

CITY OF BROWNWOOD

RISK ASSESSMENT REPORT

JANUARY 2014

Prepared by:

Director of Finance

Submitted to:

City of Brownwood Audit Committee
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Brownwood City Council
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Preface

The following Risk Assessment Report has been prepared by the Director of Finance for the City of Brownwood, with input from the City Manager, and selected Directors and Supervisors across the City. Its purpose is to document an administrative understanding of the risks residing within the City in the course of performing its functions.

Risk, for purposes of this analysis, is defined as potential adverse occurrences that could create a substantial loss for the City. These include, but are not limited to injuries to employees or others, civil violations, criminal violations, losses or damage to property, catastrophic events such as flooding or tornadoes, etc.

A separate category of risk included in this analysis is that of fraud risk. A separate fraud risk assessment was performed in 2006 and followed up in 2007. This analysis will update that report and include it in the overall assessment of risk.

An analysis of the areas of risk faced by the City is necessary so that we may have an understanding of potential problem areas, the steps currently in place to eliminate or mitigate those risks and, when necessary, the measures available to fund losses.

This analysis will address the potential areas of risk, how likely they are to occur, the ranges of potential losses, the steps in place to deal with those risks and what other steps the City should be taking to further reduce risks. This analysis is intended to review only those risks that involve substantial losses and will not address those issues that have a low probability of occurrence.

RISK ANALYSIS

PUBLIC WORKS

Includes the following departments: Street, Water, Wastewater Collection, Wastewater Treatment, Sanitation, Landfill, Development Services

Identified Risks:

- A. Employee injuries – includes vehicular accidents, confined space accidents, harmful gases, drowning, infections, falling, being hit by debris or other objects, negligence by other employees, equipment failure, explosions.
- B. Injuries to others - includes vehicular accidents, confined space accidents, harmful gases, drowning, infections, falling, being hit by debris or other objects, negligence by employees, equipment failure, explosions.
- C. Equipment losses – includes accidents, parts failures, negligence.
- D. Regulatory failures – includes non-compliance with regulatory body requirements, including the Texas Commission on Environmental Quality. This is primarily in the operations of the Wastewater Treatment Plant, Landfill, Drinking Water delivery and Wastewater Collection system.
- E. Failure to accomplish mission – includes consequences of failure to deliver clean drinking water to our customers, failure to collect and process wastewater, failure to properly maintain streets, etc.

Likelihood of Occurrence:

The probability of occurrence of injuries is small on a per person, day to day basis. However, over the course of a year with the number of employees and others involved in the day to day operations of Public Works, the likelihood of an injury event at some point is highly likely.

Equipment losses has the same likelihood.

Regulatory failures and the failure to accomplish the mission have very low probabilities of significant risk. It is not unusual to have minor violations during a regulatory inspection, but the City has rarely (if ever) had significant findings that involve substantial losses.

Mitigation of Risks:

Training – includes monthly safety meetings by City staff, tailgate meetings as necessary, professional safety and operational training from outside trade organizations and universities, along with the Texas Municipal League.

Equipment replacement – maintain a realistic replacement schedule for vehicles and equipment. Maintain an adequate maintenance schedule.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

PUBLIC SAFETY

Includes Police, Fire, Fire Marshal, Emergency Management, Municipal Court and Health. Due to specific challenges, these departments should be analyzed separately.

POLICE

Identified Risks:

- A. Employee injuries – includes vehicular accidents, injuries caused by the public in the normal course of police duties, training injuries, negligence, equipment failures.
- B. Injuries to others - includes vehicular accidents, injuries caused by the public during the normal course of police duties, negligence.
- C. Equipment losses – includes accidents, parts failures, negligence.
- D. Civil lawsuits – every encounter with the public has the potential for a civil rights violation and may include allegations of wrongful arrests, excessive force, improper conduct, negligence, etc.

Likelihood of Occurrence:

Every law enforcement agency has potential loss issues that arise every year. The potential risk is significant, but unavoidable.

Mitigation of Risks:

Training – the Police Department has an annual budget of \$24,000 to provide training in all aspects of law enforcement.

Inspections – every fleet accident, job injury, use of force complaint and workers compensation claim is reviewed with a view toward “how to improve upon our performance and lessen the damage”.

Equipment replacement – maintain a realistic replacement schedule for vehicles. Maintain an adequate maintenance schedule.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

FIRE, EMERGENCY MANAGEMENT & FIRE MARSHAL

Identified Risks:

- A. Employee injuries – includes vehicular accidents, injuries caused by the public in the normal course of fire & rescue duties, training injuries, negligence, equipment failures.
- B. Injuries to others - includes vehicular accidents, injuries caused by the public during the normal course of police duties, negligence.
- C. Equipment losses – includes accidents, parts failures, negligence.
- D. Civil lawsuits – every encounter with the public, especially the provision of rescue services, has the potential for malpractice or negligence allegations.
- E. Natural Disasters – such as tornados and floods.
- F. Manmade Disasters – such as plant accidents, railway accidents, hazardous material spills.

Likelihood of Occurrence:

Every fire and rescue agency has potential loss issues that arise every year as a part of their mission. The potential risk is significant, but unavoidable.

Mitigation of Risks:

Training – all Fire Fighters must be certified through an accredited fire training school before being hired. A significant number have medical training as well. Annual training to maintain skills is provided. Physical fitness training is also provided.

Equipment replacement – maintain a realistic replacement schedule for vehicles. Maintain an adequate maintenance schedule.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

MUNICIPAL COURT

Identified Risks:

- A. Employee injuries – for the City Marshal, this includes vehicular accidents, injuries caused by the public in the normal course of police duties, equipment failures. For Court personnel, this includes potential confrontations with the public.
- B. Injuries to others - includes vehicular accidents, injuries caused by the public during the normal course of duties.
- C. Equipment losses – includes accidents, parts failures, negligence.
- D. Mission related failures such as wrongfully issuing a warrant, not clearing a warrant, entering tickets incorrectly, reporting information incorrectly to the Department of Public Safety, etc.
- E. Community Service workers – includes potential injuries, allegations of inappropriate behavior.

Likelihood of Occurrence:

The City Marshal has the highest risk of injury since he is performing police duties. Risks to other personnel are real, particularly when dealing with a court situation.

Mitigation of Risks:

Training – employees are provided training annually.

Oversight – there are three full-time employees that work together to minimize errors and complete all tasks timely.

Community Service workers – made to sign hold harmless agreements if they are hurt while working off their fines. Receive safety instruction and a dress code.

Equipment replacement – replace the City Marshal vehicle as needed and keep an adequate maintenance schedule.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

HEALTH

Identified Risks:

- A. Employee injuries – includes health related problems in dealing with the public, communicable diseases, accidents.
- B. Injuries to others - includes errors in treatment, injuries caused by the public, negligence.
- C. Civil lawsuits – includes allegations of malpractice.
- D. Compliance issues – related to administering state and federal grant funds.

Likelihood of Occurrence:

Based on our history, the likelihood of health and injury issues is small. Issues related to compliance are present but annual audits by state agencies have not revealed any significant issues.

Mitigation of Risks:

Training – employees are provided training regularly through both the City budget and through state and federal agency requirements.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

COMMUNITY SERVICES

Includes Parks, Recreation, Community Facilities, Senior Citizens Programs, and Transportation Museum.

Identified Risks:

- A. Employee injuries – includes vehicular accidents, negligence by other employees, equipment failure.
- B. Injuries to others - includes accidents in community facilities such as falling or equipment failures.
- C. Facility losses – includes fire or other damage to community facilities.
- D. Compliance issues – related to administering state and federal grant funds in the Senior Citizens program.

Likelihood of Occurrence:

Due to public use of community facilities and the propensity of society to sue for injuries, the likelihood of damage claims is significant.

Mitigation of Risks:

Training – employees are provided training regularly. In particular, safety training is emphasized.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Public Responsibility Requirements – anyone leasing community facilities has to sign a contract holding the City harmless for accidents. Those renting the Coliseum must provide proof of a public liability insurance policy.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

AIRPORT

Identified Risks:

- A. Employee injuries – includes vehicular accidents, fueling accidents, negligence by other employees, equipment failure.
- B. Injuries to others – includes accidents at airport facilities, accidents with planes, fueling accidents.
- C. Facility losses – includes fire or other damage to structures.
- D. Compliance issues – related to requirements imposed by the Federal Aviation Administration for airport operations.

Likelihood of Occurrence:

Day to day operations are generally very safe, but the potential for significant injuries or death from an airplane accident is real.

Mitigation of Risks:

Training – employees are provided training regularly. In particular, safety training is emphasized.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing safety and professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force, and to replace and maintain equipment regularly.

ADMINISTRATIVE DEPARTMENTS

Includes City Council, City Manager, City Secretary, Finance, Utility Billing, Purchasing, Engineering, Fleet Services, City Attorney, Human Resources, Information Technology

Identified Risks:

- A. Employee injuries – includes vehicular accidents, negligence by other employees, equipment failure.
- B. Injuries to others - includes accidents in community facilities.
- C. Facility losses – includes fire or other damage to community facilities.
- D. Compliance issues:
 - a. City Secretary - Open Meetings Act, Open Records Act, Records Retention, Election administration.
 - b. Finance – Governmental Accounting Standards Board, auditing standards, continuing disclosure requirements, budget compliance, financial reporting requirements, investment reporting requirements, property tax and publication requirements, public notification requirements, banking requirements, bond covenants.
 - c. Purchasing – bidding requirements, vendor information requirements.
 - d. Human Resources – Fair Labor Standards Act (FLSA), Health Insurance Portability and Accountability Act (HIPAA), Equal Employment Opportunity Commission (EEOC), Family Medical Leave Act (FMLA), Texas employment laws.
- E. Fleet Services – maintenance of City fleet and equipment, accidents due to failure to maintain properly.
- F. City Attorney – all manner of legal issues including lawsuits against the City as described in other sections.
- G. Information Technology – maintenance of computers and related technology owned by the City, maintaining all licenses.

Likelihood of Occurrence:

The risk of injuries to employees or the public is slight as is the likelihood of facility losses. Compliance issues are significant for any City as are potential legal issues. The risk of maintenance issues is real, but the consequences for failure are manageable within budget constraints.

Mitigation of Risks:

Training – employees are provided training regularly. In particular, those departments with significant compliance requirements are provided training to keep up to date on them.

Insurance – Workers Compensation coverage for employees, property and casualty coverage through the Texas Municipal League for injuries to others and equipment losses.

Sovereign Immunity – a legal doctrine by which a City government cannot commit a legal wrong and is immune from civil suit or criminal prosecution during the course of carrying out the normal functions of public service. This protects the City from most tort claims that do not arise from negligence or civil rights violations.

Additional Steps to Minimize Risks:

Continue to provide training and leadership emphasizing professional performance of duties.

Provide adequate budget funds to pay employees well enough to retain them and maintain a professional work force.

FRAUD RISK

Introduction to Fraud

According to a recent publication, Management Anti-Fraud Programs and Controls – Guidance to Help Prevent, Deter, and Detect Fraud¹:

"Fraud can range from minor employee theft and unproductive behavior to misappropriation of assets and fraudulent financial reporting. Material financial statement fraud can have a significant adverse effect on an entity's market value, reputation, and ability to achieve its strategic objectives. A number of highly publicized cases have heightened the awareness of the effects of fraudulent financial reporting and have led many organizations to be more proactive in taking steps to prevent or deter its occurrence. Misappropriation of assets, though often not material to the financial statements, can nonetheless result in substantial losses to an entity if a dishonest employee has the incentive and opportunity to commit fraud.

The risk of fraud can be reduced through a combination of prevention, deterrence, and detection measures. However, fraud can be difficult to detect because it often involves concealment through falsification of documents or collusion among management, employees, or third parties. Therefore, it is important to place a strong emphasis on fraud prevention, which may reduce opportunities for fraud to take place and fraud deterrence, which could persuade individuals that they should not commit fraud because of the likelihood of detection and punishment. Moreover, prevention and deterrence measures are much less costly than the time and expense required for fraud detection and investigation.

An entity's management has both the responsibility and the means to implement measures to reduce the incidence of fraud. The measures an organization takes to prevent and deter fraud also can help create a positive workplace environment that can enhance the entity's ability to recruit and retain high-quality employees.

Research suggests that the most effective way to implement measures to reduce wrongdoing is to base them on a set of core values that are embraced by the entity. These values provide an overarching message about the key principles guiding all employees' actions. This provides a platform upon which a more detailed code of conduct can be constructed, giving more specific guidance about permitted and prohibited behavior, based on applicable laws and the organization's values. Management needs to clearly articulate that all employees will be held accountable to act within the organization's code of conduct."

¹ Published as an exhibit to SAS No. 99, Consideration of Fraud in a Financial Statement Audit, a joint publication of the American Institute of Certified Public Accountants, Association of Certified Fraud Examiners, Financial Executives International, Information Systems Audit and Control Association, The Institute of Internal Audits, Institute of Management Accountants and Society for Human Resources Management.

Ethics in the Workplace

Promoting Ethical Behavior

As a municipality, charged with the responsible use of public funds, the City places a high priority on ethical behavior and actively promotes its value system in the workplace. Ethical behavior is addressed in the City's Personnel Rules and Regulation Manual which includes a Code of Ethics.

Employee Hiring and Background Checks

The City's general employment policy calls for the employment of qualified persons. The City attempts to screen applicants for suitability for employment by conducting a combination of reference and/or background checks on prospective employees.

The Human Resources office posts all vacant positions to be filled on the City's website, internal bulletin board and in selected publications for advertisement. The Human Resources office receives and processes all applications for staff employment.

The Human Resources office obtains employment reference checks on all full-time prospective employees that are included in the employee's personnel file. Departments are discouraged from hiring prospects with negative or marginal references.

Employee Concerns and Discipline

The City has set up a P.O. Box (1135) which can be used by anyone to report concerns of suspected fraud on an anonymous basis. This information is included in the City's Personnel Manual. The box is checked periodically by the City Hall Custodian. Any correspondence received is taken unopened to one of three citizen board members of the Audit Committee who will open it and consult with the other citizen board members to determine the next course of action. This may include, but is not limited to, calling an immediate meeting of the Audit Committee, consulting with senior management or referring the matter to the City Council.

Assessment of the City's Operational Fraud Risk

The overall assessment of the risk of fraud performed in 2006 and updated in 2007 has not changed significantly. The primary areas continue to be the following:

Financial Procedures

The Finance/Accounting office has a procedural manual that has been developed over time that incorporates the duties of various staff members along with how those duties are carried out. Due to limitations on manpower, the Director of Finance has deemed it in the best interests of the City that employees within the Accounting and Utility Billing departments be cross trained in department procedures, as well as duties within the Utility Billing department. This has created a potential fraud risk regarding segregation of duties. Personnel in both departments have access to the General Ledger (Accounting) and Cash Collections (Utility Billing) which could lead to potential asset misappropriation and the means to conceal it.

With the lack of additional support personnel to provide backup, segregation of duties is a particularly difficult challenge. Administration agrees that a potential fraud risk regarding segregation of duties exists, however internal controls currently in place mitigate this risk. With the lack of additional personnel to completely segregate duties, this risk has been accepted by the City.

Purchasing and Approval System

All requests for purchase orders are initiated by the department making the purchase and are approved by the departmental director or supervisors given authority to do so. Purchase order requisitions are reviewed by the Purchasing department prior to issuing purchase orders, with selected purchase orders also reviewed by the Director of Finance.

Budget account balances are verified for sufficiency by the Director of Finance on a regular basis by reviewing appropriate reports in the accounts payable and general ledger system. Department heads are also given an opportunity to review budget account balances via weekly reports.

External Financial Reporting

External financial reporting is coordinated through the Director of Finance and the City's financial advisor, First Southwest Company of Dallas. External financial reports are prepared and submitted to fulfill continuing disclosure

requirements imposed on the City through bond covenants for its bonded debt and by state law. Other outside governmental agencies also receive reports regularly.

Internal Budget Reporting

Department heads are provided with printed budget reports (consolidated and detail) on a monthly basis, usually beginning in the first quarter of the year. They are also presented with printed departmental expenditure reports detailing the individual transactions charged to their budgets with a running total of budget balances in individual accounts.

Division directors are presented with printed consolidated budget reports for the departments within their divisions on a monthly basis. The City Manager is presented with a printed city-wide consolidated report monthly.

The City Council is presented with a monthly Budgetary Control Report that provides departmental totals to date with budget and last year to date comparisons. These reports are also presented to senior management and all department heads.

Year end financial statements are prepared on a departmental and city-wide basis for reproduction on an as requested basis and review by all city departments.

Internal Auditing

The City has an internal audit committee consisting of the Chief Accountant and the Utility Billing Supervisor. These employees are the most familiar with accounting requirement and cash collection procedures with the City. Periodically, this team will audit cash collection sites around the City outside of City Hall, including Municipal Court, Transportation Museum, Landfill, Health, Community Facilities, Airport and the Senior Citizens Program. These audits include a review of all procedures to properly account for and safeguard cash. The team reports directly to the City Manager and may present findings to the Audit Committee if deemed necessary.

Oversight

The City Manager and Director of Finance are responsible for the development of procedures and internal controls designed to prevent, detect and deter fraud and the continuous internal monitoring of the effectiveness of those procedures and internal controls.

The Audit Committee, consisting of the Mayor, one Council member, three citizen members, the City Manager and City Attorney, is responsible for reviewing the annual audit, receiving documents from the fraud reporting P.O. box, receiving reports from the internal audit team and reviewing other matters as deemed necessary by the City Manager. It is their responsibility to make recommendations to the City Council as they see fit. Finally, they are charged with reviewing and discussing fraud related and other financial matters with the City's independent auditors.

The Mayor and City Council are responsible for appointing the Audit Committee and enforcing those recommendations of the committee that they wish to adopt.