



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 **8th day of January, 2019** 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 ALLEGIANCE:

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 December 11th, 2018 Regular Council Meeting minutes

2.2) Approval of the December 11th, 2018 Public Meeting Minutes

3. PUBLIC HEARINGS:

3.1) Public Hearing: Consider a request to rezone Highland Oaks, Lot 1, Phase 1, Block 10 from its present designation of Light Commercial — District “C-1” to a designation of Townhomes — District “R-2A,” said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street (Hwy. 281): W. Meshier

3.2) Public Hearing: Consider a request to rezone Highland Oaks, Lot 1, Phase 1,

Block 9 from its present designation of Agricultural—District “A” to a designation of Townhomes—District “R-2A,” said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street (Hwy. 281): W. Meshier

3.3) Public Hearing: Consider a request to rezone 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187 from its present designation of Single-Family Residential—District “R-1” to a designation of Government and Public Institutional—District “G,” said tract being further described as 1601 South Water Street, and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive: W. Meshier

4. ACTION ITEMS:

4.1) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS, DISCLAIMING BEQUEATHMENT FROM THE ESTATE OF HESSIE WILLIAMS OWEN, DECEASED; CAUSE NO. C-1-PB-18-000906: D. Vaughn

4.2) Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2017-18; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018 FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS PROVIDING FOR SAVINGS AND SEVERABILITY: P. Langford

4.3) Discuss and consider action: A RESOLUTION ADOPTING THE CITY OF BURNET, TX, INVESTMENT POLICY AND NAMING THE INVESTMENT OFFICERS: P. Langford

4.4) Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOME – DISTRICT R-2A TO LOT 1, PHASE 1, BLOCK 10 OF THE HIGHLAND OAKS SUBDIVISION, SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE NORTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: W. Meshier

4.5) Discuss and consider action: FIRST READING OF AN ORDINANCE TO REZONE HIGHLAND OAKS, LOT 1, PHASE 1, BLOCK 9 FROM ITS PRESENT DESIGNATION OF AGRICULTURAL-DISTRICT “A” TO A DESIGNATION OF TOWNHOMES-DISTRICT “R-2A,” SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE SOUTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET (HWY. 281): W. Meshier

4.6) Discuss and consider action: FIRST READING OF AN ORDINANCE TO REZONE 34.068 ACRES OUT OF THE B.B. CASTLEBERRY SURVEY, ABSTRACT NUMBER 187 FROM ITS PRESENT DESIGNATION OF SINGLE-FAMILY RESIDENTIAL—DISTRICT “R-1” TO A DESIGNATION OF GOVERNMENT AND PUBLIC INSTITUTIONAL—DISTRICT “G,” SAID TRACT BEING FURTHER DESCRIBED AS 1601 SOUTH WATER STREET, AND BEING GENERALLY LOCATED ON THE EAST SIDE OF SOUTH WATER STREET (HWY. 281), APPROXIMATELY 1,120 FEET SOUTH OF THE INTERSECTION WITH ARISTOKRAFT DRIVE: W. Meshier

4.7) Discuss and consider action: Request for a variance to Code of Ordinances, Chapter 98, Sec. 98-22.d.3.h for the purpose of allowing an alternative means of compliance with the tree removal and replacement standards: W. Meshier

4.8) Discuss and consider action: Acceptance of a deed for dedication of land as a public right-of-way from Seton Family of Hospitals: G. Courtney

4.9) Discuss and consider action: Acceptance of a Public Utility Easement granted by the Seton Family of Hospitals: G. Courtney

5. REPORTS: None.

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.

6. REQUESTS FROM COUNCIL FOR FUTURE REPORTS:

7. ADJOURN:

Dated this 4th day, of January, 2019

CITY OF BURNET

CRISTA GOBLE BROMLEY, 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 January 4, 2019, at or before 6 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 {}

On this the 11th day of December, 2018, 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 Crista Goble Bromley
Council Members Mary Jane Shanes, Danny Lester, Cindia Talamantez, Joyce
 Laudenschlager, Paul Farmer, Tres Clinton

City Manager David Vaughn

City Secretary Kelly Dix

Guests: Mark Lewis, Gene Courtney, Mark Ingram, Patricia Langford, Paul Nelson, Alan Burdell, Adrienne Feild, Wallis Meshier, Evan Milliorn, Leslie Baugh, James Wilson, Jonny Simons, Craig Lindholm, Harold Trant, Mary Trant, Christine Cummings, Mark Edwards, Savanna Gregg, Caryn Payne, Judy Mamolejo, Jerrell Teltous, Bettye Foulds

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

INVOCATION: Council Member Mary Paul Farmer

PLEDGE OF ALLEGIANCE: Council Member Tres Clinton

PLEDGE TO TEXAS FLAG: Council Member Tres Clinton

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 November 13, 2018 Regular Council Meeting minutes

Council Member Joyce Laudenschlager moved to approve the consent agenda as presented.

Council Member Danny Lester seconded, the motion carried unanimously.

PUBLIC HEARINGS: None.

ACTION ITEMS:

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOMES – DISTRICT R-2A TO LOTS 8-A (0.29-ACRES); 9-A (0.21-ACRES) AND 10-A (0.26-ACRES); JOHN HAMILTON SURVEY NO. 1, WHICH ARE FURTHER DESCRIBED AS BEING LOCATED IN THE 1200 BLOCK OF BUCHANAN DRIVE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: M. Lewis: Council Member Danny Lester moved to approve and adopt Ordinance 2018-19 as presented. Council Member Joyce Laudenschlager seconded, the motion carried unanimously.

Discuss and consider action: Acceptance of a Public Utility Easement granted by the Highland Lakes Health Fund: G. Courtney: Council Member Mary Jane Shanes made a motion to accept a Public Utility Easement granted by the Highland Lakes Health Fund for property located on County Road 340-A as presented. Council Member Joyce Laudenschlager seconded, the motion carried unanimously.

Discuss and consider action: Acceptance of a deed for dedication of land as a public right-of-way:

G. Courtney: Council Member Tres Clinton moved to accept a deed for dedication of land as a public right-of-way for property located on County Road 340-A as presented. Council Member Mary Jane Shanes seconded, the motion carried unanimously.

Discuss and consider action: Airport Advisory Board appointments: L. Baugh: Council Member Paul Farmer made a motion to re-appoint Richard Dietrich and Ken Wittikiend to the City of Burnet Airport Advisory Board as presented. Council Member Mary Jane Shanes seconded, the motion carried unanimously.

Discuss and consider action: Approval of LCRA Community Development Partnership Program (CDPP) grant application: L. Baugh: Council member Danny Lester made a motion to approve submission of a LCRA Community Development Partnership Program (CDPP) grant application for the fire tower project. Council Member Joyce Laudenschlager seconded, the motion carried unanimously.

Discuss and consider action: Burnet Historic Preservation Board appointment: K. Dix: Council Member Danny Lester made a motion to appoint Wallis Meshier to the City of Burnet Historic Preservation Board. Council Member Joyce Laudenschlager 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.

September 2018 Financial Report: P. Langford: Director of Finance Patricia Langford reported to Council and all present that the year end financial reports reflected increases in revenue over budget for all funds, as well as decreases in expenditures in each fund for the year end close. The Golf Course finished the year with an operating transfer from General Fund in the amount of \$1,664.00 compared to \$70,586 last year.

Proposed Regional sewage collection for US Hwy 281 South: D. Vaughn: City Manager David Vaughn provided an overview of a potential sewer extension that would provide regionalized sewer collection infrastructure for future development on US Highway 281 South. Mr. Vaughn advised Council that this was a project that he felt Council needed to be aware of for future budgeting purposes.

Project F Update Report: A. Burdell: Alan Burdell, Water/Wastewater Operations Manager informed all present that the SSES Project F has been completed. The Manholes project is still in progress, but ahead of schedule due to the number of manholes that were taken care of during the Project F portion of the rehabilitation. Mr. Burdell stated that he was very pleased with the contractor Texas Pride.

REQUESTS FROM COUNCIL FOR FUTURE REPORTS: None.

ADJOURN: There being no further business a motion to adjourn was made by Council Member Mary Jane Shanes at 6:25 p.m., seconded by Council Member Joyce Laudenschlager. The motion carried unanimously.

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary

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

A public meeting was held on the 11th day of December 2018, beginning at 6:30 p.m. in Council Chambers, located at the Burnet Municipal Airport, 2402 S. Water Street, Burnet, Texas, with the following members present, to-wit:

Mayor: Crista Goble Bromley

Mayor Pro Tem: Paul Farmer

Council Members: Joyce Laudenschlager, Mary Jane Shanes and Tres Clinton

Absent Danny Lester, Cindia Talamantez

City Manager: David Vaughn

City Secretary: Kelly Dix

Guests: Jonny Simons, Gene Courtney, James Wilson, Alan Burdell, Wallis Meshier, Mark Lewis, Leslie Baugh, Ron Chapman, Mary Lynn Beall, Lynda Pierce, Timothy Pierce, Craig Lindholm, Bettye Foulds, Veronica Pence, Marcus Horner, Savana Gregg

Update Report on drainage and roadway issues in the Woodlands Sub-division: D. Vaughn: City Manager David Vaughn called the meeting to order at 6:34 p.m. Mr. Vaughn provided an overview of the proposed alternatives designed by the engineers to assist with diminishing flooding in the Woodlands sub-division. Mr. Vaughn informed all present that road way repairs in the Woodlands have been moved up on the street improvement project list as well, with Spicewood most likely being the first street to be repaired and Applewood to follow. No action was taken and the meeting was closed at 7:36 p.m.

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



City Council

ITEM 3.1

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Public Hearing: Consider a request to rezone Highland Oaks, Lot 1, Phase 1, Block 10 from its present designation of Light Commercial — District “C-1” to a designation of Townhomes — District “R-2A,” said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street (Hwy. 281): W. Meshier

Background: This item is for consideration of a rezoning for the tract of land located on the northeast corner of Tammi Drive and Hwy. 281 (see Exhibit A). The tract is currently undeveloped and zoned “C-1” (Light Commercial) (see Exhibit B). The property owner has submitted a request to have the tract rezoned to a designation of “R-2A” (Townhomes). The subject property is encumbered by a 100-foot L.C.R.A. overhead electrical easement, and by a 60-foot Pedernales overhead electric easement (see Exhibit D).

Information: District “R-2A” (Townhomes) is governed by Sec. 118-28 of the Code of Ordinances and allows two, three, or four unit townhomes with a minimum of 900 sq. ft. per unit of living area on a minimum lot size of 4,500 sq. ft. per unit. The applicant’s stated reason for requesting the zone change is to allow utilization of the property for the type of mid-density residential development the “R-2A” district was established to support.

When acting on a zone change request, the usual factors considered include consistency with the Future Land Use Map (FLUM) and existing patterns of development. The zoning requested for this property is consistent with the FLUM recommendation for this area (See Exhibit C).

Chapter 1 of the City’s Comprehensive Development Plan includes the following statements:

The Comprehensive Plan is the “official statement of a municipal governing body which sets forth its major policies concerning desirable future physical development of the community.”

The [Comprehensive Development] Plan [...] provides general policy guidelines and principles for achieving physical development goals.

[The Comprehensive Plan] is an instrument to guide the physical development of the community in an orderly and constructive manner. [...] The plan is intended to provide local elected officials with a foundation upon which sound decisions can be made regarding the future physical development of the City of Burnet.

Chapter 5 of the Plan notes the following regarding future land use:

The primary purpose of land use planning is to set forth policies regarding existing and future uses of public and private property. The plan establishes the types of relationships among land uses that a city would like to encourage.

The plan should recognize the need for diversity of types of development.

Staff Analysis:

The Future Land Use Map identifies the subject parcel as being intended for future residential use. The Future Land Use Map assumptions in this area are generally correct, and should be supported.

Staff is of the determination that the subject parcel is not suitable for low density single-family residential development due to its having frontage on Hwy. 281, and due to the overhead electrical easements.

Staff finds that the requested “R-2A” (Townhome) zoning is consistent with the adopted Future Land Use Map. In addition, staff is of the determination that the subject parcel is better suited to multi-family development than to “C-1” (Light Commercial) use, given its location adjacent to single-family residential development.

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on December 19, 2018 and written notices were mailed to twenty-four (24) surrounding property owners regarding this request. As of the date of this report, no responses have been received.

Recommendation: Staff recommends approval of the request to rezone the subject property from “C-1” (Light Commercial) to “R-2A” (Townhomes).

Exhibit "A"
Location Map & Aerial

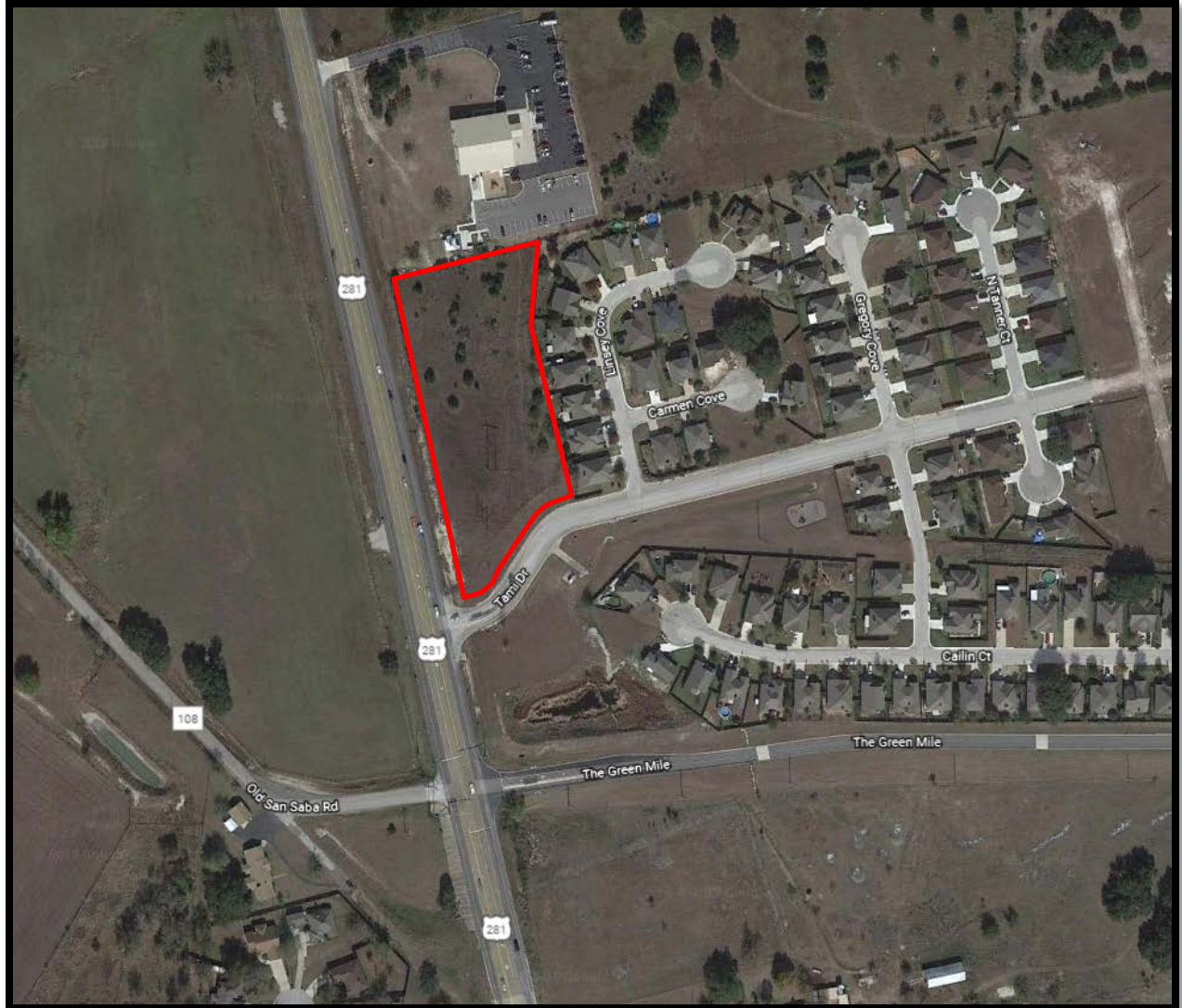


Exhibit "B"
Present Zoning

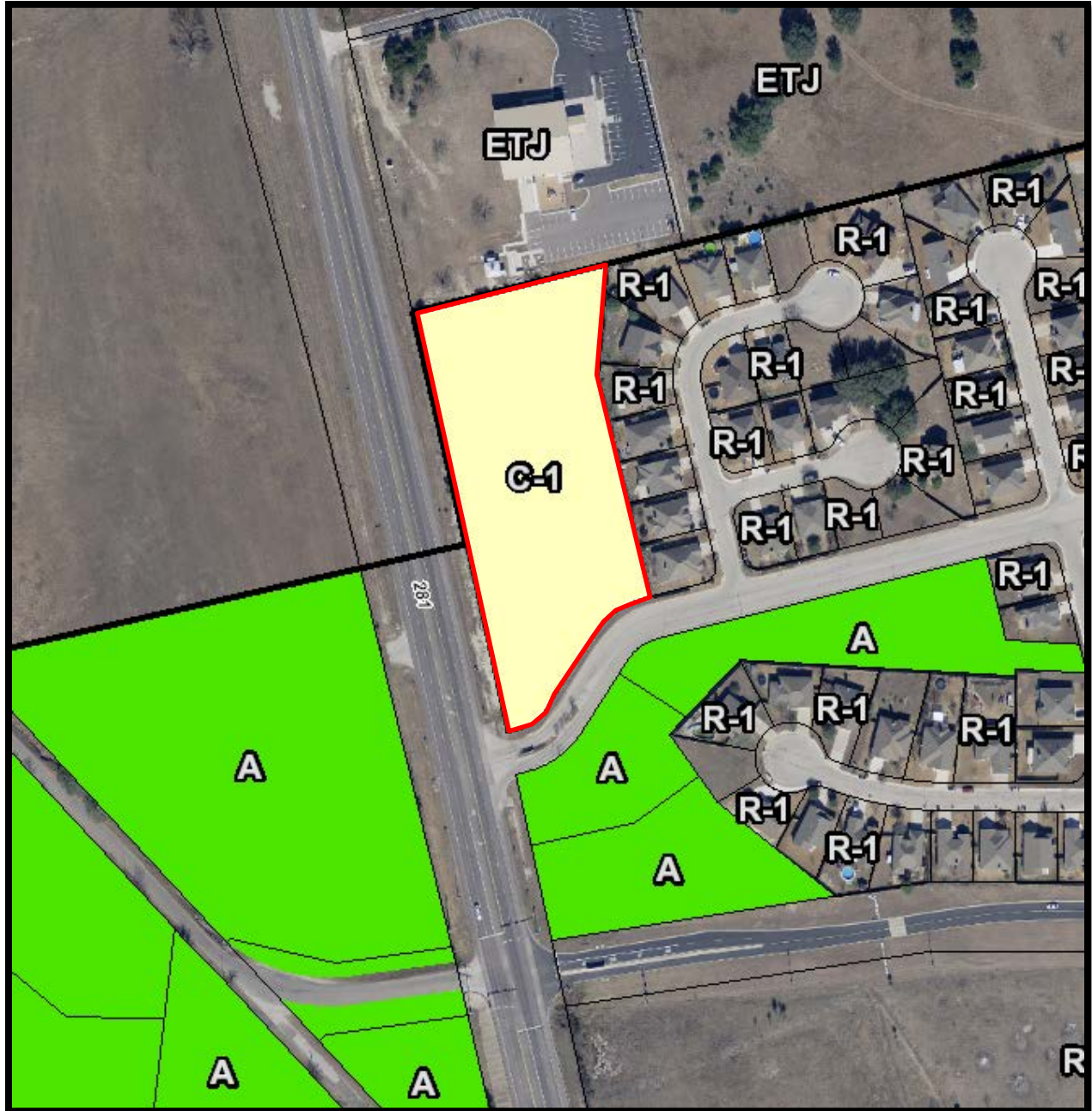
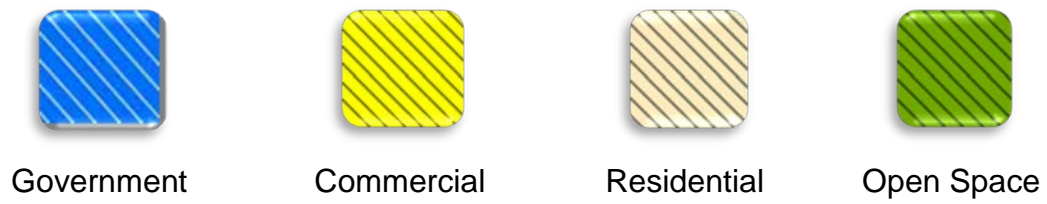
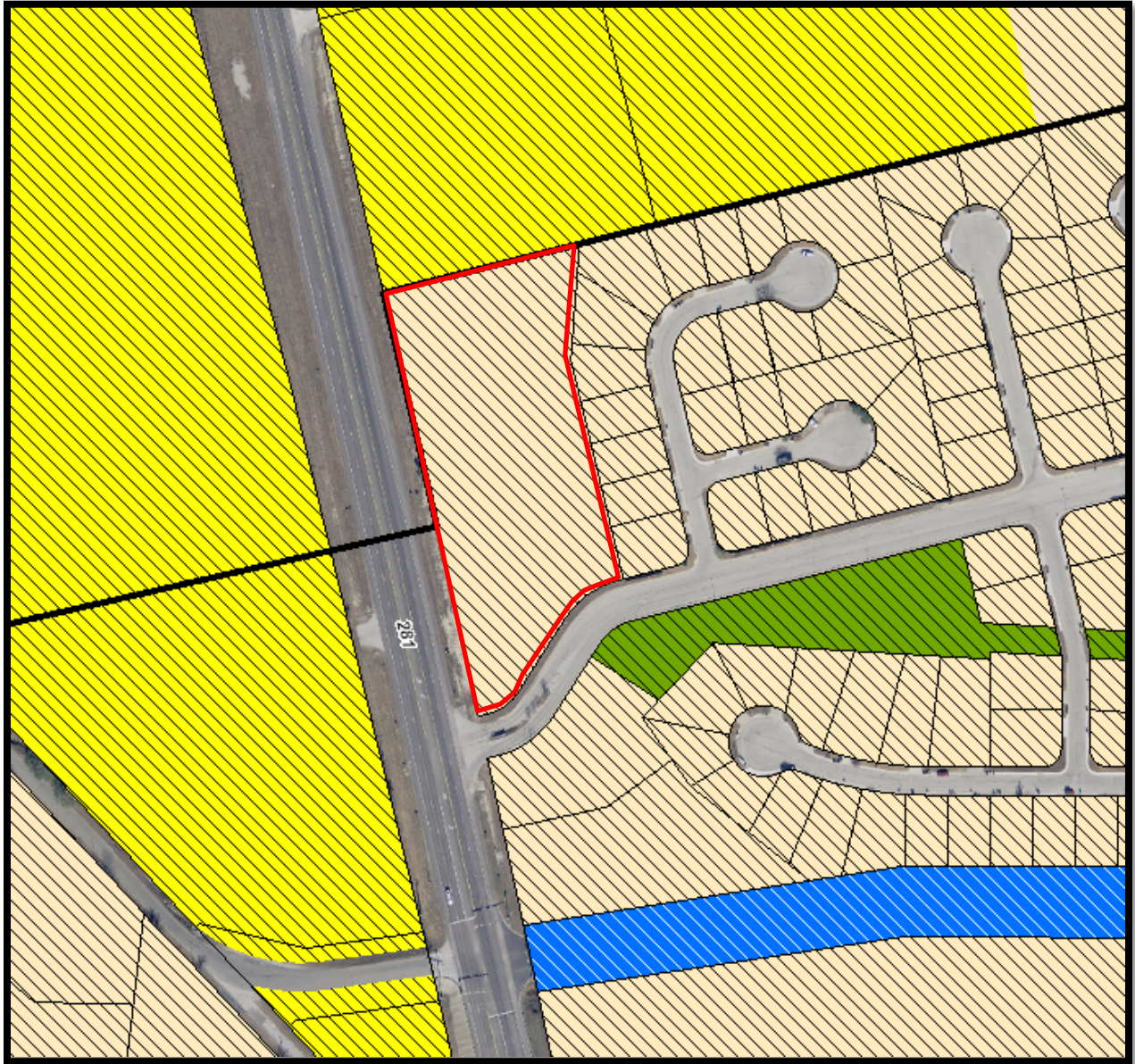
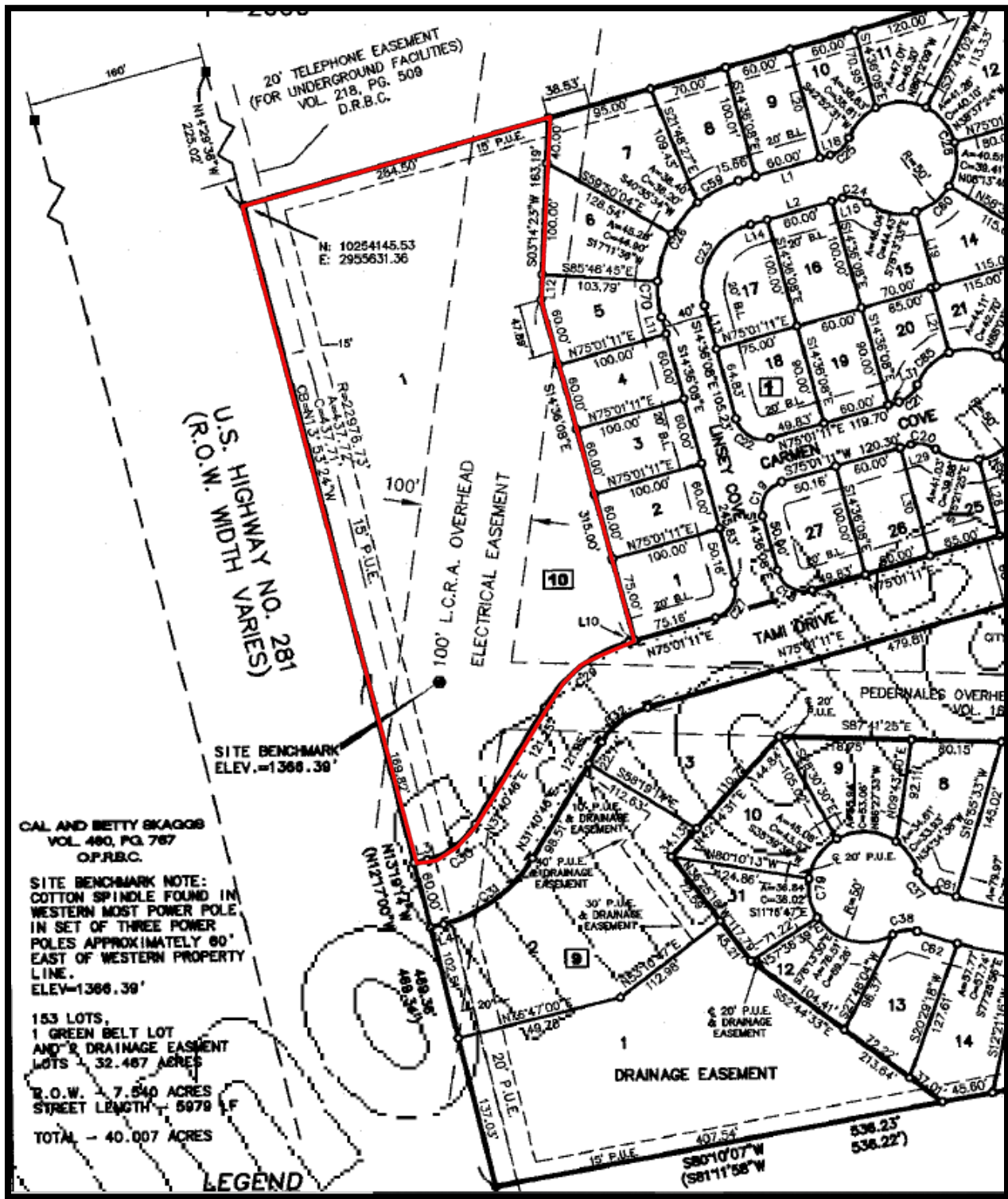


EXHIBIT "C"
Future Land Use Map (FLUM)



Subdivision Plat





City Council

ITEM 3.2

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Public Hearing: Consider a request to rezone Highland Oaks, Lot 1, Phase 1, Block 9 from its present designation of Agricultural—District “A” to a designation of Townhomes—District “R-2A,” said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street (Hwy. 281): W. Meshier

Background: This item is for consideration of a rezoning for the tract of land located on the southeast corner of Tammi Drive and Hwy. 281 (see Exhibit A). The tract is currently undeveloped and zoned “A” (Agricultural) (see Exhibit B). The property owner has submitted a request to have the tract rezoned to a designation of “R-2A” (Townhomes). The subject property is encumbered by a P.U.E. and drainage easement along the eastern property line (see Exhibit D).

Information: District “R-2A” (Townhomes) is governed by Sec. 118-28 of the Code of Ordinances and allows two, three, or four unit townhomes with a minimum of 900 sq. ft. per unit of living area on a minimum lot size of 4,500 sq. ft. per unit. The applicant’s stated reason for requesting the zone change is to allow utilization of the property for the type of mid-density residential development the “R-2A” district was established to support.

When acting on a zone change request, the usual factors considered include consistency with the Future Land Use Map (FLUM) and existing patterns of development. The zoning requested for this property is consistent with the FLUM recommendation for this area (See Exhibit C).

Chapter 1 of the City’s Comprehensive Development Plan includes the following statements:

The Comprehensive Plan is the “official statement of a municipal governing body which sets forth its major policies

concerning desirable future physical development of the community.”

The [Comprehensive Development] Plan [...] provides general policy guidelines and principles for achieving physical development goals.

[The Comprehensive Plan] is an instrument to guide the physical development of the community in an orderly and constructive manner. [...] The plan is intended to provide local elected officials with a foundation upon which sound decisions can be made regarding the future physical development of the City of Burnet.

Chapter 5 of the Plan notes the following regarding future land use:

The primary purpose of land use planning is to set forth policies regarding existing and future uses of public and private property. The plan establishes the types of relationships among land uses that a city would like to encourage.

The plan should recognize the need for diversity of types of development.

Staff Analysis: The Future Land Use Map identifies the subject parcel as being intended for future residential use. The Future Land Use Map assumptions in this area are generally correct, and should be supported.

Staff is of the determination that the subject parcel is not suitable for low density single-family residential development due to its having frontage on Hwy. 281. Staff finds that the requested “R-2A” (Townhome) zoning is consistent with the adopted Future Land Use Map.

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on December 19, 2018 and written notices were mailed to twenty-four (24) surrounding property owners regarding this request. As of the date of this report, no responses have been received.

Recommendation: Staff recommends approval of the request to rezone the subject property from “A” (Agricultural) to “R-2A” (Townhomes).

Exhibit "A"
Location Map & Aerial

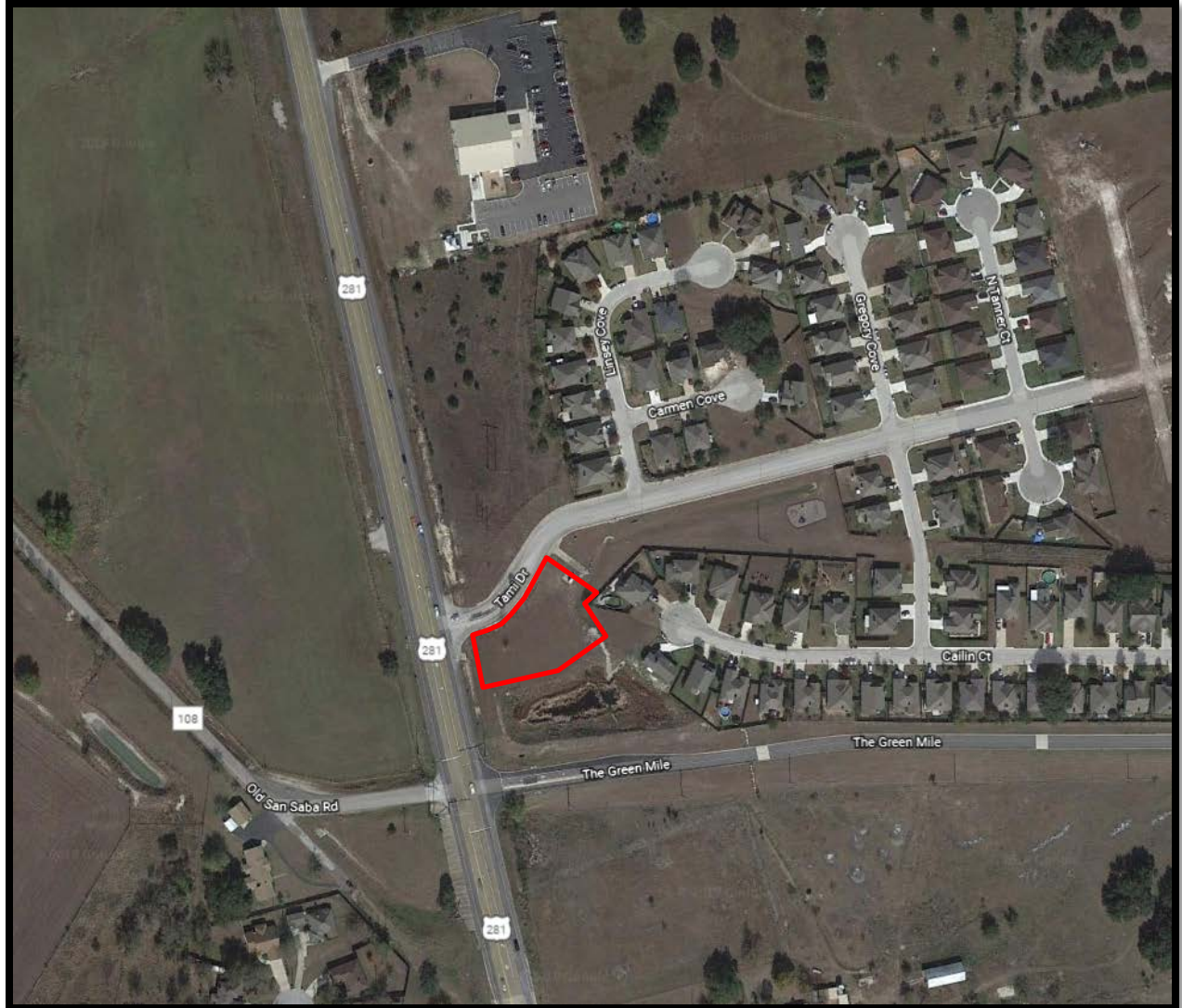


Exhibit "B"
Present Zoning

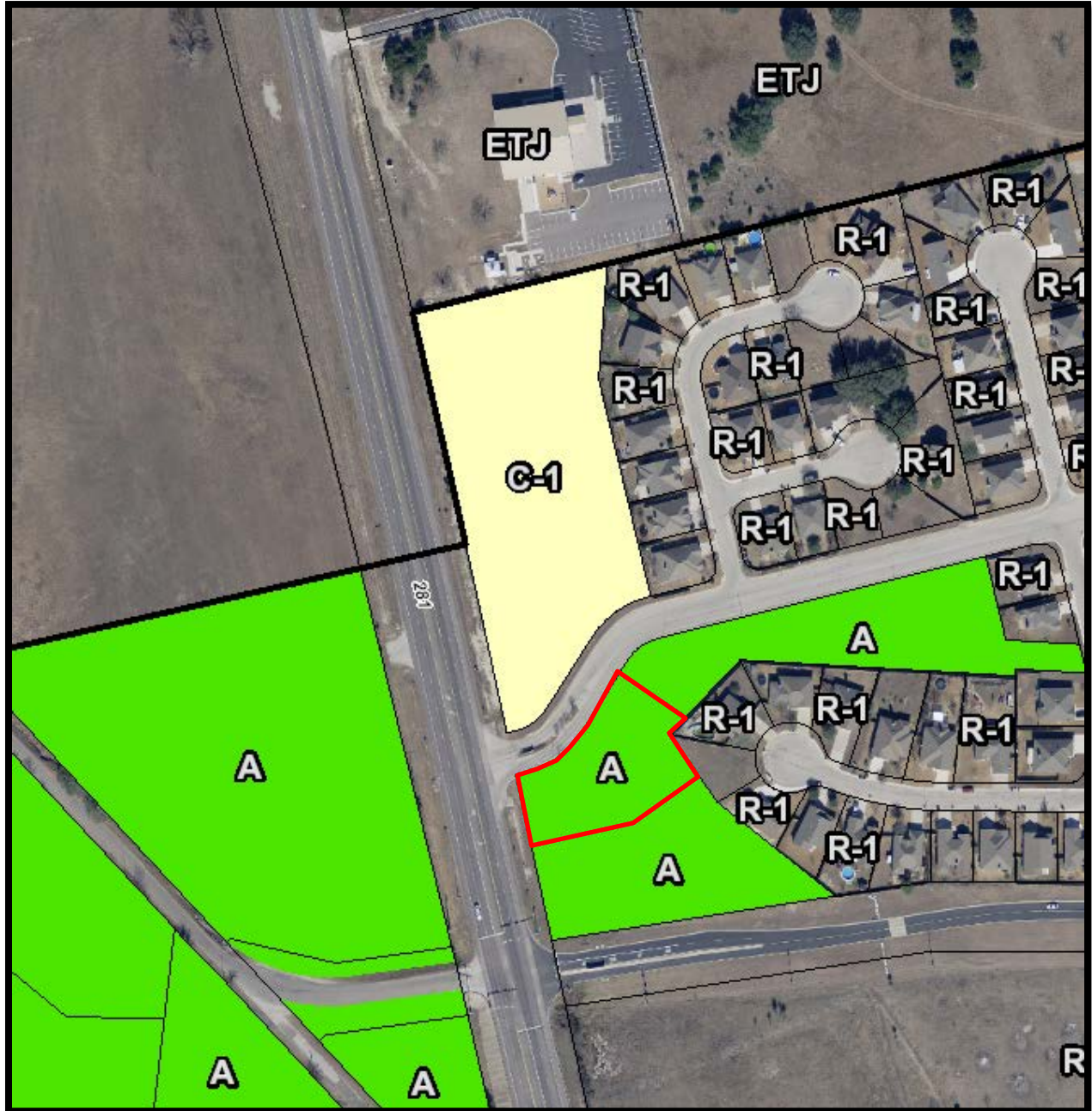
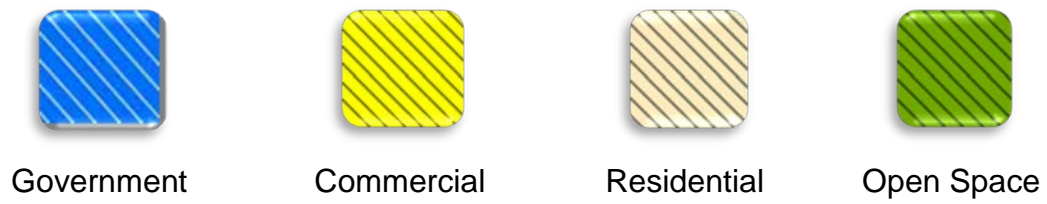
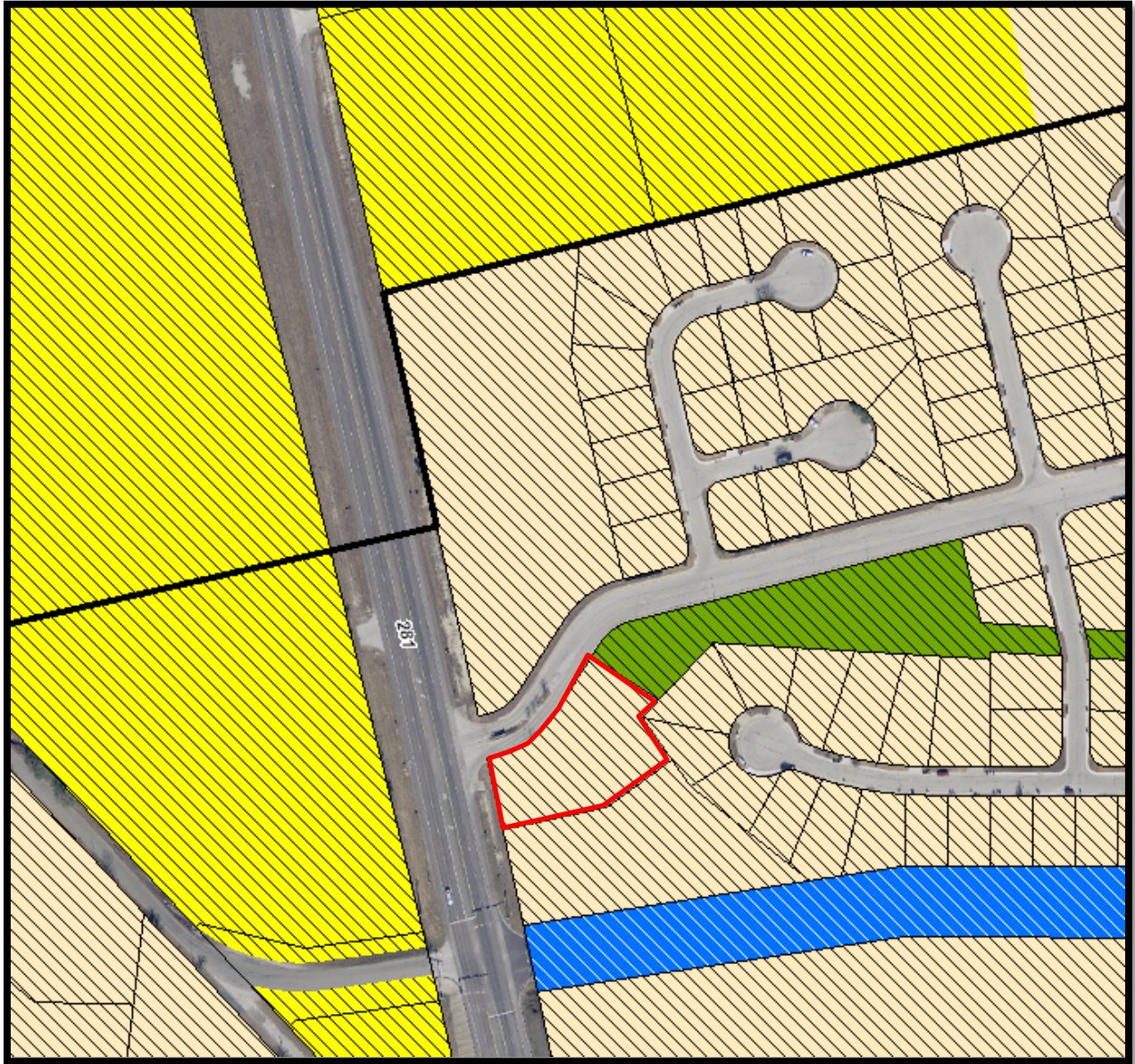
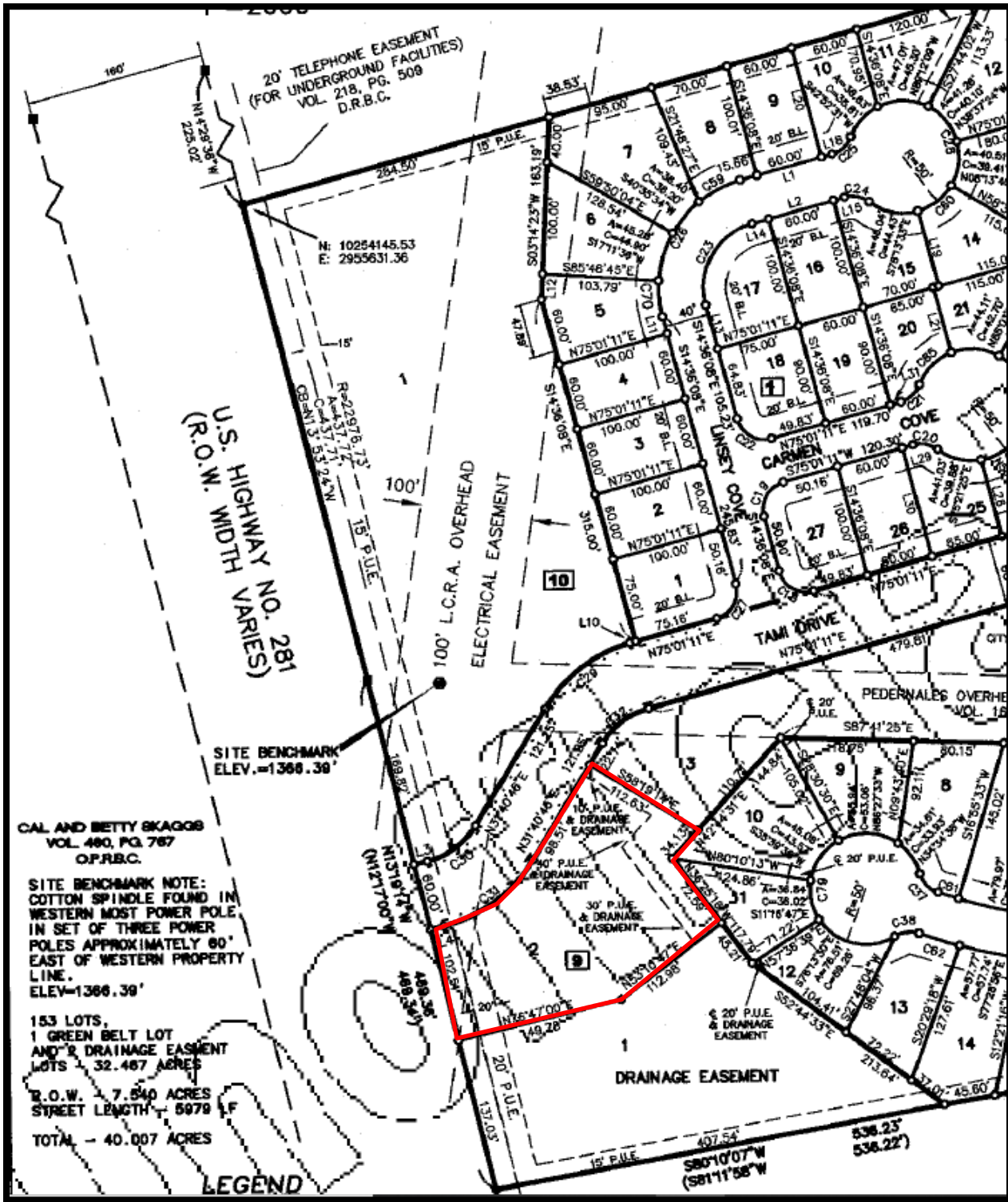


EXHIBIT "C"
Future Land Use Map (FLUM)



Subdivision Plat





City Council

ITEM 3.3

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Public Hearing: Consider a request to rezone 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187 from its present designation of Single-Family Residential—District “R-1” to a designation of Government and Public Institutional—District “G,” said tract being further described as 1601 South Water Street, and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive: W. Meshier

Background: This item is for consideration of a staff initiated rezoning for the YMCA property, which is located on the east side of Hwy. 281 across from the Burnet Municipal Airport (See Exhibit A). The subject property, which is owned by the City of Burnet, is currently zoned Single-Family Residential – District “R-1” (See Exhibit B). The purpose of this staff initiated request is to bring the zoning into conformance with the current land use. The tenant (YMCA) is interested in making modifications to the signage on the building. Chapter 118 has different standards for signs depending upon the zoning designation of the property. The proposed rezoning will allow the occupant to adhere to the standards for signs in government and public institutional zones, instead of to those for signs in residential zones.

Information: District “G” (Government and Public Institutional District) is governed by Sec. 118-43 of the Code of Ordinances and is “intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land.” Permitted uses include schools, churches, sports facilities, public athletic fields, recreational centers, community centers, and swimming pools.

When acting on a zone change request, the usual factors considered include consistency with the Future Land Use Map (FLUM) and existing patterns of development.

Chapter 1 of the City’s Comprehensive Development Plan includes the following statements:

The [Comprehensive Development] Plan [...] provides general policy guidelines and principles for achieving physical development goals.

[The Comprehensive Plan] is an instrument to guide the physical development of the community in an orderly and constructive manner. [...] The plan is intended to provide local elected officials with a foundation upon which sound decisions can be made regarding the future physical development of the City of Burnet.

Chapter 5 of the Plan notes the following regarding future land use:

The primary purpose of land use planning is to set forth policies regarding existing and future uses of public and private property. The plan establishes the types of relationships among land uses that a city would like to encourage.

Staff Analysis:

The proposed Government and Public Institutional zoning designation is not consistent with the FLUM recommendation for this area, as the FLUM provides a specific category for Government (See Exhibit C). However, the YMCA provides outdoor recreation and sports fields, which is consistent with the FLUM designation of “Open Space.” Therefore, staff finds that the proposed Government and Public Institutional zoning is consistent with the intent of the Future Land Use Map. The proposed zoning is also consistent with the existing land use on the site.

Code of Ordinances Sec. 118-5 defines “nonconforming use” as “any building, structure or land lawfully occupied by a use or lawfully existing at the time of passage of this chapter or amendments thereto, which does not, by reason of design or use, conform after the passage of this chapter or amendments with the regulations of the ordinance or amendment. The present use of the facility as a recreational center in an “R-1” (Residential Single-Family) zoning district makes the facility a nonconforming use. The proposed zoning change will serve to bring the property into conformance with Chapter 118.

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on December 19, 2018 and written notices were mailed to ten (10) surrounding property owners regarding this request. As of the date of this report, no responses have been received.

Recommendation: Staff recommends approval of the request to rezone the subject property from “R-1” (Single-Family Residential District) to “G” (Government and Public Institutional District).

Exhibit "A"
Location Map & Aerial



Exhibit "B"
Present Zoning

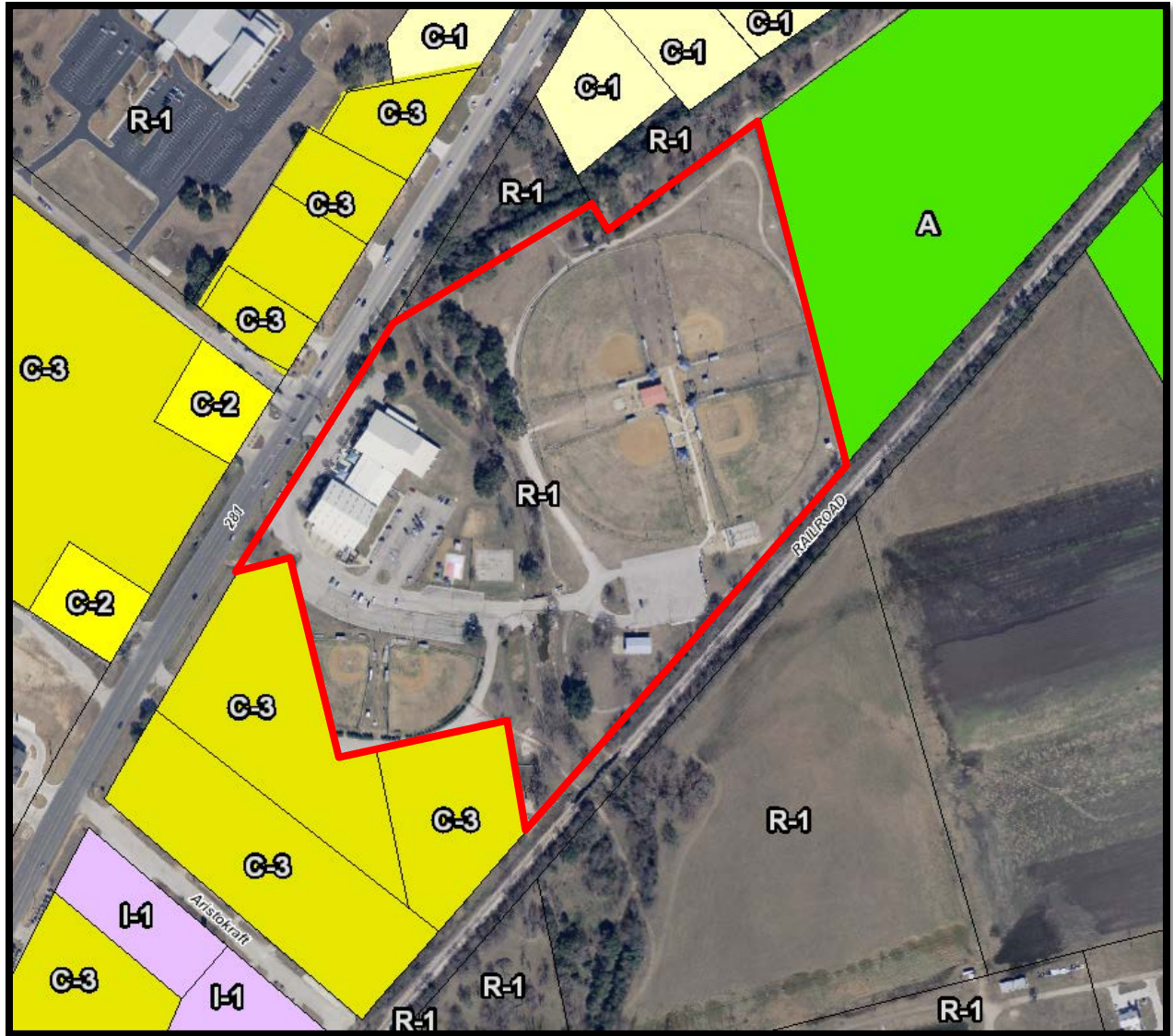
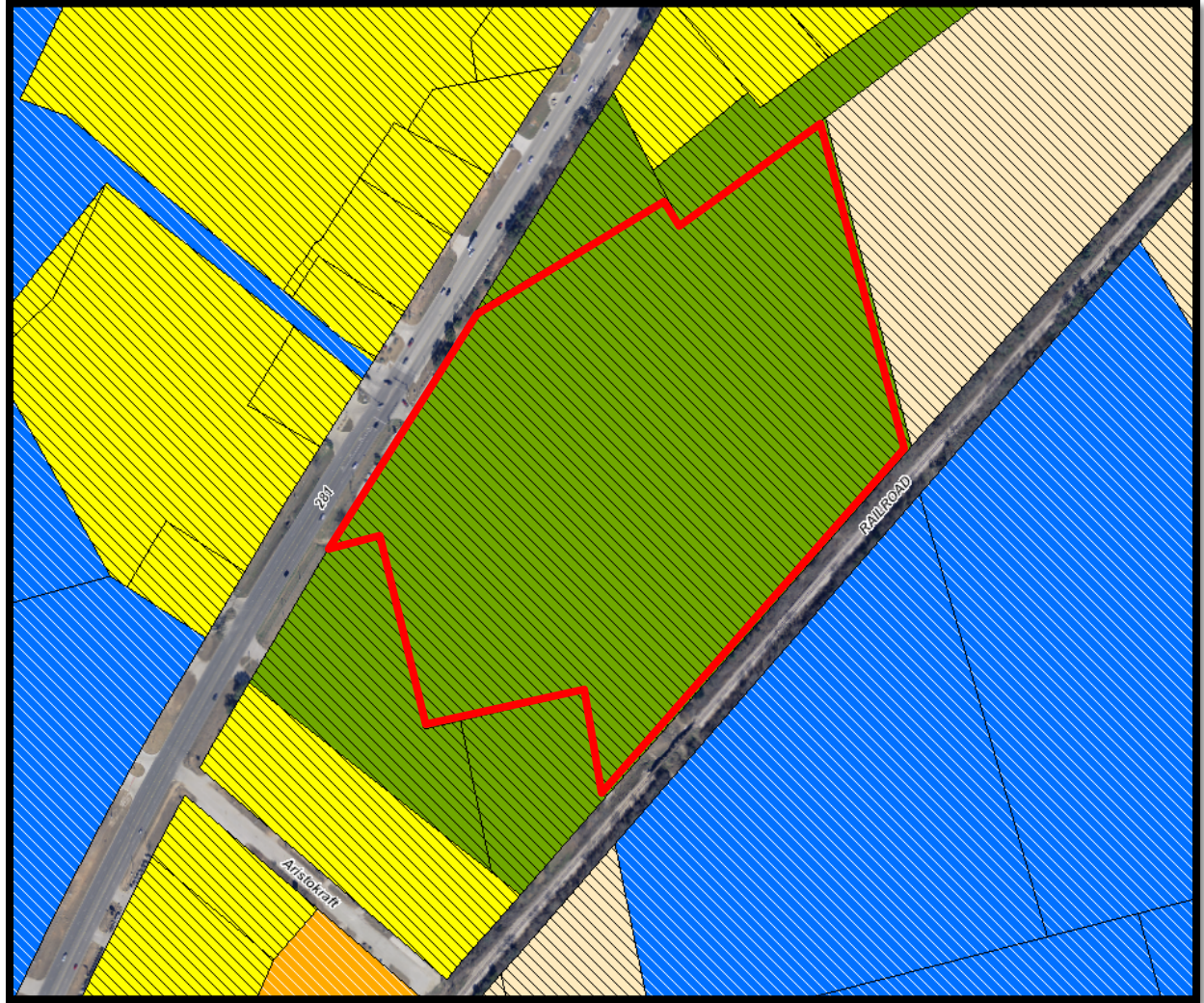


EXHIBIT "C"
Future Land Use Map (FLUM)



Government



Commercial



Residential



Open Space



Industrial



City Manager

ITEM 4.1

David Vaughn
City Manager
(512)-756-6093 ext. 3208
dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date:	January 8, 2019
Agenda Item:	Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS, DISCLAIMING BEQUEATHMENT FROM THE ESTATE OF HESSIE WILLIAMS OWEN, DECEASED; CAUSE NO. C-1-PB-18-000906: D. Vaughn
Background:	In early December the City of Burnet was notified via certified documentation from Jack Edward Owen, Jr., Independent Executor of the Estate of Hessie Williams Owen (deceased) that the City of Burnet had been named as a beneficiary for the estate of Hessie Williams Owen.
Information:	<p>Ms. Owen passed away and left two water supply corporations to heirs in her will (see attached). Her heirs have disclaimed their interests in the water supply corporations, which passes to Burnet County as stated in Article 1.4 of the attached copy of the will.</p> <p>Burnet County Commissioners met on December 20, 2018 at the regular County Commissioners meeting. The Commissioners voted for non-acceptance and to waive claim to the water supply corporations, which puts the City of Burnet next in line for acceptance as stated in Article 1.4 of the attached copy of the will</p> <p>Due to the estimated \$1.5M repair costs needed to update the system, staff recommends non-acceptance.</p>
Fiscal Impact:	None.
Recommendation:	Staff recommends non-acceptance and to waive claim to the Council Creek Village, Inc. and Jones-Owen Company, rural potable water supply systems, located near Buchanan in Burnet County, Texas as described in Article 1.4 of the Will of Hessie Williams Own (C-1-PB-18-000906) and filed in Travis County.

RESOLUTION NO. R2019-02

**A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS,
DISCLAIMING BEQUEATHMENT FROM THE ESTATE OF HESSIE
WILLIAMS OWEN, DECEASED; CAUSE NO. C-1-PB-18-000906.**

WHEREAS: by will dated August 4, 2015, Hessie Williams Owen (the "Decedent") bequeath, inter alia, her ownership interests in Council Creek Village, Inc., a Texas corporation ("CCV"), and Jones-Owen Company, a Texas corporation ("J-O"), together with the primary assets of CCV and J-O (i.e., rural potable water supply systems located near Lake Buchanan in Burnet County, Texas) [the "Water Systems"] to her beneficiaries as designated in her will;

WHEREAS: Decedent's beneficiaries disclaimed the Water System because it is a liability; and

WHEREAS: the County of Burnet has disclaimed Water System for similar reasons; and

WHEREAS: the City of Burnet is the third alternative beneficiary to the Water System; and

WHEREAS: after due consideration City Council has determined accepting the Water System would be detrimental to the City's best interest.

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

Section 1. The Memorandum disclaiming the Water System, attached hereto is hereby approved.

Section 2. The Mayor is hereby authorized to execute the Memorandum, and other additional documents and instruments reasonably necessary to fulfill the purpose of this Resolution.

Section 3. This Resolution is effective immediately upon passage and repeals any prior resolutions, policies or practices inconsistent or in conflict with this Resolution.

PASSED AND APPROVED this 8th day of January, 2019.

Crista Goble Bromley, Mayor
City of Burnet, Texas

ATTEST:

Kelly Dix, City Secretary

Jack Edward Owen, Jr.
Independent Executive Director of the
Estate of HESSIE WILLIAMS OWEN, Deceased

Re: City of Burnet Texas Memorandum disclaiming bequeathment from the Estate of
Hessie Williams Owen, Deceased; Cause NO. C-1-PB-18-000906.

Dear Mr. Owen:

Please find included herein a Memorandum disclaiming bequeathment from the Estate
of HESSIE WILLIAMS OWEN, Deceased; Cause NO. C-1-PB-18-000906. This Mayor's
execution of this memorandum is authorized by Resolution of City Council made on
January 8, 2019

Please do not hesitate to contact the undersigned should you have any questions
regarding the Memorandum.

David Vaughn, City Manager
City of Burnet

cc: Habib H. Erkan, Jr.
City Attorney

ESTATE OF	§	IN THE PROBATE COURT
	§	
HESSIE WILLIAMS	§	NUMBER ONE OF
	§	
OWEN, DECEASED	§	TRAVIS COUNTY, TEXAS

MEMORANDUM OF DISCLAIMER

WHEREAS, Hessie Williams Owen (the "Decedent") died on April 9, 2018, a domiciliary of Travis County, Texas;

WHEREAS, the Decedent left a will dated August 4, 2015 (the "Will");

WHEREAS, on May 31, 2018, the Will was duly admitted to probate in Cause No. C-1- PB-18-000906 by the Probate Court Number One of Travis County, Texas, and Letters Testamentary were issued to Jack Edward Owen, Jr., as Independent Executor of the Estate of Hessie Williams Owen, Deceased (the "Executor");

WHEREAS, pursuant to Article 1.4 of the Will, the Decedent gave her ownership interests in Council Creek Village, Inc., a Texas corporation ("CCV"), and Jones-Owen Company, a Texas corporation ("J-O"), together with the primary assets of CCV and J-O (i.e., rural potable water supply systems located near Lake Buchanan in Burnet County, Texas) [the "Water Systems"] to the City of Burnet, Texas in the event that the Water Systems are disclaimed by Decedents descendants and the County of Burnet, Texas;

WHEREAS, by separate memoranda Decedents descendants and the County of Burnet, Texas have disclaim their interest in the Water Systems;

WHEREAS, by Resolution passed and approved on January 8, 2019, the City Council approved this Memorandum, and authorized the Mayor to execute same, in order to memorialize its desire to disclaim any interest in CCV, J-O and the Water Systems, under the Will;

WHEREAS, this disclaimer will be effected in the manner prescribed by Chapter 240 of the Texas Property Code and Section 2518 of the Internal Revenue Code of 1986, as amended (the " Internal Revenue Code"); and

WHEREAS, notice and delivery of this disclaimer will be given and made to the Executor and to any other person required to receive notice and delivery pursuant to and in the manner required by Section 240.102 of the Texas Property Code and Section 2518 of the Internal Revenue Code.

NOW, THEREFORE, in consideration of these premises, and

realizing that the Executor and other persons will rely on this disclaimer:

1. The City of Burnet, Texas, acting by and through its City Council, does hereby irrevocably release, renounce, and disclaim, without qualification, all of the City's rights, titles, and interest in and to CCV, J-O and the Water Systems passing to the City under the Will.

2. This Memorandum of Disclaimer shall be construed to be a total disclaimer of any interest the City of Burnet may have in the Estate of Hessie Williams Owen, Deceased, arising by the terms of the Will.

IN WITNESS WHEREOF, this Memorandum of Partial Disclaimer is executed on this the 8th day of January, 2019.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST

Kelly Dix, City Secretary

STATE OF TEXAS §
 §
COUNTY OF BURNET §

This instrument was acknowledged before me on this the 8th day of January, 2019, by
Crista Goble Bromley in her capacity as Mayor of the City of Burnet.

Notary Public, State of Texas
Printed Name: _____
My Commission Expires: _____

RECEIPT

I, Jack Edward Owen, Jr., Independent Executor of the Estate of Hessie Williams
Owen, Deceased, being administered in Cause No. C-1-PB-18-000906 in the Probate Court
Number One of Travis County, Texas, do hereby acknowledge the receipt of an original and
a copy of the Memorandum of Disclaimer of City of Burnet on this the ____ day of
_____, 2019.

Jack Edward Owen, Jr., Independent Executor of
the Estate of Hessie Williams Owen, Deceased

WILL OF
HESSIE WILLIAMS OWEN

I, HESSIE WILLIAMS OWEN, a resident of Travis County, Texas, and a citizen of the United States of America, declare that this is my will. I revoke any prior wills and codicils. This will is made in four (4) parts. PART ONE of this will disposes of my estate and consists of pages 1-1 to 1-4. PART TWO contains specific trust provisions and consists of pages 2-1 to 2-2. PART THREE names my fiduciaries and consists of pages 3-1 to 3-6. PART FOUR contains definitions, powers of my fiduciaries, and other formal provisions and consists of pages 4-1 to 4-15.

PART ONE DISPOSITION OF ESTATE

ARTICLE 1.1 STATEMENT AS TO FAMILY

My husband, Jack Edward Owen, died on January 30, 2015, in Austin, Travis County, Texas. I have not remarried. My two (2) children now living, both of whom are adults, are my son, Jack Edward Owen, Jr., and my daughter, Hessie Owen Brawley. All references in this will to "my children" are to the above-named children.

ARTICLE 1.2 FIDUCIARY POWERS WITH RESPECT TO ALL DISTRIBUTIONS

All outright distributions under this will are subject to the provisions of Article 4.4.2.

ARTICLE 1.3 GIFT OF TANGIBLE PERSONAL PROPERTY

1.3.1 GIFT: If any descendant of mine survives me, I give all of my interest in any tangible personal property to my descendants who survive me, in shares required to approximate a per stirpes distribution of such interest among them.

1.3.2 MEMORANDUM; SPECIAL INSTRUCTIONS: If my interest in tangible personal property passes to more than one (1) beneficiary hereunder, I may express my desires as to the division of my interest among the beneficiaries in a memorandum to my executor. This memorandum shall not be a part of this will or a codicil to this will, but I request, although I do not require, that my desires as so expressed be honored. In addition to any such memorandum that I may leave, I also request, but do not require, that the beneficiaries of my interest in tangible personal property ultimately dispose of

such interest in tangible personal property in accordance with my wishes, however expressed by me.

ARTICLE 1.4 BURNET COUNTY WATER SYSTEMS

On the date of this will, I am the president and sole shareholder of Council Creek Village, Inc., a Texas corporation (referred to hereinafter as "**CCV**"), and Jones-Owen Company, a Texas corporation (referred to hereinafter as "**J-O**"). The primary assets of these two (2) corporations are rural potable water supply systems located near Lake Buchanan in Burnet County, Texas, which are further identified by certain State of Texas designations. CCV owns the water systems described as "Council Creek Village" (CCN 11118; PWS ID No. 0270014) and "South Council Creek 2" (CCN 11118; PWS ID No. 0270080), and J-O owns the water system described as "South Silver Creek I, II & III" (CCN 11116; PWS ID No. 0270041). These water systems, together with their physical plants (e.g., tanks, pumps, water lines) and other assets, associated real property interests, receivables, operations, claims, regulatory and other liabilities, debts, and expenses, are referred to hereinafter collectively as the "**Water Systems**".

If any descendant of mine survives me, I give my interest in CCV, J-O, and the Water Systems to my descendants who survive me, per stirpes. If any descendant of mine disclaims all or any portion of his or her interest in CCV, J-O, and/or the Water Systems, then such disclaimed interest(s) shall pass to the entity described in provision [i] of this Article 1.4.

[i] The County of Burnet, Texas; provided, however, that if the County of Burnet, Texas, disclaims such interest(s), such disclaimed interest(s) shall pass to the recipient named in provision [ii] of this Article 1.4.

[ii] The City of Burnet, Texas; provided, however, that if the City of Burnet, Texas, disclaims such interest(s), such disclaimed interest(s) shall pass to the recipient named in provision [iii] of this Article 1.4.

[iii] The State of Texas; provided, however, that if the State of Texas disclaims such interest(s), such disclaimed interest(s) shall pass to the recipient named in provision [iv] of this Article 1.4.

[iv] Corix Utilities (Texas), Inc, a Delaware corporation (referred to hereinafter as "**Corix**"); provided,

however, that if Corix disclaims such interest(s), such disclaimed interest(s) shall pass to the recipient named in provision [v] of this Article 1.4.

[v] Charles W. Hughes of Burnet County, Texas, if he is living on the date of the disclaimer by Corix, or the surviving beneficiaries or heirs of his estate (determined as if my date of death were Charles W. Hughes' date of death), if Charles W. Hughes is deceased on the date of the disclaimer by Corix.

If by any set of circumstances, any interest in CCV, J-O, and/or the Water Systems is deemed to pass by intestacy, or if any interest in CCV, J-O, and/or the Water Systems is disclaimed by all of the above parties, then all of my descendants shall be deemed to have predeceased me for purposes of this Article 1.4 and the gift of CCV, J-O, and the Water Systems only. None of my descendants shall be deemed to have predeceased me for purposes of any other provision of this will.

ARTICLE 1.5 RESIDUARY ESTATE

1.5.1 IF ANY DESCENDANT SURVIVES: If any descendant of mine survives me, my residuary estate shall be divided into shares in the manner required to effect a per stirpes distribution of my residuary estate among my descendants who survive me. Such shares shall be distributed as follows:

[a] SHARE FOR DAUGHTER: Any share created for my daughter, Hessie Owen Brawley, shall be distributed to the trustee of The Hessie Owen Brawley Trust under Article 2.1 (which Article shall apply to such trust).

[b] SHARES FOR SON AND GRANDCHILDREN OR MORE REMOTE DESCENDANTS: Any share created for (i) my son, Jack Edward Owen, Jr. or (ii) a grandchild or more remote descendant of mine shall be distributed to my son or to such grandchild or more remote descendant, as the case may be.

1.5.2 CONTINGENT DISPOSITION: If at any time this will does not provide a person qualified to take all or any part of my residuary estate, then all or such part of my residuary estate shall be distributed to The Seton Fund of the Daughters of Charity of St. Vincent de Paul, or its successor. However, if The Seton Fund of the Daughters of Charity of St. Vincent de Paul, or its successor, is not in existence or is not a

charitable organization at the time when any property is to be distributed to it, then my executor shall distribute such property to one (1) or more charitable organizations which my executor, in its sole discretion, determines to be consistent with my charitable motivations.

PART TWO SPECIFIC TRUST PROVISIONS

ARTICLE 2.1 THE HESSIE OWEN BRAWLEY TRUST

2.1.1 INCOME AND PRINCIPAL DISTRIBUTIONS: The trustee may pay to or apply for the benefit of HESSIE OWEN BRAWLEY (referred to hereinafter in this Article 2.1 as "**my Daughter**") during the term of this trust such amount or amounts of the net income or principal, or both, of this trust as the trustee may determine to be necessary to provide for the support, maintenance, health, and education of my Daughter. In making any such distribution, the trustee shall have discretion to take into consideration all other liquid assets, including other sources of income, available to my Daughter for such purposes.

2.1.2 OCCUPANCY OF RESIDENCE: In addition to the other provisions made for my Daughter hereunder, my Daughter shall have the right to use and occupy any residence held in whole or in part in the trust estate of this trust, free of rent and any other expenses relating to occupancy. The trustee may also buy, sell, rent, or exchange any such residence for use and occupancy by my Daughter as provided in this Article.

2.1.3 TERMINATION: This trust shall terminate on the date of death of my Daughter.

2.1.4 DISTRIBUTION ON TERMINATION: Upon termination, the trust estate then remaining, including accumulated, accrued, and undistributed income, shall be distributed to the then living descendants of my son, Jack Edward Owen, Jr. If my son has no descendant who is living on the termination date of this trust, but my son is then living, such trust estate shall be distributed to my son. If my son and all of his descendants are deceased upon termination of this trust, such trust estate shall be distributed by the trustee in the manner provided in Article 1.5 for the distribution of my residuary estate, determined as if all of my descendants had predeceased me (with the date of my Daughter's death being considered the date of my death for purposes of this distribution by the trustee).

ARTICLE 2.2 PROVISIONS APPLYING TO CONTINGENT TRUSTS

2.2.1 CREATION OF TRUST: If a fiduciary determines that it is advisable to hold property in trust that would otherwise be distributed outright to a beneficiary pursuant to the powers granted to the fiduciary under Article 4.4.2, then such property shall be held by such fiduciary as trustee in a Contingent Trust for the benefit of such

beneficiary. Each Contingent Trust created pursuant to the provisions of Article 4.4.2 shall be held, administered, and disposed of in accordance with the following terms and provisions of this Article 2.2.

As used in this Article 2.2, references to the "beneficiary" shall mean the person for whose benefit this Contingent Trust is created.

2.2.2 INCOME AND PRINCIPAL DISTRIBUTIONS: The trustee may pay to or apply for the benefit of the beneficiary such amount or amounts of the net income or principal, or both, of this trust as the trustee determines from time to time during the term of this trust to be advisable (subject, however, to the provisions of Article 4.3.9).

2.2.3 TERMINATION AND DISTRIBUTION: This trust shall terminate on the first to occur of (i) the date the beneficiary attains the age of twenty-five (25) years, provided he or she is not disabled, (ii) the date the beneficiary overcomes his or her disability or inability, provided he or she is then at least twenty-five (25) years of age, or (iii) the date of death of the beneficiary. Upon such termination, the trustee shall distribute the then remaining trust estate, including accumulated, accrued, and undistributed income, to the beneficiary, if he or she is then living, or to the personal representative of the beneficiary's estate for administration as part of the beneficiary's estate, if this trust terminates on the beneficiary's death.

PART THREE FIDUCIARIES

ARTICLE 3.1 EXECUTORSHIP

3.1.1 APPOINTMENT: I appoint my son, Jack Edward Owen, Jr., as my independent executor. If he fails to qualify or ceases to serve, I appoint my daughter, Hessie Owen Brawley, as my independent executor. If both of them fail to qualify or cease to serve, I appoint my grandson, Sean Rhys Owen, as my independent executor. If he fails to qualify or ceases to serve, I appoint my granddaughter, MarrGwen Rhys Owen Dickson, as my independent executor. If she fails to qualify or ceases to serve, I appoint Frost Bank as my independent executor.

3.1.2 COURT ACTION: To the extent permitted by law, no action shall be had in any court exercising probate jurisdiction in relation to the settlement of my estate other than the probating and recording of this will and the return of a required inventory, appraisement, and list of claims of my estate.

3.1.3 ANCILLARY FIDUCIARY: I appoint as ancillary fiduciary the person or corporation that my executor appoints by a writing filed in the court in the ancillary jurisdiction in which my estate will be administered. Unless prohibited by applicable law or court rule, my executor may appoint itself as ancillary fiduciary.

ARTICLE 3.2 TRUSTEESHIP

3.2.1 APPOINTMENT: I appoint my son, Jack Edward Owen, Jr., as trustee of each trust created under this will. If my son (i) fails to qualify, or (ii) qualifies but then ceases to serve as trustee and fails to appoint a successor trustee of any trust hereunder pursuant to the provisions of Article 3.2.2 (or if all appointed successors fail to qualify or cease to serve), I appoint Sean Rhys Owen as trustee of such trust. If Sean Rhys Owen (i) fails to qualify, or (ii) qualifies but then ceases to serve as trustee and fails to appoint a successor trustee of such trust pursuant to the provisions of Article 3.2.2 (or if all appointed successors fail to qualify or cease to serve), I appoint MarrGwen Rhys Owen Dickson as trustee of such trust. If MarrGwen Rhys Owen Dickson (i) fails to qualify, or (ii) qualifies but then ceases to serve as trustee and fails to appoint a successor trustee of such trust pursuant to the provisions of Article 3.2.2 (or if all appointed successors fail to qualify or cease to serve), I appoint Frost Bank as trustee of such trust. If Frost Bank fails to qualify or ceases to serve as trustee of such trust, the Trustee Appointer shall appoint an initial or successor trustee of such trust.

3.2.2 POWER TO APPOINT SUCCESSOR TRUSTEE: The last of the individuals named under Article 3.2.1 who actually serves as trustee of any trust hereunder (regardless of the fact that any other individual has previously designated his or her successors, and regardless of the fact that there is a successor designated under Article 3.2.1 who fails to qualify) shall have the power (exercisable at any time while he or she is serving as trustee) to appoint a successor trustee or co-trustees, or a succession of one (1) or more successor trustees or co-trustees, to serve as successor trustee, trustees, or co-trustees when he or she ceases to serve. In this regard, such individual (as well as any other individual who is given the power to appoint a successor trustee, trustees, or co-trustees) may provide that any appointed successor trustee (or co-trustee, if applicable) shall likewise have the power to appoint its own successor trustee or trustees (or co-trustees, if given the power to do so), and to provide for the succession of such trustees or co-trustees in the event that any trustee or co-trustee so appointed should fail to qualify or cease to serve for any reason. Any appointment made under this Article shall be made in accordance with the provisions of Article 3.2.5. Should a successor trustee not be appointed pursuant to the provisions of this Article, or if all appointed successors fail to qualify or cease to serve, then the other provisions of this Article 3.2 regarding the appointment of successor trustees shall govern.

3.2.3 POWER TO APPOINT CO-TRUSTEE: Any individual serving as sole trustee of any trust created under or pursuant to any provision of this will shall have the power to appoint a co-trustee to serve with the appointing individual (even if such appointee would otherwise not be eligible to serve as a trustee under Article 3.2.7 or any other provision of this will). Further, the appointing individual shall have the power, exercisable at any time, to remove such appointed co-trustee without cause. If such appointing individual subsequently ceases to serve as trustee while his or her co-trustee is still serving, then the appointed co-trustee shall also cease to serve as a trustee. Any appointment of a co-trustee made pursuant to the provisions of this Article shall be made by written acknowledged instrument and shall become effective as of the date or under the conditions specified in the instrument of appointment. Any removal of a co-trustee made pursuant to the provisions of this Article shall be made by the delivery of an acknowledged written removal notice to the co-trustee being removed, and shall become effective as of the date or under the conditions specified in the instrument of removal.

3.2.4 VACANCY OF TRUSTEESHIP; TRUSTEE APPOINTER:

[a] GENERALLY: When so directed under the terms of this will or at any time there is a vacancy in the trusteeship of any trust and the other provisions of this PART THREE do not otherwise provide an initial or successor trustee, as the case may be, the Trustee Appointer (designated in provision [b] below) shall appoint an initial or successor trustee or co-

trustees, or a succession of one (1) or more trustees or co-trustees, in accordance with the procedures set forth in provision [c] below.

[b] TRUSTEE APPOINTER: The following individuals or groups of individuals (hereinafter singularly referred to as a "group" even though such a group may consist of only one (1) individual) who are then living shall serve as the Trustee Appointer, in the following order of priority:

[i] Jack Edward Owen, Jr.; then

[ii] Sean Rhys Owen; then

[iii] MarrGwen Rhys Owen Dickson; then

[iv] with respect to any Contingent Trust created under Article 2.2, the trustee who has most recently ceased to serve as trustee of such trust (or whose resignation necessitates the appointment of a successor trustee pursuant to this Article 3.2.4); then

[v] all of my descendants who have attained the age of twenty-five (25) years, if any; then

[vi] all of my descendants, with the guardians (as defined in Article 3.2.4[d]) of any incapacitated descendants (as described in Article 3.2.4[d]) acting on the part of their wards in any such decisions.

[c] PROCEDURES: Each Trustee Appointer must appoint an initial or successor trustee or co-trustees, or a succession of one (1) or more trustees or co-trustees, within thirty (30) days after receiving written notice from any interested person, or constructive notice by any means, that the right to appoint has arisen; otherwise, the right shall lapse and the next specified group shall have the right to appoint such trustee or trustees for a thirty (30) day period commencing on the date of such lapse. If, however, all trustees appointed within the thirty (30) day period fail to qualify or otherwise decline such appointment, the Trustee Appointer who appointed such trustees shall have the right to appoint another initial or successor trustee or co-trustees, or a succession of one (1) or more trustees or co-trustees, for a thirty (30) day period commencing on the date the last of the appointees fails to qualify or otherwise declines to serve. If such Trustee Appointer fails to appoint another initial or

successor trustee or co-trustees, or a succession of one (1) or more trustees or co-trustees, within such thirty (30) day period, such Trustee Appointer's right shall lapse and the next specified group shall have the right to appoint such trustee or trustees for a thirty (30) day period commencing on the date of such lapse.

If a group contains three (3) or more individuals who are then living, all appointments shall be made by majority vote of such individuals. If a group contains two (2) individuals who are then living, all appointments shall be made by such individuals, acting jointly. If a group consists of only one (1) individual who is then living, all appointments shall be made by such individual, acting individually. If an individual is not qualified to serve as Trustee Appointer under provision [d] below due to his or her incapacity, and no guardian is authorized to act for such individual as Trustee Appointer pursuant to provision [d], then such individual shall not be considered a member of the group for purposes of determining the number of individuals whose agreement is required to effect an appointment.

In the event that there is no person within the group that is highest in the line of priority to serve as Trustee Appointer (as each group is defined) at the time the right to make an appointment would otherwise arise, then the thirty (30) day period within which such group could otherwise appoint trustees shall be deemed to have lapsed as of the day preceding the first day of such period.

[d] INCAPACITY: Notwithstanding any other provision of this Article 3.2.4 to the contrary, if at the time the right to make an appointment arises, an individual designated to serve as a Trustee Appointer (either alone or with others) would be deemed to be "incapacitated" by reason of being (i) a minor or (ii) an adult with a physical or mental condition that renders him or her unable to conduct his or her regular affairs, then such individual shall not qualify to serve as a Trustee Appointer; provided, however, if an incapacitated individual is part of the group named as Trustee Appointer under Article 3.2.4[b][vi], the guardian(s) of such incapacitated individual, if any, shall serve as Trustee Appointer in place of the incapacitated individual, as provided in Article 3.2.4[b][vi]. For purposes of this Article, the term "guardian" shall mean a natural guardian or a court-appointed guardian, conservator, or personal representative of the incapacitated individual; provided, however, if such incapacitated individual has more than one (1) guardian, conservator, and/or personal representative acting for such individual, all of the guardians,

conservators, and/or personal representatives of such incapacitated individual shall act as co-guardians and shall share a single vote as the Trustee Appointer serving in place of the incapacitated individual. All decisions made by co-guardians shall be by unanimous agreement if two (2) co-guardians are then acting, and by majority agreement if more than two (2) co-guardians are then acting. A condition of incapacity (as described above) in an adult shall be evidenced by a certification from a licensed physician affirming in a written instrument signed by the physician that he or she has examined such individual, and has concluded, based upon such examination, that such individual is unable to conduct his or her regular affairs.

3.2.5 MANNER OF APPOINTMENT OF INITIAL AND SUCCESSOR TRUSTEES: Subject to any express provision of this will, any appointment of an initial or successor trustee or co-trustee pursuant to this PART THREE shall be by an acknowledged instrument in writing and shall be effective upon the later to occur of (i) the time of the satisfaction of any conditions specified in such instrument, and (ii) the acceptance of the trusteeship by such appointee. I request, but do not require, that each appointee be furnished a copy of such instrument of appointment.

Any such appointment by an individual or entity pursuant to the provisions of Article 3.2.2 may be modified or revoked by the same appointing individual or entity from time to time prior to the time the appointment becomes effective; provided, however, that any such modification or revocation to an appointment must be made by an acknowledged instrument in writing and shall be effective at the time or under the conditions specified in the instrument. In the event that two (2) or more instruments of appointment, revocation, or modification by the same appointing individual or entity exist and are inconsistent, the instrument executed latest in time shall control.

3.2.6 CO-TRUSTEE PROVISIONS: Unless otherwise expressly provided in this will, or by the individual, individuals, or entity appointing co-trustees pursuant to any provision in this PART THREE, in the event a co-trustee fails to qualify, resigns, or otherwise ceases to serve as co-trustee of any trust created hereunder, the other or remaining co-trustee or co-trustees then serving (or appointed to serve) shall serve as sole trustee or co-trustees of such trust. If all co-trustees fail to qualify, resign, or otherwise cease to serve, then the successor trustee or co-trustees appointed pursuant to the other provisions of this PART THREE shall automatically be appointed to serve as trustee or co-trustees of such trust. If there is no such successor appointed pursuant to the other provisions of this PART THREE, then a successor trustee or trustees shall immediately be appointed by the Trustee Appointer in accordance with the provisions of Article 3.2.4.

3.2.7 QUALIFICATIONS OF INITIAL AND SUCCESSOR TRUSTEES: Subject to any express provision of this will, any initial or successor trustee or co-trustee appointed to serve as trustee of any trust hereunder shall be an individual who has attained the age of thirty-five (35) years or a corporate trustee.

3.2.8 RESIGNATION:

[a] GENERALLY: Any trustee of a trust created hereunder may resign as trustee of such trust, without judicial action, by giving at least sixty (60) days' written notice to all beneficiaries and to any co-trustees of such trust. Such notice may be waived by any person entitled thereto.

[b] DEEMED RESIGNATION OF INDIVIDUAL TRUSTEE: With regard to any individual trustee serving hereunder, upon any of:

[i] a certification from a licensed physician affirming in a written instrument signed by the physician that he or she has examined such trustee, and has concluded, based upon such examination, that such trustee is unable to conduct his or her regular affairs;

[ii] an appointment of a guardian or other judicially appointed personal representative of such trustee; or

[iii] the filing of a petition in bankruptcy by such trustee, or the entry of an order for relief against such trustee under Title 11 of the United States Code;

such trustee shall thereupon be deemed to have resigned as trustee (as if the terms of provision [a] had been fully complied with), and the successor trustee appointed pursuant to the other provisions of this PART THREE shall automatically be appointed trustee of any such trust.

[c] RESIGNATION OF CORPORATE TRUSTEE: If it becomes uneconomical in the opinion of a corporate trustee while serving as such for such corporate trustee to continue to serve as trustee of any trust created by this will because of the small size of such trust, such trustee may (i) if a co-trustee of such trust is then serving, resign as trustee without the appointment of a successor, or (ii) if no co-trustee of such trust is then serving, resign as trustee and a successor trustee shall be appointed in accordance with the other provisions of this PART THREE.

PART FOUR FORMAL PROVISIONS

ARTICLE 4.1 DEFINITIONS APPLYING TO THIS WILL

4.1.1 EXECUTOR, TRUSTEE, AND ANCILLARY FIDUCIARY: The words "executor" and "trustee" and the pronoun "it" in reference to such words always refer to the male or female person or persons or to the institution or to any combination of them then holding the executorship of my estate or a trusteeship of any trust under this will, as the case may be. The term "ancillary fiduciary" always refers to any representative of my estate necessary to administer my estate in any jurisdiction other than the jurisdiction in which I was domiciled at my death. Such words also refer to the initial appointee and any successor or alternate, including a corporation that succeeds another by merger, change of name, or otherwise. The appointment of a corporate executor, trustee, or ancillary fiduciary shall be deemed to include appointment of its corporate successor. The term "corporate trustee" means a bank (either state or national) with trust powers or a trust company. Any successor executor, trustee, or ancillary fiduciary shall have the same powers, authorities, obligations, and limitations as my initial executor, trustee, or ancillary fiduciary, unless another provision of this will specifically provides to the contrary. Except as otherwise expressly provided in this will, the term "fiduciary" refers individually and interchangeably to any executor, trustee, or ancillary fiduciary at any time acting under this will, and the term "fiduciaries" refers collectively and interchangeably to each and every executor, trustee, and ancillary fiduciary at any time serving under this will.

4.1.2 PERSONAL REPRESENTATIVE: The term "personal representative" means the individual or entity authorized, by the terms of a will, court order, or otherwise, to represent the estate of the individual designated, including an executor, administrator, or guardian of such an estate.

4.1.3 DESCENDANTS: The term "descendants" includes both the children of the person or persons designated and the more remote descendants of such person or persons. A child in gestation who is born alive shall be considered a child in being throughout the period of gestation. A person who is under eighteen (18) years of age when legally adopted shall be deemed the child of his or her adoptive parent, but this presumption shall not operate to prevent a person who is otherwise defined as a descendant hereunder (but who has been adopted by a third party such that his or her legal status as a child of his or her natural parent or parents has been legally terminated) from qualifying as a child or otherwise exclude any such person as a beneficiary of my estate or of any trust created by or pursuant to this will. A person who is eighteen (18) years of age or older when legally adopted shall not be deemed the child of his or her adoptive parent.

4.1.4 **BENEFICIARY:** Unless the context indicates otherwise, in PART THREE and PART FOUR the word "beneficiary" means any beneficiary then eligible to receive distributions. If any such beneficiary is a minor or under any disability, irrespective of whether legally so adjudicated, then the parent, guardian, conservator, person acting under a valid durable power of attorney, or person with whom the beneficiary resides shall act for the beneficiary for all purposes in such parts.

4.1.5 **PER STIRPES:** The term "per stirpes" means strict per stirpes and does not mean per capita with representation. For example, suppose that the individual whose descendants' shares are being determined had a son and a daughter. The son had one (1) child; the daughter had three (3) children. Suppose, further, that the son and daughter predeceased the individual. Under a per stirpes distribution, the son's child would be entitled to a one-half (1/2) share, and each of the daughter's three (3) children would be entitled to a one-sixth (1/6) share.

4.1.6 **SURVIVORSHIP:** For all purposes hereunder, a requirement that an individual survive a specified individual or an event (such as the termination date of a trust) or be "then living" or "living" on or at a specified date means survival of the specified individual, event, or date by such individual by at least thirty (30) days (not including the date of death of the specified individual, the date of the event, or the specified date, as the case may be). Any gift or trust distribution under this will that is conditioned on the survivorship of one (1) or more persons shall be of no effect if such survivorship condition is not satisfied, and the property comprising such gift or trust distribution shall be disposed of under the provisions of this will as if such gift or trust distribution were of no effect. The preceding provisions of this Article shall not affect the appointment of any fiduciary hereunder.

4.1.7 **TANGIBLE PERSONAL PROPERTY:** The term "tangible personal property" shall mean all books, pictures and photographs, objects of art, glass, crystal, china, silverware, linens, household goods, furniture and furnishings, yard and gardening tools and equipment, jewelry, clothing, automobiles, boats, recreational vehicles and equipment, sporting goods, pets, livestock, farming vehicles and equipment, ranching vehicles and equipment, articles of household or personal use or ornament of all kinds, and other similar items, including any insurance policies on such property and the proceeds, if any, of any such policy. The term "tangible personal property" includes all books, photographs, and music in any digital format. The term "tangible personal property" excludes (i) cash and other items of intangible personal property, even if represented by tangible or electronic documentation of ownership, and (ii) tangible personal property used by me in a trade, business, or profession or held by me as an investment (unless another provision of this will specifically provides to the contrary).

4.1.8 RESIDUARY ESTATE: The term "residuary estate" means all property in which I may have any interest that is not disposed of other than by Article 1.5. Any power of appointment that I have shall not be exercised by Article 1.5.

4.1.9 CHARITABLE ORGANIZATION: The term "charitable organization" means any organization described in Sections 170(c) and 2055(a) of the Internal Revenue Code, with respect to which a charitable deduction would be allowable under Section 2055 of the Internal Revenue Code at the time when any property is to be distributed to it.

4.1.10 INTERNAL REVENUE CODE: "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, in effect on the date of my death (or at the referenced date), and reference to any provision or section of that Code shall be deemed to refer to the provision or section of the federal tax law in effect on the date of my death (or at the referenced date) that corresponds to the provision or section referred to that was in effect at the time of the execution of this will.

4.1.11 WILL: All references in this will to another individual's "will" shall mean the instrument that is admitted to probate as that individual's will by order of a court of competent jurisdiction, and shall also include any codicils to such instrument that are admitted to probate as such. For all purposes hereunder, a fiduciary may rely on such court orders or on a finding that such an individual died intestate. Unless a fiduciary has actual notice that proceedings to admit an individual's will to probate have been instituted within nine (9) months after such individual's death, such fiduciary may assume that such individual died intestate (but this sentence shall not affect any right that an appointee or beneficiary under such individual's will may have against any distributee).

4.1.12 DEATH TAXES AND OTHER GOVERNMENTAL CHARGES: In general, the term "death taxes and other governmental charges" shall mean all estate, inheritance, succession, and other death taxes imposed as a result of my death under the laws of any jurisdiction (whether a state, the United States, a foreign country, or otherwise) on the following: (i) any property (or the transfer or receipt of any property) or proceeds passing under this will, by beneficiary designation (including, but not limited to, beneficiary designations on retirement plans, and on life insurance, endowment, and annuity contracts), by operation of law, or by any other means of transfer, (ii) any property or proceeds includible in my gross estate under Sections 2034, 2035, 2036, 2037, 2038, and 2041 of the Internal Revenue Code, and (iii) any adjusted taxable gifts (as defined in Section 2001(b)(1)(B) of the Internal Revenue Code) I have made during my life. Such death taxes and other governmental charges shall include any interest and penalties on such taxes and charges.

4.1.13 GENERATION-SKIPPING TRANSFER TAX; GENERATION-SKIPPING TRANSFER TAX EXEMPTION: The term "generation-skipping transfer tax" means the generation-skipping transfer tax that would be imposed at the referenced time or event under Chapter 13 of the Internal Revenue Code on any applicable generation-skipping transfer (as determined under Chapter 13 of the Internal Revenue Code). The term "generation-skipping transfer tax exemption" means the generation-skipping transfer tax exemption allowed by Section 2631(a) of the Internal Revenue Code to each individual transferor against the application of the generation-skipping transfer tax.

ARTICLE 4.2 GENERAL PROVISIONS RELATING TO FIDUCIARIES

4.2.1 POWERS: I intend my executor to be independent as that term is used and defined under Texas law. I grant to my executor and trustee all powers conferred on trustees by Texas trust law. In addition to those powers conferred by law, this grant includes without limitation the following powers, all of which may be exercised without the necessity of securing the approval or order of any court: (i) to acquire, by purchase (including purchase of securities on margin) or otherwise, retain, invest, reinvest, and manage, temporarily or permanently, any interest (including an undivided interest) in any realty or personalty, without diversification as to kind, amount, or risk of nonproductivity and without limitation by statute or rule of law; (ii) to alter, improve, repair, replace, abandon, and demolish assets; (iii) to sell, exchange, encumber, lease for any period, or otherwise dispose of any asset of my estate, publicly or privately, with or without notice, wholly or partly for cash or credit, without appraisal, and to give options for those purposes; (iv) to advance or borrow money (with or without interest after taking into account attendant tax consequences), to guarantee payment of the liabilities of others, and to hold, mortgage, and pledge property for repayment; (v) to purchase from, borrow from, sell to, employ, contract with, and generally to deal with themselves individually and as fiduciaries of any estate or trust created by me or otherwise, or with any partnership, corporation, or financial or business organization in which they may own an interest, and to retain any profit or other reasonable compensation realized by such fiduciary as a result of any such dealings that are entered into in good faith and for fair and adequate consideration, notwithstanding any statute or rule of law to the contrary; (vi) to continue, invest in, or liquidate any partnership, corporation, or business; (vii) to abandon, compromise, contest, and arbitrate claims; (viii) to hold title in the name of a nominee; (ix) to make distributions in kind, in money, or partly in each, without requiring pro rata distribution of specific assets and without regard to differences in tax basis of any such property, at fair market value on the date of distribution; (x) to carry out the terms of any valid agreement that I may have entered into during my lifetime concerning property that I may own at my death; (xi) to determine all matters of estate and trust accounting as established by controlling

law or customary practices; (xii) to set up and maintain reasonable reserves for taxes, assessments, insurance premiums, repairs, improvements, depreciation, depletion, amortization, obsolescence, general maintenance of buildings or other property, and any other purpose; (xiii) to employ agents, accountants, brokers, attorneys-in-fact, attorneys-at-law, tax specialists, realtors, investment counsel, and other assistants and advisers and compensate them out of principal or income, or both; and (xiv) to delegate powers and duties to other persons, partnerships, corporations, and financial or business organizations. A fiduciary is fully authorized to continue any interest-free loans made by me that are outstanding at the time of my death and shall incur no liability whatsoever for so doing (but this provision shall not operate to relieve a fiduciary from an obligation to prevent any such loan from becoming barred under any applicable statute of limitation). I specifically direct that a corporate fiduciary may retain and shall not be obligated to sell or exchange any stock or other security issued by such fiduciary or by the parent or any subsidiary of such fiduciary.

The fiduciary responsible for holding any property of my estate in trust shall have the power at any time to name such trust, unless such trust is already named under this will.

Pursuant to Section 356.653 of the Texas Estates Code and Section 113.053(e) of the Texas Property Code, I also expressly authorize a fiduciary to carry out the terms of any buy-sell agreement pertaining to any partnership interest, stock, or other asset that I own at my death, and to purchase (in its individual capacity) such partnership interest, stock, or other asset pursuant to the provisions of such buy-sell agreement.

4.2.2 COMPENSATION:

[a] AMOUNT: Each fiduciary shall be entitled to reasonable compensation for any professional or fiduciary services actually performed. With respect to any fiduciary, the portion of the compensation attributable to services as a fiduciary shall not exceed charges for similar services made from time to time by corporate fiduciaries in the same geographic area. All fiduciaries shall be entitled to reimbursement for expenses necessarily incurred in the administration of my estate or any trust created under this will. If an attorney or accountant is serving as fiduciary, it is my wish and intent that such attorney or accountant or the firm with which he or she is associated may nevertheless be employed to render any necessary or appropriate legal and/or accounting services to my estate or any trust created hereunder and be paid a reasonable fee for such services.

[b] WAIVER: With respect to any taxable year of my estate or any trust hereunder, any fiduciary who is entitled to compensation for such taxable year may waive his or her right to receive all or any part of such compensation for such year by giving written notice to the beneficiary or beneficiaries and to any co-fiduciaries of my estate or of such trust, as the case may be, within sixty (60) days of the later to occur of (i) the beginning of such taxable year, or (ii) the date such fiduciary begins to serve.

4.2.3 WAIVER OF BOND: A fiduciary shall not be required to give bond in any jurisdiction, unless bond is required by law or court rule that cannot be waived, in which event a surety shall not be required.

4.2.4 INSURED FIDUCIARY: An individual fiduciary who is insured under any policy of life insurance owned in whole or in part by me may not exercise any incident of ownership under or control over any such policy. All control over my interest in any such policy shall be exercisable only by the other fiduciary or, if there is no such other fiduciary, by the person or institution that would then succeed such individual fiduciary if he or she ceased to serve in such capacity.

4.2.5 FIDUCIARY LIABILITY:

[a] LIABILITY OF FIDUCIARY SERVING WITHOUT COMPENSATION OR BENEFICIARY SERVING AS FIDUCIARY: An individual serving as executor or trustee hereunder who has waived his or her right to all compensation for any taxable year in accordance with the terms and provisions of Article 4.2.2[b], or who is serving as trustee of any trust of which such individual is a beneficiary, shall not be liable for any act or omission to act during such taxable year with respect to my estate or the trust for which such individual has waived all compensation or is serving as trustee of the trust of which such individual is a beneficiary, as the case may be, unless such act or omission to act constitutes a breach of fiduciary duty or breach of trust committed intentionally, in bad faith, or with reckless indifference to the interest of a beneficiary of my estate or of such trust. By this provision, it is my express intention to limit such executor's or trustee's potential liability as fiduciary to the greatest extent permitted by Texas law, provided that such fiduciary has waived his or her right to all compensation under Article 4.2.2[b] or is serving as trustee of a trust of which he or she is a beneficiary.

[b] LIABILITY FOR ACTS OF ANOTHER FIDUCIARY: Except as otherwise provided in this Article, an individual or entity serving as executor or trustee hereunder shall have no duty or obligation: (i) to

investigate the acts or failures to act of another fiduciary; (ii) to request a formal accounting from another fiduciary; or (iii) to investigate any accountings provided by another fiduciary. In addition, an acting fiduciary shall not be personally liable or individually responsible for the acts or omissions of another fiduciary, nor shall such fiduciary be personally liable for its failure to contest any accounting provided by another fiduciary. For purposes of this Article 4.2.5, the term "another fiduciary" shall mean any current or former personal representative of my estate, any current or former trustee or ancillary fiduciary acting under this will, and any predecessor fiduciary under this will or any personal representative of any estate or trustee of any trust from which distributions may be made to any executor or trustee hereunder. Notwithstanding any provisions of this Article to the contrary, however, the foregoing limitations on a fiduciary's duties and liabilities shall not apply to any acting fiduciary to the extent such fiduciary has actual knowledge of facts that would lead a reasonable person to believe a breach of trust has occurred that has or will result in a material loss to its estate or trust or to any beneficiary of its estate or trust as a consequence of an action or omission of another fiduciary. In that event, unless the provisions of Article 4.2.5[a] are applicable, a fiduciary with actual knowledge of such facts shall be required to exercise ordinary diligence to investigate and, if appropriate, redress such breach of trust, and may be held personally liable for its failure to do so. Except as otherwise provided in this will, a fiduciary shall be responsible or liable only for the assets actually delivered to it.

ARTICLE 4.3 GENERAL PROVISIONS RELATING TO TRUSTS

4.3.1 TRUSTEE'S BASIC DUTIES: During the term of each trust created hereunder, the trustee shall (i) hold, manage, invest, and reinvest the trust estate; (ii) collect the income and profits from it; (iii) pay the necessary expenses of trust administration; and (iv) distribute the net income and principal as provided in PART TWO.

4.3.2 NO ACTIVE COURT SUPERVISION: Unless in conflict with applicable local law, a trust shall be administered without the supervision of any court.

4.3.3 REPORTS: During the administration of a trust, the trustee shall upon request render reports no less frequently than annually to each eligible beneficiary (as that term is hereinafter defined), setting forth the receipts, disbursements, and distributions of both principal and income during the period of accounting and the invested and uninvested principal and undistributed income at the time of such report.

The trustee's records shall be open at all reasonable times to inspection by an eligible beneficiary or a duly authorized representative of an eligible beneficiary. For purposes of this Article 4.3.3, the term "eligible beneficiary" means a beneficiary who is entitled or permitted to receive distributions from a trust at the time a request is made for a report from the trustee hereunder, or a beneficiary who would receive a distribution from a trust if the trust terminated at the time a request is made for a report from the trustee hereunder.

4.3.4 ACCUMULATIONS: Any net trust income that is neither (i) required to be distributed nor (ii) actually distributed or otherwise disposed of currently (that is, within the trust tax year in which such income is received by the trustee or so soon thereafter that such income is regarded for tax purposes as having been distributed within the tax year in which received) shall be added to principal.

4.3.5 TERMINATION OF TRUSTS: Despite any other provision or provisions of this will to the contrary, each trust created herein or pursuant to the exercise of a power of appointment granted hereunder will terminate prior to its stated termination date if all income and principal are paid out under mandatory or discretionary powers. Upon termination of any trust created hereunder, the trustee shall have the power (i) to continue to exercise the powers herein conferred upon the trustee for such period as may be reasonably necessary to finalize and conclude the affairs of the trust, and (ii) to do whatever may be necessary to vest title to the trust assets in the person or persons entitled thereto.

4.3.6 EARLY TRUST TERMINATION: Any provision of this will to the contrary notwithstanding, any corporate trustee serving as sole trustee of a trust hereunder shall have the discretionary power to terminate such trust and distribute any property subject to such termination in accordance with the following sentence whenever the value of the trust is so small that such trustee, in its sole discretion, deems the continuation of the trust to be uneconomical, after first considering all financial or other special advantages to the beneficiary or beneficiaries of continuing the trust which are known to the trustee. Upon such termination of any trust, the principal and accrued but undistributed income then on hand shall be distributed outright and free of trust, to the exclusion of any remaindermen or other beneficiaries designated by the provisions of said trust, to the trust's income beneficiary or income beneficiaries, as the case may be, in proportion to their respective rights to receive income (in the case of a trust providing for discretionary income distributions, the trust estate shall be distributed in equal shares to all permissible income beneficiaries), if any; or, if there are no income beneficiaries, in accordance with whatever provisions govern distribution on termination. The corporate trustee's judgment shall be final, binding, and conclusive upon all parties ever interested hereunder, and distribution of the trust funds in the manner herein

provided shall relieve the corporate trustee of any further responsibility with respect to such funds.

4.3.7 COMBINATION OF TRUSTS: If at any time the trustee of any trust created by this will is also serving as trustee of any other trust created by trust instrument or by will for the benefit of the same beneficiary or beneficiaries upon substantially the same terms and conditions, the trustee is authorized and empowered, if in its discretion this action is in the best interest of the beneficiary or beneficiaries, to transfer and merge all of the assets then held in the trust hereunder to and with the other trust; provided, however, in determining whether to transfer assets of a trust created under this will to another trust, I suggest that the trustee give consideration to the inclusion ratios (as defined in Section 2642 of the Internal Revenue Code) of the respective trusts.

4.3.8 SEPARATE SHARE PROVISIONS FOR GENERATION-SKIPPING TRANSFER TAX PURPOSES:

[a] SEPARATE EXEMPT AND NON-EXEMPT SHARES: If part but not all of the properties passing to any trust created hereunder are exempt from the generation-skipping transfer tax as a result of the allocation of the generation-skipping transfer tax exemption, then such exempt properties shall be held in a separate share of such trust to be known as the "Exempt Share," and the rest of the properties passing to such trust shall be held in another separate share to be known as the "Non-Exempt Share."

In addition, the fiduciary responsible for such assets may, in its discretion, divide a trust into two (2) separate shares in such a manner that one (1) such share (also to be known as the "Exempt Share") will be wholly exempt from such tax and no portion of the other share (also to be known as the "Non-Exempt Share") will be exempt from such tax. Such division shall be made on a fractional share basis. For this purpose, when property is to be divided on a fractional share basis, the fiduciary responsible for such property shall either (i) effect the division of such property on a nonpro rata basis under the rules set out in the applicable Treasury Regulation (currently Treas. Reg. Section 26.2642-6(d)(4)), or (ii) allocate an undivided fractional interest in each asset subject to such division to each of the trusts into which the property is to be divided, the numerator of such fraction being the total value of the property to be allocated to such trust, and the denominator being the value of all property subject to such division.

Except as otherwise provided below in this Article 4.3.8, all provisions of this will shall apply to both the Exempt Share and the Non-Exempt Share of such trust.

[b] RECORDS: Records shall be kept sufficient to show the status of each separate share of any trust created hereunder, and all income, accumulations of income, distributions, and expenses shall be credited to or charged against each separate share to the extent applicable, so that each share is determinable, separate, and independent. Subject to such requirements, the trustee may administer, manage, and invest all of the assets of any trust as a common fund.

[c] SPECIAL DISTRIBUTION PROVISIONS: Notwithstanding any provision in PART TWO to the contrary, if any trust is divided into an Exempt Share and a Non-Exempt Share pursuant to provision [a], then no discretionary distribution of income or principal shall be made from the Exempt Share until and unless all income of the Non-Exempt Share has first been exhausted through distributions. Further, it is my wish, but I do not require, that, to the extent practicable, no discretionary distribution of income or principal shall be made from the Exempt Share until and unless all principal of the Non-Exempt Share has first been exhausted through distributions.

4.3.9 INDIVIDUAL TRUSTEE: An individual trustee of any trust created by this will shall not have any power whatsoever in the determination of accumulation of income, or of distribution (including but not limited to distributions to such individual and distributions in discharge of any legal obligation of such individual) of income or principal, or in the apportionment of receipts and expenses between principal and income, or in the establishment and maintenance of reserves in the trust, or any power in any other determination or distribution that would cause undistributed trust principal to be includible in such individual's estate for tax purposes, that would cause such individual to make a gift for tax purposes (whether by reason of a prior disclaimer by such individual, by reason of the making of such determination or distribution, or otherwise), or that would cause trust income to be taxed to such individual (except to the extent such individual receives or is deemed to receive distributable net income as a result of an actual or deemed trust distribution), but such determinations and distributions shall be made in the sole discretion of the other trustee then serving. If there is no other trustee then serving, such power shall not be exercised.

ARTICLE 4.4 DISTRIBUTION PROVISIONS

4.4.1 TANGIBLE PERSONAL PROPERTY: In lieu of distributing any items of tangible personal property that a recipient determines to be of no present or probable future use to such recipient, my executor may instead dispose of such items by sale (adding the proceeds of any such sale to my residuary estate), by gift to any charity or person, by abandonment, or by destruction. Distribution of my tangible personal property among my descendants (if more than one (1)) under Article 1.3.1 shall be in shares required to approximately effect a per stirpes distribution of such tangible personal property among my descendants as they agree, or as my executor determines if they do not agree within a reasonable time after my death. My executor shall act for any minor or incapacitated beneficiary in selecting, storing, safeguarding, insuring, and distributing such property.

4.4.2 FACILITATING DISTRIBUTIONS: In making any distribution of property (including, but not limited to, any discretionary, mandatory, interim, or terminating distribution) under the provisions of this will, the fiduciary responsible for such property may distribute such property to or for the benefit of the beneficiary: (i) directly to the beneficiary; (ii) on behalf of the beneficiary for the beneficiary's benefit; (iii) to any account in a financial institution including but not limited to a bank, savings institution, brokerage company, or investment advisory firm, either in the name of such beneficiary or in a form reserving title, management, and custody of such account to a suitable person for the use of such beneficiary; (iv) in any form of annuity; (v) in all ways provided by laws dealing with gifts or distributions to or for minors (including but not limited to the Texas Uniform Transfers to Minors Act) or persons under disability; (vi) to any trust of which the beneficiary is the principal or preferred beneficiary (to be added to and administered as a part thereof); or (vii) to any suitable person with whom the beneficiary resides or who has the care and control of the beneficiary, without obligation to see to the further application of such distribution.

In addition, if any property of my estate or of a trust estate of any trust created under this will is distributable outright under the provisions of this will to a beneficiary who is under the age of twenty-five (25) years or to a beneficiary who, in the opinion of the fiduciary responsible for such property, is under any disability or unable to administer distributions properly, then such fiduciary, in its sole and absolute discretion, in any jurisdiction, without intervention of a guardian, conservator, or other representative, and without supervision of any court, may hold such property in a separate Contingent Trust for the benefit of such beneficiary. Each Contingent Trust created under this will shall be held by the fiduciary for the beneficiary's benefit and disposed of pursuant to the provisions of Article 2.2.

The receipt for distributions by any person named in this Article shall fully discharge the fiduciary. Notwithstanding the foregoing provisions of this Article, however, I give no power or authority (and none shall be exercised) that would result in the loss of a federal estate tax charitable deduction for my estate or a transfer of assets from a trust (a "Distributing Trust") to a trust which has a greater inclusion ratio (as defined in Section 2642 of the Internal Revenue Code) than the Distributing Trust.

ARTICLE 4.5 DEBTS, EXPENSES, AND TAXES

4.5.1 PAYMENT OF DEBTS, EXPENSES, AND DEATH TAXES AND OTHER GOVERNMENTAL CHARGES: My executor shall pay my debts, expenses, and death taxes and other governmental charges as follows:

[a] PAYMENT OF DEBTS: My executor shall pay from my residuary estate all debts that are due and enforceable against my estate. This direction does not require my executor to prepay any debt.

[b] PAYMENT OF EXPENSES: My executor shall pay from my residuary estate (i) the expenses of my last illness and funeral, and (ii) the expenses of administering my estate. For purposes of this Article, the "expenses of administering my estate" shall include but not be limited to the reasonable costs of safeguarding, insuring, packing, and storing my tangible personal property before its distribution, and of delivering and transporting any item to the place of residence (or other designated address) of the beneficiary of that item. Notwithstanding the foregoing provisions of this Article to the contrary, the expenses of administering my estate shall be allocated between (and charged accordingly against) the income and principal of my residuary estate in accordance with controlling state law or (if and to the extent there is any uncertainty with respect to such law in this context) generally accepted principles of trust accounting (as though such assets were held in trust at the time of my death).

[c] PAYMENT OF DEATH TAXES AND OTHER GOVERNMENTAL CHARGES: Except as otherwise provided in provision [d] below, my executor shall pay from my residuary estate all death taxes and other governmental charges imposed by reason of my death.

[d] EXCEPTIONS: Notwithstanding the foregoing provisions of this Article 4.5.1, the following provisions shall control:

[i] If any generation-skipping transfer tax is payable at any time with respect to any generation-skipping transfer occurring by reason of my death, such tax shall be charged against the property constituting the generation-skipping transfer.

[ii] Any recapture of estate taxes under Section 2032A of the Internal Revenue Code shall not be paid from my estate.

[e] NATURE OF ASSETS: For purposes of this Article, there shall be no distinction between the real and personal properties comprising my residuary estate.

4.5.2 TAX ELECTIONS, DECISIONS: In determining the estate, inheritance, and income tax liability of my estate and any applicable generation-skipping transfer tax liability, the following provisions shall govern:

[a] GENERALLY: My executor shall exercise its own and sole discretion in determining: (i) the date that should be selected for the valuation of property subject to any such tax; (ii) whether any portion of my estate should be valued under any of the applicable provisions of Section 2032A of the Internal Revenue Code; (iii) whether any portion of the federal estate tax liability for my estate should be paid under any deferred payment option available to my estate under the Internal Revenue Code; (iv) whether a deduction should be taken as an income tax deduction or as an estate tax deduction; and (v) (to the extent permitted by federal income tax laws) the amount of distributable net income (for federal income tax purposes) that is deemed to be carried out to a beneficiary by reason of a distribution of appreciated property.

[b] GENERATION-SKIPPING TRANSFER TAX EXEMPTION: My executor shall exercise its own and sole discretion in determining how to allocate the generation-skipping transfer tax exemption under Sections 2631 and 2632 of the Internal Revenue Code.

[c] OTHER ELECTIONS; COMPENSATING ADJUSTMENTS: My executor shall also exercise its own and sole discretion with regard to any other such election or determination that is to be made by any personal representative of my estate. A compensating adjustment between income and principal or in the amount of any gift hereunder shall not be made as a result of any tax election by my executor.

ARTICLE 4.6 TEXAS LAW TO GOVERN

This will has been drawn and executed in the State of Texas. All questions concerning the meaning and intention of any of its terms, its validity, or the administration of any trusts or powers created herein shall be determined in accordance with the laws of this State.

ARTICLE 4.7 PROTECTIVE PROVISION

A beneficiary may not anticipate, alienate, transfer, pledge, hypothecate, assign, or encumber any part of his or her interest in any trust created by or pursuant to this will. To the maximum extent allowed by law, each beneficiary's interest in any trust created by or pursuant to this will and any income or increase attributable thereto: (i) shall be and remain such beneficiary's sole and separate property; (ii) shall be free from control and interference by a creditor or spouse of such beneficiary; (iii) shall not be liable for such beneficiary's debts or obligations (including alimony and child support); (iv) shall not be taken by any process whatsoever (including but not limited to any process in aid of execution of any judgment or otherwise); and (v) shall not be subject to attachment, garnishment, execution, creditor's bill, or other legal or equitable process. The income and principal of a trust shall be transferable, payable, and deliverable only to, or applicable only for, the benefit of the designated beneficiary or beneficiaries of such trust at the time or times that they are entitled to the same under the terms of the trust, or if distributions are subject to the discretion of the trustee, at the time or times the trustee exercises its discretion to make distributions. The provisions of this Article apply to all beneficiaries, including present, remainder, and contingent beneficiaries. This Article shall not be construed or interpreted to limit or restrict any beneficiary's power to disclaim an interest in my estate or in any trust created by or pursuant to this will.

ARTICLE 4.8 CAPTIONS; HEADINGS; ARTICLES; TRUST NAMES

The captions or headings above the various provisions of this will have been included only to facilitate the location of the subjects covered by each provision but shall not be used in construing this will or in ascertaining my intentions.

Unless otherwise expressly provided, (i) references to "this Article" shall mean the Article in which the reference appears (for example, references to "this Article" in Article 3.2.4[d] shall mean Article 3.2.4[d]), (ii) all references to an "Article" shall mean the specific Article created under this will, and (iii) all references to a specific trust (such as The Hessie Owen Brawley Trust) and/or to a group of trusts (such as Contingent Trusts) shall mean such specific trust or group of trusts, as the case may be, created under this will.

ARTICLE 4.9 NUMBER AND GENDER


Wherever the context so admits and such treatment is necessary to interpret this will in accordance with its apparent intent, the use herein of the singular shall include the plural, and vice versa, and the use of the feminine, masculine, or neuter gender shall be deemed to include the other genders.


I have subscribed my name to this will, consisting of twenty-seven (27) pages, on this 4th day of August, 2015, in the presence of the witnesses whose names are subscribed below.

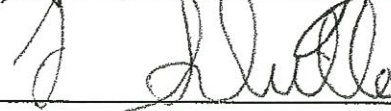


HESSIE WILLIAMS OWEN

The foregoing instrument was signed, published, and declared by HESSIE WILLIAMS OWEN, the above-named testatrix, as and for her last will and testament in our presence and we, at her request and in her presence and in the presence of each other, have subscribed our names to this instrument as attesting witnesses on the day and year last above written; and we certify that, in our opinion and belief, the said testatrix is of sound and disposing mind.







SELF PROOF OF WILL

THE STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, the undersigned authority, on this day personally appeared HESSIE WILLIAMS OWEN, Webster Barton Roscher, Gina Petty, and Frank Schiller, known to me to be the testatrix and the witnesses, respectively, whose names are subscribed to the annexed or foregoing instrument in their respective capacities, and, all of said persons being by me duly sworn, the said HESSIE WILLIAMS OWEN, testatrix, declared to me and to the said witnesses in my presence and in the presence of all of the said witnesses that said instrument is her last will and testament and that she had willingly made and executed it as her free act and deed for the purposes therein expressed; and the said witnesses each on his or her oath stated to me in the presence and hearing of the testatrix and of all of the said witnesses that the said testatrix had declared to them that said instrument is her last will and testament and that she executed the same as such and wanted each of them to sign it as a witness; and upon their oaths each witness stated further that they did sign the same as witnesses in the presence of each other and of the said testatrix and at her request; that the testatrix was at that time eighteen (18) years of age or over and was of sound mind; and that each of said witnesses was then at least fourteen (14) years of age.

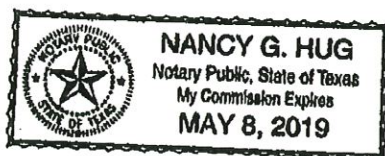
Hessie W. Owen
HESSIE WILLIAMS OWEN, Testatrix

Webster Barton Roscher
Witness

Gina Petty
Witness

Frank Schiller
Witness

Subscribed and sworn to before me by the said HESSIE WILLIAMS OWEN, testatrix, and by the said Webster Barton Roscher, Gina Petty and Frank Schiller, witnesses, this 4th day of August, 2015.



Nancy Hug
Notary Public, State of Texas
My Commission Expires: May 8, 2019
Print Name: Nancy Hug



Administration

ITEM 4.2

Patricia Langford
Director of Finance
(512)-715-3205
plangford@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2017-18; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018 FOR THE CITY OF BURNET, TEXAS, FUNDING ACCOUNTS IN BUDGET DUE TO UNFORESEEN SITUATIONS; CONTAINING FINDINGS PROVIDING FOR SAVINGS AND SEVERABILITY: P. Langford

Background:

Information:

Fiscal Impact: As noted on Attachment "A".

Recommendation: Approve and adopt Ordinance 2018-20 as presented.

ORDINANCE NO. 2018-20

AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE 2017-18; THE ORIGINAL BUDGET ORDINANCE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017, AND ENDING SEPTEMBER 30, 2018, 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 2017-2018 Budget was adopted by Ordinance 2017-18 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 2017-2018 Budget is hereby amended to reflect the effect of unforeseen circumstances as shown on Attachment "A".

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 8th day of January, 2019

FINALLY PASSED AND APPROVED on this 22nd day of January, 2019.

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

ATTACHMENT A:

\$6,696 for the purchase of police rifles by the Police Department. The cost will be covered by NRA grant revenues received.

\$13,194.66 in additional EMS billing commission expense for the Fire Department. The increase will be covered by additional transport revenues.

\$29,894.70 in additional solid waste services and \$10,241.16 in additional monthly clean up expenses. The increase will be covered by additional solid waste revenue collections.

\$4,341.80 in City Shop building maintenance to replace condenser. The cost will be covered by insurance proceeds.

\$6,578 in Police Department explorer program expenses. The cost will be covered by additional Police Department explorer program revenues.

\$4,151.43 in Fire Department explorer program expenses. The cost will be covered by additional Fire Department explorer program revenues.

\$56,119.70 increase in the Electric fund's return on investment expense. The increase will be covered by increased electric billing revenues.

\$16,275.53 increase in the Water fund's transfer to the General Fund for in-lieu of franchise fees, in-lieu of property taxes, and admin allocation. The increase will be covered by increased water billing revenue.

\$17,165.02 increase in the Waste Water fund's transfer to the General Fund for in-lieu of franchise fees, in-lieu of property taxes, and admin allocation. The increase will be covered by increased waste water billing revenue.

\$14,405.44 increase in fuel purchases for resale for the Airport Fund. The increase will be covered by increased fuel sales.



Finance Department

ITEM 4.3

Patricia Langford
Director of Finance
(512) 715-3205
plangford@cityofburnet.com

Agenda Item Brief

Meeting Date:	January 8, 2019
Agenda Item:	Discuss and consider action: A RESOLUTION ADOPTING THE CITY OF BURNET, TX, INVESTMENT POLICY AND NAMING THE INVESTMENT OFFICERS: P. Langford
Background:	Dictated by the Public Funds Investment Act.
Information:	Must be reviewed and adopted on an annual basis.
Fiscal Impact:	None
Recommendation:	Staff recommends approval of resolution number R2019-01 adopting an investment policy for the City of Burnet as presented.

RESOLUTION NO. R2019-01

A RESOLUTION ADOPTING THE CITY OF BURNET, TX, INVESTMENT POLICY AND NAMING THE FINANCE DIRECTOR AND SENIOR ACCOUNTANT AS THE INVESTMENT OFFICERS.

WHEREAS, Chapter 2256 of the Government Code, commonly known as the “Public Funds Investment Act, “ requires the city to adopt an investment policy by rule, order, ordinance, or resolution; and

WHEREAS, the Public Funds Investment Act requires the investment officer of the city to attend investment training; and

WHEREAS, the City of Burnet approves the investment training course sponsored by the Texas Municipal League; and

WHEREAS, the investment officers of the city, have attended an investment training course sponsored by the Texas Municipal League as required by the Public Funds Investment Act; and

WHEREAS, the attached investment policy and incorporated strategy comply with the Public Funds Investment Act and authorize the investment of city funds in safe and prudent investments.

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

That the City of Burnet has complied with the requirements of the Public Funds Investment Act, and the Investment Policy, attached hereto as “Exhibit A,” is hereby adopted as the investment policy of the city effective January 8, 2019.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Burnet this the 8th day of January 2019.

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

“Exhibit A”

CITY OF BURNET INVESTMENT POLICY

The investment policy of the City is to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the City and conforming with all state and local statutes governing investment of public funds.

SCOPE

The investment policy applies to investment activities of all funds of the City and all funds under the control of the City.

Funds covered by this policy are as follows:

All funds

OBJECTIVES

The primary objectives, in priority order, of the City’s investment activities are:

1. **Safety.** Safety of principal is the primary objective of the investment transaction. Investments shall be made in a manner that seeks to ensure the preservation of capital in the overall portfolio.
2. **Liquidity.** The City’s investment portfolio shall remain sufficiently liquid to enable the City to meet all operating requirements, which might be reasonably anticipated.
3. **Return on investment.** The City’s investment portfolio will be designed with the objective of attaining a rate of return commensurate with the City’s investment risk restraints and the cash flow operating requirements.
4. **Diversification.** Diversification may be required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

STANDARD OF CARE

Investments will be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

DELEGATION OF AUTHORITY

Authority to manage the City’s investment program is derived from state statutes and City resolutions. The Investment Officers for the City of Burnet shall invest and reinvest funds of the City in accordance with the City’s investment policy. The Investment

Officers shall be responsible for all transactions undertaken and shall establish a system of controls to regulate subordinate officials. The Investment Officers are Patricia Langford, Director of Finance and Adrienne Feild, Senior Accountant.

INVESTMENT TRAINING

It is the City's policy to provide training required by the Public Funds Act, Sec. 2256.008 for the City's Investment Officers. The Investment Officers shall attend at least one training session within twelve months after taking office or assuming duties. In addition, they shall participate in an investment training session not less than once in a two year period consisting of not less than 8 hours of instruction. Training includes education in investment controls, security risks, strategy risks and compliance with the Public Funds Investment Act.

ETHICS AND CONFLICTS OF INTEREST

An Investment Officer who has a personal business relationship with an entity seeking to sell an investment to the City will file a statement disclosing that personal business interest. An Investment Officer who is related within the second degree by affinity or consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the City shall file a statement disclosing that relationship. These statements must be filed with the Texas Ethics Commission and the City Council.

COLLATERALIZATION

All funds must be insured by the FDIC or FSLIC or by collateral pledged to the extent of the fair market value of any amount not insured. To the extent not insured by the FDIC or FSLIC, City funds must be secured by direct obligations of the United States backed by the full faith and credit of the government or by governmental securities or obligations issued by the State of Texas, its agencies or political subdivisions. Collateral will be held by an independent third party, and a safekeeping receipt will be supplied to the City. The City's bank depository will provide the City with a monthly report on the collateral pledged, and a City representative will have the right to inspect the pledged collateral at any time. Collateral may be substituted; however, the City must approve any substitution of collateral in writing.

INVESTMENT POLICY DISCLOSURE

A written copy of the City's investment policy shall be presented to any person seeking to sell to the City an authorized investment. The registered principal of the business organization seeking to sell an authorized investment shall execute a written instrument substantially to the effect that the registered principal has received and thoroughly reviewed the Investment Policy of the City and acknowledged that the organization has implemented reasonable procedures and controls in an effort to preclude imprudent investment activities arising out of investment transactions conducted between the City and the organization. The Investment Officers of the City may not buy any securities from a person who has not delivered to the City a written document providing the above information.

AUTHORIZED INVESTMENTS

Investments described below are some of those authorized by the Public Funds Investment Act and considered suitable for investment of City funds:

1. Obligations of the United States or guaranteed by the United States. The City may invest in funds in obligation of the United States or its agencies and instrumentalities.
2. Certificates of Deposit. The City is authorized to invest its funds in certificates of deposit or other interest bearing accounts of any bank or savings and loan association domiciled in the State of Texas. All certificates of deposit must be fully insured or collateralized. Certificates of deposit should mature one to twenty-four months after purchase with maturity dates falling one to six months apart.
3. Public Funds Investment Pools. The City is authorized to invest in public fund investment pools which strive to maintain a stable \$1.00 net asset value and maintain either a "AAA" or "AA" rating from a nationally recognized rating agency.

INVESTMENT STRATEGIES

Investment strategies are developed to attain the investment objectives of the City.

GENERAL FUND AND ENTERPRISE FUNDS

The investment objectives of the City are as follows:

1. Safety of Principal
2. Liquidity. Availability of funds to meet the monthly operating expenditures of the City in accordance with budgeted expenditures and availability of funds to meet unexpected expenditures.

To attain these objectives, investments should be short term that can be liquidated to assure adequate cash flows as necessary. The weighted average maturity should be 180 days or less.

CAPITAL PROJECTS FUND

The investment objectives of the capital projects fund are as follows:

1. Safety of Principal
2. Availability of funds to meet construction needs of the City.

To attain these objectives, investment maturities should be structured to mature no later than the date funds will be needed for project payments.

DEBT SERVICE FUNDS

Investment objectives of the debt service funds are as follows:

1. Safety of Principal
2. Liquidity
3. Yield

Since payment of debt is one of the highest priorities of the City, safety of principal should be of the highest priority when selecting an investment. To ensure safety,

investments should consist of United States Treasury notes and bills, public fund investment pools, and certificates of deposit. The investment should have a weighted average maturity of 365 days or less and should be structured to insure that the necessary amounts to retire debt on each date will mature 5 days before said due date.

INVESTMENT REPORTS

No less than quarterly, the Investment Officers shall prepare and submit to the City Council a quarterly written investment report. The report must describe in detail the investment position of the City on the date of the report, state the book value and fair market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested. State the maturity date of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested. State the fund for which each individual investment was acquired and state the compliance of the investment portfolio of the City as it relates to the investment policies and investment strategies expressed in the City's Investment Policy and the Public Funds Investment Act.

COMPLIANCE AUDIT

The City, in conjunction with its annual financial audit, shall perform a compliance audit of management controls on investments and adherence to the City's Investment Policy.



Development Services

ITEM 4.4

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOME – DISTRICT R-2A TO LOT 1, PHASE 1, BLOCK 10 OF THE HIGHLAND OAKS SUBDIVISION, SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE NORTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Background: The attached ordinance, if approved by City Council, will assign Townhomes – District “R-2A” zoning to the property described in the above caption.

Information: This request is scheduled for review by the Planning & Zoning Commission is scheduled for Monday, January 7, 2019.

Fiscal Impact: None

Recommendation: Approve the first reading of Ordinance 2019-01 as presented.

ORDINANCE NO. 2019-01

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOME – DISTRICT R-2A TO LOT 1, PHASE 1, BLOCK 10 OF THE HIGHLAND OAKS SUBDIVISION, SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE NORTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on January 7, 2019, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes – District R-2A zoning to Lot 1, Phase 1, Block 10 of the Highland Oaks subdivision, said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street; and

WHEREAS, The City Council of the City of Burnet, on January 8, 2019 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes – District R-2A to Lot 1, Phase 1, Block 10 of the Highland Oaks subdivision, said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, and its own findings, did determine that assigning Townhomes – District R-2A to Lot 1, Phase 1, Block 10 of the Highland Oaks subdivision, said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street to be consistent with the City of Burnet Future Land Use Plan, consistent with development patterns in the surrounding area, and consistent with the best public interest of the City;

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. Zoning Changed. Lot 1, Phase 1, Block 10 of the Highland Oaks subdivision, said tract being further described as being located on the north side of Tami Drive, east of the intersection with North Water Street is hereby assigned a zoning designation of Townhomes – District R-2A.

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

Section 4. Severability. 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. This ordinance is effective upon final passage and approval.

Section 6. Open Meetings. 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 January, 2019.

FINALLY PASSED AND APPROVED on this 22nd day of January, 2019.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Development Services

ITEM 4.5

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOME – DISTRICT R-2A TO LOT 1, PHASE 1, BLOCK 9 OF THE HIGHLAND OAKS SUBDIVISION, SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE SOUTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: W. Meshier

Background: The attached ordinance, if approved by City Council, will assign Townhomes – District “R-2A” zoning to the property described in the above caption.

Information: This request is scheduled for review by the Planning & Zoning Commission is scheduled for Monday, January 7, 2019.

Fiscal Impact: None

Recommendation: Staff recommends approval of the first reading of Ordinance 2019-02 as presented.

ORDINANCE NO. 2019-02

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING TOWNHOME – DISTRICT R-2A TO LOT 1, PHASE 1, BLOCK 9 OF THE HIGHLAND OAKS SUBDIVISION, SAID TRACT BEING FURTHER DESCRIBED AS BEING LOCATED ON THE SOUTH SIDE OF TAMI DRIVE, EAST OF THE INTERSECTION WITH NORTH WATER STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on January 7, 2019, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes – District R-2A zoning to Lot 1, Phase 1, Block 9 of the Highland Oaks subdivision, said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street; and

WHEREAS, The City Council of the City of Burnet, on January 8, 2019 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Townhomes – District R-2A to Lot 1, Phase 1, Block 9 of the Highland Oaks subdivision, said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, and its own findings, did determine that assigning Townhomes – District R-2A to Lot 1, Phase 1, Block 9 of the Highland Oaks subdivision, said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street to be consistent with the City of Burnet Future Land Use Plan, consistent with development patterns in the surrounding area, and consistent with the best public interest of the City;

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. Zoning Changed. Lot 1, Phase 1, Block 9 of the Highland Oaks subdivision, said tract being further described as being located on the south side of Tami Drive, east of the intersection with North Water Street is hereby assigned a zoning designation of Townhomes – District R-2A.

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

Section 4. Severability. 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. This ordinance is effective upon final passage and approval.

Section 6. Open Meetings. 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 January, 2019.

FINALLY PASSED AND APPROVED on this 22nd day of January, 2019.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Development Services

ITEM 4.6

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date: January 8, 2019

Agenda Item: Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING GOVERNMENT AND PUBLIC INSTITUTIONAL — DISTRICT G TO 34.068 ACRES OUT OF THE B.B. CASTLEBERRY SURVEY, ABSTRACT NUMBER 187, WHICH IS FURTHER DESCRIBED AS 1601 SOUTH WATER STREET, AND BEING GENERALLY LOCATED ON THE EAST SIDE OF SOUTH WATER STREET (HWY. 281), APPROXIMATELY 1,120 FEET SOUTH OF THE INTERSECTION WITH ARISTOKRAFT DRIVE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: W. Meshier

Background: The attached ordinance, if approved by City Council, will assign Government and Public Institutional — District “G” zoning to the property described in the above caption.

Information: This request is scheduled for review by the Planning & Zoning Commission is scheduled for Monday, January 7, 2019.

Fiscal Impact: None

Recommendation: Staff recommends approval of the first reading of Ordinance 2019-03 as presented.

ORDINANCE NO. 2019-03

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY ASSIGNING GOVERNMENT AND PUBLIC INSTITUTIONAL — DISTRICT G TO 34.068 ACRES OUT OF THE B.B. CASTLEBERRY SURVEY, ABSTRACT NUMBER 187, WHICH IS FURTHER DESCRIBED AS 1601 SOUTH WATER STREET, AND BEING GENERALLY LOCATED ON THE EAST SIDE OF SOUTH WATER STREET (HWY. 281), APPROXIMATELY 1,120 FEET SOUTH OF THE INTERSECTION WITH ARISTOKRAFT DRIVE; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, The Planning and Zoning Commission of the City of Burnet, on January 7, 2019, did conduct a public hearing for the purpose of taking public comment regarding the proposal to assign Government and Public Institutional — District G to 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187, which is further described as 1601 South Water Street, and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive; and

WHEREAS, The City Council of the City of Burnet, on January 8, 2019 did conduct its own public hearing for the purpose of taking public comment regarding the proposal to assign Government and Public Institutional — District G to 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187, which is further described as 1601 South Water Street, and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation, and its own findings, did determine that assigning Government and Public Institutional — District G to 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187, which is further described as 1601 South Water Street, and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive to be consistent with the City of Burnet Future Land Use Plan, consistent with development patterns in the surrounding area and consistent with the best public interest of the City;

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. Zoning Changed. The 34.068 acres out of the B.B. Castleberry Survey, Abstract Number 187, which is further described as 1601 South Water Street,

and being generally located on the east side of South Water Street (Hwy. 281), approximately 1,120 feet south of the intersection with Aristokraft Drive is hereby assigned a zoning designation of Government and Public Institutional — District G.

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

Section 4. Severability. 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. This ordinance is effective upon final passage and approval.

Section 6. Open Meetings. 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 January, 2019.

FINALLY PASSED AND APPROVED on this 22nd day of January, 2019.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Development Services

ITEM 4.7

Wallis Meshier
Director of Development Services
(512) 715-3215
wmeshier@cityofburnet.com

Agenda Item Brief

Meeting Date:

January 8, 2019

Agenda Item:

Discuss and consider action: Request for a variance to Code of Ordinances, Chapter 98, Sec. 98-22.d.3.h for the purpose of allowing an alternative means of compliance with the tree removal and replacement standards: W. Meshier

Background:

The requested variance pertains to the requirements outlined in Code of Ordinances Sec. 98-22.d.3.h, which states the following:

“The developer shall be responsible for providing replacement trees as shown in the application submittal documents based on a replacement ratio (inches removed to inches planted) of:

1. One to two for significant trees 18 inches in caliper and larger, and
2. One to one for significant trees between eight and 18 inches in caliper.
3. Replacement trees shall not be required for the removal of trees smaller than eight inches in caliper. The removal of significant trees larger than 18 inches in caliper shall require commission approval.”

Construction plans for Pepper Mill, Phase 1 were submitted on November 16, 2018, which indicated the removal of a significant number of large Live Oak trees. Based on the tree removal plan submitted, it is infeasible for the developer to provide the required mitigation within the development.

The City of Burnet Code of Ordinances Sec. 98-82 states the following regarding variances to the subdivision standards:

“In granting approval of a request for variance, the Commission and Council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the variance observes the spirit of this chapter and concludes that substantial justice is done. The Commission and Council shall meet these requirements by making findings that:

- a. The public convenience and welfare will be substantially served;
- b. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
- c. The applicant has not created the hardship from which relief is sought;
- d. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
- e. The hardship from which relief is sought is not solely of an economic nature;
- f. The variance is not contrary to the public interest;
- g. Due to special conditions, the literal enforcement of this chapter would result in an unnecessary hardship; and
- h. In granting the variance the spirit of the ordinance is observed and substantial justice is done.”

Request:

The subject property has a total of ninety (90) Live Oak trees ranging in size from 8 inches to 48 inches in diameter (see Exhibit B). Of those trees, the applicant is proposing to remove roughly 25 trees (see Exhibit C). Of the trees to be removed, the majority are located within the right-of-way for Pepper Mill Loop.

In accordance with Sec. 98-22.d.3.h, the required mitigation would be several hundred inches. As noted above, it is not feasible to mitigate this many inches within the site. Therefore, in lieu of providing replacement trees, the applicant has proposed to pay \$10,000 to the City, which will

be utilized to purchase trees to be planted on City owned property.

Staff Analysis:

Below is staff's analysis of the request as it relates to the criteria for a variance:

The public convenience and welfare will be substantially served.

Staff is of the determination that strict enforcement of Sec. 98-22.d.3.h would render the subject property virtually undevelopable. Approval of the requested variance serves the public interest by allowing the subject property to be developed.

The appropriate use of surrounding property will not be substantially or permanently impaired or diminished.

The requested variance has no impact on the surrounding properties.

The applicant has not created the hardship from which relief is sought.

There is a large, dense cluster of Live Oak trees located in the southeast corner of the proposed subdivision (See Exhibit B). This location is also the most appropriate location for interior circulation within the subdivision. Therefore, the majority of these Live Oak trees are proposed to be removed in order to accommodate Pepper Mill Loop. Staff is of the determination that the location of this cluster of Live Oak trees constitutes a unique hardship, which was not created by the applicant.

The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property.

The requested variance does not confer upon the applicant any special right or privilege. The variance process is available to all developers.

The hardship from which relief is sought is not solely of an economic nature.

Staff is of the determination that on-site mitigation as required by Sec. 98-22.d.3.h constitutes a hardship that is not solely economic in nature. The hardship in this case arises from the fact that it is not feasible to provide the required replacement trees within the subject site.

The variance is not contrary to the public interest.

In lieu of providing replacement trees on site, the applicant has proposed to pay the City \$10,000 to be used to purchase replacement trees to be planted on City owned property. Approval of this variance request serves the public interest by ensuring that replacement trees are provided elsewhere in Burnet, since they cannot be accommodated on-site.

Due to special conditions, the literal enforcement of this chapter would result in an unnecessary hardship.

Strict adherence to the requirements of Sec. 98-22 would require the developer to plant an inordinate number of replacement trees on the site, many of which would not survive. Staff is of the determination that literal enforcement of this section results in an unnecessary hardship.

In granting the variance the spirit of the ordinance is observed and substantial justice is done.

Staff finds that the requested variance meets the intent of the ordinance because replacement trees will be provided off-site. The requested variance includes payment of a fee in lieu of planting replacement trees, which will allow the City to plant replacement trees elsewhere in Burnet.

Recommendation:

Staff recommends a motion to approve a variance to Code of Ordinances Sec. 98-22.d.3.h to allow the removal of trees as shown in the attached Tree Removal Plan, accepting a fee in lieu of on-site replacement in the amount of \$10,000, and authorizing the City Manager to use the funds to purchase replacement trees, which will be planted on City owned property.

EXHIBIT "A"
Location

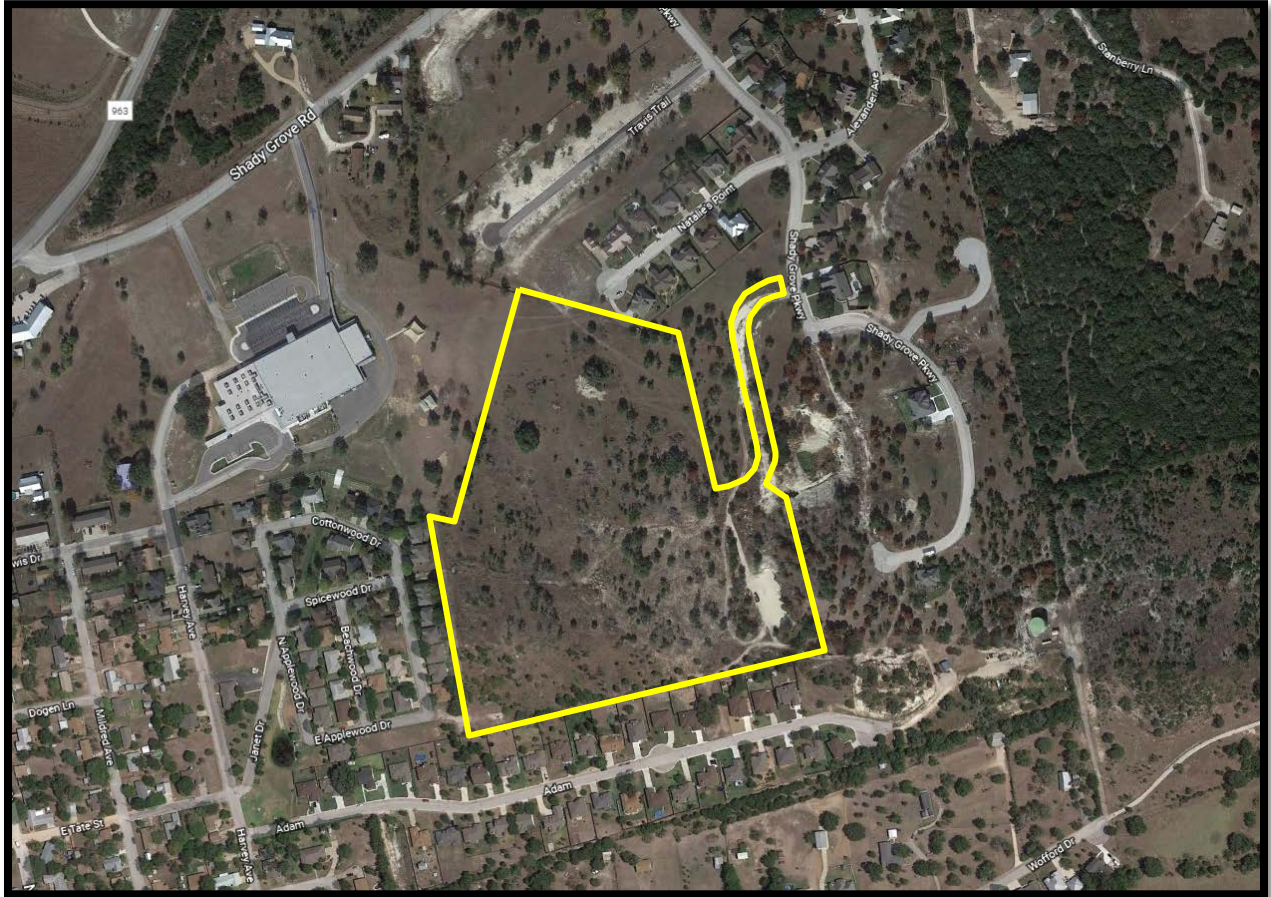


EXHIBIT "B" Tree Survey

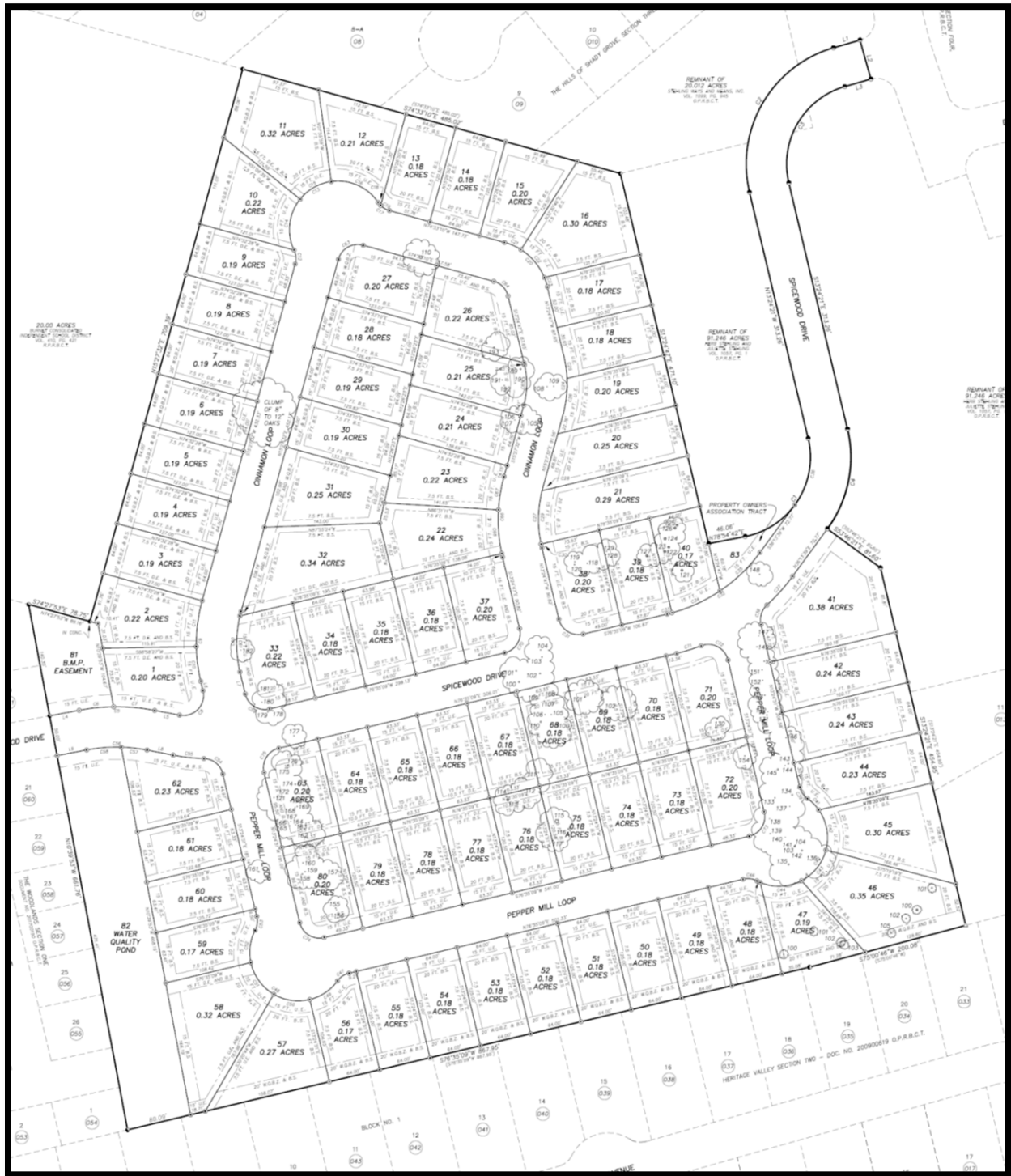


EXHIBIT "C"

Trees Removal Plan



Tree Removal		
Tree Size (Inches)	Number of Trees	Total Inches
8	4	32
9	1	9
10	4	40
12	4	48
13	1	13
14	2	28
18	1	18
20	3	60
22	1	22
24	3	72
26	1	26
Total		368

EXHIBIT "D"
Variance Request Letter



William H Engineering LLC

January 2, 2019

City of Burnet
City Council
1001 Buchanan Drive, Suite 4
Burnet, Texas 78611

Re: Request for Variance – Pepper Mill Subdivision

To the City of Burnet
City Council

Dillard Development and Consulting, LLC hereby requests a variance from the City of Burnet's ordinance that a developer shall provide replacement trees based on a specified replacement ratio. We are asking for a variance due to the unnecessary hardship the developer would undergo in trying to comply with the ordinance. The Pepper Mill subdivision has complied with all statutory requirements related to the City's subdivision design criteria and every effort has been made to save as many trees as possible while maintaining a reasonable lot layout consistent with adjacent neighborhoods. In accordance with the ordinance, many replacement trees will be provided on each lot, however, the replacement quantity does not meet the required ratio. In lieu of mitigating the remaining replacement inches, the developer proposes providing \$10,000 to the City for off-site mitigation trees to be placed by the City at a location of their discretion.

Please give me a call if you have any questions, comments or need any additional information.

Sincerely,

Marcus Horner, P.E.
William H Engineering, LLC



Public Works Department

ITEM 4.8

Gene Courtney
Public Works Director
(512)-756-2402
gcourtney@cityofburnet.com

Agenda Item Brief

Meeting Date:	January 8, 2018
Agenda Item:	Discuss and consider action: Acceptance of a deed for dedication of land as a public right-of-way from Seton Family of Hospitals: G. Courtney
Background:	The city entered into a multi-party agreement to take over CR 340A. The city's part of the agreement would consist of the road being renamed to John Hoover Parkway and have the city street department reconstruct the road to meet city standards.
Information:	At the intersection of John Hoover Parkway and US 281, John Hoover Parkway will be widened to accommodate appropriate lane widths, and include a new third lane taking it to three lanes from two. The new intersection will include one lane heading east from US 281. A second lane allowing you to turn north off of John Hoover Parkway, and a third lane allowing you to turn south off of John Hoover Parkway. Due to the road width increasing the city needs more public right-of-way to accommodate it.
Fiscal Impact:	NONE
Recommendation:	Staff recommends council to accept the Special Warrant Deed for public right-of-way from Seton Family of Hospitals.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

Special Warranty Deed

Date: _____

Grantor: Seton Family of Hospitals, f/k/a Daughters of Charity Health Services of Austin, a Texas non-profit corporation

Grantor's Mailing Address:

Daughters of Charity Health Services of Austin
1345 Philomena
Austin, Texas 78723

Grantee: City of Burnet, Texas, a Texas municipal corporation

Grantee's Mailing Address:

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

Consideration:

TEN AND NO/100 (\$10.00) DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for which no lien, express or implied, is retained or shall exist.

Property (including any improvements):

BEING A 0.012 ACRE TRACT OF LAND, OUT OF THE LEMUEL TAYLOR SURVEY NO. 8, ABSTRACT NO. 800, BURNET COUNTY, TEXAS, FURTHER BEING OUT OF A CALLED 8.00 ACRE TRACT OF LAND AS DESCRIBED IN DOCUMENT TO DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, RECORDED IN VOLUME 779, PAGE 326 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS AND FURTHER DESCRIBED BY THE SURVEY ATTACHED HERETO AS EXHIBIT "A" AND THE METES AND BOUNDS DESCRIPTION ATTACHED HERETO AS EXHIBIT "B".

Reservations from Conveyance:

None

Exceptions to Conveyance and Warranty:

Validly existing easements, rights-of-way, and prescriptive rights, whether of record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for the current calendar year have been prorated as of the date hereof and Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, gives, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof when the claim is by, though, or under Grantor but not otherwise, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

GRANTEE IS TAKING THE PROPERTY IN AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE CONSIDERATION WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT FOR THOSE CONTAINED IN THE PURCHASE CONTRACT, THIS DEED, AND THE OTHER CLOSING DOCUMENTS. GRANTEE HAS NOT RELIED ON ANY INFORMATION OTHER THAN GRANTEE'S INSPECTION AND THE REPRESENTATIONS AND WARRANTIES EXPRESSLY CONTAINED IN THE PURCHASE CONTRACT, THIS DEED, AND THE OTHER CLOSING DOCUMENTS.

When the context requires, singular nouns and pronouns include the plural

GRANTOR:



By: _____, Daughters
of Charity Health Services of Austin, a Texas non-
profit corporation

THE STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me the 18th day of December, 2018,
by Scott Herndon, Daughters of Charity Health Services of Austin, a
Texas non-profit corporation.



NOTARY PUBLIC STATE OF TEXAS

AFTER RECORDING RETURN TO:

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



Exhibit "A"

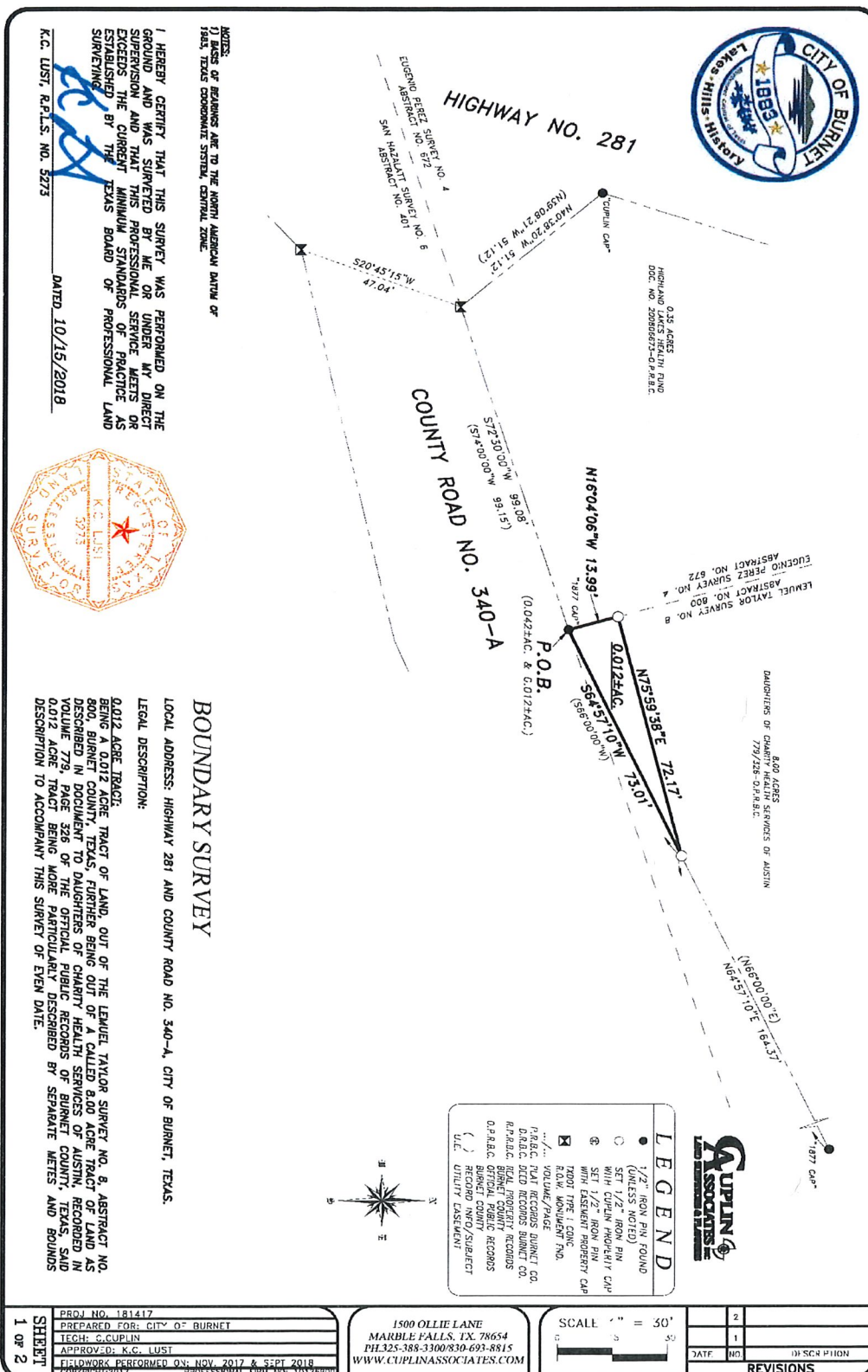


Exhibit "B"

CUPLIN & ASSOCIATES, Inc.
land surveyors & planners

Prepared For: City of Burnet
Project No. 181417
Date: 10/15/2018

0.012 ACRE TRACT:

BEING A 0.012 ACRE TRACT OF LAND, OUT OF THE LEMUEL TAYLOR SURVEY NO. 8, ABSTRACT NO. 800, BURNET COUNTY, TEXAS, FURTHER BEING OUT OF A CALLED 8.00 ACRE TRACT OF LAND AS DESCRIBED IN DOCUMENT TO DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, RECORDED IN VOLUME 779, PAGE 326 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 0.012 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a found 1/2" iron pin with "1877" property cap, along the northerly right-of-way line of County Road No. 340-A, at the called southwest corner of the said Lemuel Survey, and the called southeast corner of the Eugenio Perez Survey No. 4, Abstract No. 672, at the southeasterly corner of a called 0.35 acre tract as described in document to Highland Lakes Health Fund, recorded in Document No. 200806673 of the Official Public Records of Burnet County, Texas, the southwesterly corner of said 8.00 acre tract, and being the southwesterly corner hereof;

THENCE North 16°04'06" West, along the easterly line of said 0.35 acre tract, the called easterly line of said Eugenio Perez Survey, the called westerly line of said Lemuel Taylor Survey, the westerly line of said 8.00 acre tract, and hereof, a distance of 13.99' to a 1/2" iron pin set with "Cuplin" property cap, and being the northwesterly corner hereof;

THENCE North 75°59'38" East, over and across said 8.00 acre tract, and the northerly line hereof, a distance of 72.17' to a 1/2" iron pin set, along the northerly right-of-way line of said County Road No. 340-A, being the easterly corner hereof, from whence a found 1/2" iron pin with "1877" property cap bears, North 64°57'10" East, a distance of 164.37';

THENCE South 64°57'10" West, along the northerly right-of-way line of said County Road No. 340-A, the southerly line of said 8.00 acre tract, and hereof to the **POINT OF BEGINNING**, containing 0.012 of an acre, more or less.

I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED ON THE GROUND AND WAS SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION. COPYRIGHT 2018, CUPLIN & ASSOCIATES, INC. © BASIS OF BEARINGS ARE TO THE NORTH AMERICAN DATUM 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.


K.C. Lust
Registered Professional Land Surveyor No. 52732

Dated: 10/15/2018



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



Public Works Department

ITEM 4.9

Gene Courtney
Public Works Director
(512)-756-2402
gcourtney@cityofburnet.com

Agenda Item Brief

Meeting Date:	January 8, 2018
Agenda Item:	Discuss and consider action: Acceptance of a Public Utility Easement granted by the Seton Family of Hospitals: G. Courtney
Background:	The city entered into a multi-party agreement to take over CR 340A. The city's part of the agreement would consist of the road being renamed to John Hoover Parkway and have the city street department reconstruct the road to meet city standards.
Information:	At the intersection of John Hoover Parkway and US 28, John Hoover Parkway will be widened to accommodate appropriate lane widths, and include a new third lane taking it to three lanes from two lanes. The new intersection will include one lane heading east from US 281. A second lane allowing you to turn north off of John Hoover Parkway, and a third lane allowing you to turn south off of John Hoover Parkway. Due to the road width and right-of-way increasing the city needs to move some of the electrical infrastructure, and needed a new public utility easement for both relocated infrastructure, and existing infrastructure further down John Hoover Parkway where there was no easement.
Fiscal Impact:	NONE
Recommendation:	Staff recommends council to accept the Public Utility Easement granted from the Seton Family of Hospitals.

PUBLIC UTILITY EASEMENT

DATE:

GRANTOR: **Seton Family of Hospitals, f/k/a Daughters of Charity Health Services of Austin, a Texas non-profit corporation**

GRANTOR'S MAILING ADDRESS (including County): **1345 Philomena Austin, Texas 78723**

GRANTEE: **City of Burnet, Texas**

GRANTEE'S MAILING ADDRESS (including County): **1001 Buchanan Drive Suite 4, Burnet, Burnet County, Texas 78611**

LIENHOLDER: **None**

CONSIDERATION: Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

PROPERTY:

BEING A 10 FT. WIDE, 0.150 ACRES OUT OF THE LEMUEL TAYLOR SURVEY NO. 8, ABSTRACT NO. 800, BURNET COUNTY, TEXAS, AND BEING OUT OF A CALLED 8.00 ACRE TRACT OF LAND AS DESCRIBED IN INSTRUMENT TO DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, RECORDED IN VOLUME 779, PAGE 326 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS AND FURTHER DESCRIBED BY THE SURVEY ATTACHED HERETO AS EXHIBIT "A" AND THE METES AND BOUNDS DESCRIPTION ATTACHED HERETO AS EXHIBIT "B".

GRANTOR, for the **CONSIDERATION** paid to **GRANTOR**, hereby grants, sells, and conveys to **GRANTEE**, its successors and assigns, an exclusive, perpetual easement for all purposes necessary for installing, operating and maintaining any and all desired utility services within said easement, including but not limited to placing, constructing, operating, repairing, maintaining, rebuilding, replacing, relocating and removing or causing to be placed, constructed, operated, repaired, maintained, rebuilt, replaced, relocated and removed structures or improvements reasonably necessary for the supplying of electric, water and/or sanitary sewer service and all other utility services deemed necessary by the **GRANTEE** in, upon, under and across the **PROPERTY** more fully described and as shown in Exhibit "A" attached hereto.

GRANTOR and **GRANTOR's** heirs, successors, and assigns shall retain the right to use all or part of the **PROPERTY** as long as such use does not interfere with **GRANTEE's** use of the **PROPERTY** for the purposes provided for herein. **GRANTEE** shall have the right to eliminate any encroachments into the **PROPERTY** that interfere with **GRANTEE's** use of the **PROPERTY** as a Public Utility Easement.

TO HAVE AND TO HOLD the above-described easement, together with all and singular the rights and appurtenances thereto in anyway belonging unto **GRANTEE**, and **GRANTEE's** successors

and assigns forever; and **GRANTOR** does hereby bind itself, its successors and assigns to **WARRANT AND FOREVER DEFEND** all and singular the easement unto **GRANTEE**, its successor and assigns, against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

When the context requires, singular nouns and pronouns include the plural.

GRANTOR:



By: _____, of Daughters of
Charity Health Services of Austin, a Texas non-
profit corporation

THE STATE OF TEXAS §
 §
COUNTY OF Travis §

This instrument was acknowledged before me the 18th day of December,
2018, by Scott Herndon, of Daughters of Charity Health Services of Austin,
a Texas non-profit corporation.



NOTARY PUBLIC STATE OF TEXAS

After recording return to:
City of Burnet, Texas
P.O. Box 1369
Burnet, Texas 78611

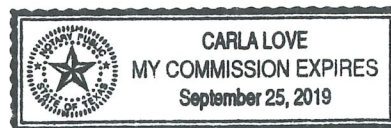


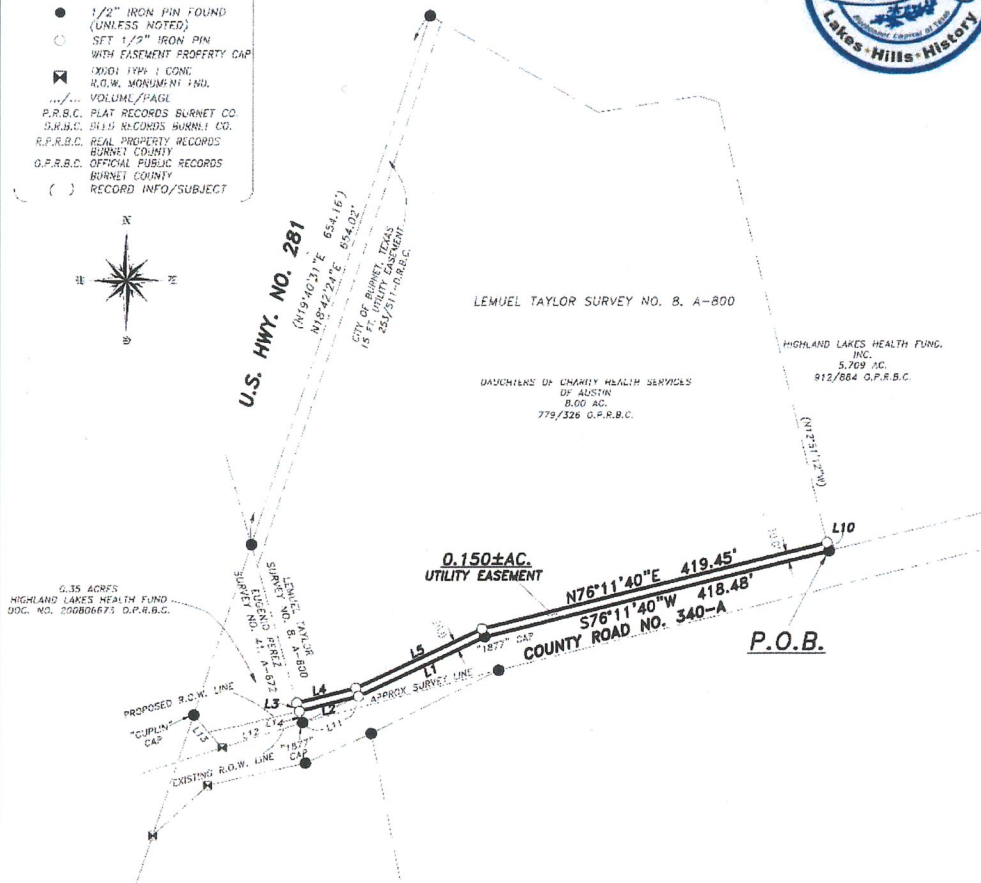


Exhibit "A" Survey



LEGEND

- 1/2" IRON PIN FOUND (UNLESS NOTED)
- SET 1/2" IRON PIN WITH EASEMENT PROPERTY CAP
- ✱ 1000' 1994 CONE N.O.W. MONUMENT (NUL VOLUME/PAGE)
- P.R.B.C. PLAT RECORDS BURNET CO.
- O.R.B.C. BURNET RECORDS BURNET CO.
- R.P.R.B.C. REAL PROPERTY RECORDS BURNET COUNTY
- O.P.R.B.C. OFFICIAL PUBLIC RECORDS BURNET COUNTY
- () RECORD INFO/SUBJECT



LINE TABLE

LINE	BEARING	DISTANCE
L1	S64°57'10"W	164.31'
L2	S75°59'38"W	72.17'
L3	N16°04'08"W	10.01'
L4	N75°59'38"E	71.56'
L5	N64°57'10"E	164.39'
L10	S12°53'44"E	10.00'
L11	S64°57'10"W	73.01'
L12	S72°30'00"W	99.08'
L13	N40°38'20"W	51.12'
L14	S16°04'29"E	15.93'

UTILITY EASEMENT

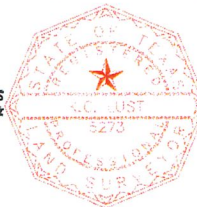
LOCAL ADDRESS: HIGHWAY 281 AND COUNTY ROAD NO. 340-A, CITY OF BURNET, TEXAS.

LEGAL DESCRIPTION: BEING A 10 FT. WIDE, 0.150 ACRE UTILITY EASEMENT, OUT OF THE LEMUEL TAYLOR SURVEY NO. 8, ABSTRACT NO. 800, BURNET COUNTY, TEXAS, FURTHER BEING OUT OF A CALLED 8.00 ACRE TRACT OF LAND AS DESCRIBED IN INSTRUMENT TO DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, RECORDED IN VOLUME 779, PAGE 326 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 0.150 ACRE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY SEPARATE METES AND BOUNDS DESCRIPTION TO ACCOMPANY THIS SURVEY OF EVEN DATE. BEARINGS ARE BASED UPON TEXAS COORDINATE SYSTEM (NAD83), CENTRAL ZONE.

I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED ON THE GROUND AND WAS SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION. COPYRIGHT 2018, CUPLIN & ASSOCIATES, INC. ©

K.C. LUST, R.P.L.S. NO. 5273

DATED 10/23/2018



1 OF 2 SHEET	PROJ. NO.: 181417
	PREPARED FOR: CITY OF BURNET
	DESIGNED BY: K.C. LUST
	DATE: 10/11/18
	PROFESSIONAL SEAL NO. 10126900

1800 OLLIE LANE
MARBLE FALLS, TX 78654
PH. 325-388-3300/830-693-8815
WWW.CUPLINASSOCIATES.COM

SCALE 1" = 150'

DATE	NO.	DESCRIPTION

REVISIONS

Exhibit "B"

Metes and Bounds

CUPLIN & ASSOCIATES, Inc.
land surveyors & planners

Prepared For: City of Burnet.
Project No.: 181417
Date: 10/23/2018

0.150 ACRE UTILITY EASEMENT:

BEING A 10 FT. WIDE, 0.150 ACRE UTILITY EASEMENT, OUT OF THE LEMUEL TAYLOR SURVEY NO. 8, ABSTRACT NO. 800, BURNET COUNTY, TEXAS, FURTHER BEING OUT OF A CALLED 8.00 ACRE TRACT OF LAND AS DESCRIBED IN INSTRUMENT TO DAUGHTERS OF CHARITY HEALTH SERVICES OF AUSTIN, RECORDED IN VOLUME 779, PAGE 326 OF THE OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS, SAID 0.150 ACRE UTILITY EASEMENT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a found 1/2" iron pin, along the northerly right-of-way line of County Road No. 340-A, at the southwesterly corner of a called 5.709 acre tract described in instrument to Highland Lakes Health Fund, Inc, recorded in Volume 912, Page 884 of the Official Public Records of Burnet County, Texas, at the southeasterly corner of said 8.00 acre tract, and hereof;

THENCE along the northerly right-of-way line of said County Road No. 340-A, the southerly line of said 8.00 acre tract, and hereof, the following courses and distances;

- 1) South 76°11'40" West, a distance of 418.48' to a 1/2" iron pin found with "1877" property cap;
- 2) South 64°57'10" West, a distance of 164.37' to a 1/2" iron pin set with "Cuplin" property cap, at a southerly angle point hereof;

THENCE South 75°59'38" West, over and across said 8.00 acre tract, along the proposed northerly right-of-way line of said County Road No. 340-A, and the southerly line hereof, a distance of 72.17' to a 1/2" iron pin set with "Easement Corner" cap, along the easterly line of a called 0.35 acre tract of land as described in instrument to Highland Lakes Health Fund, recorded in Document No. 200806673 of the Official Public Records of Burnet County, Texas, along the westerly line of said 8.00 acre tract, and being a southwesterly corner hereof, from whence a found 1/2" iron pin with "1877" property cap at the southwesterly corner of said 8.00 acre tract bears South 16°04'06" East, a distance of 13.99';

THENCE North 16°04'06" West, along the easterly line of said 0.35 acre tract, the westerly line of said 8.00 acre tract, and hereof, a distance of 10.01' to a 1/2" iron pin found;

THENCE over and across said 8.00 acre tract, and the northerly line hereof, the following courses and distances;

- 1) North 75°59'38" East, a distance of 71.56' to a 1/2" iron pin set with "Easement Corner" cap, being a northwesterly corner hereof;
- 2) North 64°57'10" East, a distance of 164.39' to a 1/2" iron pin set with "Easement Corner" cap;
- 3) North 76°11'40" East, a distance of 419.45' to a 1/2" iron pin set with "Easement Corner" cap, along the easterly line of said 8.00 acre tract, the westerly line of said 5.709 acre tract, and being the northeasterly corner hereof;

THENCE South 13°53'44" East, along the westerly line of said 5.709 acre tract, the easterly line of said 8.00 acre tract, and hereof, a distance of 10.00' to the **POINT OF BEGINNING**, containing 0.150 acres, more or less.

I HEREBY CERTIFY THAT THIS SURVEY WAS PERFORMED ON THE GROUND AND WAS SURVEYED BY ME OR UNDER MY DIRECT SUPERVISION. COPYRIGHT 2018, CUPLIN & ASSOCIATES, INC. ©. BASIS OF BEARINGS ARE TO THE NORTH AMERICAN DATUM OF 1983, TEXAS COORDINATE SYSTEM, SOUTH CENTRAL ZONE. A PLAT OF SURVEY OF EVEN DATE WAS PREPARED AS IS INTENDED TO ACCOMPANY THE ABOVE DESCRIBED TRACT OF LAND.


K.C. Lust

Registered Professional Land Surveyor No. 5273

Dated: 10/23/2018



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

Page 2 of 2

Page 4 of 4