the bricks are installed. Brick location is not guaranteed.
8. The non-profit organization is required to notify all potential donors that brick location is not guaranteed, if the city planning vision or infrastructure needs dictate removal. All potential donors must be notified in writing by the non-profit organization, that the City, at any time and for any reason may remove the donor bricks. The City may relocate the donor bricks, but shall not be required to do so, and in the event the donor's brick is removed by the City, the donor shall not be entitled to a reimbursement of its donation or a reimbursement of the cost of the engraved brick.
9. The City may replace any damaged or missing bricks with an ordinary brick. The cost of an engraved replacement brick will be the sole expense of the non-profit organization.

10. The non-profit organization will be solely responsible for the engraving and the correct spelling of the names on the bricks.
11. The non-profit organization shall acknowledge full responsibility for any liabilities arising from its use of the public rights-of-way and public property and shall execute a release, indemnification and hold harmless agreement in favor of the City, its officials, officers, in the form attached hereto as Exhibit "B".
12. All proceeds received by the non-profit organization from the offer of the donor recognition bricks shall be used solely for the historic renovation project, to include the design, engineering costs, materials, labor and other costs of the construction of the renovation project.
13. The placement of the bricks in the public rights-of way and on public property must comply with all federal and state regulations. No donor recognition bricks may be placed within a Texas Department of Transportation (TxDOT) right-of-way unless express permission is obtained from that authority.
14. The non-profit organization agrees to allow the City's internal auditor access to the non-profit organization's books and records upon reasonable notice during ordinary business hours to determine whether all proceeds received from the offer of the donor recognition bricks have gone to the renovation of the historic building or structure, as required by the terms of the program.
15. The program is subject to termination by the City at any time and for any reason.