

ORDINANCE NO. 2017 - 26

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ABANDONING 0.23 ACRES OF PUBLIC STREET RIGHT-OF-WAY LOCATED AT THE TERMINUS OF MERRIWEATHER STREET, ACCORDING TO THE PROVISIONS OF CHAPTER 253, SECTION 253.001 OF THE TEXAS LOCAL GOVERNMENT CODE; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE**

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**WHEREAS**, the City of New Braunfels, Texas, has street rights to a 0.23 acre tract of land, more or less, being a public street right-of-way, located at the terminus of Merriweatether Street, and said street right-of-way being in the City of New Braunfels, Texas; and

**WHEREAS**, the City of New Braunfels, having received a request from HEB Grocery Company LP petitioning the City of New Braunfels to consider the abandonment of said right-of-way; and

**WHEREAS**, after determining that there is no need for the City of New Braunfels or any other surrounding property owners to retain the street right-of-way, it is the decision of the City Council of the City of New Braunfels that action be taken to release same to HEB Grocery Company LP in the proper and legal manner; and

**WHEREAS**, Lory R. Johnson, MAI, SR/WA, has been appointed as the Appraiser to appraise the market value of the fee simple estate, for land only; and

**WHEREAS**, the said appraiser has determined that the fair market value of the land is FIFTY THOUSAND ONE HUNDRED DOLLARS and NO CENTS (\$50,100.00), and thus by making the sale of the land to the abutting property owners, the City of New Braunfels will be complying with all sections of said Chapter 253, Section 253.001, and that the sale of said land in this particular instance has been determined by a fair appraisal and is

conclusive of the fair market value thereof; **now, therefore;**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW  
BRAUNFELS, TEXAS**

**SECTION 1**

That the City of New Braunfels, acting by and through its City Manager shall execute a Deed Without Warranty to HEB Grocery Company LP, conveying all of its right, title and interest in and to the public right-of-way and all rights in and to a 0.23 acre tract of land, more or less, being public street right-of-way located at the terminus of Merriweather Street, and said street right-of-way being in the City of New Braunfels, Texas. A survey of the property to be conveyed is attached marked Exhibit "A" and is described in attached marked Exhibit "B". If said Deed Without Warranty is not executed within one hundred and twenty (120) days of the second and final reading of this ordinance, this ordinance shall become null and void and a new application for abandonment shall be required.

**SECTION 2**

That the following restrictions will apply to the property:

- 1. A pedestrian access easement will be dedicated across the subject property to allow neighborhood residents to continue to access the retail center. This can be dedicated as part of the plat.*
- 2. A replat of the existing HEB property to include the purchased right-of-way must be submitted and approved by the City prior to ownership transfer. Recordation will occur subsequent to the transfer.*
- 3. Use of the property is limited to a parking lot.*

**SECTION 3**

That all provisions of the Code of Ordinances of the City of New Braunfels not herein amended or repealed shall remain in full force and effect.

#### SECTION 4

That all other ordinances or parts of ordinance in conflict herewith are hereby repealed to the extent that they are in conflict.

#### SECTION 5

That if any provisions of this ordinance shall 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 6

**THIS** ordinance will take effect upon the second and final reading of same.

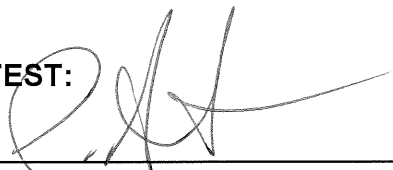
**PASSED AND APPROVED:** First Reading this the 13<sup>th</sup> day of February, 2017.

**PASSED AND APPROVED:** Second and Final Reading this the 27<sup>th</sup> day of February, 2017.

**CITY OF NEW BRAUNFELS**

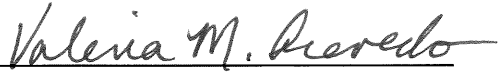
  
BARRON CASTEEL, Mayor

**ATTEST:**

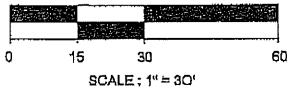
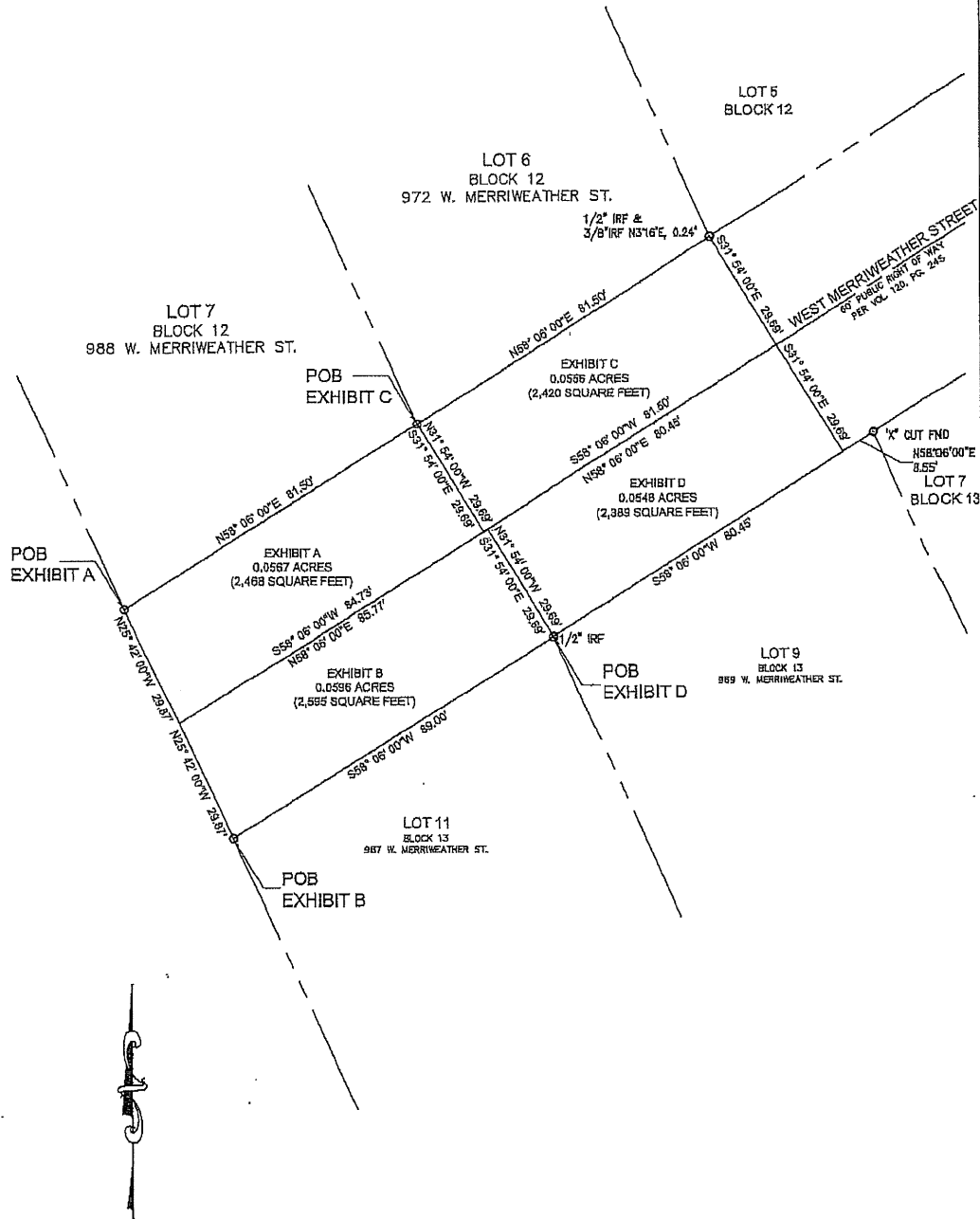
  
PATRICK D. ATEN, City Secretary



**APPROVED AS TO FORM:**

  
VALERIA M. ACEVEDO, City Attorney

# EXHIBIT "E"



Phone: (210) 375-4128 Fax: (210) 375-6130  
 3802 Colquhoun Road, Suite 100  
 San Antonio, Texas 78228  
 TEXAS LICENSED SURVEYING  
 FIRM No. 101554  
 www.elizondosurvey.com



**Elizondo & Associates**  
 LAND SURVEYING & MAPPING, L.L.C.

I, Enrique C. Elizondo, a Registered Professional Land Surveyor do hereby certify that this plat represents an actual survey made on the ground under my supervision and substantially complies with the minimum standards for land surveying in Texas as set forth by the Texas Board of Professional Land Surveying and that there are no encroachments or visible easements, to the best of my knowledge and belief, except as shown herein. This 8th day of July, 2015.

*Enrique C. Elizondo*  
 Enrique C. Elizondo  
 Registered Professional Land Surveyor  
 Texas Registration No. 6388



**EXHIBIT "A"**

STATE OF TEXAS

COUNTY OF BEXAR

ELIZONDO & ASSOCIATES  
5805 CALLAGHAN RD. STE. 109  
PHONE (210) 375-4128  
FAX (210) 375-5130

"EXHIBIT A"

A 0.0567 ACRE (2,468 SQUARE FEET) TRACT OF LAND FOR A PROPOSED RIGHT OF WAY ABANDONMENT BEING OUT OF WEST MERRIWEATHER STREET, A 60 FOOT RIGHT OF WAY ACCORDING TO THE PLAT OF UNICORN HEIGHTS, THIRD EXTENSION, RECORDED IN VOLUME 120, PAGE 245, DEED RECORDS OF COMAL COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING:** AT THE SOUTHWEST CORNER OF LOT 7 OF SAID PLAT, BEING IN THE NORTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET;

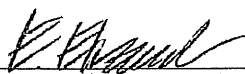
**THENCE:** NORTH 58 DEGREES 06 MINUTES 00 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 7 AND THE NORTH LINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 81.50 FEET TO THE SOUTHEAST CORNER OF SAID LOT 7 AND THE SOUTHWEST CORNER OF LOT 6 OF SAID PLAT;

**THENCE:** SOUTH 31 DEGREES 54 MINUTES 00 SECONDS EAST, A DISTANCE OF 29.69 FEET TO THE CENTERLINE OF SAID WEST MERRIWEATHER STREET;

**THENCE:** SOUTH 58 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE CENTERLINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 84.73 FEET;

**THENCE:** NORTH 25 DEGREES 42 MINUTES 00 SECONDS WEST, A DISTANCE OF 29.87 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.0567 ACRES (2,468 SQUARE FEET) OF LAND MORE OR LESS.

Corresponding plat prepared.

  
Enrique C. Elizondo, R.P.L.S. No. 6386



07/09/2015

EXHIBIT "B"

STATE OF TEXAS

COUNTY OF BEXAR

ELIZONDO & ASSOCIATES  
5805 CALLAGHAN RD. STE. 109  
PHONE (210) 375-4128  
FAX (210) 375-5130

"EXHIBIT B"

A 0.0596 ACRE (2,595 SQUARE FEET) TRACT OF LAND FOR A PROPOSED RIGHT OF WAY ABANDONMENT BEING OUT OF WEST MERRIWEATHER STREET, A 60 FOOT RIGHT OF WAY ACCORDING TO THE PLAT OF UNICORN HEIGHTS, THIRD EXTENSION, RECORDED IN VOLUME 120, PAGE 245, DEED RECORDS OF COMAL COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING:** AT THE NORTHWEST CORNER OF LOT 11 OF SAID PLAT, BEING IN THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET;

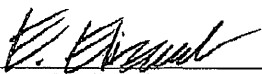
**THENCE:** NORTH 25 DEGREES 42 MINUTES 00 SECONDS WEST, A DISTANCE OF 29.87 FEET THE CENTERLINE OF SAID WEST MERRIWEATHER STREET;

**THENCE:** NORTH 58 DEGREES 06 MINUTES 00 SECONDS EAST, ALONG THE CENTERLINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 85.77 FEET;

**THENCE:** SOUTH 31 DEGREES 54 MINUTES 00 SECONDS EAST, A DISTANCE OF 29.69 FEET TO A 1/4 INCH IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID LOT 11, THE NORTHWEST CORNER OF LOT 9 OF SAID PLAT AND BEING IN THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET;

**THENCE:** SOUTH 58 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 11 AND THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 89.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.0596 ACRES (2,595 SQUARE FEET) OF LAND MORE OR LESS.

Corresponding plat prepared.

  
Enrique C. Elizondo, R.P.L.S. No. 6386



07/09/2015

STATE OF TEXAS

COUNTY OF BEXAR

ELIZONDO & ASSOCIATES  
5805 CALLAGHAN RD. STE. 109  
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"EXHIBIT C"

A 0.0556 ACRE (2,420 SQUARE FEET) TRACT OF LAND FOR A PROPOSED RIGHT OF WAY ABANDONMENT BEING OUT OF WEST MERRIWEATHER STREET, A 60 FOOT RIGHT OF WAY ACCORDING TO THE PLAT OF UNICORN HEIGHTS, THIRD EXTENSION, RECORDED IN VOLUME 120, PAGE 245, DEED RECORDS OF COMAL COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING:** AT THE SOUTHWEST CORNER OF LOT 6 OF SAID PLAT, BEING IN THE NORTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET;

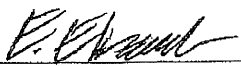
**THENCE:** NORTH 58 DEGREES 06 MINUTES 00 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LOT 6 AND THE NORTH LINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 81.50 FEET TO A 1/2 INCH IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID LOT 5 AND THE SOUTHWEST CORNER OF LOT 5 OF SAID PLAT, FROM WHICH A 3/8 INCH IRON ROD FOUND BEARS NORTH 03 DEGREES 16 MINUTES EAST, A DISTANCE OF 0.24 FEET;

**THENCE:** SOUTH 31 DEGREES 54 MINUTES 00 SECONDS EAST, A DISTANCE OF 29.69 FEET TO THE CENTERLINE OF SAID WEST MERRIWEATHER STREET;

**THENCE:** SOUTH 58 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE CENTERLINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 81.50 FEET;

**THENCE:** NORTH 31 DEGREES 54 MINUTES 00 SECONDS WEST, A DISTANCE OF 29.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.0556 ACRES (2,420 SQUARE FEET) OF LAND MORE OR LESS.

Corresponding plat prepared.

  
Enrique C. Elizondo, R.P.L.S. No. 6386



07/09/2015

STATE OF TEXAS

COUNTY OF BEXAR

ELIZONDO & ASSOCIATES  
5805 CALLAGHAN RD. STE. 109  
PHONE (210) 375-4128  
FAX (210) 375-5130

"EXHIBIT D"

A 0.0548 ACRE (2,389 SQUARE FEET) TRACT OF LAND FOR A PROPOSED RIGHT OF WAY ABANDONMENT BEING OUT OF WEST MERRIWEATHER STREET, A 60 FOOT RIGHT OF WAY ACCORDING TO THE PLAT OF UNICORN HEIGHTS, THIRD EXTENSION, RECORDED IN VOLUME 120, PAGE 245, DEED RECORDS OF COMAL COUNTY, TEXAS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING:** AT THE NORTHWEST CORNER OF LOT 9 OF SAID PLAT, BEING IN THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET;

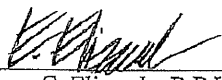
**THENCE:** NORTH 31 DEGREES 54 MINUTES 00 SECONDS WEST, A DISTANCE OF 29.69 FEET TO THE CENTERLINE OF SAID WEST MERRIWEATHER STREET;

**THENCE:** NORTH 58 DEGREES 06 MINUTES 00 SECONDS EAST, ALONG THE CENTERLINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 80.45 FEET;

**THENCE:** SOUTH 31 DEGREES 54 MINUTES 00 SECONDS EAST, A DISTANCE OF 29.69 FEET TO A POINT BEING IN THE NORTH LINE OF SAID LOT 9 AND IN THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET FROM WHICH AN "X" CUT IN CONCRETE FOUND FOR THE NORTHEAST CORNER OF SAID LOT 9 BEARS NORTH 58 DEGREES 06 MINUTES 00 SECONDS EAST, A DISTANCE OF 8.55 FEET;

**THENCE:** SOUTH 58 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 9 AND THE SOUTH RIGHT OF WAY LINE OF SAID WEST MERRIWEATHER STREET, A DISTANCE OF 80.45 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.0548 ACRES (2,389 SQUARE FEET) OF LAND MORE OR LESS.

Corresponding plat prepared.

  
Enrique C. Elizondo, R.P.L.S. No. 6386



07/09/2015