



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Regular Council Meeting** will be held by the governing body of the above named City on the **13th day of December, 2016** at **6:00 p.m.** in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, at which time the following subjects will be discussed, to-wit:

This notice is posted pursuant to the Texas Government Code, Chapter §551-Open Meetings.

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIENCE:

PLEDGE TO TEXAS FLAG:

1. PUBLIC RECOGNITION/SPECIAL REPORTS: None

2. CONSENT AGENDA ITEMS:

(All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Council when the Consent Agenda is opened for Council Action.)

2.1) Approval of the November 8, 2016 Regular Council Meeting minutes

3. PUBLIC HEARING:

3.1) Public Hearing: The City Council will conduct a public hearing regarding a Replat of Lot No. 8; Delaware Springs, Section 15, Phase Three. The replat will dedicate right-of-way for the approximately 550-foot long section of Honey Rock Blvd that provides connection between the Honey Rock Ranch subdivision and the 500 block of Fox Crossing: M. Lewis

3.2) Public Hearing: regarding vacation of "The Woodlands, Baptist Memorial Geriatric Center Plat" recorded on August 7, 1996, and establishment of a new "The Woodlands, Section One, Final Plat," a 46-lot, residential subdivision located at the northern termination of Janet Drive and further described as occupying 10.41 acres of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County,

Texas: M. Lewis

4. ACTION ITEMS:

4.1) Discuss and consider action: action: SECOND AND FINAL READING OF AN ORDINANCE ABANDONING THAT 577 SQUARE FOOT SECTION OF THE EAST LEAGUE STREET RIGHT-OF-WAY ABUTTING THAT PORTION OF BLOCK NUMBER EIGHT, PETER KERR DONATION KNOWN AS 310 S HILL STREET; ABANDONING SAID RIGHT-OF-WAY IN FAVOR OF THE OWNERS OF SAID 310 S HILL STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: M. Lewis

4.2) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BURNET, TEXAS CHAPTER 98, SUBDIVISIONS BY ADOPTING ARTICLE VIII, NON-POINT SOURCE POLLUTION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FINDING PROPER NOTICE OF MEETING: M. Lewis

4.3) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING CHAPTER 90, "SOLID WASTE", ARTICLE II, "TYPE OF COLLECTION", SECTION 90-26 "SERVICES PROVIDED" AND SUBSECTION (A) "RESIDENTIAL SERVICES"; AND ARTICLE III "RATES", SECTION 90-51 "RESIDENTIAL REFUSE COLLECTION RATES", OF THE BURNET CODE OF ORDINANCES. REPEALING ORDINANCES IN CONFLICT; PROVIDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS: E. Milliorn

4.4) Discuss and consider action: Regarding a Replat of Lot No. 8; Delaware Springs, Section 15, Phase Three: M. Lewis: M. Lewis

4.5) Discuss and consider action: Regarding vacation of "The Woodlands, Baptist Memorial Geriatric Center Plat" recorded on August 7, 1996, and establishment of a new "The Woodlands, Section One, Final Plat," a 46-lot, residential subdivision located at the northern termination of Janet Drive and further described as occupying 10.41 acres of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County, Texas: M. Lewis

4.6) Discuss and consider action: Appoint a representative for the City of Burnet to the Williamson-Burnet County Opportunities, Inc., (WBCO) Board of Directors: Mayor G. Wideman

4.7) Discuss and consider action: Cancellation of the December 27th, 2016 Regular Council Meeting: K. Dix

4.8) Discuss and consider action: Regarding a second amendment to the

construction agreement between the City of Burnet and Outback Services, Inc.: D. Vaughn

4.9) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2016-23; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017 FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS PROVIDING FOR SAVINGS AND SEVERABILITY: C. Maxwell

4.10) Discuss and consider action: A RESOLUTION BY THE CITY OF BURNET, TEXAS RESTRICTING THE USE OF CERTAIN FUNDS FOR CAPITAL PROJECTS: D. Vaughn

4.11) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTER-LOCAL AGREEMENT WITH THE LOWER COLORADO RIVER AUTHORITY FOR THE PURPOSE OF COORDINATING POLICIES AND PROGRAMS WHICH WILL PRESERVE AND PROTECT WATER QUALITY IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF BURNET: M. Lewis

4.12) Discuss and consider action: Proposed street engineering contract with K.C. Engineering: D. Vaughn

4.13) Discuss and consider action: Proposed Public Rights-of-Way Agreement with Honey Rock, L.P.: D. Vaughn

4.14) Discuss and consider action: First Amendment to the Roadbase/Aggregate Agreement: J. Simons

5. REPORTS:

5.1) Addendum to the City Council Agenda: Department and Committee Reports/Briefings: The City Council may or may not receive a briefing dependent upon activity or change in status regarding the matter. The listing is provided to give notice to the public that a briefing to the Council on any or all subjects may occur.

5.1(B.3) October Financial Report: C. Maxwell

6. CONVENE TO EXECUTIVE SESSION

6.1) Executive Session: The Council reserves the right to enter into closed session in accordance with the provision of the Open Meetings Act, Texas

Government Code, Chapter 551, Subsection 551.087; Deliberation Regarding Economic Development Negotiations-Entegris: D. Vaughn

6.2) Executive Session: The Council reserves the right to enter into closed session in accordance with the provision of the Open Meetings Act, Texas Government Code, Chapter 551, Subsection 551.072; Deliberations Regarding Real Property: pertaining to thirteen acres of land on the corner of Westfall and Cemetery Streets, owned by the City of Burnet: D. Vaughn

The City Council may take action on any of the matters considered in executive session once the City Council reconvenes in open session.

7. RECONVENE TO REGULAR SESSION FOR POSSIBLE ACTION:

7.1) Discuss and consider action: Regarding economic development negotiations with Entegris: D. Vaughn

7.2) Discuss and consider action: Regarding thirteen acres of land on the corner of Westfall and Cemetery Streets, owned by the City of Burnet: D. Vaughn

8. REQUESTS FROM COUNCIL FOR FUTURE REPORTS:

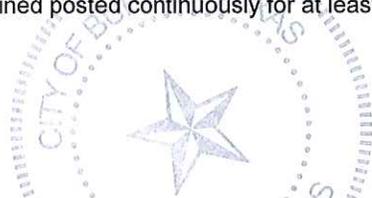
9. ADJOURN:

Dated this 9th, day, of December, 2016

CITY OF BURNET

GARY WIDEMAN, MAYOR

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on December 9, 2016, at or before 5 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.



Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development).

STATE OF TEXAS {}
COUNTY OF BURNET {}
CITY OF BURNET {}

ITEM 2.1

On this the 8th day of November 2016, the City Council of the City of Burnet convened in Regular Session, at 6:00 p.m., at the regular meeting place thereof with the following members present, to-wit:

Mayor Gary Wideman
Council Members Danny Lester, Tres Clinton, Mary Jane Shanes, Philip Thurman
Absent Paul Farmer, Joyce Laudenschlager
City Manager David Vaughn
Deputy City Secretary Kelly Dix

Guests: Bettye Foulds, Jonny Simons, Mark Lewis, Crista Bromley, Gene Courtney, Patricia Langford, Paul Nelson, Doug Fipps, Alan Burdell, Evan Milliorn, Paul Shell, Leslie Baugh, Doug Fipps, Charles Goble, Alexandra and Jerry Bleet

CALL TO ORDER: The meeting was called to order by Mayor Wideman, at 6:00 p.m.

INVOCATION: Council Member Gary Wideman

PLEDGE OF ALLEGIANCE: Council Member Philip Thurman

PLEDGE TO TEXAS FLAG: Council Member Philip Thurman

PUBLIC RECOGNITION/SPECIAL REPORTS: None.

CONSENT AGENDA ITEMS:

(All of the following items on the Consent Agenda are considered to be self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Council when the Consent Agenda is opened for Council Action.)

Approval of the October 25, 2016 Regular Council Meeting minutes

Council Member Philip Thurman moved to approve the consent agenda as presented. Council Member Tres Clinton seconded, and the motion carried unanimously.

PUBLIC HEARING: None

ACTION ITEMS:

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE AMENDING CODE OF ORDINANCES CHAPTER 50 – FLOOD DAMAGE PREVENTION, BY REPEALING SEC. 50-56 – SEVERABILITY; REPEALING SEC. 50-57 – PENALTIES FOR NON-COMPLIANCE; ESTABLISHING A NEW SEC. 50-56 – ELEVATION AND LOT GRADING STANDARDS FOR STRUCTURES LOCATED IN ZONE X; ESTABLISHING A NEW SEC. 50-57 – SEVERABILITY; ESTABLISHING A NEW SEC. 50-58 – PENALTIES FOR NON-COMPLIANCE; AND PROVIDING AN EFFECTIVE DATE: M. Lewis: Council Member Danny Lester made a motion to approve and adopt Ordinance 2016-33 as presented. Council Member Mary Jane Shanes seconded. The Mayor requested a roll vote that was called by the City Secretary with Council Members Clinton voting against approval and adoption of the ordinance as presented. Council Members Wideman, Thurman, Lester, and Shanes voted in favor of approving and adopting Ordinance 2016-33 as presented. The motion carried with four in favor, one against and two absent.

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AUTHORIZING THE USE OF MACHINE-IMPRINTED FACSIMILE SIGNATURES OF THE MAYOR OR CITY MANAGER ON CHECKS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE AND AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.: P. Langford: Council Member Tres

Clinton made a motion to approve and adopt Ordinance 2016-32 as presented. Council Member Danny Lester seconded. The motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2016-23; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017, FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS; PROVIDING FOR SAVINGS AND SEVERABILITY: C. Maxwell Council Member Philip Thurman made a motion to approve the first reading of Ordinance 2016-34 as presented. Council Member Danny Lester seconded. The motion carried unanimously.

Discuss and consider action: action: FIRST READING OF AN ORDINANCE ABANDONING THAT 577 SQUARE FOOT SECTION OF THE EAST LEAGUE STREET RIGHT-OF-WAY ABUTTING THAT PORTION OF BLOCK NUMBER EIGHT, PETER KERR DONATION KNOWN AS 310 S HILL STREET; ABANDONING SAID RIGHT-OF-WAY IN FAVOR OF THE OWNERS OF SAID 310 S HILL STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: M. Lewis: Council Member Philip Thurman made a motion to approve the first reading of Ordinance 2016-35 as presented and for staff to seek a second opinion on the cost analysis. Council Member Danny Lester seconded. The motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BURNET, TEXAS CHAPTER 98, SUBDIVISIONS BY ADOPTING ARTICLE VIII, NON-POINT SOURCE POLLUTION; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FINDING PROPER NOTICE OF MEETING: M. Lewis: Council Member Danny Lester made a motion to approve the first reading of Ordinance 2016-36 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS PROVIDING FOR THE PURCHASE OF GOODS AND SERVICES THROUGH THE TEXAS PUBLIC POWER ASSOCIATION BY THE CITY OF BURNET ELECTRIC DEPARTMENT: G. COURTNEY: Council Member Mary Jane Shanes made a motion to approve and adopt Resolution R2016-18 as presented. Council Member Tres Clinton seconded, the motion carried unanimously.

Discuss and consider action: Approve and authorize the City Manager to execute a contract between the City of Burnet and ElectSolve for the purchase of a Meter Data Management system: G. Courtney: Council Member Danny Lester made a motion to approve and authorize the City Manager to execute a contract between the City of Burnet and ElectSolve for the purchase of a Meter Data Management system. Council Member Philip Thurman seconded, the motion carried unanimously.

Discuss and consider action: A RESOLUTION ADOPTING THE 2016 BURNET COUNTY HAZARD MITIGATION PLAN: M. Lewis: Council Member Mary Jane Shanes made a motion to approve and adopt Resolution R2016-19 as presented. Council Member Tres Clinton seconded, the motion carried unanimously.

Discuss and consider action: Authorizing approval for the Burnet Police, Electric and Public Works Departments to order new vehicles: P. Nelson: Council Member Philip Thurman made a motion to authorize the Burnet Police, Electric and Public Works Departments to order the new

budgeted vehicles. Council Member Tres Clinton seconded, the motion carried unanimously.

Discuss and consider action: Call for residential housing projects for City owned property located at the corner of Westfall and Cemetery Streets: D. Vaughn: Council Member Philip Thurman approved the call for residential housing projects for City owned property located at the corner of Westfall and Cemetery Streets. Council Member Danny Lester seconded, the motion carried unanimously.

REPORTS: Addendum to the City Council Agenda: Department and Committee Reports/Briefings: The City Council may or may not receive a briefing dependent upon activity or change in status regarding the matter. The listing is provided to give notice to the public that a briefing to the Council on any or all subjects may occur.

Project Update Report: Department Directors and Supervisors: Alan Burdell, Water/Wastewater Supervisor reviewed the current status on the Airy Mount water line project, Pond B, the West Tank Pump Station and the South 281 W/WWT Extension. Police Chief Paul Nelson informed Council that Officer Mark Edwards has been chosen to be the K-9 Officer. He will attend K-9 training after the first of the year with his K-9. The Police Department is also in the process of testing the Motorola radios in areas where the Kenwoods did not work. Jonny Simons, Street Department Supervisor informed Council that the paving on Pecan Street was scheduled for November 18th and 19th and that additional street design are going to be necessary. Mr. Simons informed Council that a proposal for the additional street engineering would be presented at the December Council Meeting.

September Financial Report: Director of Budget and Special Projects, Connie Maxwell reviewed the September 2016 Financial Report with Council. The year end is estimated to be completed in December.

Quarterly School Resource Officer Report: P. Nelson: Chief Nelson reviewed the quarterly statistics of the School Resource Officer Report. Chief Nelson informed the Council that the School District was considering adding an additional officer.

City Website Preview and Update Report: Director of Administrative Services, Crista Bromley presented the new City Website to Council. Staff expects to go live with the new site on November 21st, 2016.

REQUESTS FROM COUNCIL FOR FUTURE REPORTS: None.

ADJOURN: There being no further business a motion to adjourn was made by Council Member Philip Thurman at 7:20 p.m., seconded by Council Member Mary Jane Shanes. The motion carried unanimously.

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary



Planning & Zoning

ITEM 3.1

Mark S. Lewis
Development Services Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Public Hearing: The City Council will conduct a public hearing regarding a Replat of Lot No. 8; Delaware Springs, Section 15, Phase Three. The replat will dedicate right-of-way for the approximately 550-foot long section of Honey Rock Blvd that provides connection between the Honey Rock Ranch subdivision and the 500 block of Fox Crossing:
M. Lewis

Background: The replat described above was considered by the Planning and Zoning Commission in a December 5, 2016 public hearing and regular meeting. The public hearing was opened and closed without anyone choosing to address the Commission.

The Planning and Zoning Commission, following the close of its public hearing, cast a unanimous vote recommending approval of the replat.

Information: Lot No. 8; Delaware Springs, Sec. 15 is located at the junction of junction of Fox Crossing and Honey Rock Blvd (See Exhibit A). The lot is owned by the City of Burnet.

Honey Rock Blvd is not currently contained within a dedicated right-of-way. This is technically acceptable based on City ownership of the underlying property, but having a formal dedication in place is the preferable situation.

The proposed replat will convert most of lot 8 into public right-of-way. The remaining 0.86-acres of the lot will be designated as lot 8-A. This lot, which contains the existing

retention pond, will be exclusively used for stormwater management (See Exhibits A & B)

The Lot 8 replat has been reviewed and determined to be in compliance with applicable of Code of Ordinances Chapter 98 – Subdivisions. Key points relating to this review are noted below.

- The plat as submitted satisfies Code of Ordinance requirements relating to format and content.
- The plat as submitted accurately depicts existing property conditions.
- Street and utility improvements were constructed as part of the Road to Honey Rock development agreement executed between the City of Burnet and Honey Rock Ltd.
- The plat submittal has been determined to be administratively complete.

Fiscal Impact: None

Recommendation: N/A

EXHIBIT A
Location





Planning & Zoning

ITEM 3.2

Mark S. Lewis
Development Services Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Public Hearing: The City Council will conduct a public hearing regarding vacation of "The Woodlands, Baptist Memorial Geriatric Center Plat" recorded on August 7, 1996, and establishment of a new "The Woodlands, Section One, Final Plat," a 46-lot, residential subdivision located at the northern termination of Janet Drive and further described as occupying 10.41 acres of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County, Texas:
M. Lewis

Background: The plat vacation and final plat described above were considered by the Planning and Zoning Commission in a December 5, 2016 public hearing and regular meeting. The public hearing was opened and closed without anyone choosing to address the Commission.

The Planning and Zoning Commission, following the close of its public hearing, cast a unanimous vote recommending vacation of the Woodlands, Baptist Memorial Geriatric Center Plat and approval of the Woodlands, Section One, Final Plat.

Information: The Woodlands, Baptist Memorial Geriatric Center is an already recorded plat (See Exhibit A). The Woodlands Subdivision, as developed does not match the plat. Discrepancies include streets that encroach beyond dedicated rights-of-way, structures that encroach beyond subdivision boundaries, and multiple lot-line encroachments.

Typically, a replat would be used as the means to correct initial plat errors. In this case however, the seriousness and number of errors is too great to readily address through replatting. Reading and interpreting the resulting replat document would be cumbersome and confusing.

Vacating Plat

The City Code of Ordinances, as provided for by State law allows an alternative to replatting. Code of Ordinances Sec. 98-27 allows a plat to be vacated. This process has the effect of wiping the slate clean. Following vacation, an original plat effectively ceases to exist. This in turn, clears the way for establishment of an entirely new final plat.

Final Plat

The new Woodlands, Section One, Final Plat will rectify errors contained in the original Woodlands plat (See Exhibit B). It will establish subdivision boundary lines and individual lot lines that eliminate encroachments. It will establish right-of-way alignments that match existing street and utility installations. Lot arrangement created with the new plat will be consistent with the terms of the approved Woodlands Planned Unit Development.

Process

It is on the City Attorney's advice that plat vacation and new final plat approval are being considered in a single, consolidated action. Following approval, the vacating plat and new final plat will be taken to the County Clerk to be recorded in a single action. This will help avoid the very slight chance that existing public or private improvements could be caught in limbo if only one of the documents were to be recorded.

The Woodlands, Baptist Memorial Vacating plat has been prepared in accordance with the provisions of Sec. 212.013 of the State's Local Government Code. If approved by the Planning and Zoning Commission and City Council, it will be recorded in accordance with the provisions of Sec. 212.013.

The Woodlands, Section One, Final Plat is straightforward. It has been prepared in accordance with the provisions of City Code or Ordinances Chapter 98- Subdivisions. More specifically, it complies with the provisions of Sec. 98-24 – Final Plats including the following:

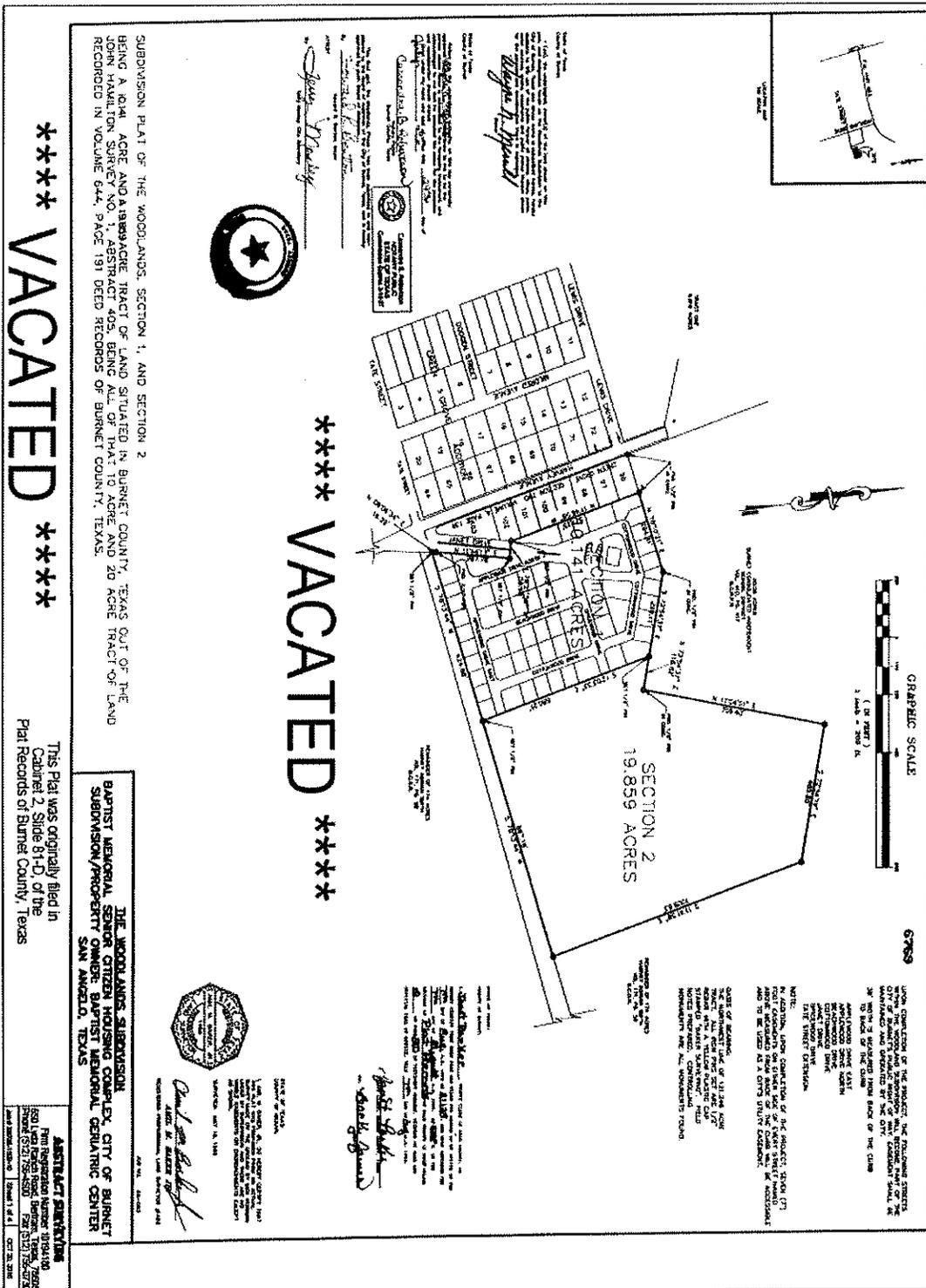
- The plat as submitted satisfies Code of Ordinance requirements relating to format and content.
- The plat as submitted accurately depicts existing property conditions

- Street and utility improvements needed to support this development were constructed and accepted by the City of Burnet following the initial subdivision platting.
- The plat submittal has been determined to be administratively complete.

Fiscal Impact: None

Recommendation: N/A

EXHIBIT A Vacating Plat



VACATED

VACATED

SUBDIVISION PLAT OF THE WOODLANDS, SECTION 1, AND SECTION 2 BEING A 1041 ACRE AND A 1899 ACRES TRACT OF LAND SITUATED IN BURNET COUNTY, TEXAS OUT OF THE JOHN HAMILTON SURVEY NO. 1, ABSTRACT 405, BEING ALL OF THAT 10 ACRE AND 20 ACRE TRACT OF LAND RECORDED IN VOLUME 644, PAGE 191 DEED RECORDS OF BURNET COUNTY, TEXAS.

This Plat was originally filed in
 Cabinet 2, Slide 81-D of the
 Plat Records of Burnet County, Texas

THE WOODLANDS SUBDIVISION
 BAPTIST MEMORIAL SENIOR CITIZEN HOUSING COMPLEX, CITY OF BURNET
 SUBDIVISION/PROPERTY OWNER, BAPTIST MEMORIAL DENIMATIC CENTER
 SAN ANGELO, TEXAS

ABSTRACT NUMBER
 FROM BURNET COUNTY CLERK'S OFFICE
 BURNET COUNTY, TEXAS
 1987-1988



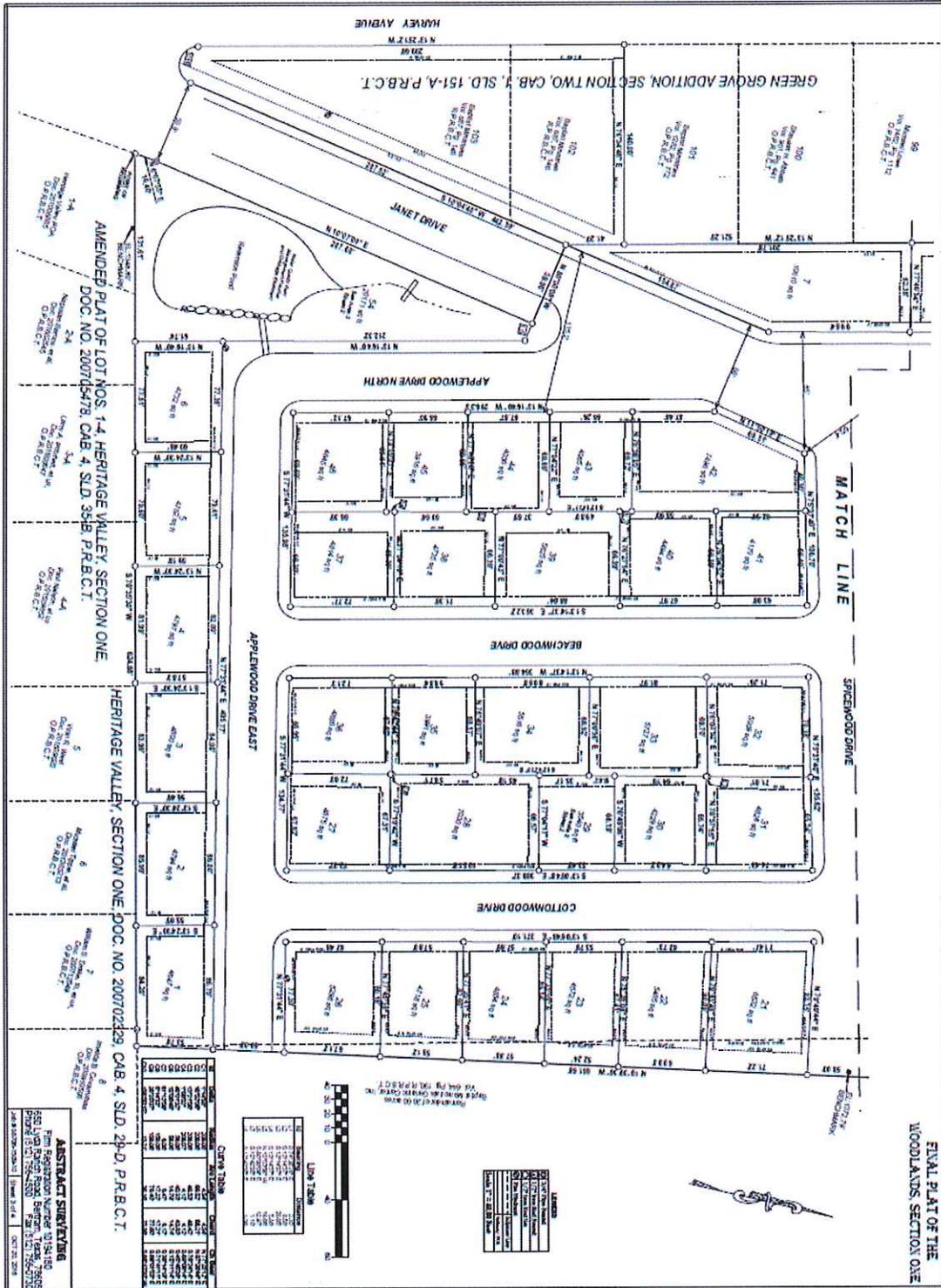
James M. ...
 Surveyor

David ...
 Clerk

Walter H. ...
 Surveyor

NOTE: THIS PLAT IS A REVISION OF A PLAT OF SECTION 2, 19.859 ACRES, BURNET COUNTY, TEXAS, RECORDED IN VOLUME 644, PAGE 191, DEED RECORDS OF BURNET COUNTY, TEXAS. THIS PLAT IS A REVISION OF THE PLAT OF SECTION 2, 19.859 ACRES, BURNET COUNTY, TEXAS, RECORDED IN VOLUME 644, PAGE 191, DEED RECORDS OF BURNET COUNTY, TEXAS. THIS PLAT IS A REVISION OF THE PLAT OF SECTION 2, 19.859 ACRES, BURNET COUNTY, TEXAS, RECORDED IN VOLUME 644, PAGE 191, DEED RECORDS OF BURNET COUNTY, TEXAS.

EXHIBIT B Final Plat 2 of 3



ABSTRACT SURVEYING
 From Registration Number 0134140
 542 LINDEN STREET, BOSTON, MASS. 02118
 JOHN J. HANCOCK, REGISTERED PROFESSIONAL SURVEYOR
 100 STATE STREET, SUITE 200, BOSTON, MASS. 02109
 DATE: 07/27/2009

Lot No.	Area	Remarks
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Lot No.	Area	Remarks
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Lot No.	Area	Remarks
141	0.10	...
142	0.10	...
143	0.10	...
144	0.10	...
145	0.10	...
146	0.10	...
147	0.10	...
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180	0.10	...

Lot No.	Area	Remarks
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182	0.10	...
183	0.10	...
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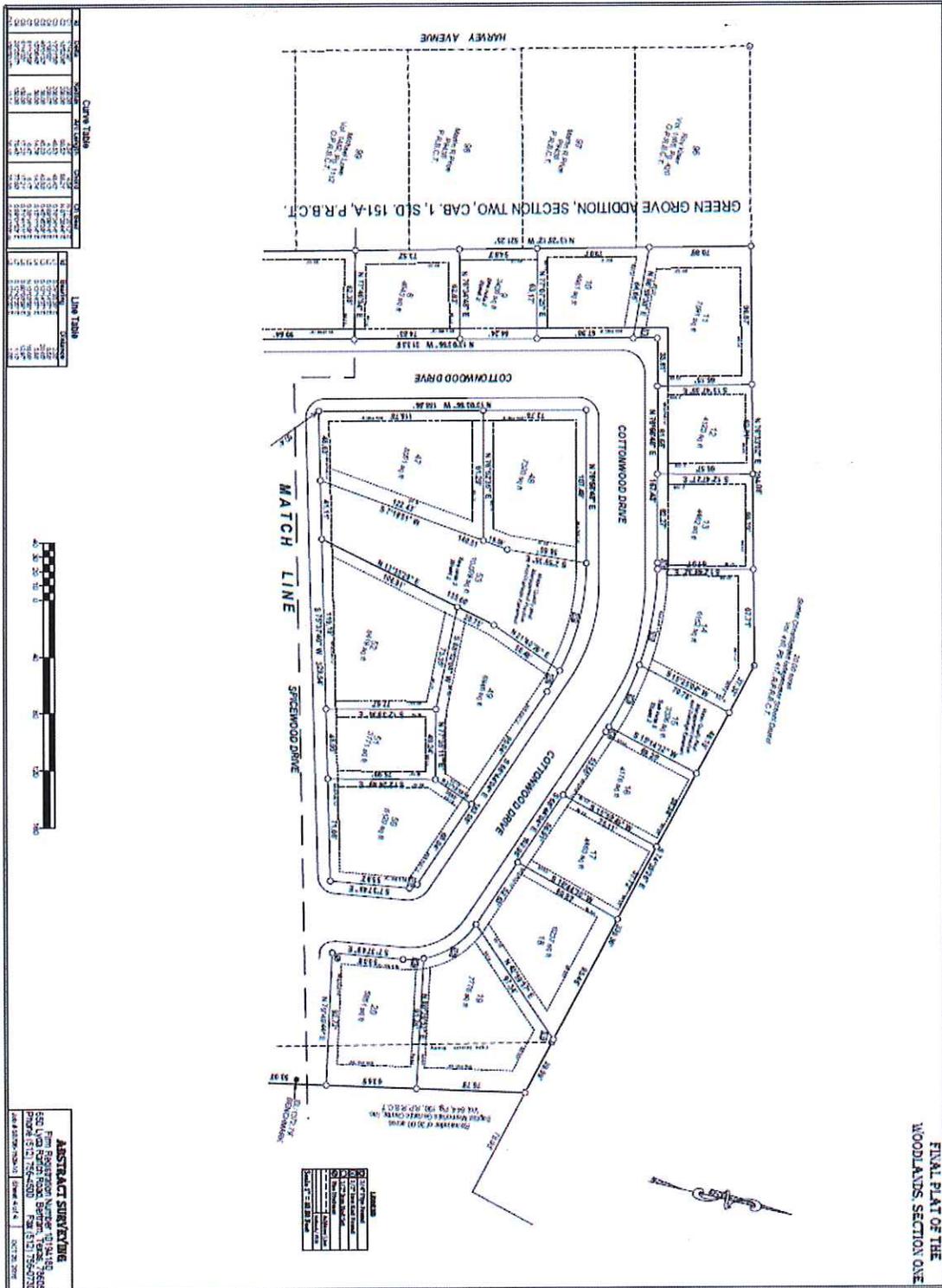
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Lot No.	Area	Remarks
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Lot No.	Area	Remarks
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Lot No.	Area	Remarks
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280	0.10	...

EXHIBIT B Final Plat 3 of 3





Planning & Zoning

ITEM 4.1

Mark S. Lewis
Development Services Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE ABANDONING THAT 577 SQUARE FOOT SECTION OF THE EAST LEAGUE STREET RIGHT-OF-WAY ABUTTING THAT PORTION OF BLOCK NUMBER EIGHT, PETER KERR DONATION KNOWN AS 310 S HILL STREET; ABANDONING SAID RIGHT-OF-WAY IN FAVOR OF THE OWNERS OF SAID 310 S HILL STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: M. Lewis

Background: City Council, at its November 8, 2016 meeting approved a first reading of the ordinance abandoning a portion of E League Street. The section of right-of-way in question is described in Exhibit A to the ordinance.

Burnet's Charter calls for the City to be compensated for right-of-way abandonment and further specifies that the compensation must be based on "fair value." Section 2 of the ordinance, based on a real estate broker's written opinion, sets fair value at \$700.00.

Council's motion for first reading approval of the abandonment ordinance, instructed staff to obtain a second broker's opinion regarding fair value for the property in question.

The second opinion values the subject property at \$692.40. A copy of the broker's opinion letter is attached and follows this item page.

Information: Section 2 of the attached ordinance has been revised to require \$692.40 as compensation for abandoned portion of right-of-way.

Recommendation: Approve and adopt Ordinance 2016-35 as amended.

SNIDER & ASSOCIATES
REAL ESTATE & INVESTMENT PROPERTIES

RANCHES
COMMERCIAL
RESIDENTIAL

December 6, 2016

Mark Lewis
City of Burnet - Director of Community Development
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

COMPARATIVE MARKET ANALYSIS - BROKER'S OPINION OF VALUE

Owner of Record: Josef K. Hernandez & wife, Rebecca K. Hernandez
Property Address: A strip being 5.6' x 103.10' of 310 S. Hill Street, Burnet, TX
Legal Description: Being a 577 square foot tract of land out of the John Hamilton Survey #1, Abstract #405, City of Burnet, Burnet Co., Texas
BCAD Record Number: Being a part of BCAD #12511
Date of Opinion of Value: December 1, 2016

Market Value Estimate: **\$692.40**
(Being \$1.20 per square foot multiplied by 577 square feet)

Purpose of Report: "THIS IS A BROKER'S OPINION OF VALUE OR A COMPARATIVE MARKET ANALYSIS AND SHOULD NOT BE CONSIDERED AN APPRAISAL. In making any decisions that relies upon my work, you should know that I have not followed the guidelines for development of an appraisal or analysis contained in the Uniform Standards of Uniform Appraisal Practice of the Appraisal Foundation."

Per your request, I have researched the marketing neighborhood and relied upon the subject's data from the furnished survey and a physical inspection, in order to estimate a *broker's opinion of value*. My opinion of value is based upon data in the Multiple Listing Service, local sales and listings, office research and a limited scope of work based upon my interpretation of the client's request. A physical inspection was made of the property on or about December 1, 2016. The market data from the subject's marketing neighborhood would tend to support an opinion of value indicated in this letter. The broker opinion of value is based upon a marketing period of 3 - 12 months with an aggressive local real estate agent. Should you require any additional information regarding this broker opinion of value or the market, please feel free to contact me.

Respectfully submitted,

SNIDER & ASSOCIATES



Robert Alan Snider
Texas Real Estate Broker, License #0340577
State Certified General Real Estate Appraiser, License #TX-1322233-G

ORDINANCE NO. 2016-35

AN ORDINANCE ABANDONING THAT 577 SQUARE FOOT SECTION OF THE EAST LEAGUE STREET RIGHT-OF-WAY ABUTTING THAT PORTION OF BLOCK NUMBER EIGHT, PETER KERR DONATION KNOWN AS 310 S HILL STREET; ABANDONING SAID RIGHT-OF-WAY IN FAVOR OF THE OWNERS OF SAID 310 S HILL STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The City Council of the City of Burnet has determined that abandonment of that 577-square foot portion of the E. League Street right-of-way located adjacent the portion of the five acre Block 8; Peter Kerr Donation known as 310 S Hill Street to be in the best public interest; and

WHEREAS, Whereas Josef and Rebecca Hernandez, as the adjacent property owners, holds title to the property underlying said public right-of-way; and

WHEREAS; the Josef and Rebecca Hernandez have expressed a desire to see said public right-of-way abandoned;

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

Section 1. Findings. 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 as findings of fact.

Section 2. Abandonment of Right-of-way. Upon payment in the amount of seven hundred dollars (\$700.00), the City Secretary shall cause to be filed with the County Clerk's office, a deed abandoning and granting to Josef and Rebecca Hernandez, the owners of 310 S. Hill Street, that portion of public right of way described as being a 577 square foot tract of land out of the John Hamilton Survey No.1, Abstract No. 405 in Burnet County, Texas and being a portion of League Street in the City of Burnet, Burnet County, Texas, said 577 square foot tract being more particularly described by Exhibit A, a copy of which is attached hereto and incorporated for all purposes herein,

Section 3. Repealer. That other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent that they are in conflict.

Section 4. Severability. That should any provisions of this ordinance be held void or unconstitutional, it is hereby provided that all other parts of the same which are not held void or unconstitutional shall remain in full force and effect.

Section 5. Effective Date. That this ordinance is effective upon final passage and approval.

Section 6. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Chapter. 551, Loc. Gov't. Code.

PASSED AND APPROVED on First Reading this 8th day of November, 2016.

FINALLY PASSED AND APPROVED on this 13th day of December, 2016.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

EXHIBIT B

Letter of Request

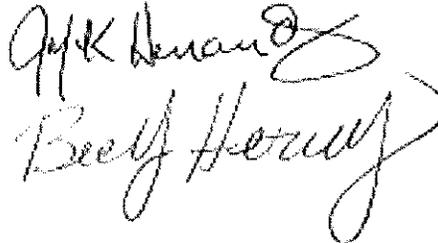
Mark S. Lewis
Director of Development Services
City of Burnet

Dear Mr. Lewis,

My name is Josef Hernandez and I have lived at 310 South Hill St. for twenty years in Burnet, Texas. I am sending you a letter of request for are residence on 310 S. Hill St. that we added on to. We pulled a building permit and spoke to Mr. Goble before adding on but after talking to title company and survey we are 5'6" in right away. I am requesting that small portion could please be sold to us so we can proceed with the sale of are home. The total square footage is 567 sf as per survey.

Thank You

Josef and Rebecca Hernandez

Handwritten signatures of Josef Hernandez and Rebecca Hernandez in black ink.

Josef Hernandez
310 South Hill St.
Burnet, Texas 78611
#830-613-5402
830-613-5158
jhernandez018@outlook.com

EXHIBIT C
Street Position



EXHIBIT D

Market Analysis 1 of 2

RE/MAX BURNET
P.O. Box 849
700 E. Hwy 29
Burnet, Texas 78611
512 756 7653
Fax: 5127565109

www.burnetcountyrealestate.com

COMPETITIVE MARKET ANALYSIS

10/10/2016

Subject property:

677 square feet of land at the corner of S. Hill and League Streets,
Burnet, Texas, 78611.

To determine the current market value of this land we have tried to use the commonly used "comparable market value approach" and tried to select similar properties in similar locations in the area that have sold within the last 6 – 12 months. Because the subject is a very small portion of a lot rather than a full lot there were not similar sold data to provide.

Due to lack of information we have just used the information provided by the MLS and determined a square footage price to come to the determination of the value of just this particular parcel.

The subject, in our opinion, is worth approximately \$700.00.

This is a COMPETITIVE MARKET ANALYSIS AND SHOULD NOT BE CONSIDERED AN APPRAISAL. This report does not fit the normal market analysis criteria to determine value. In making any decision that relies on my work, you should know that I have not

EXHIBIT D

**Market Analysis
2 of 2**

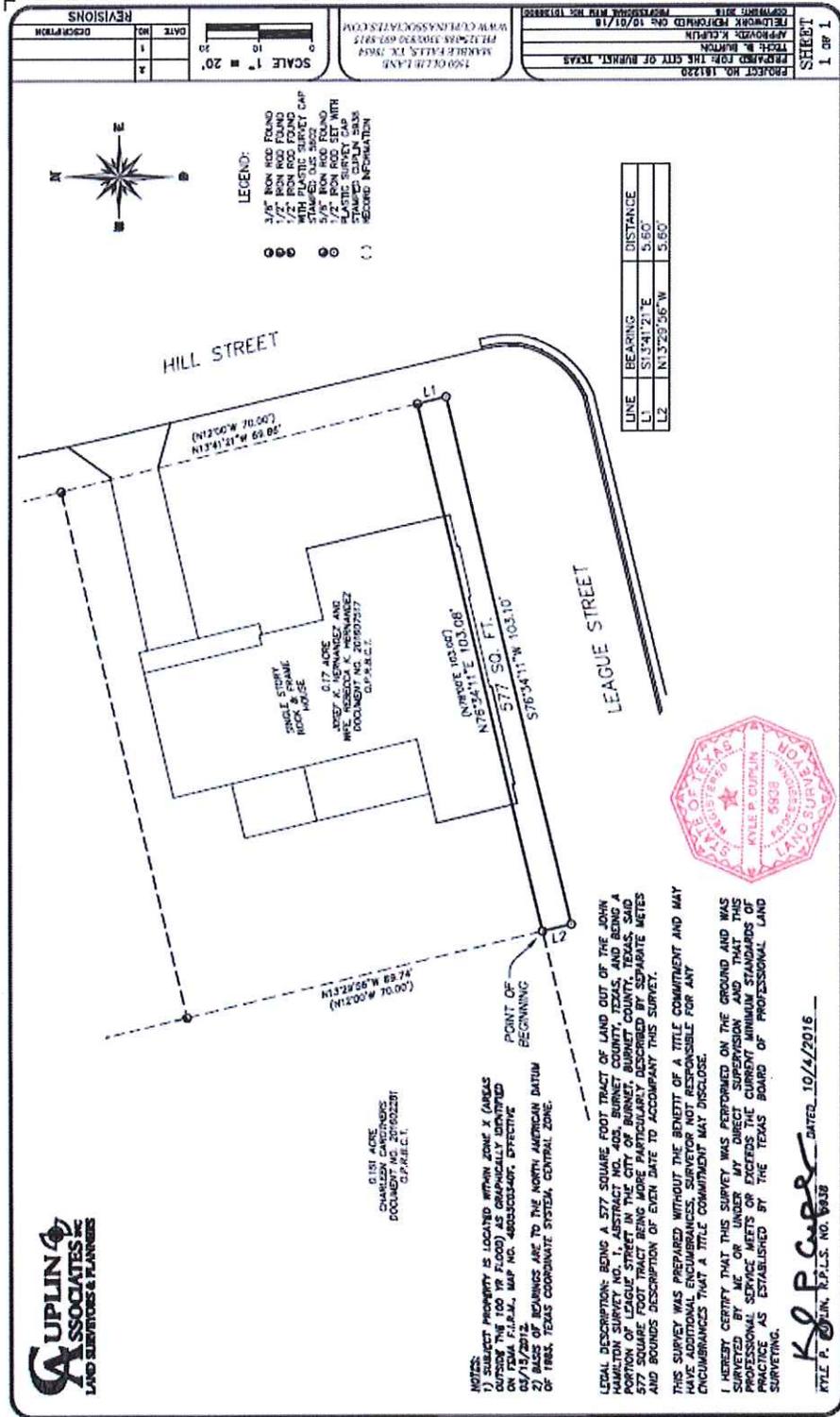
followed the guidelines for development of an appraisal or analysis contained in the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation.

This is the opinion of the Realtor.


Julia Perkins
Realtor

EXHIBIT A

Page 1 of 2



NO.	DATE	DESCRIPTION
1		
2		

SCALE 1" = 20'

1509 GLEN LANE
 HARLEIGH FIELDS, TX 78645
 WWW.CURPINASSOCIATES.COM

PROJECT NO. 181220
 PREPARED FOR THE CITY OF BURNET, TEXAS
 TRISH M. BARTON
 APPROVED: KYLE P. CURPIN
 REGISTERED PROFESSIONAL LAND SURVEYOR
 LICENSE NO. 9939
 DATE: 10/14/2016

SHEET
 1 OF 1

EXHIBIT A

Page 2 of 2

CUPLIN & ASSOCIATES, Inc.
land surveyors & planners

Prepared For: The City of Burnet, Texas
Project No. 161220
Date: 10/04/2016

FIELD NOTES TO ACCOMPANY A SURVEY PLAT OF A 577 SQUARE FOOT TRACT OF LAND OUT OF THE JOHN HAMILTON SURVEY NO. 1, ABSTRACT NO. 405 IN BURNET COUNTY, TEXAS AND BEING A PORTION OF LEAGUE STREET IN THE CITY OF BURNET, BURNET COUNTY, TEXAS, SAID 577 SQUARE FOOT TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a 3/8" iron rod found in the north right-of-way line of said League Street and the south line of that certain 5 acre Block No. 8 of the Peter Kerr Donation, being the southeast corner of that certain 0.151 acre tract of land conveyed to Charleen Carothers in Document No. 201602281 of the Official Public Records of Burnet County, Texas and the southwest corner of that certain 0.17 acre tract of land conveyed to Josef K. Hernandez and wife, Rebecca K. Hernandez in Document No. 201607517 of the Official Public Records of Burnet County, Texas, for the northwest corner hereof, from which 1/2" iron rod found with plastic survey cap stamped DJS 5602, for the northwest corner of said 0.17 acre tract bears N13°29'56"W (called N12°00'W), a distance of 69.74 feet (called 70.00 feet);

THENCE N76°34'11"E (called N78°00'E) with the north right-of-way line of said League Street, the south line of said 5 acre Block No. 8 and the north line hereof, a distance of 103.08 feet (called 103.00 feet) to a 1/2" iron rod found at the point of intersection of the north right-of-way line of said League Street and the west right-of-way line of Hill Street for the southeast corner of said 5 acre Block No. 8, the southeast corner of said 0.17 acre tract and the northeast corner hereof, from which a 5/8" iron rod found for the northeast corner of said 0.17 acre tract bears N13°41'21"W (called N12°00'W), a distance of 69.86 feet (called 70.00 feet);

THENCE S13°41'21"E with an extension of the west line of said Hill Street and the east line hereof, a distance of 5.60 feet to a 1/2" iron rod set with plastic survey cap stamped CUPLIN 5938, for the southeast corner hereof;

THENCE S76°34'11"W with the south line hereof, a distance of 103.10 feet to a 1/2" iron rod set with plastic survey cap stamped CUPLIN 5938, for the southwest corner hereof;

THENCE N13°29'56"W with the west line hereof, a distance of 5.60 feet to the **POINT OF BEGINNING**, containing 577 Square Feet, more or less

I hereby certify that this survey was prepared on the ground and was surveyed by me or under my direct supervision and that this professional service meets or exceeds the current minimum standards of practice as established by the Texas Board of Professional Land Surveying. Basis of Bearings are to N.A.D. of 1983, Texas Coordinate System, Central Zone. A Plat of Survey of even date was prepared as is intended to accompany the above described tract of land.


Registered Professional Land Surveyor No. 5938

Dated: 10/04/2016



1500 Ollie Lane, Marble Falls, Texas 78654
PH: 325.388.3300 Fax: 325.388.3320 Prof. Firm No. 10126900
www.cuplinassociates.com



Development Services

ITEM 4.2

Mark S. Lewis
Development Services Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and Consider Action: SECOND AND FINAL READING OF AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BURNET, TEXAS CHAPTER 98, SUBDIVISIONS BY ADOPTING ARTICLE VIII, NON-POINT SOURCE POLLUTION; ADOPTING NPS TECHNICAL MANUAL; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FINDING PROPER NOTICE OF MEETING. M. Lewis

Background: Non-Point Source (NPS) pollution consists of the natural and man-made pollutants that are picked up and carried by rainwater as it moves over and through the ground. The Lower Colorado River Authority (LCRA), based on authority granted by the State of Texas, has established requirements for the management of NPS pollution. In this capacity, LCRA acts as both permitting and enforcement agency.

While LCRA is the ultimate regulatory authority for NPS related matters, it has allowed certain municipalities, including the City of Marble Falls, to regulate NPS management within their corporate limits and ETJ's. LCRA has indicated its willingness to allow the City of Burnet to do the same.

In order to assume regulatory authority, the City and LCRA must enter into an inter-local agreement. Adoption of the attached ordinance, which establishes NPS regulatory standards for Burnet and its ETJ, is a prerequisite for execution of the inter-local agreement.

Information: The City, by assuming responsibility for its own NPS regulation anticipates being able to provide timely permit turnaround times. Taking over NPS responsibility will also

help place Burnet on a more equal competitive footing with other cities.

The LCRA plan review/permit process, at times, has stretched into months. This is due to the tremendous number of permit requests their reviewers review and process. The City is better positioned to provide timely reviews of projects occurring within its jurisdiction.

LCRA uses its Highland Lakes Watershed Ordinance as the basis for NPS permitting. Marble Falls, when it drafted its NPS ordinance, incorporated regulations that provided a bit more design flexibility while still providing a level of overall performance that is equal to the Highland Lakes ordinance. The attached City of Burnet ordinance and its supporting technical manual, duplicate the Marble Falls ordinance. This will provide Burnet with a degree of regulatory flexibility comparable to that exercised by the City of Marble Falls.

Due to document length, a copy of the proposed NPS technical manual is not attached to this document. A copy will be provided at Council's November 8, 2016 meeting. Copies of the manual are also available upon request.

Fiscal Impact: None

Recommendation: Approve and adopt Ordinance 2016-36, establishing NPS pollution management regulations as presented.

ORDINANCE 2016-36

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF BURNET, TEXAS CHAPTER 98, SUBDIVISIONS BY ADOPTING ARTICLE VIII, NON-POINT SOURCE POLLUTION; ADOPTING NPS TECHNICAL MANUAL; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FINDING PROPER NOTICE OF MEETING.

WHEREAS, the City Council of the City of Burnet, Texas (City) seeks to provide for the health, safety and welfare of its citizens; and

WHEREAS, the Council finds that the drainage ways and creeks of the City are subject to the potential for periodic pollution which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for pollution reduction and protection, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the Council seeks to protect the drainage ways, creeks, rivers, and lake areas of the City from non-point source pollution; and

WHEREAS, the City has the authority to regulate non-point source pollution within the City's corporate and extraterritorial limits pursuant to Texas Local Government Code Chapters 51, 212, 401, and 402, the Texas Water Code Chapters 7 and 26, and sections 2.01 and 2.05 of the City Charter; and

WHEREAS, the Council seeks to amend that portion of the City Code of Ordinances relating to non-point source pollution and add a new Article related to the regulation of non-point source pollution control;

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

Section 1. Findings: 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 as findings of fact.

Section 2. Sec. 98-41 Repealed and replaced: Section 98-41, Drainage improvements of Code of Ordinances Chapter 98, Article IV is hereby repealed in its entirety and replaced by a new Sec. 98-41 as follows:

Sec. 98-41 Storm water collection and conveyance systems.

(a) *Required Permits and Authorizations.* Unless otherwise exempt under the terms of

this chapter, all property owners subject to these land use regulations shall obtain all permits or authorizations required herein.

- (b) *System design requirements.* Drainage improvements shall be designed so as to not cause damage to other property, shall accommodate Runoff from the upstream drainage area in its anticipated maximum "build-out" condition, and shall be designed in accordance with the most recently adopted Drainage Criteria Manual to prevent overloading the capacity of the downstream drainage system. The City may require the phasing of development, the use of control methods such as retention or detention, or the construction of off-site drainage improvements in order to mitigate the impact of the proposed development. No storm water collection system shall be constructed unless it is designed in accordance with the Drainage Criteria Manual by a licensed professional engineer, and unless it is reviewed and approved by the City Engineer. All plans submitted to the City shall include a layout of the drainage system together with supporting calculations for the design of the system.
- (c) All Erosion and Sedimentation controls shall conform to the Non-point Source Pollution Control Technical Manual (NPS Technical Manual), as amended, a copy of which is on file at the City.
- (d) No person, individual, partnership, firm or corporation shall deepen, widen, Fill, reclaim, reroute or change the course or location of any existing ditch, channel, stream or drainage-way without first obtaining written permission of the City Engineer and any other applicable agency (such as FEMA or the U.S. Army Corps of Engineers) having jurisdiction. The City Engineer may, at his or her discretion, require preparation and submission of a FEMA or flood study for a proposed development if there are concerns regarding storm drainage on the subject property or upstream or downstream from the subject property. The costs of such study, if required, shall be borne by the Developer.
- (e) In order to help reduce storm water Runoff, and resulting Erosion, Sedimentation and conveyance of non-point source Pollutants, the layout of the street network, lots and building sites shall, to the greatest extent possible, be sited and aligned along natural contour lines, and shall minimize the amount of cut and Fill on Slopes in order to minimize the amount of land area that is disturbed during construction.
- (f) No concentrated surface cross-street flow (i.e., perpendicular to traffic flow) of storm water Runoff shall be allowed unless approved by the City Engineer. When and if such drainage flow is allowed, it must be across a concrete street (i.e., valley gutter) and as approved by the City Engineer.

All storm water treatment facilities shall be designed using materials and techniques as established in the NPS Technical Manual, or as may be required by the City Engineer.

Section 3. Sec. 98-65 established: A new Sec. 98-65 "Storm drainage and Water Quality Controls" is hereby established as follows:

Sec. 98-65. Storm drainage and Water Quality Controls.

- (a) An adequate storm Sewer system, consisting of inlets, pipes and other underground Structures with approved outlets, as outlined in Drainage Criteria Manual, shall be designed where Runoff of storm water and the prevention of Erosion cannot be accomplished satisfactorily by surface drainage facilities. Areas subject to flood conditions or inadvertent storm water retention, such as standing or pooling water, as established by the City Engineer, will not be considered for development until adequate drainage has been provided. In no case shall storm water drainage be diverted artificially to adjacent properties or across roadways. No storm water drainage will be permitted to flow from one lot or piece of property onto another under separate ownership unless such drainage does not harm, damage, or otherwise pose an inconvenience to the other properties, and is specifically approved by the City Engineer, and the necessary off-site drainage Easement is procured on the affected property(s).
- (b) The criteria for use in designing Water Quality Control Structures, and other Best Management Practices (BMPs) for non-point source pollution control shall conform to section. Chapter 98 – Subdivisions and Article VIII – Non-point Source Pollution of the Code.
- (c) The Developer shall ensure that all drainage improvements within public Easements or rights-of-way are functioning properly prior to the expiration of the maintenance bond. The Developer shall be responsible for removing any significant build- up of Sediment or debris from drainage improvements, with the exception of backlot and side lot drainage Swales, at the eleventh month of the second year for the required two- year maintenance bond for the applicable facilities. The City shall inspect the improvements to determine any maintenance or correction of deficiencies at the conclusion of this period.
- (d) Water Quality Control Structures, retention and detention facilities, and BMPs for non-point source pollution control permitted by the City under Chapter 98 of this Code shall be maintained and inspected in accordance with Chapter 98 of this Code, and any permits or authorizations issued thereunder.

Section 4. Sec. 98-66 established: A new Sec. 98-66 "Appendix D to Chapter 98 – SUBDIVISIONS, said Appendix D, titled Non-Point Source Pollution, is hereby established as follows:

APPENDIX D: NON-POINT SOURCE POLLUTION CONTROL TABLE OF CONTENTS

ARTICLE 1. GENERAL PROVISIONS

Sec. 98-90	Authority
Sec. 98-91	Scope of Authority and Jurisdiction
Sec. 98-92	Findings of Fact
Sec. 98-93	Statement of Purpose
Sec. 98-94	Land to which this Chapter Applies
Sec. 98-95	Non-Point Source (NPS) Pollution Control Technical Manual
Sec. 98-96 through 98-99	[Reserved]

ARTICLE 2. DEFINITIONS

ARTICLE 3. NON-POINT SOURCE POLLUTION CONTROL MEASURES

Sec. 98-101	Non-Point Source Pollution Control Management Prohibitions
Sec. 98-102	Regulation of Pesticides, Herbicides, and Fertilizers
Sec. 98-103	Used Oil Regulation
Sec. 98-104	Impervious Cover
Sec. 98-105 - 98-109	[Reserved]

ARTICLE 4. NPS POLLUTION CONTROL AUTHORIZATIONS

Sec. 98-110	Projects Exempt for Article 4
Sec. 98-111	Non-Point Source Pollution Control Approval
Sec. 98-112	Operating Permit
Sec. 98-113	Required Plans
Sec. 98-114	Maintenance Requirements
Sec. 98-115	TPDES Notice of Intent and Stormwater Pollution Prevention Plan
Sec. 98-116	NPS Pollution Control and BMP Performance Standards and Design Requirements
Sec. 98-117	Water Quality Buffer Zones
Sec. 98-118-98-119	[Reserved]

ARTICLE 5. ADMINISTRATIVE PROVISIONS

Sec. 98-120	Charges and Fees
Sec. 98-121	Variances
Sec. 98-122	Release Reporting and Cleanup
Sec. 98-123	Access for Maintenance and Monitoring
Sec. 98-124	Compliance Monitoring – Right of Entry and Inspection
Sec 98.-125	Fiscal Security

Sec. 98-126	Supplemental Enforcement Action
Sec. 98-127	Stop Orders
Sec. 98-128	Permit or Authorization Revocation
Sec. 98-129	Denial of Approvals and Permits
Sec. 98-130	Penalties an Injunctive Relief
Sec. 90-131-98-139	[Reserved]

CHAPTER 98 – APPENDIX D: NON-POINT SOURCE POLLUTION CONTROL

ARTICLE 1. GENERAL PROVISIONS

Sec. 98-90 Authority

This chapter is promulgated under the authority of sections 2.01 and 2.05 of the Charter of Burnet, Texas, Texas Local Government Code Chapters 51, 212, 401, and 402, and Texas Water Code Chapters 7 and 26.

Sec. 98-91 Scope of Authority and Jurisdiction

This chapter shall apply to all territory within the incorporated limits and extraterritorial jurisdiction of the City of Burnet, Texas. Any person proposing to develop land or improve property within the jurisdiction of the City is subject to the provisions of this chapter. This chapter is also applicable to individual building Structures, subdivisions, excavation and Fill operations, and similar activities.

Sec. 98-92 Findings of Fact

The drainage ways and creeks of the City of Burnet, Texas, are subject to the potential for periodic pollution and Erosion which may result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services and extraordinary public expenditures for pollution reduction and protection, all of which adversely affect the public health, safety and general welfare.

- (1) All Watersheds within the City's jurisdiction are undergoing development or are facing development pressure, which if not properly regulated can adversely impact Stormwater quality.
- (2) All Watersheds within the City's jurisdiction, and especially those with abrupt topography, sparse vegetation, and thin and/or easily disturbed soil, are vulnerable to degradation resulting from development activities.
- (3) The development of land causes large quantities of soil to be displaced and transported to downstream locations. This soil displacement can create significant soil Erosion, degradation of the water quality, and Sedimentation problems. Erosion is a dangerous activity in that it contaminates water supplies and water resources. A buildup of Sediment degrades water quality, destroys valuable environmental resources and clogs watercourses and storm drains.
- (4) The continued economic growth of the City is dependent on adequate quality and quantity of water, a pleasing natural environment, and recreational opportunities in close proximity to the City.
- (5) Specifically, creek and floodplain areas in the City are valuable resources to

the citizens of City in that they provide recreational opportunities, improve the aesthetics of the community, convey Stormwater Runoff and filter water Pollutants.

- (6) If Watersheds within the City's jurisdiction are not developed in a sensitive and innovative manner, their water resources, natural environment, and recreational characteristics will be irreparably damaged. As valuable resources, creeks and floodplains warrant protection.
- (7) The City Council is desirous of adopting appropriate development rules and regulations for the purpose of protecting the water quality of the Watersheds within its jurisdiction.

Sec. 98-93 Statement of Purpose

Non-point source pollution control management policies shall govern the planning, design, construction, operation and maintenance of drainage, Erosion, and Water Quality Control facilities within the City and its zone of extraterritorial jurisdiction. This chapter sets forth the minimum requirements necessary to provide and maintain a safe, efficient and effective non-point source pollution control system within the City and to establish the various public and private responsibilities for the provision thereof. Further, it is the purpose of this chapter to:

- (1) Protect human life, health and property;
- (2) Minimize the expenditure of public money for building and maintaining non-point source pollution control projects and cleaning Sediments out of storm drains, streets, sidewalks and watercourses;
- (3) Help maintain a stable tax base and preserve land values;
- (4) Preserve the natural beauty and aesthetics of the community;
- (5) Control and manage the quality of Stormwater Runoff, the Sediment load in that Runoff, from points and surfaces within subdivisions;
- (6) Establish a reasonable standard of design and performance for development which prevents Erosion and Sediment damage and which reduces the Pollutant loading to streams, ponds and other watercourses.

Sec. 98-94 Lands to which this Chapter Applies

This chapter shall apply to all areas of land within the incorporated limits and extraterritorial jurisdiction of the City.

Sec. 98-95 NPS Technical Manual

This chapter is designed to require an accompanying Non-point Source Pollution Control Ordinance Technical Manual (NPS Technical Manual), which describes in detail the technical requirements to be used to comply with the provisions contained in this chapter. The criteria specified in the latest edition of the NPS Technical Manual, whether adopted in part or in whole, shall become part of the official non-point source pollution management plan for the City. Although the intention of this manual is to establish uniform design practices, it neither replaces the need for engineering judgment nor precludes the use of information not presented. Other accepted engineering procedures may be used to conduct hydrologic and hydraulic studies if approved by the City Engineer. The NPS Technical Manual is maintained and available for inspection at the City Offices.

Sec. 98-96 through 98-99 [Reserved]

ARTICLE 2. DEFINITIONS

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings herein after designated.

Applicant: A person who submits an Application for approval required by this chapter. The Applicant shall be the Owner of the property subject to this chapter acting in person or by and through the owner's authorized representative. Documentation evidencing ownership of the property and the authority of the authorized agent shall be submitted as required by the City Manager.

Application: A written request for an approval required by this chapter.

Best Management Practices (BMP): Schedules of activities, prohibitions of practices, maintenance procedures, management practices, infiltration BMPs, Erosion controls, vegetation practices, Stormwater and overland flow controls, retention, Water Quality Controls, and treatment facilities designed to prevent, reduce, or treat the Discharge the non-point source pollution into or adjacent to the Stormwater Drainage System or water in the state.

Bond: Any form of a surety bond in an amount and form satisfactory to the City.

Buffer Zone: Vegetated area adjacent to a natural creek, swale, or Critical Environmental Feature that is to remain undisturbed and free of Impervious Cover to the largest extent practicable (as determined by the City).

Business Day: Monday, Tuesday, Wednesday, Thursday, or Friday, except legal holidays observed by the City.

City: The City of Burnet, Texas.

City Manager: The person holding the position of City Manager, as appointed by the city council. For the purposes of this chapter, the City Manager may appoint, in writing, a designee to act on his or her behalf.

City Engineer: Such professional engineer or firm of licensed professional consulting engineers that has been specifically employed by the City to assist in engineering-related matters.

Code: City of Burnet Code of Ordinances as amended from time to time.

Commencement of Construction: The disturbance of soils associated with clearing, grading, or excavating activities or other construction activities.

Contractor: Any person, other than the owner, engaging in land development activities on land located within the City's jurisdiction.

Contributing On-site Drainage Area: The portion of a site that contributes Stormwater Runoff to a common point of interest.

Critical Environmental Feature: Features determined to be of critical importance to the maintenance of water quality, including groundwater recharge areas, springs, natural wetlands, caves, and highly erodible natural features.

Developer: A person who owns a tract of land and who is engaged in clearing, grubbing, filling, mining, excavating, grading, installing streets and utilities or otherwise preparing that tract of land for the eventual division into one or more lots on which building(s) or other Structure(s) will be constructed or placed.

Development: All land modification activity, including the construction of building, roads, paved storage areas, and parking lots. "Development" also includes any land disturbing construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and grading, mining, and dredging, and the deposit of refuse, waste or Fill. Care and maintenance of lawns, gardens, and trees; minimal clearing (ten feet (10') wide) for surveying and testing; and agricultural activities are excluded from this definition.

Discharge: Any addition or introduction of any Pollutant, Stormwater, or any other substance whatsoever into the Stormwater Drainage System or into waters of the United States or waters in the State.

Discharger: Any person, who causes, allows, permits, or is otherwise responsible for, a Discharge, including, without limitation, any Operator of a construction site or industrial Facility.

Disturbance of Land or Disturbed Land: Construction activities or human-made change of the land surface, including clearing of vegetative cover, excavating, filling and

grading, mining, and dredging, and the deposit of refuse, waste or Fill, except for care and maintenance of lawns, gardens, and trees, minimal clearing (ten feet (10') wide) for surveying and testing, and agricultural activities.

Domestic Sewage: Human excrement, gray water from home clothes washing, bathing, showers, dishwashing, and food preparation, other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings, including single -family homes, apartment houses and hotels, office buildings, factories, and institutions, that are free from Industrial Waste.

Drainage Criteria Manual: A technical manual containing a description of drainage policies and required methods of hydraulic and hydrologic design and analysis to be used within the City and its area of Extraterritorial Jurisdiction.

Easement: An area of restricted use on private property upon which the City or a public utility, or both, shall have the right to remove and keep removed all or part of any buildings, fences, trees, shrubs, and/or other improvements or growths which in any way will endanger or interfere with the construction, maintenance or efficiency of its respective systems within said Easements. The City and public utilities shall, at all times, have the right to ingress and egress to and from and upon Easements for the purpose of constructing, reconstructing, inspecting, patrolling, maintaining and adding to or removing all or part of their respective systems without the necessity at any time of procuring of permission of anyone.

Erosion: The detachment and movement of soil, Sediment, or rock fragments by wind, water, ice or gravity.

ETJ: The extraterritorial jurisdiction of the City as established by Texas Local Government Code Chapter 42.

Extremely Hazardous Substance: Any substance listed in the Appendices to 40 CFR Part 355, Emergency Planning and Notification.

Facility: Any building, Structure, installation, process, or activity from which there is or may be Discharge of a Pollutant.

Fertilizer: A solid or non-solid substance or compound that contains an essential plant nutrient element in a form available to plants that is used primarily for its essential plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of one or more fertilizers. The term does not include the excreta of an animal, plant remains, or a mixture of those substances, for which no claim of essential plant nutrients is made.

Fill: The manmade deposition and compaction of material that will effect elevation.

Harmful Quantity: The amount of any substance that will cause pollution of water in the state.

Hazardous Household Waste (HHW): Any material generated in a household (including single and multiple residences, hotels, motels, bunk houses, ranger stations, crew quarters, camp grounds, picnic grounds, and day use recreational areas) by a consumer which, except for the exclusion provided in 40 CFR §261.4(b)(1), would be classified as a Hazardous Waste under 40 CFR Part 261.

Hazardous Substance: Any substance listed in Table 302.4 of 40 CFR Part 302.

Hazardous Waste: Any substance identified or listed as a Hazardous Waste by the EPA pursuant to 40 CFR Part 261.

Herbicide: A substance or mixture of substances used to destroy a plant or to inhibit plant growth.

Impervious Cover: All man-made improvements that prevent the infiltration of water into the natural soil, or prevent the migration of the infiltration as base flow, including but not limited to, roads, pavements, and driveways, parking areas, buildings, pedestrian walkways and sidewalks, concrete, asphalt, masonry, surfaces areas, and paving stone surfaced areas, swimming pool water surface area, densely compacted natural soils or Fills which result in a coefficient of permeability less than 1×10^{-6} cm/sec., all existing man-made impervious surfaces prior to Development, water quality and Stormwater detention basins lined with impermeable materials, Stormwater drainage conveyance Structures lined with impermeable materials, interlocking or "permeable pavers," fifty percent (50%) of the horizontal surface area of an uncovered deck that has drainage spaces between the deck boards that is located over a pervious surface. Impervious Cover does not include existing roads adjacent to the Development and not constructed as part of the Development at an earlier phase, naturally occurring impervious features, such as rock out crops, landscaped areas and areas remaining in their natural state, Water Quality Controls and Stormwater detention basins not lined with impermeable materials, and Stormwater drainage conveyance Structures not lined with impermeable materials.

Industrial Waste: Any waterborne liquid or solid substance that results from any process of industry, manufacturing, mining, production, trade, or business.

Landowner: Any person holding title to or having an interest in land.

Land User: Any person operating, leasing, renting, or having made other arrangements with the Landowner by which the Landowner authorizes use of his or her land.

Larger Common Plan of Development: Development that is or will be completed in separate stages, in separate phases, or in combination with other construction

activities and is identified by documentation that identifies the scope of the project including such things as plats, blueprints, marketing plans, contracts, building permits, public notice or hearing, or zoning requests.

Licensed Professional Engineer (LPE), Professional Engineer (PE): A person who has been duly licensed and registered by the State Board of Registration for Professional Engineers to engage in the practice of engineering in the State of Texas.

Natural Creek or Swales: A well-defined natural drainage path capable of conveying Stormwater Runoff.

New Construction: Structures for which the "Start of Construction" commenced on or after the date of adoption of this chapter by the city council.

NPS Pollution Controls and Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, management practices, infiltration BMPs, Erosion controls, vegetation practices, Stormwater and overland flow controls, retention, Water Quality Controls, and treatment facilities designed to prevent, reduce, or treat the Discharge the non-point source pollution into or adjacent to the Stormwater Drainage System or water in the state.

Oil: Any kind of oil in any form, including, but not limited to, petroleum, fuel oil, crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure, sludge, oil refuse, and oil mixed with waste.

Operator: The person or persons who, either individually or taken together, meet the following two criteria: (1) they have operational control over the Facility specifications, including the ability to make modifications in specifications; and (2) they have the day-to-day operational control over those activities at the Facility necessary to ensure compliance with pollution prevention requirements and any permit conditions.

Owner: The person who owns a Facility or part of a Facility or a lessee.

Permanent Stabilization: Installation of approved permanent measures to prevent Erosion with a minimum of 80% coverage of perennial vegetation over pervious areas.

Permittee: A Landowner or Land User who is undertaking land Development activities pursuant to a permit or authorization granted according to the provisions of this chapter.

Pesticide: A substance or mixture of substances intended to prevent, destroy, repel, or mitigate any pest, or any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, as these terms are defined in Section 76.001 of the Texas Agriculture Code.

Petroleum Product: A petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol; other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

Petroleum Storage Tank (PST): Any one or combination of aboveground or underground storage tanks that contain Petroleum Products and any connecting underground pipes.

Pollutant: Dredged spoil, Solid Waste, incinerator residue, Sewage, garbage, Sewage sludge, filtered backwash, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into or adjacent to water.

Pollution: The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Water in the State that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

Primary Treatment: The permanent BMPs designed to have substantial removal of the increase in Pollutant loads due to the Development or Redevelopment of a site.

Redevelopment: Any rebuilding, renovation, remodeling, reconstruction, Revision, or replat of an existing development.

Release: Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or adjacent to the Stormwater Drainage System or the water in the state.

Revision: Any amendments to a previously approved project.

Right-of-Way: A parcel of land occupied or intended to be occupied by a street or alley. Where appropriate, "Right-of-Way" may include other facilities and utilities such as sidewalks; railroad crossings; electrical, communication, Oil and/or gas facilities; water, wastewater and drainage facilities; or for any other special use. The use of Right-of-Way shall also include parkways and medians outside of the paved portion of the street.

Rubbish: Non-putrescible Solid Waste, excluding ashes, which consists of (A) combustible waste materials, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials; or (B) noncombustible waste materials, including glass, crockery, tin cans, aluminum cans, metal furniture,

and similar materials that do not burn at ordinary incinerator temperatures (1600 to 1800 degrees Fahrenheit).

Runoff: That portion of rainfall, melted snow, melted sleet, melted hail, irrigation, or drainage that flows across ground surface and reaches the water in the state, storm drain, or storm Sewer.

Sanitary Sewer (or sewer): The system of pipes, conduits, and other conveyances which carry Industrial Waste and Domestic Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant (and to which Stormwater, surface water, and groundwater are not intentionally admitted).

Secondary Treatment: Any additional permanent BMPs necessary to meet performance standards not achieved by the Primary Treatment for a site.

Sediment: Solid soil material, both mineral and organic, that is being moved or has been moved from its original site by wind, gravity, flowing water or ice and including those materials sometimes also referred to as "silt" or "sand."

Sedimentation: Deposit of detached soil particles.

Septic Tank Waste: Any Domestic Sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service Station: Any retail establishment engaged in the business of selling fuel for motor vehicles that is dispensed from stationary storage tanks.

Sewage (or Sanitary Sewage): The Domestic Sewage and Industrial Waste that is discharged into a Sanitary Sewer system and passes through the Sanitary Sewer system to a sewage treatment plant for treatment.

Sheet Flow: The flow of water in a thin layer over the ground surface.

Site: The property boundaries of a development, including the limits of construction for any offsite improvements.

Slope: A measure of change in vertical elevation with respect to horizontal distance between two defined points.

Solid Waste: Any garbage, Rubbish, refuse, sludge from a waste treatment plant, water supply treatment plant, or air Pollution control Facility, and other discarded material, including, solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations, and from community and institutional activities.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a Structure on a Site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Steep Slope: Slope with a grade in excess of twenty percent (20%),

Stormwater: Any moisture that falls from the atmosphere in a discrete storm event, including snow, sleet, rain, and hail.

Stormwater Drainage System: A conveyance or system of conveyances including roads with drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains designed or used for collecting or conveying storm water.

Structure: A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. When used in the context of Stormwater, the term means drainage improvement, such as dams, levees, bridges, culverts, head walls, or flumes.

Used Oil or Used Motor Oil: Any oil that has been refined from crude oil or a synthetic oil that, as a result of use, storage, or handling, has become unsuitable for its original purpose because of impurities or the loss of original properties but that may be suitable for further use and is recyclable in compliance with state and federal law.

Vegetative Cover: The cover over a land's surface area with plant life.

Water in the State (or Water): Any groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico, inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or non-navigable, and including the beds and banks of all water courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

Water Quality Control: A Structure, system, or feature that provides water quality benefits by treating Stormwater Runoff.

Water Quality Standard: The designation of a body or segment of surface Water in the State for desirable uses and the narrative and numerical criteria deemed by the state to be necessary to protect those uses, as specified in Chapter 307 of Title 30 of the Texas Administrative Code.

Watershed: The total area contributing Runoff to a stream or drainage system.

Yard Waste: Leaves, grass clippings, yard and garden debris, and brush that results from landscaping maintenance and land-clearing operations.

1-Year, 3-Hour Storm Event: A rainfall event over a 3 hour period as defined in the Drainage Criteria Manual. The 1-year, 3-hour rainfall distribution can be found in Drainage Criteria Manual.

ARTICLE 3. NON-POINT SOURCE POLLUTION CONTROL MEASURES

Sec. 98-101 Non-point Source Pollution Control Management Prohibitions

- (1) Except as authorized by permit or this Code, no person shall introduce or cause to be introduced into or adjacent to the Stormwater Drainage System or Water in the State any Discharge that is not composed entirely of Stormwater.
- (2) Except as authorized by permit or this Code, no person shall introduce or cause to be introduced into or adjacent to the Stormwater Drainage System or Water in the State any Discharge that causes or contributes to causing the City to violate a water quality standard.
- (3) Except as authorized by permit or this Code, no person shall dump, spill, leak, pump, pour, emit, empty, Discharge, leach, dispose, or otherwise introduce or cause, allow, or permit to be introduced any of the following substances into or adjacent to the Stormwater Drainage System or water in the state:
 - a. Any Used Motor Oil, antifreeze, or any other motor vehicle fluid;
 - b. Any Industrial Waste or Hazardous Waste, including hazardous household waste;
 - c. Any Domestic Sewage or Septic Tank Waste, grease trap waste, or grit trap waste;
 - d. Any garbage, Rubbish, or Yard Waste;
 - e. Any wastewater from:
 - (i) a commercial carwash Facility; from any vehicle washing, cleaning, or maintenance at any new or used automobile or other vehicle dealership, rental agency, body shop, repair shop, or maintenance Facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus, or heavy equipment, by a business or public entity that operates more than two such vehicles;

- (ii) from the washing, cleaning, de-icing, or other maintenance of aircraft;
 - (iii) a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains any soap, detergent, degreaser, solvent, or any other harmful cleaning substance;
 - (iv) commercial floor, rug, or carpet cleaning;
 - (v) the wash down or other cleaning of pavement that contains any Harmful Quantity of soap, detergent, solvent, degreaser, emulsifier, dispersant, or any other harmful cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or Hazardous Substance has occurred, unless all harmful quantities of such Released material have been previously removed;
- f. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emissions filter, or the blowdown from a boiler;
 - g. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or hydromulch material, or from the cleaning of commercial vehicles or equipment containing, or used in transporting or applying, such material;
 - h. Any Runoff or wash down water from any animal pen, kennel, or fowl or livestock containment area;
 - i. Any filter backwash from a swimming pool, or fountain, or spa;
 - j. Any swimming pool water containing any Harmful Quantity of chlorine, muriatic acid or other chemical used in the treatment or disinfection of the swimming pool water or in pool cleaning;
 - k. Any Discharge from water line disinfection by superchlorination or other means if it contains any Harmful Quantity of chlorine or any other chemical used in line disinfection;
 - l. Any fire protection water containing Oil or Hazardous Substances or materials. This prohibition does not apply to Discharges or flow from firefighting by the Fire Department;
 - m. Any water from a water curtain in a spray room used for painting vehicles or equipment;

- n. Any contaminated Runoff from a vehicle wrecking yard;
 - o. Any substance or material that will damage, block, or clog the Stormwater Drainage System; or
 - p. Any Release from a Petroleum Storage Tank (PST), or any leachate or Runoff from soil contaminated by a leaking PST, or any Discharge of pumped, confined, or treated wastewater from the remediation of any such PST Release, unless the Discharge complies with all state and federal standards and requirements.
- (4) Except as authorized by permit or this Code, no person shall introduce or cause to be introduced into or adjacent to the Stormwater Drainage System or Water in the State any Harmful Quantity of Sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities, or associated with land filling or other placement or disposal of soil, rock, or other earth materials, in excess of what could be retained on Site or captured by employing Sediment and Erosion control measures to the maximum extent practicable.
- (5) Except as authorized by a permit or other approval issued by the Texas Commission on Environmental Quality or authorized agent under Texas Water Code Chapter 26 or Texas Health and Safety Code Chapter 366, no person shall connect a line conveying Sanitary Sewage, domestic or industrial, to the Stormwater Drainage System, or allow such a connection to continue.
- (6) Except as authorized by permit or this Code, no person shall cause or allow any pavement wash water from a Service Station to be discharged into or adjacent to the Stormwater Drainage System or water in the state. No permit is required for existing Service Stations on the effective date of this chapter. However, wash water from existing Service Stations and new Service Stations shall pass through a properly functioning and maintained, grease, Oil, and sand interceptor before discharge into or adjacent to the Stormwater Drainage System or water in the state.

Sec. 98-102 Regulation of Pesticides, Herbicides, and Fertilizers.

- (1) Any sale, distribution, application, labeling, manufacture, transportation, storage, or disposal of a Pesticide, Herbicide, or Fertilizer must comply fully with all state and federal statutes and regulations including, without limitation, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and all federal regulations promulgated pursuant to FIFRA; Chapters 63 and 76 of the Texas Agriculture Code and all state regulations promulgated pursuant thereto; and any other state or federal requirement.

- (2) Any license, permit, registration, certification, or evidence of financial responsibility required by state or federal law for sale, distribution, application, manufacturer, transportation, storage, or disposal of a Pesticide, Herbicide or Fertilizer must be presented to the City and any City law enforcement officer for examination upon request.
- (3) No person shall use or cause to be used any Pesticide or Herbicide contrary to any directions for use on any labeling required by state or federal statute or regulation.
- (4) No person shall use or cause to be used any Pesticide, Herbicide, or Fertilizer in any manner that the person knows, or reasonably should know, is likely to cause, or does cause, a Harmful Quantity of the Pesticide, Herbicide, or Fertilizer to enter the Stormwater Drainage System or water in the state.
- (5) No person shall dispose of, discard, store, or transport a Pesticide, Herbicide, or Fertilizer, or a Pesticide, Herbicide, or Fertilizer container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a Harmful Quantity of the Pesticide, Herbicide, or Fertilizer to enter the Stormwater Drainage System or water in the state.
- (6) If provided with a display notice containing the provisions of this subsection, pertaining to the regulation of Pesticides, Herbicides, and Fertilizers, or a reasonable description thereof, and the information that any user of the product may obtain further information from the City, any person selling Pesticides, Herbicides, or Fertilizers at retail or wholesale shall post the notice prominently where it may be read by purchasers of the product.

Sec. 98-103 Used Oil Regulation

- (1) No person shall:
 - a. Discharge Used Oil into or adjacent to the Stormwater Drainage System, water in the state, or a Sewer, drainage system, septic tank, surface water, groundwater, or water course;
 - b. Knowingly mix or commingle Used Oil with Solid Waste that is to be disposed of in a landfill or knowingly directly dispose of Used Oil on land or in a landfill;
 - c. Apply Used Oil to a road or land for dust suppression, weed abatement, or other similar use that introduces Used Oil into the environment.
- (2) All businesses that change motor oil for the public, municipal waste landfills, and fire stations shall serve as public Used Oil collection centers as provided by state statute.

- (3) A retail dealer who annually sells directly to the public Oil in containers for use off-premises shall post in a prominent place a sign informing the public that improper disposal of Used Oil is prohibited by law. The sign shall prominently display the toll-free telephone number of the state Used Oil information center.

Sec. 98-104 Impervious Cover

- (1) This section applies to all new development, re-development, and construction for which a construction or development plat, Site plan, or NPS Site plan is required, or a building permit is, or will be, required. This section applies regardless if the development is exempt under Section 98-105. Although certain percentages of Impervious Cover are designated in this section, nothing in this section shall release a person from meeting other zoning and land use regulations in this Code.
- (2) Unless increases are permitted by the use of Impervious Cover allowances, the Impervious Cover shall not exceed the allowances required by Appendix B of this Code, or, if Appendix B does not specifically limit the Impervious Cover for a particular type of land use, then the Impervious Cover shall not exceed the following:
 - a. 85% of the total area of the Site for industrial sites;
 - b. 80% of the total area of the Site for commercial sites;
 - c. 75% of the total area of the Site for multi-family sites; and 50% of the total area of the Site for residential subdivisions.
- (3) Subsection (2) of this section does not apply to the Main Street District, which is exempt from the Impervious Cover limitations.
- (4) No Impervious Cover shall be constructed within a water quality Buffer Zone, downstream of a Water Quality Control, or within areas designated for on-site irrigation for treated wastewater effluent disposal.
- (5) Impervious Cover Allowances:
 - a. Isolation of Roof Runoff, Rainwater Collection, and Irrigation: If approved by the City, the maximum Impervious Cover limit may be increased by up to five (5) percentage points if roof runoff or rainwater is isolated, treated, and used for irrigation. The roof runoff or rainwater must comply with the Pollutant removal performance standards in Section 98-111.

b. Use of Mitigation Land

- (i) For each three (3) acres of land (transferring tract) that the Applicant leaves undeveloped or undisturbed and that is not included in an Impervious Cover calculation, the Applicant may transfer up to one (1) acre of land (receiving tract) for Impervious Cover, but in no case shall the maximum Impervious Cover limit be increased by more than ten (10) percentage points.
- (ii) Both the transferring and receiving tracts used in the Impervious Cover allowances shall be located within the corporate limits or ETJ of the City.
- (iii) The transferring tract shall not include a water quality Buffer Zone or Critical Environmental Feature.
- (iv) The receiving tract shall comply with the Water Quality Control standards of this chapter.
- (v) The transferring and the receiving tracts shall be concurrently platted and must transfer development intensity at that time.
- (vi) The use of mitigation land and the increase in Impervious Cover limits shall be noted on the plats of the transferring and receiving tracts.
- (vii) A restrictive covenant that runs with the transferring tract and describes the use of mitigation land shall be filed in the deed records upon approval by the City of the restrictive covenant.

ARTICLE 4. NPS POLLUTION CONTROL AUTHORIZATIONS

Sec. 98-105 Projects Exempt from Article 4

The following projects are exempt from the requirements of this Article:

- (1) Single-family Residences. New construction of a single-family residence on a single-family lot which is not part of a subdivision.
- (2) Existing Development. Existing development on the effective date of this chapter. If, however, improvements, additions, or Revisions to the approved plans are made after the effective date of this chapter that require a Site plan, building permit, or any type of plat, then the Landowner or Land User must obtain NPS Pollution Control authorization.

- (3) Final Plats. Landowners or Land Users developing Sites for which final plats have been approved by City before the effective date of this chapter.
- (4) Utility Maintenance. Routine maintenance and installation of utility lines.
- (5) Developments of One Acre or Less. Developments or Redevelopments of one acre or less that are not part of a larger common plan of development
- (6) Previously Permitted Developments. Developments or Redevelopments that have already been issued a permit by the Lower Colorado River Authority as of the effective date of this ordinance.

106 Non-Point Source Pollution Control Approval

- (1) Authorized Activities- NPS Pollution Control Authorization Required
 - a. An authorization by ordinance or an Non-Point Source (NPS) Pollution Control authorization shall be required for all development, re-development, or other construction that causes, may cause, or has the potential to cause the discharge of Stormwater, NPS Pollution, or other Pollutant listed in section 98-101 into or adjacent to the Stormwater Drainage System or water in the state. No Landowner or Land User subject to this chapter may commence or conduct construction or development within the City and in its ETJ without first obtaining an NPS Pollution Control authorization from the City. At the time the Landowner or Land User controlling or using the Site and desiring to undertake construction or development subject to this chapter, the Landowner or Land User shall pay all applicable fees required by this chapter and provide the required information for an NPS Pollution Control authorization with the landowner's or Land User's Site plan or construction or development plat. By submitting a Site plan or plat, the Applicant is authorizing City to enter the Site to obtain information required to review and provide approval for the NPS Pollution Control measures.
 - b. Except as otherwise provided by this chapter, all development, re-development, or other construction that is required to obtain an authorization by ordinance or an NPS Pollution Control authorization shall ensure all the required NPS Pollution Controls and BMPs comply with the performance standards prescribed in section 98-111.
- (2) Activities Authorized by Ordinance
 - a. Except as provided by subsections c. and d. of this section and if the development is not exempt under Section 98-105, the following list of

projects are eligible for authorization by ordinance:

- (i) 1 Acre or Less of Impervious Cover with 5 acres or Less of Disturbance of Land: Developments or Redevelopments with one (1) acre or less of Impervious Cover with five (5) acres or less of disturbance of land.
 - (ii) 20 Percent or Less of Overall Impervious: Cover for the Site: Developments or Redevelopments with twenty (20) percent or less of overall Impervious Cover for the Site.
- b. Requirements for Projects Authorized by Ordinance. To qualify for an authorization by ordinance, the projects listed in subsection (2)a. of this section shall comply with the following:
- (i) Submit a written notice to the City at the same time the request is made for a construction or development plat, or Site plan approval, or if no plat or Site plan is required, fourteen (14) Business Days before the Commencement of Construction that contains the following information:
 - (a) name of the landowner;
 - (b) location of address of the property;
 - (c) name of development, if applicable;
 - (d) contact information for owner, engineer, and Contractor as applicable;
 - (e) type of project or development;
 - (f) basis for exemption from permit requirements;
 - (g) amount of Impervious Cover expected as a result of the project;
 - (h) certification of compliance with the non-point source Pollution control requirements, as set forth in this chapter and NPS Technical Manual;
 - (i) dated signature of owner's or owners' authorized representative;
 - (ii) Comply with all applicable TPDES and EPA Stormwater requirements.

- (iii) Submit to the City all documents submitted to the TCEQ or EPA.
 - (iv) Comply with guidelines and BMPs set forth in the NPS Technical Manual for controlling Erosion, Sedimentation and non-point source pollution in a manner and to a level consistent with this Chapter and the NPS Technical Manual.
 - (v) For developments or Redevelopments for which the construction of a permanent BMP, other than vegetative filter strips and infiltration trenches, is required, submit a maintenance plan to the City at least fourteen (14) days prior to the commencement of construction of the permanent BMP.
- c. Projects listed in section 98-106(2) shall comply with all other applicable chapters in the Code, or other applicable ordinances adopted by the City from time to time.
- d. If the City, after receipt of the notice required by b. of this subsection, determines that the project as proposed will not meet the performance standards described in Section 98-111 of this Code and will cause the water quality to degrade, the City may require the Landowner or Land User to obtain an individual NPS Pollution Control authorization or an Operating Permit.

(3) Processing of NPS Pollution Control authorizations

- a. Submittals. Landowners and Land Users who must obtain NPS Pollution Control authorization shall submit the required information in accordance with this chapter and the NPS Technical Manual.
- b. Review of NPS Pollution Control Information.
 - (i) Construction and Development Plats. If a person is required to obtain a construction or development plat, the person shall submit the information required for an NPS Pollution Control authorization along with, and at the same time the construction or development plat is submitted to the City in accordance with Appendix B of the City's Code of Ordinances. The City shall review the NPS Pollution Control information in conjunction with the review of applications for construction or development plats.
 - (ii) Site Plan Reviews. If a person is not required to obtain a construction or development plat but is required to obtain Site plan approval under Chapter 98 of this Code, the person shall submit

the information required for an NPS Pollution Control authorization along with and at the same time the Site plan Application is submitted to the City in accordance with Appendix B of the City's Code of Ordinances. The City shall review the NPS Pollution Control information in conjunction with the review of applications for Site plans.

- (iii) NPS Site Plan Reviews: If no construction or development plat is required and if no Site plan is otherwise required but the person is required by this Chapter to obtain NPS Pollution Control authorization, the person shall submit the information required for an NPS Pollution Control authorization in the form of an NPS Site Plan. The NPS Site Plan shall be submitted for the total area of the Site. The NPS Site Plan shall include:
 - (a) Name and address of the Owner and Applicant.
 - (b) Address and legal description of the property.
 - (c) If the Applicant is not the legal Owner of the property, a statement that the Applicant is the authorized agent of the owner.
 - (d) A brief description of the proposed use.
 - (e) A Site plan, drawn to scale and sufficiently dimensioned as required, showing the following:
 - 1. The date, scale, North arrow, title, name of Owner and name of person preparing the Site plan.
 - 2. The location and dimensions of boundary lines, Easements and required yards and setbacks.
 - 3. A scale drawing of location and intended use of proposed and existing Site improvements and proposed and existing Impervious Cover, including parking and loading areas, pedestrian and vehicular access, landscaped areas, and utility or services areas.
 - 4. A scale drawing of location and description of all Water Quality Control and Erosion control BMPs as

required by this Chapter and the NPS Technical Manual.

5. A Site inventory analysis including a scale drawing showing major existing vegetation, natural watercourses, creeks or bodies of water and an analysis of planned changes in such natural features as a result of the development. This shall include a delineation of any flood prone areas.
6. For Sites with an average Slope greater than ten (10) percent, a plan showing existing and proposed topography and grading and proposed Erosion control measures.
7. Any other information that may be necessary to review the Application for compliance with this Chapter and the NPS Technical Manual.

- (f) Any applicable fee established by the city council.
- (g) If the Site plan does not include the required information, the City may request additional information or return the Application as incomplete.

c. Approval Process and Procedures:

- (i) Approvals in Conjunction with Construction and Development Plats and Site Plans: For NPS Pollution Control applications submitted in conjunction with a construction or development plat or a Site plan required by Appendix B of this Code, approval of the NPS Pollution Control measures shall occur at the same time and in conjunction with plat and Site plan approvals.
- (ii) Approvals of NPS Site Plans: The procedure for approval of an NPS Site Plan and NPS Pollution Control measures is as follows:
 - (a) Recommendations of planning commission. Not more than thirty (30) days after filing of a completed application, the planning and zoning commission shall prepare a report to the City Council recommending approval, approval subject to modifications or disapproval of the NPS Site plan. The planning and zoning commission may seek recommendation of City Engineer as required. A copy of the report shall be furnished to the Applicant. Within ten (10) days after an Application is filed with the City, the City

will determine if the Application is complete. If the Application is not complete, the City may return to the Applicant the incomplete Application or provide the Applicant with additional time to submit the required information. The 30-day review period does not start until a completed Application is filed.

- (b) Action by the city council. Within forty (40) days after recommendation from planning and zoning commission, the City Council shall consider the Application at a public meeting. Consideration may be continued at a subsequent meeting with the concurrence of the Applicant. The council shall review the recommendations and act on the application. The council may approve a NPS Site plan as submitted, may approve a NPS Site plan subject to specific modifications or may disapprove the NPS Site plan. The council shall notify the Applicant of its action.

- (c) Review and evaluation criteria. Planning and zoning commission and the City Council shall review and evaluate NPS Site plans to ensure conformance with applicable regulations and standards established by the Chapter and the NPS Technical Manual.

- (d) Modification of Site plan. The City Council may require modification of an NPS Site plan as a prerequisite for approval to ensure compliance with this Chapter and the NPS Technical Manual.

- (e) Lapse of approval.
 - 1. Unless a longer time shall be specifically established as a condition of approval, an NPS Site plan approval shall lapse and shall become void one (1) year after the date on which such approval became effective, unless prior to the expiration of one (1) year construction is commenced and diligently pursued toward.

 - 2. An NPS Site plan approval subject to lapse may be extended for an additional period of ninety (90) days, provided that prior to the expiration date, a written request for extension is filed with City.

- (f) New applications. Following the denial or revocation of an NPS Site plan review application, no Application for an NPS Site plan review for the same or substantially the same Site plan on the same or substantially the same Site shall be filed within sixty (60) days from the date of denial or revocation. Any such Application filed will be returned to the Applicant as an incomplete application.
- d. Fees. The fees and charges required to process NPS Pollution Control authorizations shall be as shown in this Code.
- e. Fiscal Security. Proof of fiscal security shall be provided with the NPS Pollution Control authorization. Fiscal security shall be provided in accordance with the requirements in Section 98-125.
- f. Conditions. In addition to Site specific conditions that may be required to comply with the technical standards set forth in the NPS Technical Manual, all permits or NPS Pollution Control authorizations shall require the Permittee to:
 - (i) Notify the City within forty-eight (48) hours before commencing any development;
 - (ii) Obtain a permit or authorization amendment from City prior to modifying the approved NPS pollution controls and BMPs; however, no permit or authorization amendment is required for minor field adjustments of temporary Erosion controls;
 - (iii) Install all NPS pollution controls and BMPs as identified in the approved permit or authorization and ensure those NPS pollution controls and BMPs comply with the applicable performance standards prescribed in section 98-116 or other standard for which a variance has been granted;
 - (iv) Comply with the requirements of this chapter regarding maintenance plans;
 - (v) Repair any siltation or Erosion damage resulting from development;
 - (vi) Inspect all temporary Erosion and Sedimentation controls after each rain of one-half inch (0.5") or more, and at least once each week, and make needed repairs;

- (vii) Allow the City to enter the Site for the purpose of inspecting compliance with the permit or authorization, or for performing any work necessary to bring the Site into compliance with the permit or authorization;
- (viii) Designate a location on the Site for the posting of notices;
- (ix) Keep a copy of the permit or authorization and all development plans on the Site or with the Permittee 's designated representative;
- (x) Upon completion of development, the Permittee 's registered professional engineer shall certify in writing to the City that the NPS pollution controls and BMPs were constructed and maintained in accordance with the permit or authorization conditions and this chapter;
- (xi) Promptly notify the City in writing of any change in the name, address, or telephone number of the Permittee ;
- (xii) Assign the NPS Pollution Control authorization and all rights and obligations associated therewith to the land owner, Operator, Property Owners' Association or other entity as applicable, upon completion of construction of the development if the permit or authorization is not already in the name of the entity responsible for the BMPs.
- (xiii) Pay all fees associated with the approval of the NPS Pollution Control measures at the time of submittal;
- (xiv) Perform all activities in accordance with the federal, state or local laws or ordinances;
- (xv) Indemnify and hold the City and its authorized agents and its authorized consultants harmless from any and all claims, demands, damages, actions, costs and charges to which the City may become subject and which the City may have to pay by reason of injury to any person or property, or loss of life, or loss of property, resulting from, or in any way connected with the Permittee's actions under this NPS Pollution Control authorization.
- (xvi) No work is authorized that is not directly addressed in the permit Application submitted to the City.
- (xvii) Nothing in the permit is intended to amend or alter any legal rights

or benefits previously granted to or vested in the City.

- (xviii) Any terms and conditions reached between the City and the Applicant.
 - g. Approval of authorization. The City will issue a NPS Pollution Control authorization upon the Applicant's submission of a complete permit application, payment of the Application fee, the City's approval of the NPS Pollution Control measure, and approval of the plat or Site plan, as applicable.
 - h. Duration. Except as provided in Subsection (3) g. of this section or Sections 98-112 and 98-128 of this Chapter, NPS Pollution Control authorization shall be valid for the life of the Site development permit or the building permit for the development.
 - i. Termination for Nonuse. An NPS Pollution Control authorization will be terminated by the City should the building permit or the Site development permit be terminated. Commencement of development means clearing the Site and performing initial or rough grading of the improvements. If the City terminates a permit for nonuse and the fiscal security is still in effect, the City may call on the Permittee's security in order to provide Permanent Stabilization of the Site.
- (4) Enforcement. Failure to comply with the provisions of an NPS Pollution Control authorization is a violation of this Code.

Sec. 98-107 Operating Permit

- (1) General Requirements. Except for projects listed and authorized under section 98-106(2) of this Code, the owners or Operators of all new Water Quality Controls for residential and non-residential development must obtain an Operating Permit. The Application for the Operating Permit shall be filed concurrently with the Application for the NPS Pollution Control authorization. The Owner or Operator is responsible for the proper operation and maintenance of the control and for Operating Permit renewal. The first Operating Permit will be issued by the City upon:
- a. The completion of construction, if applicable;
 - b. Inspection of the control by the City after review of the maintenance plan accompanying the design engineer's concurrence letter of the completion of construction;
 - c. Final inspection approval by the City;

- d. The issuance of a certificate of compliance or a certificate of occupancy by the City, if applicable; and
 - e. Payment of any required fees.
- (2) Operating Permit Procedures. All Water Quality Controls shall be maintained in accordance with this chapter, the permit, and the NPS Technical Manual, and in accordance with section 98-124 of this Code, each permitted control will be inspected from time to time by the City to confirm that proper maintenance, as described in the maintenance plan, has occurred prior to renewal of the permit. An Operating Permit shall be required for developed Sites with existing Water Quality Control only when new development or re-development occurs.
- (3) Operating Permit Information Requirements. The permit Application shall include the following components and must be submitted to the City with the Site plan for New Construction, or not later than thirty (30) calendar days prior to the renewal date shown on an existing permit:
 - a. Name and address of the development;
 - b. Name, title and business phone number of the Owner or Operator;
 - c. Single point of contact name, phone number, and fax number;
 - d. Mailing address of the Owner or Operator;
 - e. Site plan number on file with the City for the control;
 - f. Previous Operating Permit;
 - g. Signature block for City approval;
 - h. Special conditions required by restrictive covenant, or by agreement at a condition of City approval;
 - i. Maintenance records and date of last maintenance;
 - j. Name of Contractor who performed the required maintenance;
 - k. Results of required maintenance, including actions take, materials removal, disposal location, components replaced;
 - l. Evidence of fiscal security, if applicable;
 - m. Types of BMPs being used.

- (4) Permit Duration. Any Operating Permit issued by the City shall be issued for a period of five (5) years.
- (5) Operating Permit Renewal
 - a. It is the responsibility of the Permittee to apply to the City for renewal of the permit no later than thirty (30) calendar days before the existing permit expires. The Application must be accompanied by payment of the appropriate renewal fee, updated information concerning ownership or Facility operation and enforcement status. Upon receipt of all information and fees, including a favorable inspection and maintenance report, the City will renew the permit for a period of five (5) years.
 - b. Any repair work or modifications of a control not specified in the maintenance plan shall require the Permittee's engineer's concurrence letter, prior to renewal of the permit.
 - c. Permit renewal will be withheld if there is pending enforcement action against the Permittee based on any violations of water quality regulations at the Site.
- (6) Permit Transfer. The transfer of the Operating Permit shall require the completion of a new permit application, and must be submitted not later than thirty (30) calendar days after transfer of ownership or operation of the control.
- (7) Enforcement. Failure to comply with the provisions of the Operating Permit is a violation of this Code.

Sec. 98-108 Required Plans

All plans required by the NPS Technical Manual shall be submitted for review and approval along with the required information necessary for authorization of any NPS Pollution Control measures. Any required plans shall be incorporated into any permits or authorizations issued by the City.

Sec. 98-109 Maintenance Requirements

- (1) Maintenance Required. All Water Quality Control measures and their appurtenances shall be maintained by the Permittee or subsequent landowner(s) or Land User(s) pursuant to an approved maintenance plan. The City may require the Permittee and subsequent landowner(s) or Land Users to post fiscal security in a manner described in section 98-125 for the purpose of maintaining all Water Quality Controls required by this chapter. Landowners and Land Users outside the City limits and not within a utility district may elect to form a Maintenance Association (MA) in accordance with this section prior to

the issuance of an Operating Permit. All MAs must post fiscal security or create a maintenance fund for the purpose of maintaining all Water Quality Controls required by this chapter. The duties and responsibilities of an MA may be performed by a Homeowners' Association, Property Owners' Association, or like entity if it meets the requirements of this section of this chapter. The maintenance of all BMPs shall be in accordance with the NPS Pollution Control authorization or Operating Permit and the approved maintenance plan.

- (2) Requirements for MA's. The Applicant must submit to the City the approved articles of association for the MA, as well as a map showing the boundaries of its jurisdiction. The MA must have the following general powers which are reflected in the articles of association:
 - a. Own and convey property;
 - b. Operate and maintain common property, specifically the Water Quality Controls;
 - c. Establish rules and regulations;
 - d. Assess member maintenance fees and enforce said assessments;
 - e. Sue and be sued;
 - f. Contract for services to provide operation and maintenance;
 - g. If the MA is a homeowners' association, it must have as members all the homeowners, lot owners, property owners, or unit owners;
 - h. The MA shall exist in perpetuity; however, if the MA is dissolved or annexed into the City or a utility district, the articles of association must provide that the property consisting of the Water Quality Controls shall be conveyed to the City or a utility district; and
 - i. It shall be clearly stated in the chapters of association of the MA that:
 - (i) It is the responsibility of the MA to operate and maintain the Water Quality Controls;
 - (ii) The water quality controls are owned by the MA or described therein as common property;
 - (iii) There is a method of assessing and collecting the assessment for operation and maintenance of the Water Quality Controls; and

- (iv) Any amendment that would affect the Water Quality Controls must be approved by the City.
- (3) Phased Projects. If an MA is proposed for a project which will be developed in phases and subsequent phases will utilize the Water Quality Controls, the MA must have the ability to accept future phases into the MA.

Sec. 98-110 Texas Pollutant Discharge Elimination System (TPDES) Notice of Intent and Stormwater Pollution Prevention Plan

Any Owner or Operator who intends to obtain coverage as an Owner or Operator for Stormwater Discharges from a construction Site under the TPDES General Permit for Stormwater Discharges From Construction Sites shall submit a signed copy of its Notice of Intent (NOI) and the Stormwater Pollution Prevention Plan (SWPPP) to the City Engineer at least fourteen (14) days prior to the commencement of construction. The Owner or Operator shall make the SWPPP and any modifications thereto available to the City upon request.

Sec. 98-111 NPS Pollution Control and BMP Performance Standards and Design Requirements

- (1) All Development and Redevelopment required is to obtain an authorization by ordinance or an NPS Pollution Control authorization under Section 98-111(2) or (3) shall utilize NPS pollution controls and BMPs to treat Stormwater Runoff. All NPS pollution controls and BMPs required by this chapter shall be designed in accordance with the NPS Technical Manual and by a Professional Engineer. All NPS pollution controls and BMPs shall meet the performance standards and design requirements prescribed by this section.
- (2) Water Quality Volume: All NPS pollution controls and BMPs shall be designed and sized based on water quality volume calculated using the methods prescribed in the NPS Technical Manual. The minimum volume of Stormwater Runoff for Water Quality Control shall be based on the 1-Year, 3-Hour Storm Event for the Contributing On-site Drainage Area.
- (3) Sites in excess of ten (10) acres: The BMPs for Sites of ten (10) or more acres shall be designed to achieve an annual removal rate of 70% or more for the increase of Total Suspended Solids (TSS) and increase in Total Phosphorus (TP) resulting from the development or Redevelopment. Primary and Secondary Treatment methods may be used to achieve these removal rates.
- (4) Overland Flow Controls
 - a. To the maximum extent practical, all roof runoff from non-residential buildings shall have down spouts disconnected from the Site Stormwater

Drainage System.

- b. To the maximum extent practical, all Stormwater drainage shall be treated using overland flow methods to a vegetated buffer. The vegetated buffer shall be designed in accordance with the NPS Technical Manual.
 - c. Drainage patterns shall be designed to the maximum extent practical to prevent Erosion, maintain and recharge of local seeps and springs, and attenuate the harm of contaminants collected and transported by Stormwater. Overland Sheet Flow and natural drainage features and patterns shall be maintained to the maximum extent practical, depending on volumes and velocities of Runoff for the development, as opposed to concentrating flows in storm Sewers and drainage ditches.
 - d. Construction of enclosed storm Sewers and impervious channel linings are permitted only when the City, on the basis of competent engineering evidence from the Applicant, concludes that such storm Sewers or impervious linings are protective of water quality.
 - e. If storm Sewers are deemed necessary as specified above, the Applicant shall design the Stormwater Drainage System to mitigate its impact on water quality by using structural devices or other methods to prevent Erosion and dissipate Discharges from outlets wherever practicable, and by directing Discharges to maximize overland flow through buffer zones or grass lined Swales.
 - f. Overland flow facilities for the Stormwater Drainage System shall be designed in accordance with the criteria of the Drainage Criteria Technical Manual.
- (5) Infiltration: To the maximum extent practical, Water Quality Controls shall be designed to restore the infiltration capacity of pre-development conditions. Infiltration BMPs shall be designed in accordance with the NPS Technical Manual.
- (6) Steep Slopes
- a. Erosion control and Water Quality Control BMPs shall be designed in accordance with the NPS Technical Manual.
 - b. A cut or Fill with a finished gradient steeper than thirty-three percent (33%) shall be stabilized in accordance with the NPS Technical Manual.
- (7) Vegetation

- a. To the maximum extent practical, landscape shall be preserved in its natural state and shall comply with the requirements of the zoning ordinance of the City.
- b. To the maximum extent practical, xeriscape and low maintenance vegetation shall be included in all non-residential development and shall be provided in accordance with the NPS Technical Manual.
- c. To the maximum extent practical, the use of Herbicides, Pesticides and Fertilizers shall be minimized.
- d. If Pesticides and Fertilizers will be used, a Pesticide and Fertilizer management plan shall be submitted providing information regarding proper use, storage, and disposal of Pesticides and Fertilizers. The plan shall indicate likely Pesticides and Fertilizers to be used. The plan shall include two lists of Pesticides and Fertilizers: (1) those which, due to their chemical characteristics, potentially contribute significantly to water quality degradation; (2) those which, due to the chemical characteristics, potentially would result in minimal water quality degradation.
- e. An Integrated Pest Management (IPM) Plan shall be submitted in accordance with the NPS Technical Manual.
- f. Vegetative BMPs, such as vegetative filter strips, shall be designed in accordance with the NPS Technical Manual.

(8) Water Quality Controls (WQC)

- a. Water Quality Controls (WQC) are required for residential and non-residential developments and re-developments. Water Quality Controls shall be sized for the on-site contributing drainage area that contains development if the new development or re-development contains Impervious Cover.
- b. The volume of Runoff (water quality volume) to be captured, isolated, and treated by each WQC shall be as required in subsection (2) of this section. Each WQC shall be sized for the Contributing On-site Drainage Area only to that WQC.
- c. Vegetated filter strips shall be used to the maximum extent practicable for the treatment of Stormwater Runoff.
- d. Developed areas requiring treatment shall include the on-site contributing drainage area with:

- (i) areas of Impervious Cover;
 - (ii) lawns using Pesticides, Herbicides or Fertilizers;
 - (iii) landscaping using Pesticides, Herbicides or Fertilizers;
 - (iv) gardens using Pesticides, Herbicides or Fertilizers;
 - (v) golf courses and play fields using Pesticides, Herbicides or Fertilizers;
 - (vi) areas of on-site spray irrigation with wastewater effluent.
 - e. The following areas shall not require water quality treatment:
 - (i) The full area of existing natural areas or restored natural areas which are restricted from development and Pesticides, Herbicide, or Fertilizer Application through a plat note or restrictive covenant and the Runoff from which is routed around the WQC. The Runoff from natural areas which blend with the Runoff from the developed areas shall be included in the water quality volume calculations.
 - (ii) The full area of the WQC Structure.
 - (iii) Swimming pools which do not discharge its filter backwash into the Stormwater Drainage System or water in the state.
 - (iv) Impervious surface areas used for Stormwater collection and on-Site irrigation.
 - (v) The full area of off-Site drainage areas.
 - f. Removal efficiencies for WQC's shall be as established in the NPS Technical Manual.
 - g. The design of WQC's shall be in accordance with the NPS Technical Manual.
- (9) Erosion Control Requirements
- a. All temporary and permanent Erosion and Sedimentation control BMPs shall comply with the NPS Technical Manual.
 - b. Peak Runoff Rate: The peak Runoff rate for the 1-Year, 3-Hour Storm Event under developed conditions shall not exceed the peak Runoff rate for the 1- Year, 3-Hour Storm Event under pre-

development conditions, unless otherwise noted in the NPS Technical Manual. Peak Runoff rate calculations shall comply with the criteria given in the NPS Technical Manual and the Drainage Criteria Manual.

- c. The Site for which temporary or permanent Erosion and Sediment control BMPs may be required include any off-Site burrow, spoil, and staging areas, as well as any other land disturbed related to the project.
- (10) Isolation of Roof Runoff and Irrigation: If roof runoff is isolated from the Site Stormwater collection system and is used for irrigation, the system shall comply with the following requirements:
- a. The system shall comply with the Pollutant removal requirements of subsection (2) of this section;
 - b. No reduction in the water quality volume will be allowed as a result of choosing this method of pollution reduction;
 - c. Roof Runoff shall be collected and routed to a separate storage area distinct from that which collects and treats other Stormwater Runoff;
 - d. The roof runoff system shall provide for the collection of no less than the required water quality volume. Harvesting and storage of additional Runoff in excess of the minimum required water quality volume for on-site irrigation is allowable;
 - e. Roof Runoff in excess of the minimum required water quality volume may be routed to detention facilities or discharged to a Water Quality Control;
 - f. The system shall be designed to accept the water quality volume within seventy-two (72) hours after the end of the rainfall event and to detain and treat the water quality volume in accordance with the Water Quality Control requirements of this chapter. For the purpose of this requirement, individual storm events shall be separated by seventy-two (72) hours with no more than a trace of rainfall; and
 - g. The collected water may be used to irrigate landscaped or natural areas on the Site. Irrigation systems shall be designed in accordance with standard irrigation practices considering such factors as soil type Slope, and vegetation and must be approved by the City.

Sec. 98-112 Water Quality Buffer Zones

- (1) Water quality buffer zones (WQBZ) of 15 feet are required along natural creeks and Swales with overall contributing drainage areas of 25 acres or more within the corporate limits and ETJ of the City. A WQBZ of 85 feet is established around all Critical Environmental Features inside the corporate limits and ETJ of the City.
- (2) All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ, except the following development activities may be allowed if approved by the City:
 - a. Roadway and driveway crossings (as close to perpendicular as practical);
 - b. Hike and bike trails in accordance with the Comprehensive Plan;
 - c. Maintenance and restoration of natural vegetation;
 - d. Water Quality Control monitoring devices;
 - e. Removal of trash, debris, Pollutants;
 - f. Utilities, as subject to the restrictions of subsection (3) of this section;
 - g. Fences that do not obstruct flood flows;
 - h. Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking trails, and excludes stables and corrals for animals;
 - i. Private drives to allow access to property not otherwise accessible;
 - j. Structural WQC's (only when unavoidable as deemed by the City).
- (3) All utilities, other than wastewater utilities, shall be located outside the WQBZ except for crossings. Wastewater lift stations shall be located outside the WQBZ. On- Site wastewater disposal system shall be located outside the WQBZ. Wastewater trunk lines and lateral lines shall be located outside the WQBZ to the maximum extent practical except for crossings. All wastewater trunk lines located in the WQBZ shall meet design standards and construction specifications of testing to a zero (0) leakage allowable.
- (4) All Water Quality Control Discharges and Stormwater Discharges onto a

WQBZ shall have diffused Sheet Flow.

ARTICLE 5: ADMINISTRATIVE PROVISIONS

Sec. 98-113 Charges and Fees

- (1) The City hereby adopts reasonable fees for reimbursement of costs of implementing its non-point source pollution prevention management program and the cost of implementing this chapter, which costs may include, but not be limited to, the following:
- a. Fees for monitoring, inspections, and surveillance including the cost of collecting and analyzing Discharges and reviewing monitoring reports submitted by Dischargers;
 - b. Fees for spill and Release reports and responding to spills and Releases of Oil, hazardous and Extremely Hazardous Substances, and other Pollutants;
 - c. Application and review fees for permits;
 - d. Application and review fees for submittals associated with the concept plan, preliminary plat, Site plan, construction drawings for public improvements, and final plats;
 - e. Re-Application and re-review fees;
 - f. Inspection fees;
 - g. General consultation fee with the Applicant and with the City concerning the Applicant's development; and
 - h. Other fees as the City may deem necessary to carry out the requirements contained in this chapter. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the City.

- (2) Fees and charges shall be as follows:

	Exempt Projects See Sec. 98-105	Activities Authorized by Ordinance See Sec. 98-106(2)	NPS Pollution Control Authorizations See Sec. 98-106(3)
Individual Single-family residence	No fee		

All other exempt projects	\$250		
NPS Review of non-exempt projects including preliminary plats, final plats, Site development plans and utility projects		\$250 administrative processing fee + City Engineer review fee (Minimum \$200)	\$250 administrative processing fee + City Engineer review fee (Minimum \$200)
2 nd & each subsequent resubmittal any plans undergoing City of Burnet NPS review		\$250 administrative processing fee + City Engineer review fee (Minimum \$200)	\$250 administrative processing fee + City Engineer review fee (Minimum \$200)
5-year BMP Operating Permit		\$1,500	\$1,500

Sec. 98-114 Variances

- (1) General. Where the Planning and Zoning Commission recommends, and the City Council finds, that undue hardships will result from strict compliance with a certain provision(s) of this chapter, or where the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve a variance from portions of these regulations so that substantial justice may be done and the public interest is secured, provided that the variance shall not have the effect of nullifying the intent and the purpose of these regulations, and further provided that the City Council shall not approve a variance unless it shall make finding based upon the evidence presented to it in each specific case that:
- a. Granting the variance will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the variance will not prevent the orderly development or use of other property in the vicinity;
 - b. The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property;
 - c. Because of the particular physical surroundings, shape or

topographical conditions of the specific property involved, a particular hardship to the property Owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;

- d. The variance will not in any manner vary the provisions of the zoning, land use, or subdivision ordinances, or the comprehensive plan or any other adopted plans or ordinances of the City.
- e. An alternate design will generally achieve the same result or intent as the standards and regulations prescribed herein.

Such findings of the city council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council at which a variance is considered. A variance from any provision of this chapter may be granted only when in harmony with the general purpose and intent of this chapter so that the public health, safety and welfare may be secured and substantial justice done. Pecuniary hardship to the property Owner or Developer, standing alone, shall not be deemed to constitute undue hardship.

(2) Conditions. In approving a variance, the City Council may require such conditions as will, in its judgments, secure substantially the purpose described in Section 98-93.

(3) Procedures:

- a. A petition for a variance shall be submitted in writing by the Applicant before the required Application or submittal is submitted for the consideration of the City's planning and zoning commission (commission). The petition shall fully state the grounds for the application, and all of the facts relied upon by the petitioner.
- b. Where a hardship is identified pursuant to this chapter which requires issuance of a variance from a provision in this chapter, the commission may recommend a conditional variance from the provision in this chapter in conjunction with approval by the city council. A conditional variance from this chapter shall receive final approval provided that no new information or reasonable alternative plan exists which, at the determination of the city council, voids the need for a variance. All variances shall have final approval or

disapproval by the city council. Any variance recommended for denial by the Planning and Zoning Commission shall require a three-fourths (3/4) majority for approval by the City Council.

Sec. 98-115 Release Reporting and Cleanup

- (1) The person in charge of any Facility, vehicle, or other source of any spilling, leaking, pumping, pouring, emitting, emptying, discharging, escaping, leaching, dumping, disposing, or any other Release of any of the following quantities of any of the following substances that may flow, leach, enter, or otherwise be introduced into or adjacent to the Stormwater Drainage System or water in the state, shall immediately telephone and notify the City concerning the incident:
 - a. An amount equal to or in excess of a reportable quantity of any Hazardous Substance, as established under 40 CFR Part 302;
 - b. An amount equal to or in excess of a reportable quantity of any Extremely Hazardous Substance, as established under 40 CFR Part 355;
 - c. An amount of Oil that leaves a film or sheen upon or discoloration of the surface of the water or an adjoining shoreline, or causes a sludge or emulsion to be deposited beneath the surface of the water or upon an adjoining shoreline; or
 - d. Any Harmful Quantity of any Pollutant.

- (2) The immediate notification required by this chapter shall include the following information:
 - a. The identity or chemical name of the substance released, and whether the substance is an Extremely Hazardous Substance;
 - b. The exact location of the Release, including any known name of the waters involved or threatened and any other environmental media affected;
 - c. The time and duration (thus far) of the Release;
 - d. An estimate of the quantity and concentration (if known) of the substance Released;
 - e. The source of the Release;
 - f. Any known or anticipated health risks associated with the Release

and, where appropriate, advice regarding medical attention that may be necessary for exposed individuals (Material Safety Data Sheet reports);

- g. Any precautions that should be taken as a result of the Release;
- h. Any steps that have been taken to contain and clean up the Released material and minimize its impacts; and
- i. The names and telephone numbers of the person or persons to be contacted for further information.

(3) Within fifteen (15) days following such Release, the responsible person in charge of the Facility, vehicle, or other source of the Release shall, unless waived by the city council, submit a written report containing each of the items of information specified above in this chapter, as well as the following additional information:

- a. The ultimate duration, concentration, and quantity of the Release;
- b. All actions taken to respond to, contain, and clean up the Released substances, and all precautions taken to minimize the impacts;
- c. Any known or anticipated acute or chronic health risks associated with the Release;
- d. Where appropriate, advice regarding medical attention necessary for exposed individuals;
- e. The identity of any governmental/private sector representatives responding to the Release; and
- f. The measures taken or to be taken by the responsible person(s) to prevent similar future occurrences.

(4) The notifications required by this chapter shall not relieve the responsible person of any expense, loss, damage, or other liability which may be incurred as a result of the Release, including any liability for damage to the City, to natural resources, or to any other person or property; nor shall such notification relieve the responsible person of any fine, penalty, or other liability which may be imposed pursuant to this chapter or to state or federal law.

(5) Any person responsible for any Release as described in this chapter shall comply with all state, federal, and any other local law requiring reporting, cleanup, containment, and any other appropriate remedial action in

response to the Release.

- (6) Any person responsible for a Release described in this chapter shall reimburse the City for any cost incurred by the City in responding to the Release.

Sec. 98-116 Access for Maintenance and Monitoring

To provide necessary access for maintenance and monitoring, Water Quality Controls must be contained within a water quality Easement or restricted, platted lot. The Easement documents shall note that water quality restrictions exist on the property or Easement and that any alternative use or alteration must be approved by the City. Also, an access Easement with suitable means of ingress and egress for construction equipment shall be provided to access the designated water quality Easement.

Sec. 98-117 Compliance Monitoring - Right of Entry and Inspection

- (1) **Right of Entry During Construction.** Any Owner who has filed a notice under Section 28-53(2), an NPS Pollution Control authorization or Operating Permit Application or has received an NPS Pollution Control authorization or Operating Permit under this chapter shall allow entry by the City on the Site for the purposes of inspection and monitoring. Employees and agents of the City Manager are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions related to water quality and administration of this chapter. They shall notify the Owner or his designated agent prior to entering the Site for inspection purposes.
 - a. **Predevelopment Inspection.** After the issuance of any authorization or permit required under this Chapter, but before the installation of permanent Erosion and Sedimentation controls and before development commences, the Applicant shall provide a written request to the City for an inspection of the temporary Erosion controls and Water Quality Controls. This predevelopment inspection will be attended by the City's designated representative who will determine whether the temporary Erosion and Sedimentation controls and Water Quality Controls will be in compliance with the NPS Pollution Control authorization or Operating Permit. If the City does not conduct the predevelopment inspection within five (5) Business Days of receipt of the request for inspection, the Applicant may proceed with development.
 - b. **Inspections During Development.** During development, the City will inspect the Site to ensure that temporary and permanent Erosion controls are being maintained and that the permanent

NPS pollution controls and BMPs are being constructed in accordance with the requirements of this chapter.

- c. Final Inspection. Upon completion of development, the City will conduct a final inspection of the NPS pollution controls and BMPs used. This final development inspection must be attended by the Permittee; the City's designated representative, the design engineer, Contractor, and field engineer. The City's representative will determine whether the NPS pollution controls are in compliance with the NPS Pollution Control authorization or Operating Permit.
- d. Permittee shall confirm that Water Quality Controls are constructed in conformance with the approved design by providing a concurrence letter certified by the Permittee's design engineer.
- e. The Permittee's fiscal security for construction of temporary and permanent NPS pollution controls and BMPs will be released in accordance with Section 98-125.

(2) Right of Entry and Periodic Inspection of Completed Projects.

- a. The City shall have the right to enter the premises of any Site discharging Stormwater to the Stormwater Drainage System, to Water Quality Controls, or to Water in the State to determine if the Permittee or Discharger is complying with all requirements of this chapter, and with any state or federal discharge permit, limitation, or requirement. Permittees or Dischargers shall allow the City ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and for the performance of any additional duties. Permittees or Dischargers shall make available to the City, upon request, any SWPPPs, operating permits, Site development permits, construction permits, modifications thereto, self-inspection reports, monitoring records, compliance evaluations, NOI's, and any other records, reports, and other documents related to compliance with this chapter and with any state or federal discharge permit.
 - (i) Where the Owner has security measures in force which require proper identification and clearance before entry into its premises, the Permittee or Discharger shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the City will be permitted to enter without delay for the purposes of performing his/her responsibilities.

- (ii) The City may require any Owner whose property discharges into or adjacent to the Stormwater Drainage System or Water in the State or any Permittee to conduct specified sampling, testing, analysis, and other monitoring of its Stormwater Discharges, and may specify the frequency and parameters of any such required monitoring.
 - (iii) The City may require the Owner or Permittee to install monitoring equipment as necessary at the Discharger's expense. The Facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Permittee or Discharger at its own expense. All devices used to measure Stormwater flow and quality shall be calibrated to ensure their accuracy.
 - (iv) Any temporary or permanent obstruction to safe and easy access to the Facility to be inspected and/or sampled shall be promptly removed by the Permittee or Discharger at the written or verbal request of the City and shall not be replaced. The costs of clearing such access shall be borne by the owner.
 - (v) Unreasonable delaying or denying access by the City to the Permittee's Discharger's premises shall be a violation of this chapter.
- b. City will inspect facilities authorized under this Chapter from time to time to confirm that proper maintenance of the facilities and to ensure compliance with the authorization. City will inspect the facilities at least once every two years.

Sec. 98-118 Fiscal Security

- (1) This section applies to owners and Developers of all developments, re-developments, and other construction that are required to obtain NPS Pollution Control authorization, as described in Section 98-106(3), or an Operating Permit, as described in Section 98-107.
- (2) Fiscal security shall be provided by the Owner or Developer for the construction of temporary Erosion and Sedimentation controls and for Water Quality Controls, under the following considerations:
 - a. Fiscal security shall be provided if the development is single-family subdivision, or multi-family residential or non-residential development regardless if a plat is required; and

- b. Fiscal security shall be provided for New Construction of controls and for re-development modifications to existing controls; and
 - c. Fiscal security shall be provided if the Application to construct or modify the controls under a Site plan is submitted to the City after the development Application is submitted to the City for the City's approval of the final plat.
- (3) Fiscal security shall be provided to the City in order to obtain NPS Pollution Control authorization.
- (4) The amount of the fiscal security shall be determined and certified by the Developer's engineer's and shall be equal to the full construction cost of the temporary controls and 100 percent of the re-vegetation of the entire Site of the proposed project.
- (5) The City may require fiscal security for permanent Erosion and Sedimentation controls and for Water Quality Controls in order to obtain an Operating Permit if the Applicant has violated its NPS Control approval, or if the permanent controls are in close proximity to a Critical Environmental Feature.
- (6) Fiscal security for the controls shall be in the form of cash escrow or a cashier's check or money order in the specified amount. If authorized by the City, a performance bond or a letter of credit may be considered by the City, as security for the construction of the controls. The issuer of any surety bond and letter of credit shall be subject to the approval of the City.
- a. Performance Bond. If the City Manager authorizes the Developer to post a performance bond as security for its promises contained in the improvement agreement, the performance bond shall comply with the following requirements:
 - (i) All performance bonds must be in the forms acceptable to the City Manager and the city attorney; and
 - (ii) All performance bonds must be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury; and

- (iii) All performance bonds must be signed by an agent accompanied by a certified copy of the authority to act; and
- (iv) All performance bonds shall be obtained from surety or insurance companies that are duly licensed or authorized in the State of Texas to issue performance bonds for the limits and coverage required.

If the surety on any performance bond furnished by the Owner is declared to be bankrupt or becomes insolvent or its right to do business is terminated in the State of Texas or the surety ceases to meet the requirements to be listed in Circular 570, the Owner shall within twenty (20) calendar days thereafter substitute another performance bond and surety, both of which must be acceptable to the City.

- b. Letter of Credit. If the City Manager authorizes the Developer to post a letter of credit as security, the letter of credit shall:
 - (i) Be irrevocable; and
 - (ii) Be for a term sufficient to cover the completion, and warranty periods, but in no event less than two (2) years; and
 - (iii) Required only that the City present the issuer with a sight draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit.
- (7) Upon acceptance by the City of all required construction of the controls, the City will authorize a reduction in the security to ten percent (10%) of the original amount of the security if the property Owner is not in violation of the permit requirements. The remaining security shall be security for the owner's covenant to maintain the required controls and to warrant that the improvements are free from defects for two (2) years thereafter.

Sec. 98-119 Supplemental Enforcement Action

- (1) Performance Bonds. The City may, by written notice, order any Owner or Operator of a source of pollution Discharge associated with construction or industrial activity to file a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the City to be necessary to achieve consistent compliance with this chapter, any order issued hereunder, or any required BMP. The City may deny approval of any building permit, grading permit, subdivision plat, Site development

plan, or any other City permit or approval necessary to commence or continue construction or any industrial activity at the Site, or to assume occupancy, until such a performance bond has been filed.

- (2) **Liability Insurance.** The City may, by written notice, order any Owner or Operator of a source of Stormwater Discharge associated with construction or industrial activity to submit proof that it has obtained liability insurance, or other financial assurance, in an amount not to exceed a value determined by the City, that is sufficient to remediate, restore, and abate any damage to the Stormwater Drainage System, the water in the state, or any other aspect of the environment that is caused by the Discharge.

Sec. 98-119 Stop Orders

Whenever any work is being done contrary to the provisions of this chapter, the City Manager may order the work stopped by notice in writing (referred to as a "Stop Work Order") served on any persons engaged in the doing or causing such work to be done. The stop work order shall be posted on the property adjacent to the activity in question, and any such person shall forthwith stop work until authorized by the building official to proceed with the work.

Sec. 98-2-120 Permit or Authorization Revocation

A violation of this chapter shall authorize the City Manager to cancel any permit or authorization depending in whole or in part on any approval under this chapter. If a permit or authorization is canceled, no further work shall be done on the project made the subject of the permit or authorization until the violation has been cured and new submittals under this chapter, as required by the City Manager, have been made and approved in accordance with the provisions of this chapter and a new permit or authorization has been issued. Permanent Stabilization of the Site shall immediately be required, and the City may fund the establishment of Permanent Stabilization through the fiscal security provided in accordance with this Chapter.

Sec. 98-121 Denial of Approvals and Permits

A violation of this chapter shall authorize the City Manager to deny any other approvals or permits sought by the person violating this chapter under this Code.

Sec. 98-122 Penalties and Injunctive Relief

Any person violating this chapter, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Section 1-9 of this Code. Any person violating this chapter is subject to suit for injunctive relief, civil penalties, as well as prosecution for criminal violations.

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

SECTION VI. SEVERABILITY CLAUSE. If any provision, section, sentence, clause or phrase of this ordinance, or the Application of the same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its Application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Marble Falls in adopting, and of the Mayor in approving this ordinance, that no portion thereof or provision or regulation contained herein shall be come inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION VII. REPEALER CLAUSE. The provisions of this ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein, provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

SECTION VIII. EFFECTIVE DATE. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

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

PASSED AND APPROVED on First Reading this ____ day of _____, 2016.

FINALLY PASSED AND APPROVED on this ____ day of _____, 2016.

ATTEST:

CITY OF BURNET, TEXAS

Kelly Dix, City Secretary

Gary Wideman, Mayor



Administration

ITEM 4.3

Evan Milliorn
Asst. Administrative Services
(512) 715-3200
emilliorn@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING THE BURNET CODE OF ORDINANCES BY AMENDING THE FOLLOWING PROVISIONS OF CHAPTER 90, SECTION 90-26 (a) ENTITLED "RESIDENTIAL SERVICES"; SECTION 90-51 ENTITLED "RESIDENTIAL REFUSE COLLECTION RATES"; REPEALING ORDINANCES IN CONFLICT; PROVIDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS: E. Milliorn

Background: This is an amendment to the Solid Waste Ordinance that Council approved on October 25, 2016.

Information: The purpose of this amendment is to more clearly define the guidelines for curbside bulky waste collection for residential customers.

The current guidelines for bulky waste collection are:

Each customer will receive the pickup of up to an additional three (3) cubic yards, per calendar month, of solid waste, bulky waste and brush bundles. Solid waste, bulky waste and/or brush bundles in excess of three (3) cubic yards per monthly pickup shall be billed at an additional fee.

The proposed changes to the guidelines for bulky waste collection are:

(a) The pickup of up to an additional three (3) cubic yards

of solid waste, bulky waste and/or brush bundles, on their regularly scheduled pickup day during the first full week of each calendar month.

(b) Solid waste, bulky waste and/or brush bundles collected during the first full week of each calendar month in excess of three (3) cubic yards, shall be billed at an additional fee as provided for herein.

(c) Customers requesting collection of solid waste, bulky waste and/or brush bundles outside of the first full week of each calendar month will be billed at the full cost for each cubic yard as provided for herein.

(d) Except as otherwise provided for herein, customers are responsible for payment of any additional charges for solid waste, bulky waste and/or brush bundles left at the curbside.

(e) It is prohibited for customers to place solid waste, bulky waste and/or brush bundles out for collection more than 72 hours prior to customers designated collection day.

(f) The fee for bulky waste collection, including brush bundles during the designated collection period for items exceeding 3 cubic yards is \$5 per cubic yard.

(g) The fee for bulky waste collection, including brush bundles outside of the designated collection period is \$5 per cubic yard.

Fiscal Impact: None.

Recommendation: Approve the first reading of ordinance 2016-37 as presented.

ORDINANCE NO. 2016-37

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING THE BURNET CODE OF ORDINANCES BY AMENDING THE FOLLOWING PROVISIONS OF CHAPTER 90, SECTION 90-26 (a) ENTITLED "RESIDENTIAL SERVICES"; SECTION 90-51 ENTITLED "RESIDENTIAL REFUSE COLLECTION RATES"; REPEALING ORDINANCES IN CONFLICT; PROVIDING SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE; PROVIDING AN OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

Whereas, the City of Burnet, Texas provides solid waste services to the citizens of the city of Burnet; and

Whereas, as authorized under law, and in the best interests of the citizens of Burnet, Texas, the Burnet City Council deems it expedient and necessary to establish certain rules and policies for solid waste services; and

Whereas, in accordance with City Charter Section 3.14 the caption of this ordinance was published in the Burnet Bulletin Newspaper on December 7, 2016 and December 14, 2016.

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

SECTION 1. Findings. 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 as findings of fact.

SECTION 2. Amendment. The Burnet Code of Ordinances Chapter 90 (entitled "Solid Waste"), Article II, (entitled "Types of Collections", Sections 90-26 (entitled "Services provided") is hereby amended by replacing the language in subsection 90-26(a) in its entirety with the language set out in italics (*italics*) below:

(a) *Residential Services*

- (1) *Curbside collection of solid waste for residential units shall be one time per week.*
- (2) *Except as otherwise provided for herein, residential curbside solid waste collection shall be limited to the contents of the cart.*
- (3) *Each residential customer shall receive one (1) 95-gallon solid waste cart for residential curbside solid waste collection and one (1) 95-gallon recycling cart for residential single stream curbside recycling collection. Customers who are physically unable to use the standard 95-gallon solid waste cart may request a 65-gallon cart.*
- (4) *Residents may obtain additional carts for residential curbside solid waste collection and for residential single stream curbside recycling collection, at an additional cost.*

- (5) *Upon reaching age sixty-five (65) citizens may request residential curbside solid waste collection and single stream curbside recycling collection services every other week at the senior citizen rate.*
- (6) *Each customer will receive the following:*
- A. *The pickup of up to an additional three (3) cubic yards of solid waste, bulky waste and/or brush bundles, on their regularly scheduled pickup day during the first full week of each calendar month.*
 - B. *Solid waste, bulky waste and/or brush bundles collected during the first full week of each calendar month in excess of three (3) cubic yards, shall be billed at an additional fee as provided for herein.*
 - C. *Customers requesting collection of solid waste, bulky waste and/or brush bundles outside of the first full week of each calendar month will be billed at the full cost for each cubic yard as provided for herein.*
 - D. *Except as otherwise provided for herein, customers are responsible for payment of any additional charges for solid waste, bulky waste and/or brush bundles left at the curbside.*
- (7) *Customer shall place carts, bulky waste, and brush bundles at curbside by 7:00 a.m. on the designated collection day.*
- (8) *Residential single stream curbside recycling collection will be picked up every other week.*
- (9) *Recyclable materials shall be as defined herein.*
- (10) *House side collections, at no extra cost, may be provided to citizens who are handicapped or disabled. Determination for citizens requesting this service shall be made between the city and the service provider.*
- (11) *Post tenant clean-up resulting in bulky waste that exceeds the permitted volume for residential services shall be billed to the property owner by the city in accordance with the rates specified herein.*
- (12) *It is prohibited for customers to place solid waste, bulky waste and/or brush bundles out for collection more than 72 hours prior to customers designated collection day.*

SECTION 3. Amendment. The Burnet Code of Ordinances Chapter 90 (entitled "Solid Waste"), Article III, (entitled "Rates") Sections 90-51 (entitled "Residential refuse collections rates") is hereby amended by retitling the Section as "Refuse collection rates" and replacing the existing language in its entirety with the language set out in **Exhibit "A"** attached hereto and incorporated herein for all purposes.

SECTION 4. Ordinances in Conflict. That all ordinances in conflict with the provisions of this ordinance are, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 5. Severability. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudicated or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 6. Effective Date: This ordinance shall take effect immediately upon after its passage upon final reading.

SECTION 7. Open Meetings. That it is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act, Chapter 551, Local Government Code.

PASSED AND APPROVED ON FIRST READING this 13th day of December, 2016.

FINALLY PASSED AND APPROVED on this 10th day of January, 2016.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST

Kelly Dix, City Secretary

Exhibit "A"
Refuge collection rates.

Sec. 90-51 Refuge Collection Rates.

(a) The following standard refuge collection rates shall apply:

STANDARD RESIDENTIAL SOLID WASTE & RECYCLING RATES:	MONTHLY RATE
One 95-gallon Solid Waste Cart and one 95-gallon Recycling Cart (Every Other Week "EOW" recycling)	\$21.43
Each additional 95-gallon Solid Waste Cart	\$4.00
Each additional 95- gallon Recycling Cart	\$2.63
SENIOR CITIZEN SOLID WASTE & RECYCLING RATES:	
One 95-gallon Solid Waste Cart and one 95-gallon Recycling Cart (includes EOW recycling)	\$17.88
Each additional 95-gallon Senior Citizen Solid Waste Cart	\$3.34
Each additional 95-gallon Senior Citizen Recycling Cart	\$2.10
COMMERCIAL SOLID WASTE COLLECTION RATES:	
CARTS:	
One Time per week - One 95 gallon Cart	\$21.74
Two Times per week - One 95 gallon Cart	\$36.16
Three Times per week - One 95 gallon Cart	\$51.40
Four Times per week - One 95 gallon Cart	\$68.54
Five Times per week - One 95 gallon Cart	\$85.68
One Time per week - Two 95 gallon Carts	\$29.53
Two Times per week - Two 95 gallon Carts	\$43.96
Three Times per week - Two 95 gallon Carts	\$64.25
Four Times per week - Two 95 gallon Carts	\$85.68
Five Times per week - Two 95 gallon Carts	\$107.10
TWO YARD DUMPSTER:	
One Time per week	\$61.85
Two Times per week	\$111.03
Three Times per week	\$158.60
Four Times per week	\$206.17
Five Times per week	\$276.01
THREE YARD DUMPSTER:	
One Time per week	\$66.62
Two Times per week	\$122.12
Three Times per week	\$174.48

<i>Four Times per week</i>	\$229.98
<i>Five Times per week</i>	\$292.71
FOUR YARD DUMPSTER:	
<i>One Time per week</i>	\$87.23
<i>Two Times per week</i>	\$157.01
<i>Three Times per week</i>	\$223.64
<i>Four Times per week</i>	\$281.61
<i>Five Times per week</i>	\$350.09
SIX YARD DUMPSTER:	
<i>One Time per week</i>	\$109.43
<i>Two Times per week</i>	\$199.78
<i>Three Times per week</i>	\$293.41
<i>Four Times per week</i>	\$377.51
<i>Five Times per week</i>	\$479.48
EIGHT YARD DUMPSTER:	
<i>One Time per week</i>	\$145.76
<i>Two Times per week</i>	\$266.08
<i>Three Times per week</i>	\$391.02
<i>Four Times per week</i>	\$502.83
<i>Five Times per week</i>	\$638.19
TEN YARD DUMPSTER:	
<i>One Time per week</i>	\$169.94
<i>Two Times per week</i>	\$261.45
<i>Three Times per week</i>	\$373.51
<i>Four Times per week</i>	\$498.00
<i>Five Times per week</i>	\$622.50
DUMPSTER EXTRA LIFTS:	
<i>Two Yard Dumpster</i>	\$49.01
<i>Three Yard Dumpster</i>	\$55.11
<i>Four Yard Dumpster</i>	\$61.25
<i>Six Yard Dumpster</i>	\$72.22
<i>Eight Yard Dumpster</i>	\$89.85
<i>Ten Yard Dumpster</i>	\$105.70
ROLL-OFF RATES:	
<i>Delivery Fee</i>	\$242.00

Daily Rental Fee	\$5.12
20 Yard per Haul	\$541.26
30 Yard per Haul	\$624.91
40 Yard per Haul	\$728.24
Double Handle Fee	\$96.04
Overload Fee / Per Ton	\$36.75
BRUSH/BULKY COLLECTION FEE DURING DESIGNATED COLLECTION PERIOD FOR ITEMS EXCEEDING 3 CY (per yard):	\$5.00
BRUSH/BULKY COLLECTION FEE OUTSIDE DESIGNATED COLLECTION PERIOD (per yard):	\$5.00

- (b) Residential customers requesting dumpsters shall be billed at the commercial rate above.
- (c) A franchise fee equal to fifteen (15) percent of the gross billing shall be charged for all roll-off services, self-contained compact roll-offs, and temporary dumpsters billed directly by the service provider.
- (d) Double handle fee will be charged when a haul is rescheduled, except for reasons not the city or service provider's fault, when the container is not ready to be loaded and the hauler must return for the pickup.
- (e) An overload fee will be charged to the customer in the event a dumpster or roll-off is loaded beyond the legal hauling weight.
- (f) The initial billing for new, or final billing for discontinued services, shall be pro-rated based on the number of days for which service was received.



Planning & Zoning

ITEM 4.4

Mark S. Lewis
Community Development Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Regarding a Replat of Lot No. 8; Delaware Springs, Section 15, Phase Three: M. Lewis
- Background:** The Delaware Springs, Phase Three, Section 15, Lot 8 replat has been brought forward with a unanimous Planning and Zoning Commission for approval.
- Information:** Backup information regarding the proposed Delaware Springs replat is located in Section 3 (Public Hearings) of this agenda.
- Recommendation:** The Replat of Lot No. 8; Delaware Springs, Section 15, Phase Three satisfies applicable requirements of Code of Ordinances, Chapter 98 and should be approved.

Mark Lewis

From: Mark Lewis
Sent: Friday, December 09, 2016 12:28 PM
To: Morphis, Frank; pcrump@buckner.org
Subject: Woodlands - Fees Due & Status Update

Frank,

The Woodlands plat abandonment/final plat is scheduled for Tuesday's (12/13) City Council meeting. The finish line is in sight. With that in mind, here's the long awaited fee total (with breakdown).

Zoning Change:	\$ 250.00
Public Notice (zone change):	\$ 15.18 (33 notices at \$0.46 each)
Vacating Plat:	\$ 400.00
Final Plat (base fee):	\$ 400.00
Lot fee:	\$ 460.00 (46-lots at \$10 per lot)
GIS fee:	\$ 75.00
Public Notice (vacation/final Plat:	\$ 15.18 (33 notices at \$0.46 each)
Legal Review:	<u>\$ 259.00</u>
TOTAL:	\$1,874.36

Payment can be made with a single check made payable to the City of Burnet, or by credit card (there's a small service fee for credit card payments made by phone).

Following Council approval, the City will require two Mylar copies of the plat for signature. One copy will be left with the county. The second must be returned to the City following recordation. If you wish additional copies, please provide them for signature.

Please feel free to call or email with any questions you might have.

Thanks,
Mark

Mark S. Lewis,
Director of Community Development
City of Burnet
512.715.3215 (O)
512.756.8560 (F)
mlewis@cityofburnet.com



Planning & Zoning

ITEM 4.5

Mark S. Lewis
Community Development Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Regarding vacation of "The Woodlands, Baptist Memorial Geriatric Center Plat" recorded on August 7, 1996, and establishment of a new "The Woodlands, Section One, Final Plat," a 46-lot, residential subdivision located at the northern termination of Janet Drive and further described as occupying 10.41 acres of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County, Texas
- Background:** The Woodlands Baptist Memorial Geriatric Center Plat Vacating Plat and the Woodlands, Section One, Final Plat have been brought forward with a unanimous Planning and Zoning Commission for approval.
- Information:** Backup information regarding the proposed plat vacation and final plat is located in Section 3 (Public Hearings) of this agenda.
- Recommendation:** The Woodlands Baptist Memorial Geriatric Center Vacating Plat satisfies applicable provisions of Local Government Code Sec. 213.013. The Woodlands, Section One, Final Plat satisfies applicable requirements of Code of Ordinances, Chapter 98 and should be approved.



Administration

ITEM 4.6

Gary Wideman
Mayor
(512)-756-6093 ext. 3209
gwideman@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Appoint a representative for the City of Burnet to the Williamson-Burnet County Opportunities, Inc., (WBCO) Board of Directors: Mayor G. Wideman
- Background:** Council Member Mary Jane Shanes was appointed as the City of Burnet Representative to serve on the WBCO Board of Directors, replacing former Council Member Paul Shell at the May 26, 2015 Regular Council Meeting.
- Information:** Council Member Shanes will no longer be able to serve as the City of Burnet representative on the WBCO Board of Directors due to unforeseen circumstances.
- The Board meets bi-monthly on the fourth Monday of the month alternately between the Burnet Neighborhood Center located at 102 E. Jackson Street and the Georgetown WBCO office.
- The duty of the appointed representative for the City of is to advocate for WBCO, Inc., assist with the oversight of policy and procedures of WBCO and keep City Council informed on the program.
- Fiscal Impact:** None.
- Recommendation:** To be determined by Council.



Administration

ITEM 4.7

Kelly Dix
City Secretary
(512)-756-6093 ext. 3209
kdix@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: Cancellation of the December 27th, 2016 Regular Council Meeting: K. Dix

Background:

Information: Several Council Members will be unavailable due to the Christmas Holiday.

Fiscal Impact: None.

Recommendation: Staff recommends cancellation of the December 27, 2016 regular City Council Meeting.



Administration

ITEM 4.8

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Regarding a second amendment to the construction agreement between the City of Burnet and Outback Services, Inc.: D. Vaughn
- Background:** The City Council previously approved an amendment to the agreement with Outback Services to extend the deadline for completion of the water and wastewater lines to December 31, 2016.
- Information:** The developer began installation of the water line a few weeks ago. The majority of the City's cost has been paid, with minor expenses remaining for bedding material and miscellaneous parts. At this point, the developer estimates they will be complete by April 30th, however we have requested two extra months for contingency. The timing of completion of this project does not impact any other project at this time.
- Fiscal Impact:** To be determined.
- Recommendation:** Staff recommends approval of the second amendment to the contract with Outback Services, Inc. as presented.

THE STATE OF TEXAS §
 §
COUNTY OF BURNET §

**SECOND AMENDMENT TO CONSTRUCTION AGREEMENT
BETWEEN THE CITY OF BURNET AND OUTBACK SERVICES, INC.**

This Second Amendment (“Second Amendment”) to the Construction Agreement (the “Agreement”) between the **CITY OF BURNET, TEXAS**, a Texas home rule city and municipal corporation (the “City”), and **OUTBACK SERVICES, INC.** (“Outback”) entered into as of the 22nd day of March, 2016, shall serve to amend the Agreement as follows:

Amendment one. Article III, Section 3.02 of the Agreement is hereby amended by replacing the existing language with the language (in *italics*) that follows:

“Outback shall complete the Project prior to June 30, 2017.”

EXCEPT AS HEREBY MODIFIED OR AMENDED, the remaining provisions of the Agreement not inconsistent with the terms hereof shall remain in full force and effect for all purposes.

(Signatures on following page)

Executed to be effective on _____, 2016 (which is the Effective Date of this Amendment).

CITY OF BURNET TEXAS:

ATTEST:

David Vaughn, City Manager
City of Burnet, Texas
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

Kelly Dix, City Secretary
City of Burnet, Texas

CONTRACTOR: OUTBACK SERVICES, INC

By: Stephen Cox
Title: President
Corporate Offices
P.O. Box 342167
Austin, TX 78734

Executed to be effective on _____, 2016 (which is the Effective Date of this Amendment).

CITY OF BURNET TEXAS:

ATTEST:

David Vaughn, City Manager
City of Burnet, Texas
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

Kelly Dix, City Secretary
City of Burnet, Texas

CONTRACTOR: OUTBACK SERVICES, INC

By: Stephen Cox
Title: President
Corporate Offices
P.O. Box 342167
Austin, TX 78734



Administration

ITEM 4.9

Connie Maxwell
Director of Budgets/Special
Projects
(512)-756-6093 ext. 3219
cmaxwell@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2016-23; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017 FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS PROVIDING FOR SAVINGS AND SEVERABILITY: C. Maxwell
- Background:** Replace the engine assembly with a long block in Fire Engine 3. Inspection by a mechanic shows that there is a valve blown and various cracks leaks causing the engine to leak oil and coolant.
- Information:**
- Fiscal Impact:** Fund Balance in the amount of \$27,000 will be used to offset the expense associated with the cost of these repairs.
- Recommendation:** Approve the first reading of Ordinance 2016-38 amendments as presented.

ORDINANCE NO. 2016-38

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2016-23; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016, AND ENDING SEPTEMBER 30, 2017, FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS; PROVIDING FOR SAVINGS AND SEVERABILITY.

WHEREAS, the City of Burnet, Texas Fiscal Year 2016-2017 Budget was adopted by Ordinance 2016-23 within the time and in the manner required by State Law; and

WHEREAS, the City of Burnet, Texas has reviewed the Budget; and

WHEREAS, the City Council of the City of Burnet, Texas has considered the status of the Capital Improvement Projects for the rest of the fiscal year; and

WHEREAS, the City Council of the City of Burnet, Texas hereby finds and determines that it is prudent to amend the line items due to unforeseen situations that have occurred in the City; and

WHEREAS, the City Council of the City of Burnet, Texas further finds that these amendments will serve in the public interest; and

WHEREAS, the City Council of the City of Burnet, Texas finds and determines that the change in the Budget for the stated municipal purpose is warranted and necessary, and that the amendment of the Budget to fund these line items due to unforeseen situations and a matter of public necessity warranting action at this time;

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

Section 1. Findings

The facts and matters set out above are found to be true and correct.

Section 2. Purpose

The City of Burnet, Texas, Fiscal Year 2016-2017 Budget is hereby amended to fund the \$27,000 of repairs that are necessary for Fire Engine 3. This expenditure will be offset with the use of Fund Balance in the General Government Capital Project Fund.

Section 3. Savings/Repealing Clause

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

Section 4. Severability

It is hereby declared to be the intention of the City Council that if any of the sections, paragraphs, sentences, clauses, and phrases of the Ordinance shall be declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of unconstitutional or invalid phrases, clauses, sentences, paragraphs, or sections..

PASSED AND APPROVED the First Reading on this the 13th day of December, 2016.

FINALLY PASSED AND APPROVED on this 10^h day of January, 2017.

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary



Administration

ITEM 4.10

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: A RESOLUTION BY THE CITY OF BURNET, TEXAS RESTRICTING THE USE OF CERTAIN FUNDS FOR CAPITAL PROJECTS: D. Vaughn
- Background:**
- Information:** Staff is requesting Council impose a self-restriction on \$1,000,000 for use for future capital projects, such as the Police Station, SSES Sewer Lines, or other projects yet to be determined by the Council.
- Fiscal Impact:** Adoption of this resolution would impose a Council approved restriction on \$1,000,000 for use for future capital projects.
- Recommendation:** Staff recommends approval Resolution R2016-20 as presented.

RESOLUTION NO. R2016-20

**A RESOLUTION BY THE CITY OF BURNET, TEXAS
RESTRICTING THE USE OF CERTAIN FUNDS FOR
CAPITAL PROJECTS.**

Whereas, the City Council of the City of Burnet (the "City Council") has formally approved a separate Investment Policy for the City of Burnet (the "City") that meets the requirements of the Public Funds Investment Act (PFIA), Section 2256 of the Texas Local Government Code; and

Whereas, the Investment Policy is reviewed and approved annually by the City Council and applies to all financial assets held by the City; and

Whereas, the Investment Policy complies with the Public Funds Investment Act and authorizes the investment of city funds in safe and prudent investments; and

Whereas, it is advantageous for the City to withdrawal and deposit restricted fund assets for the purpose of investment as provided for herein.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. **Findings.** The foregoing recitals are hereby found to be true and correct and are hereby resolved by the City Council of the City of Burnet, Texas (the "City Council") and made a part hereof for all purposes as findings of fact.

Section 2. **Proceedings.** The City Council does hereby approve restricting ONE MILLION DOLLARS (\$1,000,000) for the purpose of capital projects. Such funds shall be invested in accordance with the City's investment policy and shall require Council action prior to funding any authorized expenditures.

Section 3. **Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, *Chapt. 551, Tex. Gov't. Code.*

PASSED AND APPROVED this the 13th day of December, 2016.

CITY OF BURNET, TEXAS

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary



Development Services

ITEM 4.11

Mark S. Lewis
Development Services Director
(512)-715-3215
mlewis@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTER-LOCAL AGREEMENT WITH THE LOWER COLORADO RIVER AUTHORITY FOR THE PURPOSE OF COORDINATING POLICIES AND PROGRAMS WHICH WILL PRESERVE AND PROTECT WATER QUALITY IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF BURNET: M. Lewis

Background: Item number 4.2 on City Council's December 13, 2016 agenda is the second and final reading of an ordinance adopting non-point source pollution control (NPS) regulations. The resolution attached to this item brief is companion to that ordinance.

The resolution authorizes the City Manager to execute an inter-local agreement between the City and the Lower Colorado River Authority (LCRA) for the purpose of delegating NPS enforcement to the City of Burnet. This is the "coordination" referenced in the resolution caption the first section of the proposed inter-local agreement.

The enforcement authority delegated will only extend to properties located within the City and its ETJ.

Information: The inter-local agreement authorized by the attached resolution has been reviewed by both LCRA and City staff and has been determined to be mutually agreeable to both parties.

Fiscal Impact: None

Recommendation:

Approve Resolution R2016-21 authorizing the City Manager to execute an inter-local with LCRA for the purpose of delegating NPS enforcement to the City of Burnet.

RESOLUTION NO. R2016-21

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTER-LOCAL AGREEMENT WITH THE LOWER COLORADO RIVER AUTHORITY FOR THE PURPOSE OF COORDINATING POLICIES AND PROGRAMS WHICH WILL PRESERVE AND PROTECT WATER QUALITY IN THE CITY LIMITS AND EXTRATERRITORIAL JURISDICTION OF THE CITY OF BURNET.

Whereas, the City of Burnet (the City), Texas is a home rule municipality acting under its charter adopted by City Council and pursuant to Article XL, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

Whereas, the City and the Lower Colorado River Authority (LCRA) are committed to preserving and protecting the water quality of the creeks and Lake Travis; and

Whereas, on the 16th day of November, 2005, the LCRA Board of Directors adopted the Highland Lakes Watershed Ordinance (Ordinance) effective on February 1st, 2006, and most recently amended on February 19, 2014, which establishes certain requirements for managing stormwater runoff and pollution in the Highland Lakes region, including the Lake Travis watershed in Burnet County; and

Whereas, the city of Burnet and LCRA have jointly agreed that the City of Burnet, Non-Point Source Pollution Ordinance (NPS Ordinance), adopted December 13, 2016, provides a standard of water quality protection equivalent to that provided by the Ordinance; and

Whereas, both LCRA and the City are desirous that the City should initiate enforcement the NPS Ordinance for the purpose of assuming responsibility for managing stormwater runoff and pollution within the City and its extraterritorial jurisdiction; and

Whereas, this resolution shall authorize the City Manager to execute that inter-local agreement between the City and LCRA, a copy of which is attached hereto, for the purpose of authorizing the City's assumption of responsibility of administration of NPS Ordinance for the purpose of providing protection to Lake Travis and its tributaries.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby resolved by the City Council of the City Burnet, Texas and made a part hereof for all purposes and findings of fact.

Section 2. Authorization. The City Manager is hereby authorized to execute with LCRA, that inter-local agreement, a copy of which is attached hereto, for the purpose of

assigning the City of Burnet the responsibility of enforcing Non-Point Source Pollution management standards within the City and its extraterritorial jurisdiction.

Section 3. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, *Chapter 551, Tex. Gov't Code.*

PASSED AND APPROVED this the 13th day of December 2106.
CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

**Inter-local Agreement
Between the Lower Colorado River Authority
And
City of Burnet, Texas**

THIS AGREEMENT is made and entered into pursuant to the Inter-local Cooperation Act, Texas Government Code Chapter 791, by and between the Lower Colorado River Authority (“LCRA”), a conservation and reclamation district created pursuant to Article 16, Section 59 of the Constitution of the State of Texas, and the City of Burnet, Texas (“the City”), a political subdivision of the State of Texas, for the purpose of coordinating policies and programs which will preserve and protect water quality in the City limits, the extraterritorial jurisdiction of the City, and Lake Travis.

WITNESSETH

WHEREAS, LCRA and the City are committed to preserving and protecting the water quality of the creeks and Lake Travis; and

WHEREAS, on the 16th day of November, 2005, the Board of Directors of LCRA adopted the Highland Lakes Watershed Ordinance (“Ordinance”), effective on February 1st, 2006, and, most recently amended on February 19, 2014, which establishes certain requirements for managing stormwater runoff and pollution in the Highland Lakes region, including the Lake Travis watershed in Burnet County; and

WHEREAS, the City of Burnet intends to adopt the attached development ordinance (“Development Ordinance”), which will apply within the City limits and extraterritorial jurisdiction located within the Lake Travis watershed, and

WHEREAS, the Development Ordinance will provide management of stormwater pollution which establishes certain requirements for managing stormwater runoff and pollution within the City’s jurisdiction, including the Lake Travis watershed.

NOW, THEREFORE, the LOWER COLORADO RIVER AUTHORITY AND THE CITY agree as follows:

I. JURISDICTIONAL AGREEMENT

The LCRA and the City agree that LCRA’s Highland Lakes Watershed Ordinance and its subsequent amendments shall not apply to Development within the City limits and its extraterritorial jurisdiction (“ETJ”) in the Lake Travis watershed. The City shall administer the Development Ordinance in the Lake Travis watershed to provide protection of Lake Travis and its tributaries. LCRA will administer the Dredge and Fill and Quarry requirements of the Ordinance.

II. CITY RESPONSIBILITIES

1. If the applicant seeks a variance or exemption from the water quality protection measures found in the Development Ordinance, the City shall contact LCRA to obtain input on the variance request before a decision is rendered.
2. The City shall provide thirty (30) days' advance written notice to LCRA to review and comment on any proposed amendments to the City's Development Ordinance and any water quality protection measures prior to City Boards, Commissions, or Council action.

III. LCRA RESPONSIBILITIES

1. LCRA will coordinate with the City in reviewing building and development permit applications that have requested a variance and/or exemption to the City's Development Ordinance. LCRA will provide input on the variance request before the application is presented to City Boards, Commissions, or Council.
2. LCRA will provide thirty (30) days' advance written notice to the City of any proposed amendments to the LCRA Highland Lakes Watershed Ordinance.

IV. MISCELLANEOUS

1. The City and LCRA shall meet as necessary to coordinate the above responsibilities.
2. The City and the LCRA understand that the LCRA staff is evaluating specific provisions of the LCRA Highland Lakes Watershed Ordinance. The City agrees to amend its Development Ordinance so that it provides equivalent protection to that provided by the LCRA Highland Lakes Watershed Ordinance as it may be amended. The City and LCRA acknowledge that a developer who platted a property prior to the effective date of the City's Ordinance and who is subject to the LCRA's Watershed Ordinance, or its prior versions, shall have the option to be regulated by the applicable LCRA ordinance or the City's ordinance. The City shall administer the permitting under either ordinance chosen by the developer as described in this paragraph.
3. The term of this agreement shall be for the remainder of the calendar year in which it was executed and shall be automatically renewed from year to year unless terminated by either party following thirty (30) days' advance written notice. LCRA may terminate this Agreement following thirty (30) days' advance written notice if LCRA determines the City no longer provides management of stormwater pollution that is equal to or greater than that provided by the LCRA Highland Lakes Watershed Ordinance.
4. This Agreement represents the entire and integrated agreement between the City and LCRA and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and LCRA. No official, employee, agent, or representative of the City or

LCRA has any authority; either express or implied, to amend this Agreement, except by such express authority as may be granted by the governing bodies of the City and LCRA.

5. If the final judgment of a court of competent jurisdiction invalidates any part of this Agreement, then the remaining parts shall be enforced, to the extent possible, consistent with the intent of the parties as evidenced by this Agreement.
6. Regardless of the actual drafter, this Agreement shall, in the event of dispute over its meaning or application, be interpreted fairly and reasonably, and neither more strongly for or against either party.
7. Any notice of termination to be given hereunder by either party to the other pursuant to Paragraph IV. 3 shall be in writing and may be effected by personal delivery or registered or certified mail, return receipt requested, addressed to the proper party, at the following address:

LCRA: Phil Wilson, General Manager
LCRA
P.O. Box 220
Austin, Texas 78767

With Copy to: Erik Harris, Water Quality Protection
LCRA
P.O. Box 220
Austin, Texas 78767

City of Burnet: City Manager
City of Burnet
P. O. Box 1369
Burnet, Texas 78611

With Copy to: Director of Development Services
City of Burnet
P. O. Box 1369
Burnet, Texas 78611

Each party may change the address for notice to it by giving notice of such change in accordance with the provisions in this paragraph.

Any other notice, reporting, or information exchange between the Parties shall be provided by United States mail, personal delivery, e-mail, or facsimile to the appropriate persons identified by each Party in Paragraph IV.

8. This agreement shall be effective on _____, 2016.

9. The signatories hereby acknowledge that this agreement is duly authorized by the governing bodies of LCRA and the City.

LOWER COLORADO RIVER AUTHORITY

Date Approved: _____

By: _____
Phil Wilson

[Date]

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, _____, a notary public, on this day personally appeared Phil Wilson, known to me to be the person whose name is subscribed above and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the ____ day of _____, 2016.

Notary Public Signature

CITY OF BURNET

Date Approved: _____

By: _____

[Date]

THE STATE OF TEXAS §
 §
COUNTY OF _____ §

Before me, _____, a notary public, on this day personally appeared _____, known to me to be the person whose name is subscribed above and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office on this the ____ day of _____, 2016.

Notary Public Signature



Administration

ITEM 4.12

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Proposed street engineering contract with K.C. Engineering: D. Vaughn
- Background:** The attached agreement is for the engineering of South Rhomberg from Pecan to Cemetery, Cemetery Street from S. Rhombert to Westfall and one block of currently unbuilt Elm and Silver Streets.
- Information:** South Rhomberg and Cemetery Streets are the main routes to the cemetery and are in severe disrepair. Reconstruction of the streets included in this proposal would provide several significant benefits, including assisting development with the 13 acres owned by the City, assisting development of the EDC property located on Rhomberg and improving the route to the cemetery.
- Fiscal Impact:** This project was budgeted as part of the street program in this year's budget.
- Recommendation:** Staff requests approval of the engineering proposal with KC engineering to include Silver Street.



KC ENGINEERING, INC.

705 North Hwy 281, Suite 103 • Marble Falls, Texas 78654 • Phone 830.693.5635 • Fax 830.693.9664 • www.kcengineering.com

December 7, 2016
Proposal Number: 16-102

Mr. David Vaughn
City Manager
City of Burnet
P. O. Box 1369
Burnet, TX 78611

Dear Mr. Vaughn:

K.C. Engineering, Inc. (KCE) presents the following revised proposal to The City of Burnet (Client) for Engineering Services (defined in the next paragraph) to be performed in connection with the reconstruction of Rhomberg Street from Pecan Street to South Cemetery Street (abutting the cemetery) in Burnet, Texas (Site). The revised proposal accounts for additions to the previous scope of services requested by the Client and includes the addition of Elm Street from Rhomberg to Silver and Cemetery Street from Rhomberg to Westfall. Silver Street is included as an alternate from Pecan to Elm. The Engineering Services will be for the engineering design, construction plan sheets (title sheet, typical sections, and plan and profile) and specifications for the reconstruction of Rhomberg Street and will be set forth in a single set of documents. The revised proposed engineering design is for approximately 1,200 lf of Rhomberg Street, 350 lf of Elm Street, 720 lf of Cemetery Street and 330 lf of Silver Street, based upon a pavement width of 31' (back-to-back of curb) with geometric and hydraulic design criteria defined by the Client. KCE has prepared its scope of services based upon what it anticipates as being required for the Site. If the Client would like to modify the scope of services to better suit your needs, please let us know and we will revise the scope of services accordingly.

The Engineering Services KCE proposes to perform for the development of the Site are (i) Surveying; (ii) Street Design; (iii) Storm Water Pollution Prevention Plan, and (iv) Drainage Analysis/Design; ((i) through (iv) together, the Engineering Services). The fee for the Engineering Services is \$49,850. The fee for the Engineering Services including Silver Street is \$56,070.

The Surveying of the Engineering Services include an on-the-ground topographic survey of the Site.

The Street Design of the Engineering Services will include the alignment, profile grade, typical section, concrete curb and gutter, signs, sidewalk (if required) and striping (if required).

The Storm Water Pollution Prevention Plan of the Engineering Services will design temporary and permanent erosion control devices, soil stabilization procedures, and documentation necessary to comply with the Texas Pollutant Discharge Elimination System (TPDES) and with the requirements of the City of Burnet Nonpoint-Source Pollution Ordinance (the Ordinance). This proposal assumes that the Site will meet exemption requirements. In the event that the City of Burnet has not adopted the Ordinance by commencement of the Engineering Services, or the Site is determined to not meet exemption criteria, compliance with the LCRA Highland Lakes Watershed Ordinance (HLWO) will be required and submittal and processing of an LCRA HLWO permit application is excluded. If required, that service can be provided in accordance with the 2016 Rate Schedule.

Drainage Analysis/Design of the Engineering Services shall include modification to the runoff determined from a previous drainage study. At an earlier meeting to discuss the scope of the project, KCE was directed that a storm sewer system is not required and all drainage would be collected and discharged along Rhomberg near the low point adjacent to the tract being considered for the My Town Project. KCE shall conceptually evaluate two options at the direction of the Client for complying with the City's Drainage Criteria Manual. KCE will perform detailed analysis/design for the option chosen by the Client. Since no

storm sewer is to be incorporated into the design at the direction of the Client, the streets will be designed so that rainfall runoff for the 100-year event is contained within the streets to the discharge point.

Geotechnical services are excluded. The Client shall provide KCE with the structural pavement design.

The Engineering Services do not include and are not limited solely to:

- (i) coordination with the Federal Emergency Management Agency (FEMA) preparation of Letter of Map Amendment (LOMA) or a Letter of Map Revision (LOMR) or any other requirements necessary to amend or redefine a FEMA floodway/floodplain;
- (ii) development of base flood elevations;
- (iii) U. S. Army Corps of Engineers Section 404 permitting;
- (iv) special structural design of bridges, concrete box culverts (larger than 10'x10'), dams, retaining walls greater than four feet (4') in height, etc.;
- (v) environmental, biological, geotechnical, historical, archaeological, site evaluation services/reports, etc.;
- (vi) structural pavement design
- (vii) electrical design (including transformer pads, conduits, wiring, streetlights, illumination, etc.);
- (viii) other utility analyses and/or designs (water, wastewater, OSSF, irrigation, reclaimed water, gas, telephone, cable, etc.);
- (ix) filing of Texas Commission on Environmental Quality (TCEQ) Notice of Intent (NOI), and/or any on-site record keeping to comply with the TCEQ requirements;
- (x) contract/construction management;
- (xi) filing, review and/or permitting fees;
- (xii) off-site analysis and/or design;
- (xiii) site grading plan;
- (xiv) mechanical, electrical, & plumbing (MEP);
- (xv) Engineer's Opinion of Probable Construction Cost
- (xvi) contract bidding (including Bid Manual);
- (xvii) any and all other engineering analyses and/or design not provided for directly herein, either expressed or implied.

Should any of the foregoing services be required for development of the Site, KCE will submit a proposal to the Client for such services.

Any other services which may be required for development of the Site, but not specifically included in the Engineering Services, will be provided in accordance with the 2016 Rate Schedule.

The Client shall furnish KCE with mechanical, structural, chemical and other laboratory tests, inspections, and reports required by law.

The Client shall identify and provide to KCE the location of all utilities and other features on the Site that might have an impact upon the design and construction of the Site. KCE shall bear no responsibility whatsoever for any impacts to the design and/or construction due to utilities and/or other features whose locations were not provided to KCE prior to the commencement of the engineering services. Any redesign required because of the discovery of a utility and/or other feature whose presence and location was not identified to KCE as described herein shall be considered additional services and the redesign shall be billed in accordance with the 2016 Rate Schedule.

Any services provided by the Client to KCE shall be furnished at no expense to KCE who shall be entitled to rely upon the accuracy and completeness thereof.

The Client shall consult with KCE before issuing interpretations or clarifications of KCE documents, drawings, and/or specifications and shall request the recommendation of KCE before acting upon anything that may affect any portion of the project that KCE was a part of, whether directly or indirectly.

KCE will provide the client with electronic (pdf) copies of construction plans and specifications. Hard copies of sets of plans and specifications will be billed in general accordance with commercial printing rates.

All drawings, reports, data and other project documentation and information developed in the execution of the services provided under this Agreement (Work Product), whether developed or refined by KCE, its representatives, or any Subcontractor's representatives, shall be the property of the Client upon payment of KCE's fees for the Engineering Services, provided, that if a good faith dispute exists between Client and KCE concerning such fees, KCE may not withhold Work Product from Client pending resolution of the dispute. KCE may retain copies of Work Product for record purposes only. Client agrees such documents are not intended or represented by KCE to be suitable for reuse by Client or others. Any reuse by Client (or by those to whom the Client has made the documents available for use) without written verification of suitability or adaptation by KCE will be at user's sole risk (or that of such other person) and without liability or legal exposure to KCE, or to KCE's independent associates or consultants. Upon request by Client, KCE agrees to execute a release for said Work Product.

The Client shall advise KCE of the identity of other consultants participating in the development of the Site and the scope of their services.

Preliminary estimates of construction costs (sometimes referred to as Engineer's Opinion of Probable Construction Cost or Preliminary Estimate or Estimate or Construction Cost or any variation thereof) if any, prepared by KCE, represent the best effort and judgment of KCE as a professional familiar with the construction industry. It is recognized however, that KCE has neither control over the cost of labor, materials or equipment, nor control or influence over the contractor's methods of determining bid prices, the competitive bidding market, nor negotiating conditions. Accordingly, KCE cannot and does not warrant or represent that bids or negotiated prices will not vary from an estimate of Construction Cost or evaluation (as described herein) prepared or agreed to by KCE.

The Construction Cost (as defined above) may provide for a reasonable allowance for contingencies for market conditions at the time of bidding and for changes in the work during construction.

KCE will send the Client an invoice each month and payment is required within fourteen (14) business days of the date of the invoice. If payment is not received within fourteen (14) business days of the date of the invoice, work may be suspended until payment is made. Final plans will be released upon payment of the final invoice.

In the performance of its duties hereunder, KCE will issue statements only in an objective and truthful manner and will strive to make Client aware of KCE's professional concerns regarding particular actions or projects and regarding the consequences of engineering decisions or judgments which are overruled or disregarded. KCE will endeavor to issue oral or written assertions in a manner which is not fraudulent, deceitful, or misleading. KCE will also make every effort to avoid the creation of a misleading impression

about any such assertions. KCE will disclose a potential conflict of interest to the Client upon discovery of the potential conflict and will abide by the Client's instructions concerning the conflict of interest and continued representation of the Client. Such conflict of interest includes KCE's acceptance of employment in a situation where its own financial, business, property, or personal interest may affect any professional judgment, decisions, or practices exercised on behalf of Client. In such event, if Client wishes to continue employment of KCE hereunder, KCE will seek the Client's confirmation of Client's knowledge of the potential conflict in writing. In any event, KCE will maintain the interest of the Client in confidence in accordance with the Texas Engineering Practice Act, the rules thereunder, and other applicable rules and statutes.

Additionally, KCE has engaged or may engage the services of one or more qualified licensed professionals, consultants, associates or employees ("Subcontractors") to perform certain services described herein. Such services include, without limitation, engineering, surveying, environmental, and geotechnical services.

Based on the proposed engagements, KCE does not foresee that KCE's interests or engagements may affect a professional judgment, decisions, or practices to be exercised on behalf of Client. In the event a conflict of interest develops or KCE, or Client, becomes aware of any conflict of interest, such conflict shall be disclosed to the other party.

The Engineering Services shall be performed in general accordance with standard care of the industry in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants performing comparable services under comparable conditions at the time the services contemplated herein are performed. Therefore, the Client understands and acknowledges that changes to the original scope of the project and/or completion date (Change Orders) may be required before, during or after construction. Change Orders shall not be executed without the express written consent of the Client.

Acceptance of this proposal by the Client shall constitute a legal and binding contract (Contract) between the parties. KCE shall not commence work until execution of said Contract.

KCE shall indemnify, defend and hold harmless the Client and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with (i) the performance or non-performance of Engineering Services contemplated by this Contract but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by KCE or KCE's agent, consultant under Contract, or another entity over which KCE exercises control (whether active or passive) of KCE or its employees, agents or sub-contractors (ii) the failure of KCE to comply with any of the paragraphs herein or the failure of KCE to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Contract. KCE expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of KCE, or any of its sub-contractors, as provided above, for which KCE's liability to such employee or former employee would otherwise be limited to payments under State Workers' Compensation or similar laws. Nothing herein shall require KCE to indemnify, defend, or hold harmless any Indemnitee for the Indemnitee's own negligence or willful misconduct. Any and all indemnity provided for in this Contract shall survive the expiration of this Contract and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Contract but thereafter so long as any liability could be asserted in regard to any acts or omissions of KCE in performing Engineering Services under this Contract.

For KCE Liability Claims, KCE shall be liable for reasonable defense costs incurred by Indemnitees but only after final adjudication and to the extent and percent that KCE or KCE's agents are found negligent or otherwise at fault. As used in this Contract, final adjudication includes any negotiated settlement and release of claims, without limitation as to when a negotiated settlement and release of claims occurs.

No other representations are made other than those herein, express or implied, and no warranty or guarantee not expressly stated herein is included or intended in any way.

Should any portion of this proposal be determined to be invalid or otherwise unenforceable, all remaining portions shall remain in full force and effect. All documents herein are complementary and what is required by one shall be as binding as if required by all.

Thank you for the opportunity to provide this proposal. If you have any questions or comments, please feel free to contact me at (830) 693-5635.

Sincerely,
K.C. Engineering, Inc.
Firm Registration #: F-977



By:
Greg Haley, P. E.
President

GH/

Attachment: 2016 Rate Schedule

The terms and conditions of this proposal shall remain valid for 30 days from the date of issuance. If the terms and conditions presented in this proposal are acceptable, please sign below to authorize commencement of the Engineering Services. By signing below, the signatory certifies the authority to sign this Agreement and be bound by its terms and conditions.

Client/Representative Signature

Date

Printed Name



K.C. ENGINEERING, INC.

705 N Hwy 281, Suite 103 • Marble Falls, TX 78654 • Tel: 830.693.5635 • Fax: 830.693.9664 • www.kcengineering.com

2016 RATE SCHEDULE

The Client will be billed for any service provided on a Time and Expense basis in accordance with the rate schedule set forth below:

Expert Witness	\$ 300.00	per hour
Senior Project Manager	\$ 190.00	per hour
Project Manager	\$ 135.00	per hour
Senior Engineer	\$ 160.00	per hour
Project Engineer	\$ 130.00	per hour
Engineer-in-Training	\$ 100.00	per hour
Engineering Technician	\$ 105.00	per hour
CAD Technician	\$85.00	per hour
Clerical	\$ 60.00	per hour
Mileage	\$ 0.550	per mile

Client will be billed for purchased services and expendable supplies at the actual cost of said services plus 10%. Purchased services may include, but are not limited to: reproduction, printing and copying; third party delivery services; document acquisition; telephone; travel and subsistence; miscellaneous fees; and, contracted services. All other costs not provided for directly herein, shall be billed at cost plus 10%.

Plans, specifications, and other documents reproduced, printed, and/or copied internally shall be billed as:

8-1/2" x 11"	\$0.15 each
8-1/2" x 14"	\$0.25 each
11" x 17"	\$1.50 each
24" x 36"	\$7.50 each
Other	\$1.50 per square foot

Plans, specifications and other documents printed by a commercial printer, shall be billed at cost plus 10%.



Administration

ITEM 4.13

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: Proposed Public Rights-of-Way Agreement with Honey Rock, L.P.: D. Vaughn
- Background:**
- Information:** The developer is requesting authorization to place signage for the new development at the intersection of Ramsey's Way and Hwy 281 South. The proposed agreement requires the developer to carry insurance and indemnify the City.
- Fiscal Impact:** None.
- Recommendation:** Staff recommends approval of the agreement.

PUBLIC RIGHTS-OF-WAY AGREEMENT

STATE OF TEXAS §
 §
COUNTY OF BURNET §

This Agreement (the "Agreement") is made as of December 13, 2016 (the "Effective Date") by and between the **CITY OF BURNET**, TEXAS, a home-rule city located in Burnet County, (the "City"), and **HONEY ROCK, L.P.**, a Texas Limited Partnership, (the "Developer"), which may be referred to herein as ("Party") or collectively as ("Parties").

WHEREAS; Honey Rock Ranch is a subdivision development located within the corporate limits of the City consisting of residential and commercial lots and associated improvements (the "Development"); and

WHEREAS; Rights-of-way for streets have been dedicated to the City, in trust for the public within those portions of the Development and Ramsey's Way Blvd. further shown on "Exhibit A."; and

WHEREAS; the Developer acknowledges and agrees that the City has exclusive jurisdiction and control of the rights-of-way; and

WHEREAS; the Developer has requested that the City allow the Developer to install and maintain signage within portions of the public rights-of-way

NOW, THEREFORE, in consideration of the premises; in furtherance of the mutual benefits to be derived by the Developer and the City; and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Developer agree as follows:

RECITALS:

1. DEVELOPER USAGE OF PUBLIC RIGHTS-OF-WAY

Permission, authorization and rights. Subject to the review and approval requirements set out herein, the City grants the Developer permission, authorization and right, at the sole cost and expense of the Developer, to construct, install, place, operate, maintain, repair, upgrade, or replace up to two (2) signs advertising the Development within the rights-of-ways at the intersection of Ramsey's Way Blvd. and HWY 281 South as further shown in "Exhibit A." The Developer acknowledges and agrees that no signage may be placed within any portion of the rights-of-way that would cause a hazard, or potential hazard to public health and safety, as determined in the sole discretion of the City.

Signage shall be subject to the City's sign ordinance and constructed no larger than thirty-two (32) square feet each. The sign(s) must be approved by the City Manager prior to the commencement of any construction, installation, placement, operation, maintenance, repair, upgrade or replacement of any signage under this Agreement. Such approval shall include, but not be limited to, the exact location of the sign(s) and sign(s) content or verbiage. Any modification, alterations, repair or change of construction shall require prior authorization by the City Manager.

2. CITY RIGHTS TO PUBLIC RIGHTS-OF-WAY

This Agreement is subject and subordinate to the present and future rights of the City, its successors, assigns, lessees, grantees, and licensees, to construct, install, establish, maintain, use, operate, and renew any public utilities, franchised public utilities, roadways or streets on, beneath or above the surface of the rights-of-way.

Nothing in this Agreement shall be construed to limit in any way the power of the City to widen, alter or improve the r-of-way pursuant to official action by the governing body of the City or its successors. The City shall endeavor to provide the Developer with notice of proposed improvements but shall be under no obligation to do so prior to commencement of the improvements. Relocation of Developer installed signage shall be at the Developer's sole cost and expense.

NOTWITHSTANDING ANY PROVISIONS IN THIS AGREEMENT TO THE CONTRARY, THE CITY RETAINS THE ABSOLUTE RIGHT TO ENTER THE RIGHTS-OF-WAY, AT ANY TIME AND WITHOUT NOTICE, ASSUMING NO OBLIGATION TO THE DEVELOPER, TO REMOVE ANY OF THE IMPROVEMENTS OR ALTERATIONS THEREOF, WHENEVER SUCH REMOVAL IS DEEMED NECESSARY FOR: (A) EXERCISING THE CITY'S RIGHTS OR DUTIES WITH RESPECT TO THE RIGHTS-OF-WAY; (B) PROTECTING PERSONS OR PROPERTY; OR (C) PROTECTING THE PUBLIC HEALTH OR SAFETY WITH RESPECT TO THE RIGHTS-OF-WAY. THE DEVELOPER SHALL REIMBURSE ALL COSTS INCURRED BY THE CITY IN THE CITY'S ENFORCEMENT OF THIS SECTION. SHOULD THE CITY INVOKE THE REMEDIES PROVIDED IN THIS SECTION THE CITY MAY IMMEDIATELY TERMINATE THIS AGREEMENT UPON A DETERMINATION, IN THE CITY'S SOLE DISCRETION, THAT THE IMPROVEMENTS OR A PORTION OF THEM CONSTITUTE A DANGER TO THE PUBLIC WHICH CANNOT TO BE REMEDIABLE BY ALTERATION OR MAINTENANCE THEREOF.

3. INSURANCE

Prior to the commencement of any construction, installation, placement, operation, maintenance, repair, upgrade or replacement of any signage under this Agreement, the Developer shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance ("COI") to the City Manager, which shall be clearly labeled with the legal name of the Honey Rock L.P. . All insurance and endorsements must be maintained

throughout the term of this Agreement.

The City reserves the right to review the insurance requirements of this Agreement during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by the City Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Agreement. Modifications to the coverage whereupon the City may incur increased risk is strictly prohibited.

The Developer shall obtain and maintain insurance coverage in full force and effect for the duration of this Agreement, and any extension thereof, at the Developer's sole cost and expense, by companies authorized to do business in the State of Texas and with an A.M. Best's rating of A- or better.

The Developer agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:

- Name the City, its officers, officials, employees, volunteers, and elected representatives as additional insured's by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City
- Provide Commercial General Liability Insurance for Bodily Injury and Property Damage in the amount of \$1,000,000 per occurrence; \$2,000,000 General Aggregate or its equivalent in Umbrella or Excess Liability Coverage;
- Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.

Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, the Developer shall provide a replacement COI and applicable endorsements to the City. The City shall have the option to suspend or terminate the Agreement should there be a lapse in coverage at any time during the term of this Agreement. Failure to provide and to maintain the required insurance shall constitute a material breach of the Agreement.

Nothing herein contained shall be construed as limiting in any way the extent to which Developer may be held responsible for payments of damages to persons or property resulting from the Developer or its subcontractors' construction, installation, placement, operation, maintenance, repair, upgrade or replacement of any signage as provided for in this Agreement.

It is agreed that the Developer's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City for liability arising out of operations under this Agreement.

It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

4. INDEMNIFICATION

THE DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND

HOLD HARMLESS, CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF CITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, BODILY INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY, DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF THE DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT OR SUB-CONTRACTOR OF THE DEVELOPER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR DEVELOPER KNOWN TO DEVELOPER RELATED TO OR ARISING OUT OF DEVELOPER'S ACTIVITIES UNDER THE AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT THE DEVELOPER'S SOLE COST AND EXPENSE. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING THE DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH.

IT IS THE EXPRESSED INTENT OF THE PARTIES PRIOR TO THIS AGREEMENT, THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT, IS AN INDEMNITY EXTENDED BY THE DEVELOPER TO INDEMNIFY, PROTECT AND HOLD HARMLESS THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE, PROVIDED, HOWEVER, THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT SHALL APPLY ONLY WHEN THE NEGLIGENT ACT OF THE CITY IS A CONTRIBUTORY CAUSE OF THE RESULTANT INJURY, DEATH OR DAMAGE, AND SHALL HAVE NO APPLICATION WHEN THE NEGLIGENT ACT OF THE CITY IS THE SOLE CAUSE OF RESULTANT INJURY, DEATH OR DAMAGE. THE DEVELOPER FURTHER AGREES TO DEFEND, AT ITS OWN SOLE COST AND EXPENSE, AND ON BEHALF OF THE CITY AND IN THE NAME OF CITY, ANY CLAIM OR LITIGATION BROUGHT AGAINST THE CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS AND REPRESENTATIVES, IN CONNECTION WITH ANY SUCH INJURY, DEATH OR DAMAGE FOR WHICH THIS INDEMNITY SHALL APPLY AS SET FORTH ABOVE.

5. TERMINATION

This agreement may be terminated, at-will, by either Party upon thirty (30) days written notice.

In the event that this Agreement is terminated by either Party, at the election of the City the signage shall either (i) be removed by the Developer and the rights-of-ways be restored to a condition equivalent to a condition typical for rights-of-way within the City of Burnet at the Developers sole cost and expense and within sixty (60) days of notification by the City to do so; or (ii) the City shall assume all rights, title and ownership to the signage. In the event that the City elects to require the removal of the signage and the restoration of the rights-of-way in accordance with this Agreement; and the Developer fails to do so within sixty (60) days, the City may take such actions necessary to remove the signage and restore the rights-of-way and charge the Developer with the costs for such removal and restoration.

6. TERM

The term of this Agreement shall be for one (1) calendar year beginning on the Effective Date; provided, however, that this Agreement shall be automatically extended for successive terms of one (1) year ;save and except if either Party provides notice of termination as provided for herein.

7. MISCELLANEOUS PROVISIONS

Attorney's fees. If either Party is required to file suit to collect any amount owed under this Agreement for the use of the rights-of-way, the prevailing Party shall be entitled to seek reasonable attorney's fees.

Notice. Any notices required or appropriate under this Agreement shall be given in writing to the Parties at the addresses shown below.

Headings. The paragraph headings contained herein are for convenience of reference and are not intended to define, extend, or limit any provisions of this Agreement

Jurisdiction and Venue. This Agreement will be interpreted according to the Texas Constitution and laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Burnet County, Texas. This Agreement is made and is to be performed in Burnet County, Texas, and is governed by the laws of the State of Texas.

Authorized Agent. The signer of this Agreement hereby represents that he or she has full authority to execute this Agreement on behalf of his or her entity.

EXECUTED the dates of the Parties' respective acknowledgements below.

CITY OF BURNET:

By: _____

Date: _____

David Vaughn
City Manager
P.O. Box 1369
Burnet, TX 78611

Developer:

By: _____

Date: _____

Louis B. Christensen, Co-Manager and authorized
representative for HRR General Partner, LLC, and
Honey Rock, L.P.
2850 East Skyline Drive, Suite 100
Tucson, Arizona 85718



Street Department

ITEM 4.14

Jonny Simons
Street Dept. Superintendent
830-743-7597
jsimons@cityofburnet.com

Agenda Item Brief

- Meeting Date:** December 13, 2016
- Agenda Item:** Discuss and consider action: First Amendment to the Roadbase/Aggregate Agreement: J. Simons
- Background:** On June 28, 2016 City Council approved a bid with Old Castle Materials to provide roadbase through December 31, 2016.
- Information:** Staff is requesting and to extend the term of this agreement through February 28, 2017. The purpose of this extension is to allow staff to purchase approximately 6,000 tons of roadbase material to finish Pecan Street.
- Fiscal Impact:** \$5.00 per ton.
- Recommendation:** Staff recommends approving the first amendment to the Roadbase/Aggregate Agreement.

THE STATE OF TEXAS §
 §
COUNTY OF BURNET §

FIRST AMENDMENT TO AGREEMENT BETWEEN THE CITY OF BURNET AND OLD CASTLE MATERIALS TEXAS PRODUCTION ASSETS COMPANY, LLC.

This First Amendment (“First Amendment”) to the Request for Proposal – Roadbase/Aggregate between the City of Burnet and Old Castle Materials Texas Production Assets Company, LLC. (the "Agreement") entered into as of the 29 day of June, 2016 by and between the **CITY OF BURNET, TEXAS**, a Texas home rule city and municipal corporation (the "City"), and **OLD CASTLE MATERIALS TEXAS PRODUCTION ASSETS COMPANY, LLC.** (“Old Castle”), shall, be amended as follows:

Amendment one. Article II, Section 2.01, (j) of the Agreement is hereby amended by replacing the existing language with the language (in *italics*) that follows:

“The term of this RFP shall commence and be binding and valid from date approved by City Council through February 28, 2017 under the terms and conditions as provided for herein.”

EXCEPT AS HEREBY MODIFIED OR AMENDED, the remaining provisions of the Agreement not inconsistent with the terms hereof shall remain in full force and effect for all purposes.

(Signatures on following page)

Executed to be effective on _____, 2016 (which is the Effective Date of this Amendment).

CITY OF BURNET TEXAS:

ATTEST:

David Vaughn, City Manager
City of Burnet, Texas
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

Kelly Dix, City Secretary
City of Burnet, Texas

CONTRACTOR:
OLD CASTLE MATERIALS TEXAS PRODUCTION ASSETS COMPANY, LLC.

By: Tom Hershberger
Title: _____
1320 Arrow Point Drive, Suite 600
Cedar Park, Texas 78613



Administration

ITEM 6.1

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Executive Session: The Council reserves the right to enter into closed session in accordance with the provision of the Open Meetings Act, Texas Government Code, Chapter 551, Subsection 551.087; Deliberation Regarding Economic Development Negotiations-Integris: D. Vaughn

Background:

Information:

Fiscal Impact:

Recommendation: To be determined by Council



Administration

ITEM 6.2

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Executive Session: The Council reserves the right to enter into closed session in accordance with the provision of the Open Meetings Act, Texas Government Code, Chapter 551, Subsection 551.072; Deliberations Regarding Real Property: pertaining to thirteen acres of land on the corner of Westfall and Cemetery Streets, owned by the City of Burnet: D.Vaughn

Background:

Information:

Fiscal Impact:

Recommendation: To be determined by Council



Administration

ITEM 7.1

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: Regarding economic development negotiations with Integris: D. Vaughn

Background:

Information:

Fiscal Impact:

Recommendation: To be determined by Council



Administration

ITEM 7.2

David Vaughn
City Manager
(512) 715-3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: December 13, 2016

Agenda Item: Discuss and consider action: Regarding thirteen acres of land owned by the City of Burnet: D. Vaughn

Background:

Information:

Fiscal Impact:

Recommendation: To be determined by Council

ITEM 5.1(B.3)

FINANCIAL REPORT OCTOBER 2016

BUDGET vs ACTUAL REPORT 10/31/16

	2016-2017 BUDGET	YTD 10/31/2016	% of BUDGET	Target	Over/Under	BUDGET vs ACTUAL REPORT 10/31/16						
						YTD 10/31/15	YTD BUDGET	YTD 10/31/2016	Variance	MTD BUDGET	MTD 10/31/2016	Variance
GOVERNMENTAL ORGANIZATIONAL UNIT												
General Fund												
Operating Revenues	\$ 9,793,014	\$ 671,654	7%	8%	-1%	\$ 563,650	\$ 816,085	\$ 671,654	82%	\$ 816,085	\$ 671,654	82%
Use of Fund Balance	\$ 1,255,500	\$ 11,273	1%	8%		\$ 52,050	\$ 104,625	\$ 11,273	11%	\$ 104,625	\$ 11,273	11%
Operating Expenses	\$ 10,498,802	\$ 824,354	8%	8%	0%	\$ 739,144	\$ 874,900	\$ 824,354	94%	\$ 874,900	\$ 824,354	94%
Debt Service	\$ -	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	0%	\$ -	\$ -	0%
Total Expense	\$ 10,498,802	\$ 824,354	8%	8%	0%	\$ 739,144	\$ 874,900	\$ 824,354	94%	\$ 874,900	\$ 824,354	94%
Operating Profit/Loss	\$ 549,712	\$ (141,427)	-26%	8%	-34%	\$ (123,444)	\$ 45,809	\$ (141,427)	-309%	\$ 45,809	\$ (141,427)	-309%
Golf Course Fund												
Operating Revenues	\$ 1,462,604	\$ 265,470	18%	8%	10%	\$ 273,045	\$ 121,884	\$ 265,470	218%	\$ 121,884	\$ 265,470	218%
Operating Expenses	\$ 1,538,014	\$ 132,840	9%	8%	1%	\$ 128,447	\$ 128,168	\$ 132,840	104%	\$ 128,168	\$ 132,840	104%
Debt Service	\$ -	\$ -	0%	0%	0%	\$ -	\$ -	\$ -	0%	\$ -	\$ -	0%
Total Expense	\$ 1,538,014	\$ 132,840	9%	8%	1%	\$ 128,447	\$ 128,168	\$ 132,840	104%	\$ 128,168	\$ 132,840	104%
Operating Profit/Loss	\$ (75,410)	\$ 132,631	-176%	8%	-184%	\$ 144,598	\$ (6,284)	\$ 132,631	-2111%	\$ (6,284)	\$ 132,631	-2111%
General Government Capital Fund												
Revenue	\$ -	\$ -	0%									
Use of Loan Proceeds	\$ -	\$ -	0%									
Use of Fund Balance - General Fund	\$ 1,040,000	\$ 10,537	1%									
Expenses	\$ 1,040,000	\$ 10,537	1%									
Capital Project Gain/Loss	\$ -	\$ -										
Golf Course Capital Project Fund												
Contributions	\$ -	\$ -	0%									
Use of Fund Balance - General Fund	\$ 100,000	\$ 736	1%									
Expenses	\$ 100,000	\$ 736	1%									
Capital Project Gain/Loss	\$ -	\$ -										
ORGANIZATIONAL UNIT NET CHANGE	\$ 474,302	\$ (8,798)				\$ 21,154						
ELECTRIC ORGANIZATIONAL UNIT												
Electric Fund												
Operating Revenues	\$ 8,272,373	\$ 695,074	8%	8%	0%	\$ 760,652	\$ 689,384	\$ 695,074	101%	\$ 689,384	\$ 695,074	101%
Use of Fund Balance	\$ 235,000	\$ 21,555		8%		\$ -	\$ 19,583	\$ 21,555	110%	\$ 19,583	\$ 21,555	110%
Operating Expenses	\$ 7,688,241	\$ 650,261	8%	8%	0%	\$ 772,435	\$ 640,687	\$ 650,261	101%	\$ 640,687	\$ 650,261	101%
Debt Service	\$ 67,303	\$ 5,489	8%	8%	0%	\$ 5,489	\$ 5,609	\$ 5,489	98%	\$ 5,609	\$ 5,489	88%
Total Expense	\$ 7,755,544	\$ 655,750	8%	8%	0%	\$ 777,924	\$ 646,295	\$ 655,750	101%	\$ 646,295	\$ 655,750	101%
Operating Profit/Loss	\$ 751,829	\$ 60,878	8%	8%	0%	\$ (17,272)	\$ 62,652	\$ 60,878	97%	\$ 62,652	\$ 60,878	97%
Transfer Out	\$ (235,000)	\$ (21,555)	0%	8%	-9%	\$ -	\$ (19,583)	\$ (21,555)	110%	\$ (19,583)	\$ (21,555)	110%
Operating Profit/Loss	\$ 516,829	\$ 39,323	8%	8%	0%	\$ (17,272)	\$ 43,069	\$ 39,323	91%	\$ 43,069	\$ 39,323	91%
Electric Capital Project Fund												
Contributions	\$ 115,000	\$ -	0%	0%	0%							
Use of Fund Balance - Electric Fund	\$ 235,000	\$ 21,555	9%	0%	9%							
Expenses	\$ 350,000	\$ 21,555	6%	0%	6%							
Capital Project Gain/Loss	\$ -	\$ -	0%	0%	0%							
ORGANIZATIONAL UNIT NET CHANGE	\$ 516,829	\$ 39,323				\$ (17,272)	\$ 43,069	\$ 39,323	91%	\$ 43,069	\$ 39,323	91%

FINANCIAL REPORT OCTOBER 2016

BUDGET vs ACTUAL REPORT 10/31/16

	2016-2017		YTD	% of	Target	Over/Under	YTD			Variance	MTD		Variance
	BUDGET	BUDGET					10/31/2016	10/31/16	BUDGET		10/31/2016		
OTHER ORGANIZATIONAL UNITS													
Hotel/Motel Fund													
Operating Revenues	\$ 346,000	\$	23,223	7%	8%	-1%	\$ 15,978	\$ 28,833	\$ 23,223	81%	\$ 28,833	\$ 23,223	81%
Operating Expenses	\$ 334,478	\$	1,094	0%	8%	-8%	\$ 1,381	\$ 27,873	\$ 1,094	4%	\$ 27,873	\$ 1,094	4%
Net Profit/Loss	\$ 11,522	\$	22,129				\$ 14,595	\$ 960	\$ 22,129		\$ 960	\$ 22,129	
Tech Fund													
Revenue	\$ 50,096	\$	10	0%			\$ 5	\$ 4,175	\$ 10		\$ 4,175	\$ 10	
Expenses	\$ 50,000	\$	-	0%			\$ -	\$ -	\$ -		\$ -	\$ -	
Net Profit/Loss	\$ 96	\$	10				\$ 5	\$ 4,175	\$ 10		\$ 4,175	\$ 10	
Economic Development													
Operating Revenues	\$ 921,000	\$	41,137	4%			\$ 141,219						
Use of Fund Balance	\$ 500,000	\$	-				\$ -						
Operating Expenses	\$ 1,361,000	\$	33,288	2%			\$ 17,557						
Net Profit/Loss	\$ 60,000	\$	7,849				\$ 123,662						
Debt Service Fund													
Operating Revenues	\$ 1,113,519	\$	93,295	8%	8%	0%	\$ 93,297	\$ 92,793	\$ 93,295	101%	\$ 92,793	\$ 93,295	101%
Operating Expenses	\$ 1,113,519	\$	-	0%	8%	-8%	\$ -	\$ 92,793	\$ -	0%	\$ 92,793	\$ -	0%
Net Profit/Loss	\$ -	\$	93,295				\$ 93,297	\$ -	\$ 93,295		\$ -	\$ 93,295	
Sell Funded Equipment													
Operating Revenues	\$ 743,419	\$	62,101	7%			\$ 44,030						
Operating Expenses	\$ 1,007,000	\$	194,800	19%			\$ -						
Net Profit/Loss	\$ (263,581)	\$	(142,699)				\$ 44,030						
Interest & Sinking Fund													
Operating Revenues	\$ 351,779	\$	2,600	1%	1%	0%	\$ 2,322						
Operating Expenses	\$ 351,779	\$	-	0%	0%	0%	\$ -						
Net Profit/Loss	\$ -	\$	2,600				\$ 2,322						

CASH AND INVESTMENTS COMPARISON - OCTOBER 31, 2016

	BALANCE 09/30/2014	BALANCE 09/30/2015	BALANCE 09/30/2016	BALANCE 10/31/2016	INTEREST RATE EARNED
CASH AND INVESTMENTS					
Operating Cash	\$ 2,887,077.60	\$ 4,214,761.74	\$ 3,940,168.20	\$ 4,266,638.39	0.1000%
MM 2329 Golf Course Petty Cash	\$ 2,160.12	\$ 640.30	\$ 1,538.27	\$ 2,352.05	0.0000%
MM 2535 Operating Reserve	\$ 1,367,785.80	\$ 1,379,074.52	\$ 1,381,842.78	\$ 1,382,077.50	0.1000%
TOTAL CASH AND INVESTMENTS	\$ 4,247,023.52	\$ 5,594,476.56	\$ 5,323,549.25	\$ 5,641,067.94	
Restricted Accounts					
MM 1453 Bond Reserves	\$ 467,634.43	\$ 492,946.11	\$ 481,653.00	\$ 524,846.22	0.2000%
MM 2188 Self Funded	\$ 778,293.85	\$ 811,004.29	\$ 514,678.09	\$ 363,904.34	0.2000%
MM 2451 Construction Acct.	\$ 210,846.21	\$ 95,109.27	\$ 89,926.31	\$ 89,926.31	0.2000%
MM 2543 Airport Reserve	\$ 216,719.03	\$ 282,681.17	\$ 433,248.61	\$ 433,320.66	0.2000%
MM 2592 BEDC	\$ 609,848.78	\$ 844,514.36	\$ 690,127.86	\$ 700,912.01	0.1000%
MM 2402 Hotel/Hotel	\$ 226,816.27	\$ 294,077.49	\$ 317,228.19	\$ 340,421.11	0.2000%
MM 3012 PEG 1% Franchise Fee	\$ 38,249.78	\$ 46,898.27	\$ 54,916.90	\$ 54,920.57	0.1000%
MM 2493 Municipal Court	\$ 31,473.65	\$ 31,967.13	\$ 58,394.48	\$ 58,404.40	0.2000%
MM 2485 PD Seizure	\$ 2,234.66	\$ 2,269.65	\$ 2,274.10	\$ 3,637.70	0.2000%
MM 2501 CIP	\$ 226,198.21	\$ 65,966.89	\$ -	\$ -	0.2000%
MM 2576 Interest & Sinking Acct.	\$ 20,769.69	\$ 71,836.14	\$ 93,200.34	\$ 95,800.83	0.2000%
ACCT# 2675 PD Explorer Program	\$ -	\$ -	\$ 13,402.19	\$ 13,404.47	0.0000%
ACCT# 2691 FD Explorer Program	\$ -	\$ -	\$ 10,138.68	\$ 10,145.07	0.0000%
TWDB Texpool #7	\$ 1,982,087.93	\$ 1,017,270.98	\$ 170,297.84	\$ 64,944.99	0.3514%
TWDB Texpool #6	\$ 425,217.74	\$ 126,380.97	\$ 106,259.68	\$ 102,679.70	0.3514%
MM 2518 Impact Fee Water	\$ 68,991.03	\$ 131,606.76	\$ 122,878.18	\$ 122,899.73	0.2000%
MM 2584 Impact Fee Wastewater	\$ 40,175.98	\$ 18,604.25	\$ 12,733.84	\$ 12,736.52	0.2000%
TOTAL RESTRICTED ACCOUNTS	\$ 5,295,556.16	\$ 4,271,832.63	\$ 3,121,267.29	\$ 2,932,907.13	
TOTAL ALL ACCOUNTS	\$ 9,542,579.68	\$ 9,866,309.19	\$ 8,444,806.54	\$ 8,633,876.07	

NET +/-

OVERALL CASH \$ 189,168.53
SEPT 2016 VS OCT 2016

RESERVE GOALS:

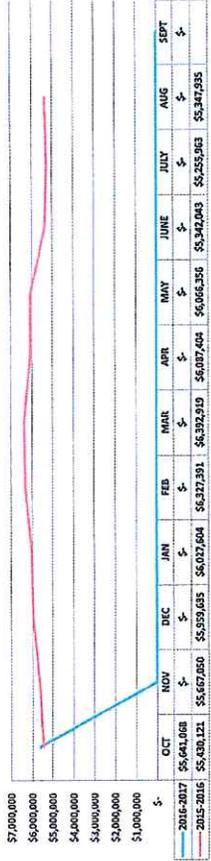
75 DAY	\$ 2,648,828.54	\$ 2,892,139.48	**
90 DAY	\$ 3,475,222.93	\$ 2,461,345.01	**

** \$144,866.41 belongs to the Airport

Investment Officer
Chassee Maxwell

Investment Officer
Patricia Langford

TOTAL UNRESTRICTED CASH RESERVES



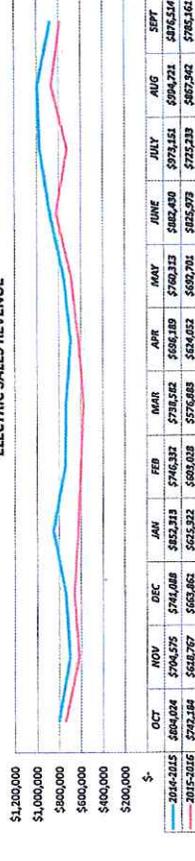
SALES TAX REVENUE



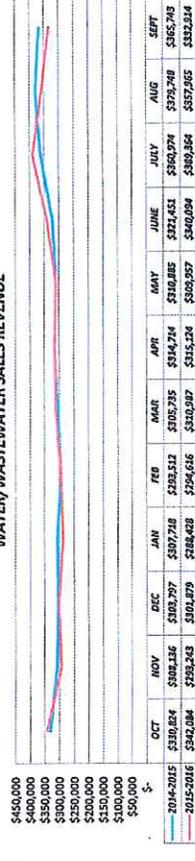
PROPERTY TAX REVENUE



ELECTRIC SALES REVENUE

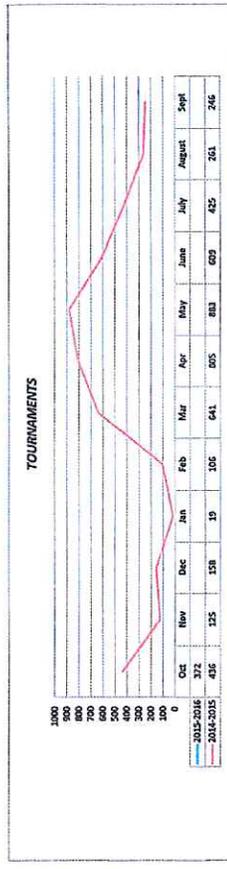
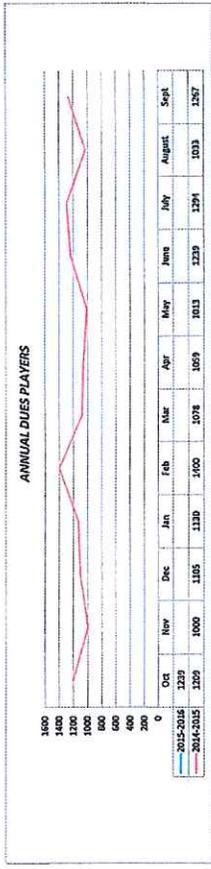
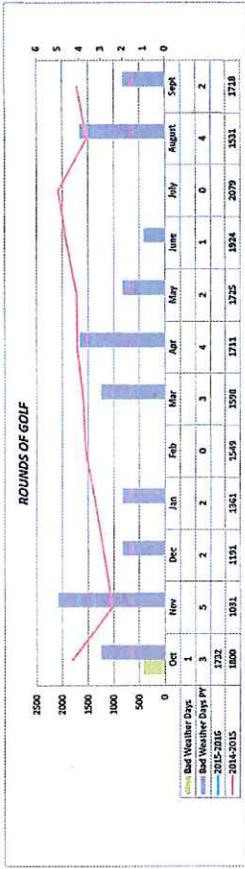


WATER/WASTEWATER SALES REVENUE



Golf Course Statistics

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
Rounds of Golf	1732	1031	1191	1361	1549	1598	1711	1725	1924	2079	1531	1718	1732
Rounds of Golf PY	1800	1031	1191	1361	1549	1598	1711	1725	1924	2079	1531	1718	19218
Tournaments	372	436	125	158	19	105	641	805	883	609	425	261	372
Tournaments PY	436	125	158	19	105	641	805	883	609	425	261	246	4714
Annual Dues Players	1239	1209	1000	1105	1130	1400	1078	1059	1013	1239	1234	1033	1239
Annual Dues Players PY	1239	1000	1105	1130	1400	1078	1059	1013	1239	1234	1033	1287	13827
Bad Weather Days	1	5	2	2	0	3	4	2	1	0	4	2	1
Bad Weather Days PY	3	5	2	2	0	3	4	2	1	0	4	2	28

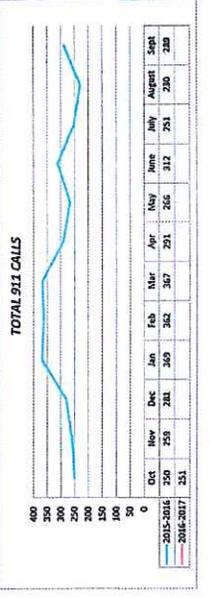
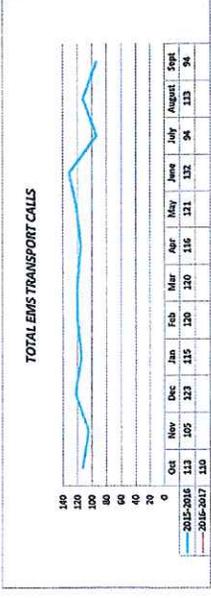


Fire Department Statistics

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
Fire 2015-2016													
# Calls City*	39	40	50	95	88	74	60	58	64	70	84	51	716
Fire 2016-2017													
# Calls City*	61												61

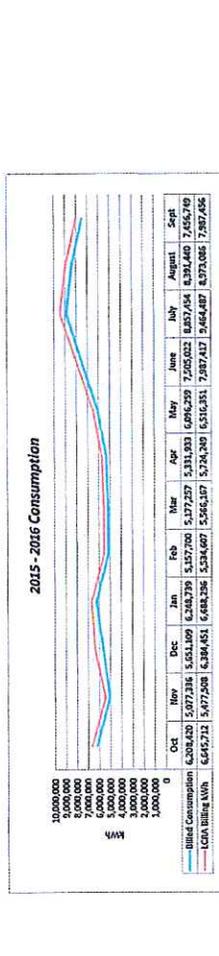
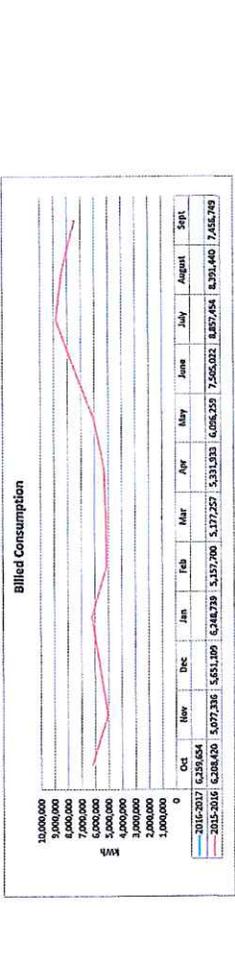
EMS 2015-2016													
# 911 Calls	250	259	291	389	362	367	291	268	312	251	230	280	3,527
# Transport	113	123	115	120	120	121	116	121	132	141	113	131	1,483
TOTAL EMS CALLS	363	384	404	484	482	487	407	389	444	343	343	383	4,993

EMS 2016-2017													
# 911 Calls	251												251
# Transport	110												110
TOTAL EMS CALLS	361												361



Electric Department Statistics

2016-2017 Customers												
Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
2,888												0.50 054
6,528,541												14,340
\$ 381,193												\$ 381,193
0.0577												
47.41%												
2015-2010 Customers												
Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640	2,640
6,208,620	5,077,336	5,051,109	4,240,730	5,157,700	5,177,257	5,331,933	6,096,235	7,056,022	8,857,454	9,391,440	7,456,748	71,550,410
\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193	\$ 381,193
0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577	0.0577
0.025%												



Water Department Statistics

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
2016-2017													
Cashless													
Billed Consumption	28,811												
Surface Water	12,425,000												
Ground Water	0												
LCRA Billed Consumption	9,745,000												
LCRA Billed Dollars	4,293												

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	August	Sept	YTD
2015-2016													
Cashless	2,517												
Billed Consumption	37,177,386	18,501,011	18,008,581	15,123,581	16,815,127	19,262,252	19,924,301	19,322,400	25,065,281	35,995,862	20,439,003	24,038,129	207,105,000
Surface Water	15,092,000	10,153,000	7,200,000	7,113,000	7,642,000	7,442,000	8,013,000	7,171,000	12,207,000	20,394,000	13,625,000	11,331,000	127,440,000
Ground Water	20,485,000	12,200,000	15,830,000	13,942,000	14,034,000	15,265,000	13,311,000	14,810,000	19,291,000	19,000,000	19,000,000	15,281,000	179,660,000
LCRA Billed Consumption	22,723,000	19,604,000	18,429,000	9,973,000	10,908,000	13,311,000	13,311,000	13,311,000	17,447,000	15,265,000	15,265,000	15,265,000	128,000,000
LCRA Billed Dollars	14,824	4,582	4,582	3,020	3,020	2,724	2,724	3,155	2,010	3,447	0,000	0,000	61,092

