CITY OF NEW BRAUNFELS, TEXAS
CITY COUNCIL MEETING

CITY HALL - COUNCIL CHAMBERS
550 LANDA STREET

MONDAY, MARCH 12, 2018 at 6:00 PM

Barron Casteel, Mayor
Shane Hines, Councilmember (District 1)
Justin Meadows, Councilmember (District 2)
Ron Reaves, Councilmember (District 3)
Chris Monceballez, Councilmember (District 4)
Wayne Peters, Mayor Pro Tem (District 5)
Leah A. García, Councilmember (District 6)
Robert Camareno, City Manager

MISSION STATEMENT
The City of New Braunfels will add value to our community by planning for the future, providing quality services, encouraging community involvement and being responsive to those we serve.

AGENDA

CALL TO ORDER

CALL OF ROLL: City Secretary

INVOCATION: Mayor Pro Tem Wayne Peters

PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG

REQUEST ALL PHONES AND OTHER DEVICES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL.

PRESENTATIONS:

A) Presentation and possible action on the recommendation of the Bond Advisory Committee.
Robert Camareno, City Manager & Ray Still, Chair

1. MINUTES

A) Discuss and consider approval of the minutes of the special City Council meeting of February 21, 2018, and the regular City Council meeting of February 26, 2018.
Patrick Aten, City Secretary

2. CITIZENS' COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

3. CONSENT AGENDA

All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

Resolutions & Action Items

A) Approval of an Additional Service Request in the amount of $93,145 from Trihydro Corporation regarding additional design, right-of-way and easement mapping, and survey required for the final design and plan submittal for the Klein Road Reconstruction Project.
Jennifer Cain, Capital Program Manager

B) Approval of a contract with SCS Engineers for the development of a Comprehensive Solid Waste Management Plan for the City's Solid Waste and Recycling Division.
Michael Mundell, Solid Waste Manager

C) Approval of a modification to the Service Provider Agreement between the City of New Braunfels and the Comal County Emergency Services District No. 7.
Kenneth Jacks, Fire Chief

D) Approval of a resolution and the ratification of the submission of an application for funding under the U.S. Department of Justice, Victims of Crime Act Formula Grant Program through the Office of the Governor to continue funding for two years for one full-time liaison position and authorizing the City Manager to act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.
Tom Wibert, Chief of Police

E) Approval of a resolution and the ratification of the submission of an application for funding under the U.S. Department of Justice, Violence Against Women Formula Grant Program through the Office of the Governor - Criminal Justice Division to continue funding one full-time investigator position and authorizing the City Manager to accept funds and act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.
Tom Wibert, Chief of Police

F) Approval of a resolution and the ratification of the submission of an application for funding under the Federal Homeland Security Grant

Program through the State Homeland Security Program to fund a Mobile GIS Response Unit.
Andrew Cardiel, Emergency Management Coordinator

G) Approval of a Professional Service Agreement with Douchet and Associates for an amount of $31,450, for engineering design and project support for a stormwater quality treatment facility at North Houston Avenue.
Mark Enders, Watershed Program Manager

H) Approval of a resolution recommended by the New Braunfels Industrial Development Corporation to provide up to $150,000 to the City of New Braunfels for downtown parking improvement projects.
Victor Garza, Economic Development Manager

I) Approval of a resolution recommended by the New Braunfels Industrial Development Corporation to provide up to $32,522 to the Central Texas Technology Center for use in a primary job training facility.
Victor Garza, Economic Development Manager

Ordinances
(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)

J) Approval of the second and final reading of an ordinance amending Chapter 110 of the Code of Ordinances relating to Solid Waste commercial rates and proposed operational changes.
Michael Mundell, Solid Waste Manager

K) Approval of the second and final reading of an ordinance amending Section 126-354 of the Code of Ordinances to revise Parking by Permit Area H.
Garry Ford, City Engineer

L) Approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking in front of the Fire Department Connection (FDC) on North Seguin Avenue at the Comal County Courthouse.
Garry Ford, City Engineer

4. INDIVIDUAL ITEMS FOR CONSIDERATION

A) Discuss and consider approval of a resolution concerning air quality permit number 147392L001, which if approved would authorize construction and operation of a rock crushing plant located at the intersection of State Highway 46 and Farm to Market 3009.

Barron Casteel, Mayor

B) Discuss and consider approval of an ordinance authorizing the issuance of the City of New Braunfels, Texas Utility System Revenue Bonds, Series 2018, pledging the Net Revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems to the Payment of said Bonds and resolving other matters incident and related thereto.
Dawn Butrym, NBU CFO

C) Discuss and consider approval of the appointment of one individual to the New Braunfels Housing Authority for a term ending January 22, 2020.
Patrick Aten, City Secretary

D) Discuss and consider approval of the first reading of an ordinance amending the Code of Ordinances Chapter 118, Article V, Parkland.
Stacey Dicke, Parks and Recreation Director

E) Public hearing and consideration of the first reading of an ordinance regarding proposed amendments to the Code of Ordinances regarding development-related fees.
Bryan Woods, Assistant City Manager

F) Discuss and consider approval of the first reading of an ordinance modifying Chapter 86-7 "Operation of Vehicles in Parks", Subsection (d) (2) "Exceptions" regarding resident tennis pass to include disc golf and basketball.
Stacey Dicke, Parks and Recreation Director

G) Discuss and consider approval of the second and final reading of an ordinance amending Chapter 86, Section 86-2 regarding reserved picnic areas and individual picnic table usage fees in city parks, Section 86-94 regarding swimming pool fees at the Landa Park Aquatic Complex and Section 86-98 Landa Haus rental and use fees.
Stacey Dicke, Parks and Recreation Director

H) Public hearing and consideration of the first reading of an ordinance regarding a rezoning of approximately 52 acres out of the A.M. Esnaurizar Survey, Abstract 20, located on the north side of State Highway 46 and approximately 1,100 feet southeast of the intersection of State Highway 46 and Prairie View Lane from "APD" Agricultural / Pre-Development District and "C-1" Local Business District to "Rippen Ranch" Planned Development District, with a Concept Plan.
The applicant has withdrawn this application.

Stacy Snell, Planning and Community Development Assistant Director

I) Discuss and consider a waiver of platting, zoning, and parkland dedication and development fees, requested by Comal County Habitat for Humanity, Inc. for the development of six new single-family residential lots presently addressed at 2420 Katy Street.
Christopher J. Looney, Planning and Community Development Director

J) Discuss and consider approval of a preliminary development agreement between the City of New Braunfels and Chesmar Homes, Ltd for improvements to be made at Goodwin Lane and Alligator Creek.
Matthew Eckmann, Real Estate Manager

K) Discuss and consider approval of a contract with Capital Excavation Company for roadway and drainage construction services; a onetime cost sharing payment to New Braunfels Utilities for utility construction services with Capital Excavation Company; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba-Kistner Consultants for materials testing services; and approval of additional design services with Moeller & Associates for the Solms Road/Morningside Drive/Rueckle Road & Utility Reconstruction Project as part of the 2013 Bond Program.
Jennifer Cain, Capital Programs Manager

L) Discuss and consider approval of a contract with J3 Company, LLC for roadway and drainage construction services; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba Kistner Consultants for materials testing services; and an approval for additional design and ROW services with Trihydro Corporation for the Klein Road Reconstruction Project as part of the 2013 Bond Program.
Jennifer Cain, Capital Programs Manager

M) Discuss and consider approval of a resolution recommended by the New Braunfels Industrial Development Corporation authorizing an expenditure of up to $183,000 to TaskUs Inc. for a project to create 450 new jobs.
Victor Garza, Economic Development Manager

N) Discuss and consider approval of a Chapter 380 Agreement with TaskUs Inc. a for-profit corporation.
Victor Garza, Economic Development Manager

5. EXECUTIVE SESSIONS

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

NOTE: The City Council reserves the right to retire into executive session concerning any of the items listed on this Agenda whenever it is considered necessary and legally justified under the Open Meetings Act (Chapter 551 of the Texas Government Code).

6. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.

CERTIFICATION

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on March 8, 2018, at 5:00 p.m.

_____

Patrick Aten, City Secretary

NOTE: 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 at 221-4010 at least two (2) work days prior to the meeting so that appropriate arrangements can be made.

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. A)

Presenter/Contact
Robert Camareno, City Manager & Ray Still, Chair
(830) 221-4280 - rcamareno@nbtexas.org

SUBJECT:
Presentation and possible action on the recommendation of the Bond Advisory Committee.

2019 Bond Advisory Committee Update

Robert Camareno and Pastor Ray Still
City Manager/BAC Chair

March 12, 2018

BAC Process to Date

2017: BAC members were selected & approved by City Council.

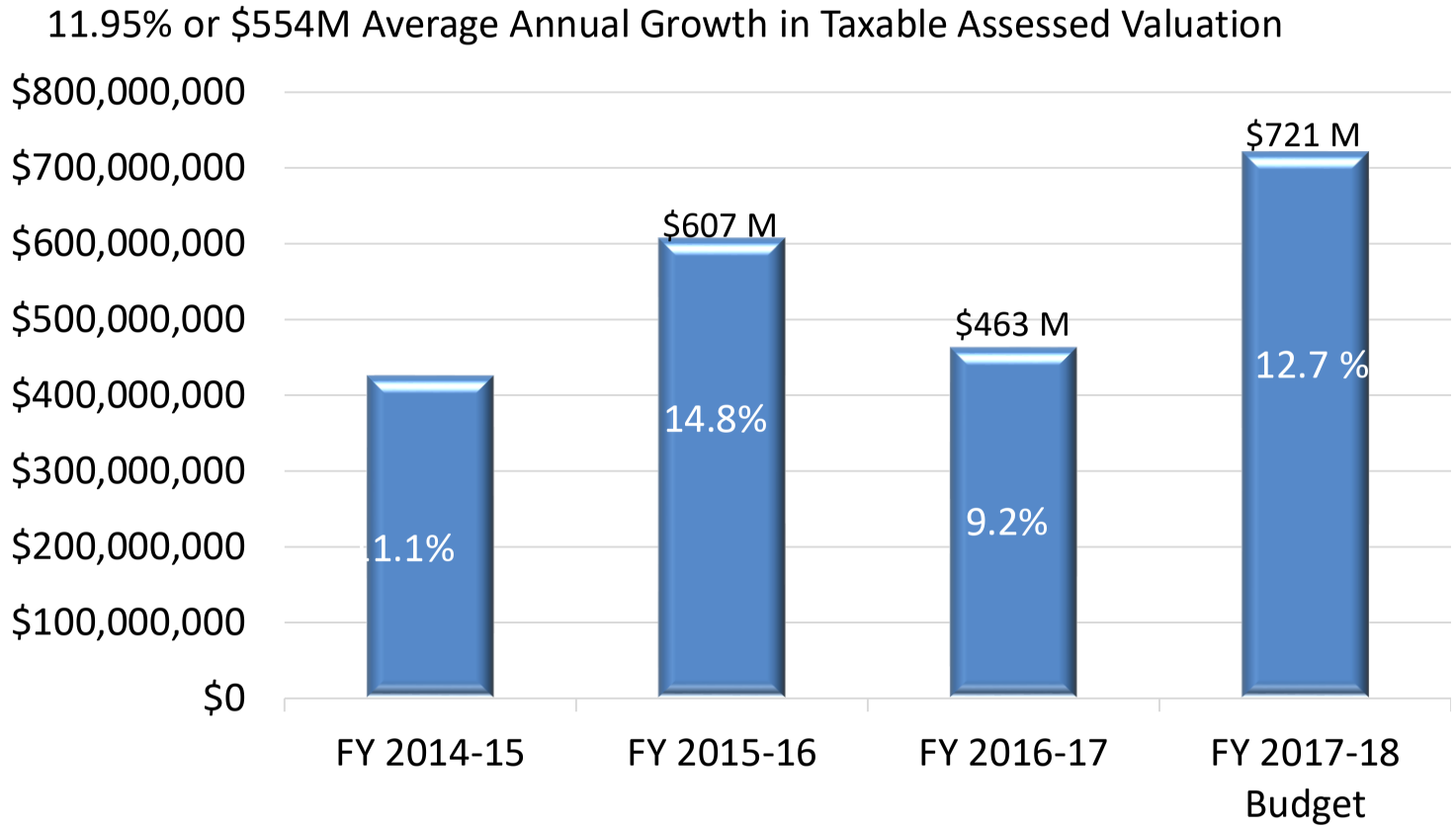
2018: BAC began meeting:

- January 9th
- January 17th
- January 23rd
- January 30th Public Input Meeting
- February 10th Bus Tour
- February 13th
- February 22nd Public Input Meeting

Debt Capacity Scenarios

Based on **5%** growth in Assessed Value after 2013 Bonds are issued	Based on **7%** growth in Assessed Value after 2013 Bonds are issued	Based on **9%** growth in Assessed Value after 2013 Bonds are Issued
$65 Million	$89 Million	$112 Million

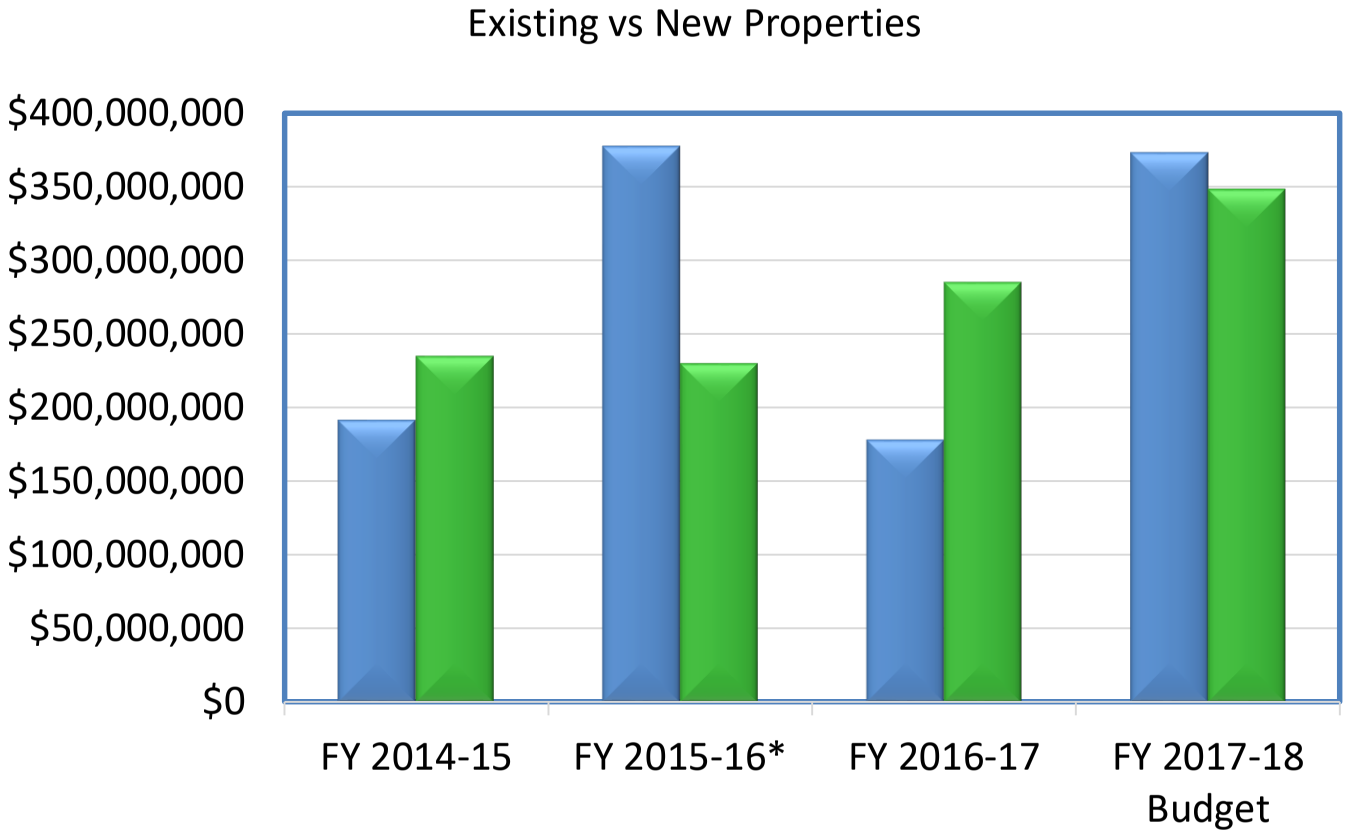
Total Annual Growth in Property Valuation



PROPOSED BOND PROGRAM
MOVING FORWARD TOGETHER

Total Values

Annual Growth in Property Valuation



PROPOSED BOND PROGRAM
MOVING FORWARD TOGETHER

Funding Sources/Partners

PROPOSED BOND PROGRAM
MOVING FORWARD TOGETHER

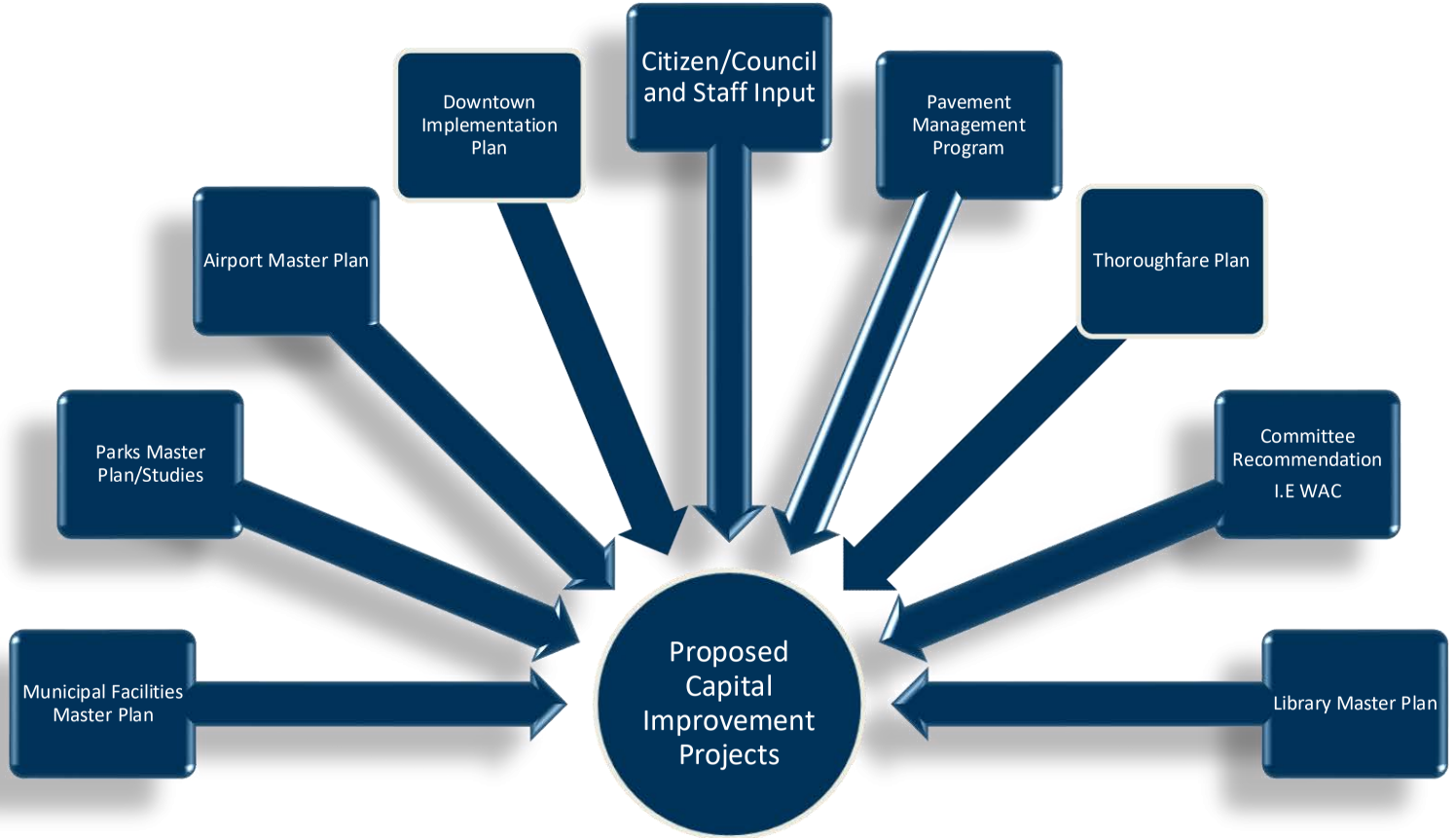
Possible Partnerships

- Comal County
- CISD
- Guadalupe County
- NBU
- NBIDC (4B)
- NBISD
- TXDOT

Alternative Funding Strategies

- Alamo Area MPO
- Charges for services
- Federal/State Funding
- Grants
- Hotel/Motel Occupancy Funds
- Roadway Impact Fees
- Parkland Development Fees
- Stormwater Utility Fee Establishment
- Property Taxes

Project Sources



Current CIP Identified Needs

CIP document was last updated/adopted Fall of 2012

- Grouped by priority
- $750M+ in identified needs

Total of 155 projects

- 51 Street Projects
- 31 Drainage Projects
- 40 Parks and Recreation Projects
- 13 Airport Projects
- 20 Municipal Improvement Projects

Potential 2019 Projects

Airport Master Drainage Plan
Athletic Fields Master Plan
Blieders/German Creek Watershed Improvements
Business Corridors Fiber Expansion
Callen's Castle All Abilities Park
Cemetery Wall Stabilization
Citywide Mobility Improvements (formerly Citywide Streets)
Comal River Improvements (Last Tuber's Exit, Tube Chute & Stinky Falls)
Dry Comal Creek Trail
FM 306 Extension

Potential 2019 Projects

Fire Station #2
Fire Station #3
Goodwin Lane/Conrads Road Improvements
Guadalupe River Properties Master Plan
Klein Road Improvements Phase 2
Landa Park Master Plan
Mission Hill Park Master Plan
Morningside Park Phase 2
New Police Station
North Tributary Flood Control Repairs

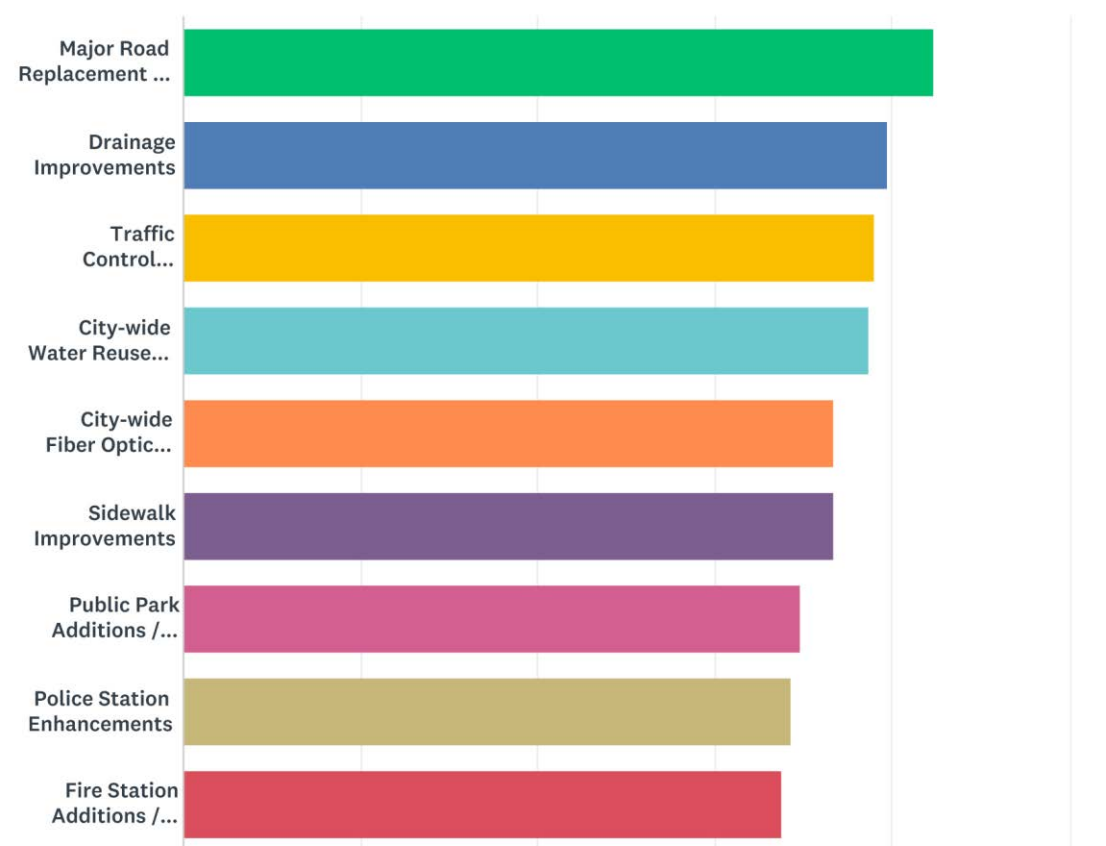
Potential 2019 Projects

Public Works/Fire Training Facility
Solid Waste Recycling Center
Southeast Library Branch
Sports Complex
Traffic Signal Communication and Control System
Transportation Matching Funds ex. MPO Projects
Water Lane Improvements
Westside Community Center Expansion
Wood Road/Land Street Drainage Area Improvements
BAC Recommendations and Others

BAC Requested Projects

- Faust Street Bridge Improvements
- Hill/Castell/Coll Streets
- Hunters Creek Dr/Oak Run Parkway
- Kerlick Park
- Landa Park Recreation Center Repurposing
- North-South Collector
- Oak Run Parkway
- Ohio Avenue
- Public Transportation System

2016 CIP Citizen Survey



- 1,200+ total response
- 550+ specific requests
- Rated by category
- Rated from 1-5 (least to most) by level of importance

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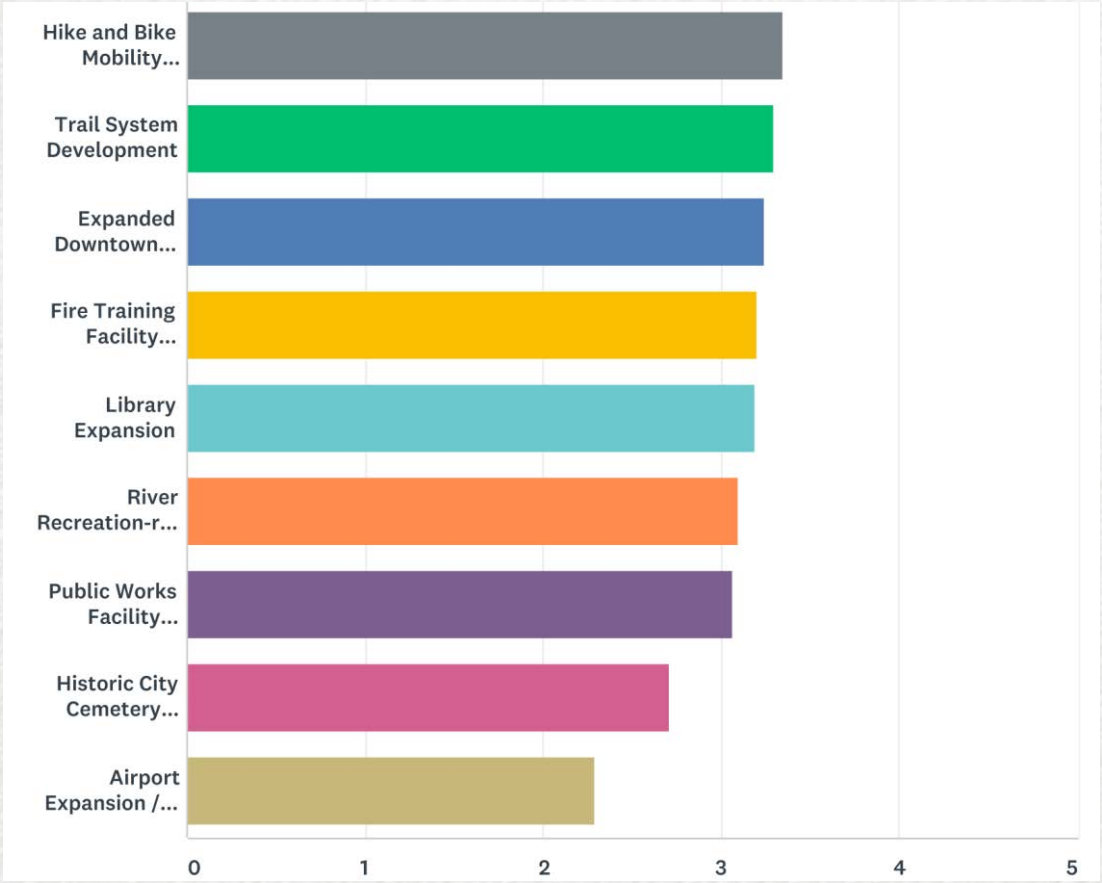
2016 CIP Citizen Survey



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BAC Recommended Projects

STREETS/MOBILITY	CONCEPTUAL COSTS
City-Wide Streets & Sidewalks Improvements	$ 20,000,000
Klein Road Phase 2	$ 12,000,000
Transportation Matching Funds (ex. MPO Projects)	$ 2,000,000
DRAINAGE	
Wood Road/Landa Street Drainage Area Improvements	$ 2,000,000
PARKS & RECREATION	
Callen's Castle All Abilities Park	$ 6,000,000
Comal Cemetary Wall Stablization	$ 4,000,000
Comal River Improvements (Last Tubers Exit, Tube Chute, Stinky Falls)	$ 8,000,000
Dry Comal Hike and Bike Trail	$ 2,000,000
Kerlick Ave Park	$ 400,000
Landa Park - Pedestrian Improvements	$ 2,500,000
Mission Hill Park	$ 6,000,000
Sports Fields Complex	$ 25,000,000
Veteran's Memorial	$ 500,000
OTHER MUNICIPAL IMPROVEMENTS	
Fire Station No. 2 Replacement	$ 6,000,000
Fire Station No. 3 Replacement	$ 6,000,000
Fire Training Facility	$ 6,000,000
Public Works Municpal Service Center	$ 10,000,000
Police Department Facility	$ 15,000,000
Solid Waste Recycling Center	$ 5,000,000
Southeast Library Branch	$ 6,000,000
Westside Community Center Expansion	$ 2,000,000
TOTAL	**$ 146,400,000**

City of New Braunfels 2019
PROPOSED BOND PROGRAM
MOVING FORWARD TOGETHER

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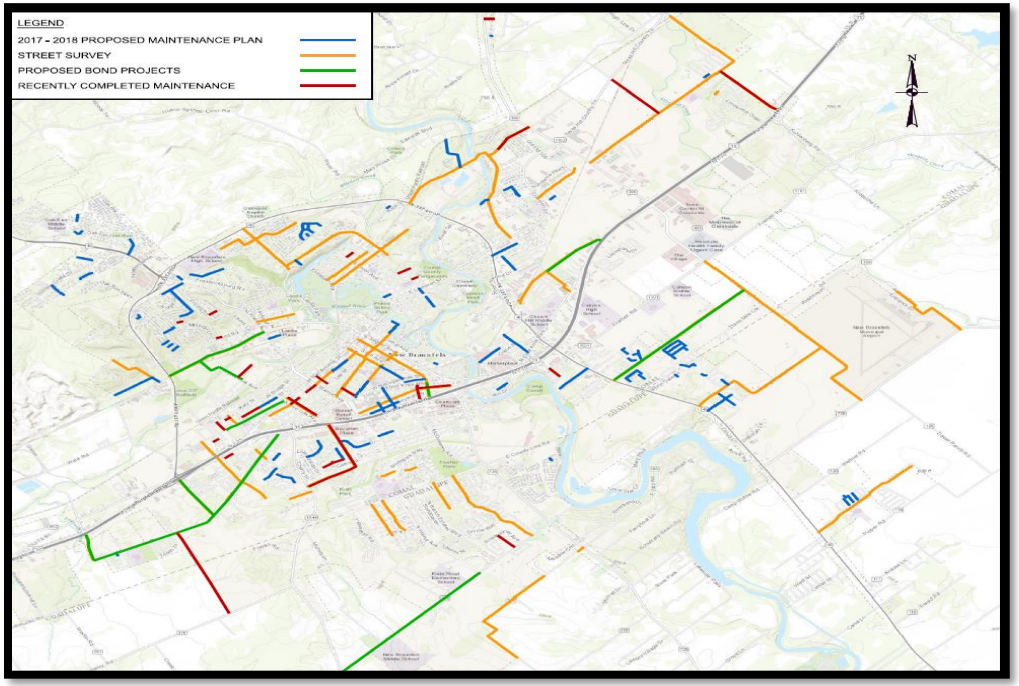
Citywide Street & Sidewalks Improvements

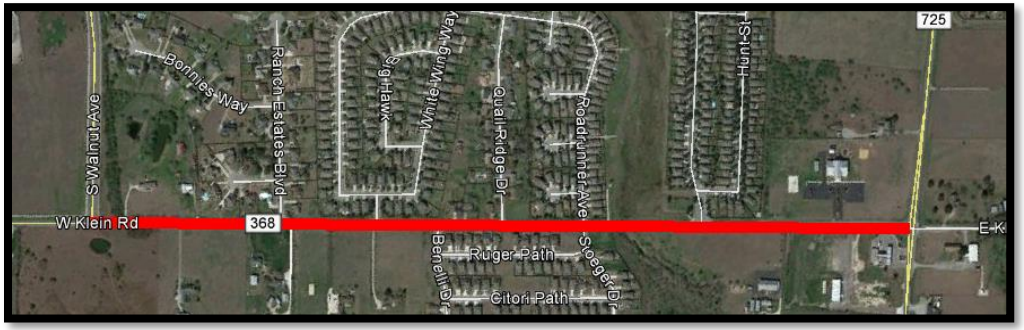


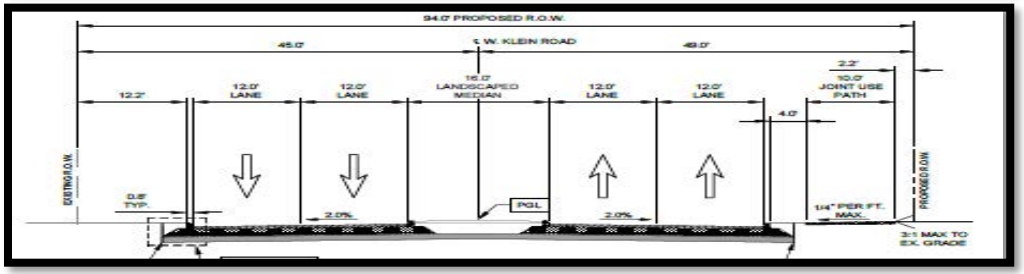
Scope:

- Repair/replacement of streets and the repair/addition of curbs, sidewalks, trails, etc. to improve connectivity and mobility

17

Klein Road Improvements Phase 2





Scope:

- Construction of 3 to 4 lane expansion from FM 725 to Walnut Ave.
- Will include sidewalks and/or a joint use path
- Will be a continuation of Klein Road Phase 1

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Transportation Matching Funds

PROPOSED BOND PROGRAM 2019
MOVING FORWARD TOGETHER

Alamo Area Metropolitan Planning Organization
"We Plan to Keep You Moving!"

Scope:

- Provide matching funds for Metropolitan Planning Organization or other partnership projects related to transportation and/or mobility improvements.

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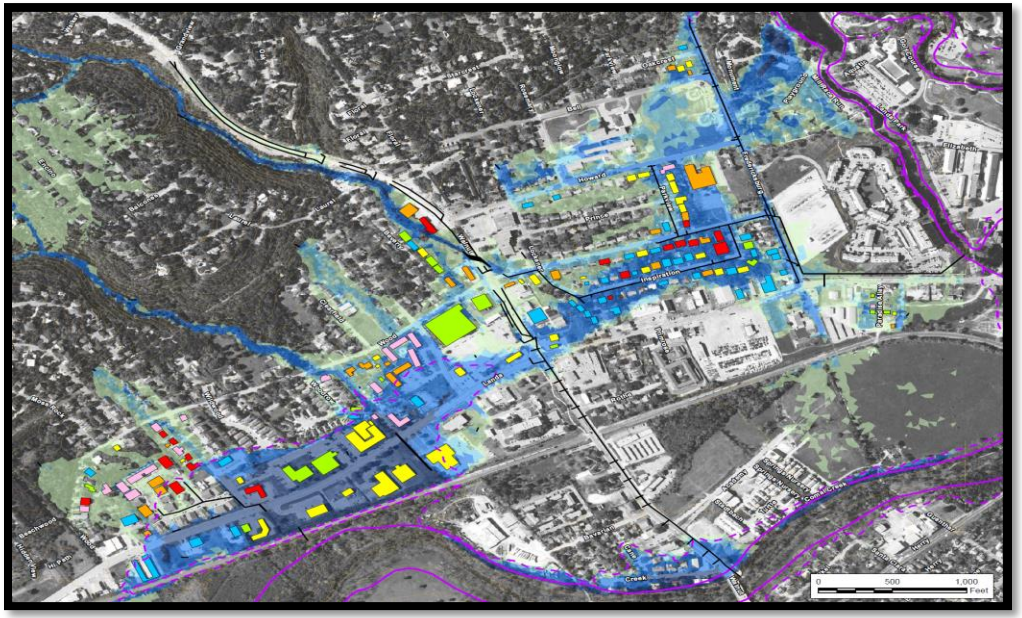
Wood Rd/Landa St Drainage Area Improvements (2013 Bond Project)

PROPOSED BOND PROGRAM
MOVING FORWARD TOGETHER



Scope:

- Further investigation, design, construction of a regional detention facility
- Drainage structure improvements including Walnut culvert trash rack, Wood Rd low water crossing, drainage channel improvements, etc.

20

Callen's Castle All Abilities Park

Scope:

- A 4 acre park designed to be 100% accessible
- Main components may include all abilities sports field, playground area and mini city.
- Park will feature wide sidewalks, fenced areas, restrooms and more

Comal Cemetery Walls Stabilization

Scope:

- Mechanical stabilization of 50ft+ wall along the bank of the Guadalupe River at Comal Cemetery
- Will prevent catastrophic erosion of bluff wall, address some drainage issues and prevent disturbance of graves

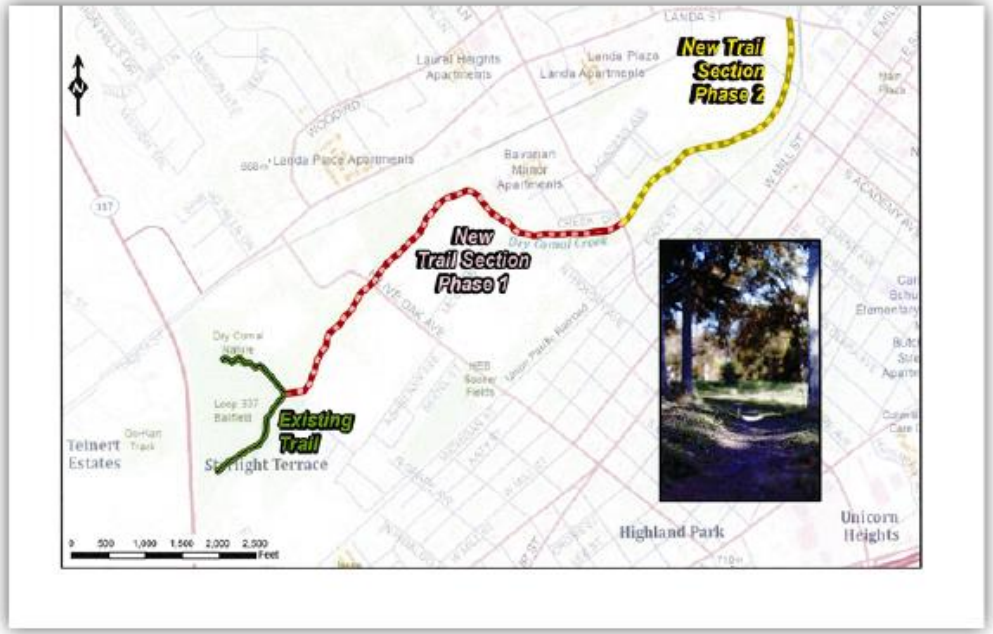
Comal River Improvements

Scope:

- Improvements to safety, maintenance, operations and aesthetics of the City Tube Chute, Last Tuber's Exit and Stinky Falls areas

23

Dry Comal Creek Trail (2013 Bond Project)



Scope:

- Connection of existing Dry Comal Nature Trail at Loop 337 baseball fields to Landa Park
- Create pedestrian connectivity through a linear park along a natural greenbelt

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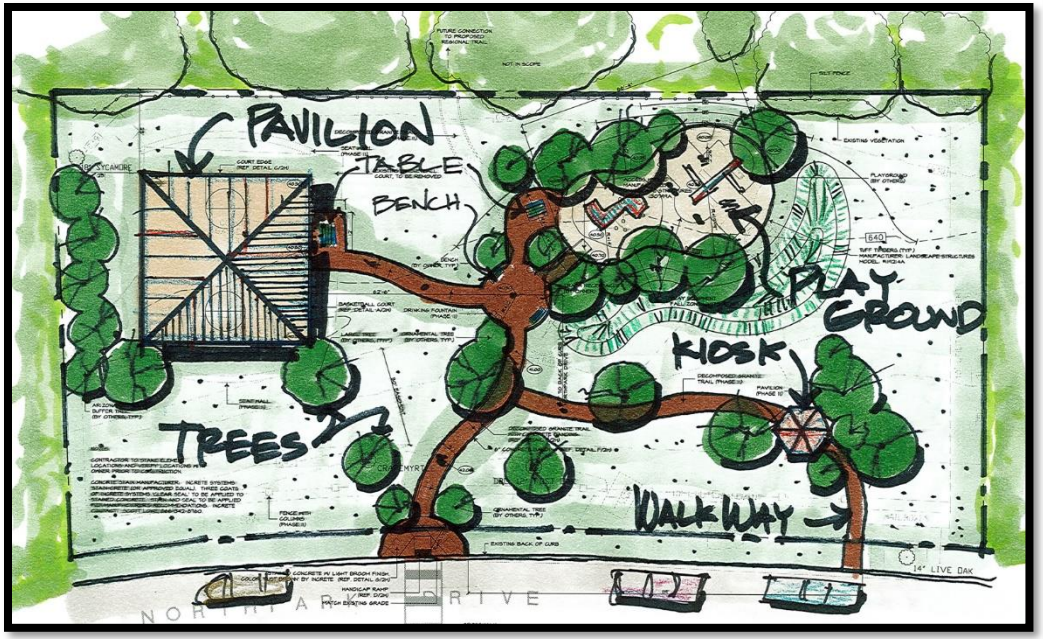
Kerlick Park



Scope:

- Addition of pavilion, playground, landscaping, irrigation, walkway and fencing to an existing City property

25

Landa Park Pedestrian Improvements

Scope:

- Reimagined Landa Park Drive including pedestrian, plantings, stormwater and parking elements

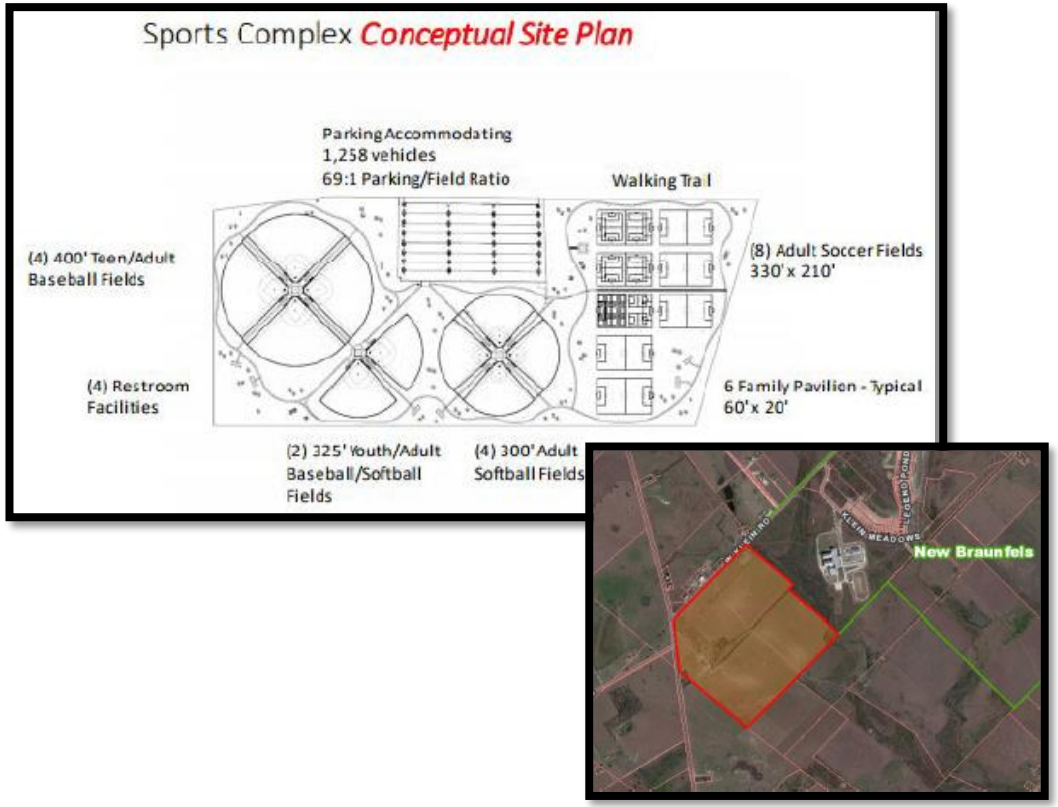
26

Mission Hill Park

Scope:

- 10 acre tract located in City's NW quadrant.
- Property is one of the highest points in New Braunfels
- Will include observation tower, trails, restrooms, meeting areas and gathering spaces

Sports Complex



Scope:

- Provide baseball, softball, football, soccer and other sports fields for local users and tournament play.
- Could include community park elements as well as trails, playgrounds, sitting areas, etc.
- City recently purchased 151 acres on Klein Road to locate a future sports complex.

28

Veteran's Memorial

Scope:

- Memorial to be located at the corner of Walnut Ave. and San Antonio St. in existing park area to honor Comal and Guadalupe County citizens who were KIA or MIA from World War I to present

29

Fire Station #2

Scope:

- Construction of a new fire station on an existing City owned property on Water Ln to replace the current Fire Station #2
- Current station constructed in 1970s

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Fire Station #3

Scope:

- Construction of a new Fire Station #3 at the same location on Hanz Dr
- Current station constructed in 1970s

Public Works & Fire Training Facility

Scope:

- Provide new facility for public works personnel and equipment including Fleet Maintenance, Solid Waste and Streets & Drainage.
- Relocated from S. Castell
- Dedicated Fire Training Facility with burn tower
- To be located on City's Orion property
- *BAC voted to evaluate the PW facility and the Fire Training facility separately

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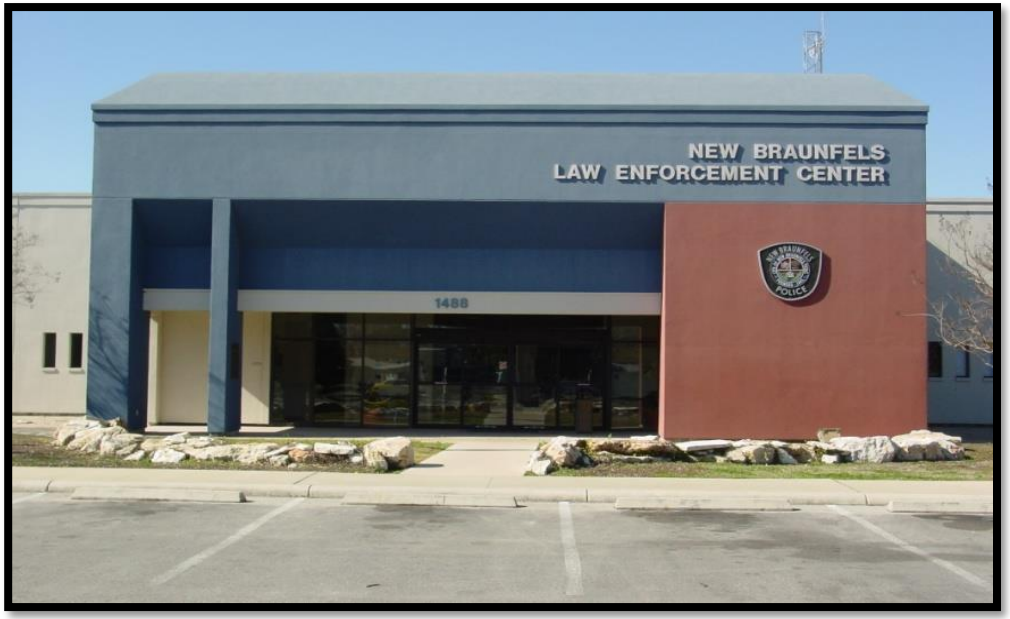
Police Department Facility



Scope:

- Construction of a new Police Station to replace the existing facility.
- Constructed in 1981
- Location TBD

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Solid Waste Recycling Center

Scope:

- Construction of a multi-stream drop-off location that would house various types of solid waste, including single-stream recyclables, etc.

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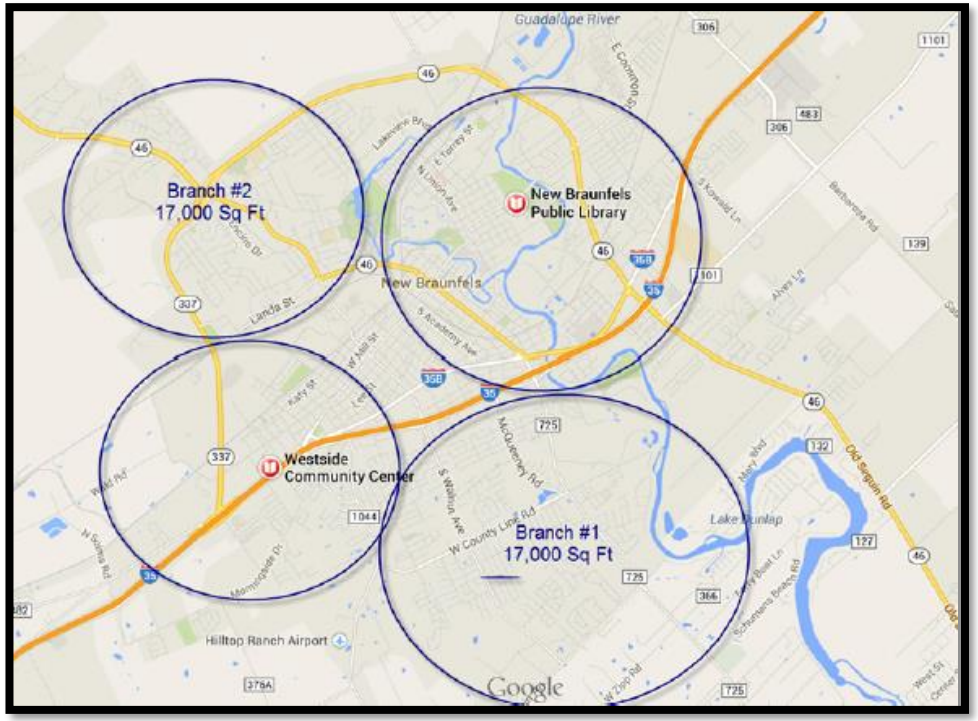
Southeast Library Branch



Scope:

- Approx. 17,000sf branch library
- To be located on Southeast side of New Braunfels
- May include material collection, study/meeting rooms, café, teen area, quiet area and a drive through service area

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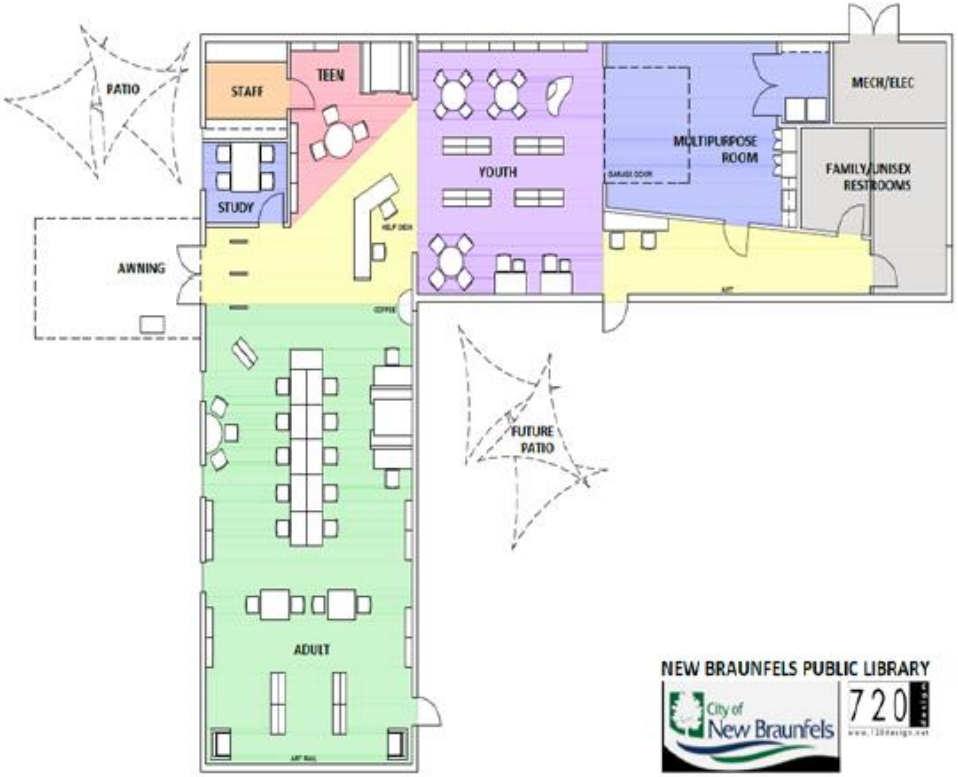
Westside Community Center Expansion



Scope:

- Expansion of library branch at WSCC into former church building
- 3000 - 4000sf of additional space for expanded material collection, youth/teen areas, restrooms, etc.

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Next Steps

March 12th

Council Presentation and Possible Action on BAC Recommendations

March 26th (if necessary)

Council approves final list of projects to take forward to PER/preliminary evaluation

Apr '18 – Sep '18

Council selected projects undergo PER/preliminary evaluation

Sep '18 – Oct '18

BAC receives project PER/preliminary evaluations, receives public input and finalizes 2019 Bond recommendation for City Council

Oct '18 – Feb '19

City Council finalizes 2019 Bond projects and calls election for May 2019

Questions?

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City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. A)

Presenter/Contact
Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:
Discuss and consider approval of the minutes of the special City Council meeting of February 21, 2018, and the regular City Council meeting of February 26, 2018.

SPECIAL MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
SPECIAL MEETING OF WEDNESDAY, FEBRUARY 21, 2018

The City Council of the City of New Braunfels, Texas, met in a Special Session on February 21, 2018, at 11:45 a.m.

City Councilmembers present were:

Present 5 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Ron Reaves, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

Absent 2 - Councilmember George Green, and Councilmember Chris Monceballez

City Staff members present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, Assistant City Manager Bryan Woods, City Secretary Patrick Aten, and Assistant City Secretary Drew Lyons.

The meeting was called to order by Mayor Casteel in City Hall Council Chambers at 11:50 a.m. Councilmember Reaves gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

1. INDIVIDUAL ITEMS

A) Canvass returns of the special election of February 17, 2018.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Reaves moved to accept the results of the February 17, 2018 Special Election. Councilmember Meadows seconded the motion, which passed unanimously.

B) Discuss and consider approval of an ordinance declaring the canvass and result of an election held on February 17, 2018, to elect one member of the New Braunfels City Council; containing a savings clause; declaring an effective date; and declaring an emergency.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Mayor Pro Tem Peters moved to approve the item. Councilmember Garcia seconded the motion which passed unanimously via roll call vote.

The meeting adjourned at 11:55 a.m.

Approved: March 12, 2018

_____
Barron Casteel, Mayor

Attest:

_____
Patrick Aten, City Secretary

MINUTES
OF THE NEW BRAUNFELS CITY COUNCIL
REGULAR MEETING OF MONDAY, FEBRUARY 26, 2018

The City Council of the City of New Braunfels, Texas, met in a Regular Session on February 26, 2018, at 6:00 p.m.

City Councilmembers present were:

Present: 7 - Mayor Barron Casteel, Councilmember George Green, Councilmember Ron Reaves, Councilmember Chris Monceballez, Mayor Pro Tem Wayne Peters, Councilmember Leah García, and Councilmember Shane Hines

Absent: 1 - Councilmember Justin Meadows

City Staff present were: City Manager Robert Camareno, City Attorney Valeria Acevedo, Assistant City Manager Kristi Aday, Assistant City manager Bryan Woods, City Secretary Patrick Aten, Assistant City Secretary Drew Lyons, Parks and Recreation Director Stacey Dicke, Solid Waste Manager Mike Mundell, and Public Works Director Greg Malatek.

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:03 p.m. Councilmember Monceballez gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

Councilmember Reaves moved to move Item 2 up on the agenda. Councilmember Green seconded the motion which passed unanimously.

2. CITY COUNCIL ACTIONS

A) Complete and issue Certificate of Election to the District 1 Councilmember-elect.

Mayor Casteel read the aforementioned caption.

City Secretary Patrick Aten gave the Certificate of Election to Councilmember-elect Shane Hines.

B) Administer oath of office to District 1 Councilmember-elect Shane Hines.

Mayor Casteel read the aforementioned caption.

Judge Bruce Boyer administered the oath of office.

PROCLAMATIONS:

A) Comal County Junior Livestock Show Association 50th Year

Mayor Casteel proclaimed February 28, 2018, as Comal County Junior Livestock Show Association 50th Year.

PRESENTATIONS:

A) Presentation and possible action on the purchase of 151.43 acres out of the Sarah DeWitt Survey No. 48, Abstract No. 103, Guadalupe County, Texas to be developed as a future regional sports complex.

Mayor Casteel read the aforementioned caption.

Matt Eckmann presented the item.

Councilmember Reaves moved to approve the item. Councilmember Garcia seconded the item which passed unanimously.

1. MINUTES

A) Discuss and consider approval of the minutes of the special City Council meetings of February 2 and February 5, 2018, and the regular City Council meeting of February 12, 2018.

Mayor Casteel read the aforementioned caption.

Patrick Aten presented the item.

Councilmember Garcia moved to approve the item. Councilmember Reaves seconded the motion which passed unanimously.

3. CITIZENS' COMMUNICATIONS

This time is for citizens to address the City Council on issues and items of concerns not on this agenda. There will be no City Council action at this time.

No one spoke.

4. CONSENT AGENDA

All items listed below are considered to be routine and non-controversial by the City Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the consent agenda and considered as part of the normal order of business.

Resolutions & Action Items

A) Approval of a resolution approving the recommendation of the New Braunfels Industrial Development Corporation for a project expenditure of up to $650,000 for land acquisition by the New Braunfels Industrial Development Corporation in partnership with the City of New Braunfels of 151.43 acres located at the southeast corner of Klein Road and FM 1044 legally described as 151.43 acres out of the Sarah DeWitt Survey No. 48, Abstract No. 103 in Guadalupe County for an economic development project authorized by Texas Local Government Code chapters 501 and 505 as amended; and declaring an effective date.

B) Approval of a memorandum of understanding between the City of New Braunfels and the New Braunfels Parks Foundation relating to 25 acres out of 151.43 acres out of the Sarah DeWitt Survey No. 48, Abstract No. 103 in Guadalupe County, which will be donated to the New Braunfels Parks Foundation to be held in trust for the benefit of the City of New Braunfels.

C) Approval of a BuyBoard contract with T.F. Harper & Associates, LLP for the purchase and installation of a playground shade structure at Solms Park.

D) Approval of a resolution authorizing a project expenditure recommendation by the New Braunfels Industrial Development Corporation of up to $2,500,000 to the City of New Braunfels to make qualified improvements to Oak Run Middle School and New Braunfels Middle School sports fields.

E) Approval of a resolution relating to establishing the City’s intention to reimburse itself for the prior lawful expenditure of funds relating to the construction of various city improvements from the proceeds of tax-exempt obligations to be issued by the city for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date.

F) Approval of a resolution relating to establishing the City's intention to reimburse itself for the for the prior lawful expenditure of funds relating to the construction of various city improvements from the proceeds of tax-exempt obligations to be issued by the city for authorized purposes; authorizing other matters incident and related thereto; and providing an effective date.

Ordinances

(In accordance with Section 3.10 of the City Charter, a descriptive caption of each ordinance shall be read on two separate days.)

G) Approval of the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking in front of the Fire Department Connection (FDC) on North Seguin Avenue at the Comal County Courthouse.

H) Approval of the second and final reading of an ordinance amending the bylaws of the New Braunfels Downtown Development Board to reflect the National Main Street Center's refreshed Four Point Approach.

I) Approval of the second and final reading of an ordinance amending the City of New Braunfels Code of Ordinances, Chapter 114, Streets, Sidewalks and Other Public Places, Article IV, Right-Of-Way Access and Management, Relating to Section 94, Permit Required; Application, to allow for a Capital Projects Access Permit.

J) Approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking on both sides of the Southbound IH-35 Frontage Road between Conrads Lane and Oak Creek Way.

K) Approval of the second and final reading of an ordinance to install an all-way stop at the intersection of Frances Street and Stonecrest Path.

Mayor Casteel read the Consent Agenda.

Councilmember Garcia moved to approve the Consent Agenda. Mayor Pro Tem Peters seconded the motion which passed unanimously via roll call vote.

5. INDIVIDUAL ITEMS FOR CONSIDERATION

A) Discuss and consider the first reading of an ordinance amending

Chapter 86, Section 86-2 regarding reserved picnic areas and individual picnic table usage fees in city parks and Section 86-94 regarding swimming pool fees at the Landa Park Aquatic Complex.

Mayor Casteel read the aforementioned caption.

Stacey Dicke presented the item.

Councilmember Garcia moved to approve the item with the recommendations of the Parks and Recreation Advisory Board, and that the monies collected would specifically be used for park repairs and maintenance, not personnel. Mayor Pro Tem Peters seconded the motion which passed 5-1, with Councilmember Reaves opposed.

B) Discuss and consider approval of the first reading of an ordinance amending Chapter 110 of the Code of Ordinances relating to Solid Waste commercial rates and proposed operational changes.

Mayor Casteel read the aforementioned caption.

Mike Mundell presented the item.

Mayor Pro Tem Peters moved to approve the item. Councilmember Monceballez seconded the motion which passed unanimously.

C) Public hearing and first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area H.

Mayor Casteel read the aforementioned caption.

Greg Malatek presented the item.

No one spoke during the public hearing.

Councilmember Monceballez moved to approve the item. Mayor Pro Tem Peters seconded the motion which passed unanimously.

6. EXECUTIVE SESSIONS

In accordance with Texas Government Code, Subchapter D, the City Council may convene in a closed session to discuss any of the following items; any final action or vote taken will be in public.

A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
- Chapter 380 Agreement with Palfinger, Inc.

Mayor Casteel read the aforementioned caption.

City Council recessed into Executive Session from 7:03 p.m. - 7:22 p.m.

No vote or action was taken.

7. RECONVENE INTO OPEN SESSION AND TAKE ANY NECESSARY ACTION RELATING TO THE EXECUTIVE SESSION AS DESCRIBED ABOVE.

City Council reconvened into Open Session at 7:22 p.m.

No vote or action was taken.

The meeting adjourned at 7:23 p.m.

Date Approved: March 12, 2018

_____
Barron Casteel, Mayor

Attest:

_____
Patrick Aten, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. A)

Presenter/Contact
Jennifer Cain, Capital Program Manager
(830) 221-4022 - bwoods@nbtexas.org

SUBJECT:
Approval of an Additional Service Request in the amount of $93,145 from Trihydro Corporation regarding additional design, right-of-way and easement mapping, and survey required for the final design and plan submittal for the Klein Road Reconstruction Project.

BACKGROUND / RATIONALE:
On May 11, 2013, the City of New Braunfels voters approved the Klein Road Reconstruction Project under Proposition 1 of the 2013 Bond Program at a cost of $11,531,000. A request for qualifications was sent out in January 2013. River City Engineering was selected to provide engineering design and related services for the Klein Road Reconstruction Bond Project. River City Engineering [TRIHYDRO CORP] has completed the Preliminary Engineering Report (PER) and held a public meeting to discuss the project. The scope of work for this task order includes right of way survey, final design, bid phase, and construction phase services.

As the design progressed, an additional 18 parcels were needed to be surveyed and mapped for acquisition as part of the overall design, which accounts for $74,260 of this request per the original PSA “Per-Parcel” fee. Along with the additional acquisition takings, supplementary design and calculations needed to be made for drainage, landscape and an underground conduit system.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
N/A

FISCAL IMPACT:
The total cost for the Additional Service Request to complete the added design totals $93,145. Sufficient funds are available to approve the change order as described above.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends the approval of the ASR with Trihydro Corporation in the amount of $93,145 to for required survey and design effort needed to complete the design for the Klein Road Reconstruction Bond Project.

November 6, 2017

Mr. Nate Garza, Capital Projects Manager

City of New Braunfels

550 Landa Street

New Braunfels, TX 78130

RE: Klein Road Reconstruction Project – Change Order No. 1 Request (Revised)

Dear Mr. Garza:

Trihydro Corporation (Trihydro) has prepared this revised Change Order No. 1 request for the Klein Road Reconstruction project. This second revised version updates our revised change order request dated September 5, 2017. This version is provided based on recent discussions with you, which removes the value engineering budget request and adds preparation of underground fiber conduit plans. We will pursue a change order for the additional value engineering separately. At our meeting on August 9, 2017, we reviewed the comments the City of New Braunfels (City) provided in an email dated August 1, 2017 regarding our original change order request dated July 26, 2017. We discussed the items that the City agreed to, items not needed, and items that need more information.

The items that we understand the City agrees to include the following:

Additional Services: Right-of-Way and Easement Mapping and Legal Descriptions ($74,260)

- The original scope of work and fee estimate includes preparation of preliminary ROW parcels for the City's review and ROW/easement legal descriptions and exhibits for 13 parcels. An additional 18 parcels were identified for a total of 31 that required boundary resolution, legal descriptions and exhibits. Additional work also included preparation of several ROW mapping figure iterations for the City's reference along with preparation of an existing ROW map from the Klein Road/Walnut Avenue intersection to the Klein Road/FM 725 intersection. **($67,170)**
- Work remaining for the Additional Services task includes setting ½" iron rods with plastic stamped caps at all ROW points of intersection, points of curvature, points of tangency, and property line

New Braunfels Office | 1011 West County Line Road | New Braunfels, TX 78130 | phone 830/626.3588 | fax 830/626.3601
Home Office | 1252 Commerce Drive | Laramie, WY 82070 | phone 307/745.7474 | fax 307/745.7729 | www.trihydro.com

intersections. This work requires extra effort due to the additional 18 parcels identified during the ROW engineering. **($7,090)**

Design Phase: Final (100%) – Landscaping Add Alternative ($4,930)

- Additional landscaping plan sheet edits were made and an add-alternative landscape design was added based on an email from the City dated July 10, 2017. This work also requires updates to the construction cost estimate, bid form and specifications.

Design Phase: Final (100%) – Prepare Underground Fiber Conduit Plan Sheets ($3,840)

- Per our meeting on October 25, 2017, we understand the City would like to add underground fiber optics conduit plan view sheets to the roadway plan set. The City provided an example plan set with the details to incorporate and specifications that can be included as notes on the underground fiber conduit plan sheets. This work will also include calculation of quantities and a construction cost estimate.

Update Legal Descriptions, If Any, Based on Landowner Negotiations *($975/each - to be used as needed)*

- Based on the outcome of landowner negotiations for ROW/easements, Trihydro will update legal descriptions and accompanying exhibits, if required. We understand that the City doesn't foresee concerns with the negotiations at this time; however, we have provided a per parcel fee, if this service is needed.

We understand the City **does not** need the following items at this time:

Utility Relocation Conflict Review and Resolution ($2,640...not needed at this time)

- As part of the original scope, design phase plans have been distributed to affected utility companies for their review and use in preparing their utility relocation plans. Utility coordination meetings have also occurred been held as part of the original scope of services to answer questions and coordinate between utilities regarding easements, permitting, separation requirements, etc. An additional task is proposed to provide a review of each affected utility company's relocation plans, incorporate proposed utilities locations into the plans, and provide utilities conflict resolution. A conflict matrix will be prepared and provided at a coordination meeting to review and discuss with the utility companies and City.

Lastly, the items we have provided additional information for your consideration are as follows:

Design Phase: Task 5 Final (100%) Design – Additional Drainage ($10,115)

Additional drainage calculations and designs were performed. Due to the ongoing adjacent land development occurring along Klein Road since the inception of this project, stormwater drainage analyses have required several iterations and updates above the original estimated effort. Storm drain designs and plan sheets were prepared to accommodate adjacent development and were verified and modified several times.

Trihydro received drainage reports for the Ridgemont Unit 1 (dated August 22, 2016) and Dean Subdivision (dated August 8, 2016). We found the Ridgemont Unit 1 drainage report was not complete, as a figure showing watershed basins delineated for peak flow calculations was not included in the report. Drainage basins were shown on the final plat documents provided on April 21, 2015; however, weren't verified in the report. Within the Ridgemont Unit 1 drainage report there is no discussion or calculations shown for the Ridgemont detention pond discharge point verifying that the Klein Road Drainage ditch has capacity to accommodate the discharge from the detention pond. This report indicates that the pond discharges to the historical outfall for the site. This discharge is now a concentrated point discharge and not historical overland sheet flow. The runoff coefficient used in the

report is listed as 0.53 for residential, which matches the coefficient used in earlier developments and the previous version of the City's drainage criterial manual; however, in 2016 the City updated the its drainage criteria manual requiring a composite runoff coefficient, which requires calculation. This composite runoff coefficient was not reflected in the August 2016 drainage reports.

The 90% plans were submitted on May 13, 2016, about 2 months prior to the date of the two subdivision drainage reports. Receiving this drainage information late in the design process, required additional effort and a domino effect to update storm drain design. The Ridgemont detention pond created the most concern with a large point discharge located at a point in the Klein Road profile that is constrained by the existing elevation of the Walnut Avenue intersection. Provisions have been incorporated into the plans to accommodate discharge from the Ridgemont detention and maintain one lane of traffic during the design storm event; however, this was a challenge and required labor hours above our original estimate in 2015.

OPTIONAL ADD-ON PROFESSIONAL SERVICES HAVE BEEN IDENTIFIED AS FOLLOWS:

Stormwater Management Option Study ($13,415)

- Based on the current drainage calculations and roadway profile design constraints as described above, there is potential for flooding to occur where the Ridgmont pond discharges onto Klein Road during large storm events, exceeding the design storm. The profile of Klein Road is constrained in the segment where the Ridgemont detention pond discharges and the intersection of Walnut Avenue is located. The profile cannot be easily raised without raising the intersection of Walnut Avenue. Flooding may occur along Klein Road and at the downstream discharge channel during large rain events exceeding the required design storm. Currently, Trihydro is incorporating provisions in the final plans to maintain a minimum of one lane of traffic for the design storm requirement. This will include a berm behind back of sidewalk and in front of the storm inlet at the Ridgemont pond discharge structure.
- We recommend a more detailed stormwater management study to take into consideration a regional flood control structure located downstream of the Ridgemont detention pond or extended storm drain that takes into consideration future improvements to Klein Road, a future extension of

Walnut Avenue, and future growth and development. Our fee estimate for this study includes a design analysis report addressing up to 3 design options with corresponding conceptual design figures, construction cost estimates, and a recommended alternative.

Design of Stormwater Management Preferred Alternative (we removed this item from our request, since it will likely be designed during the Walnut Avenue extension)

Based on the information presented above, our change order request is itemized as follows:

1. Items agreed to:

Additional Services ROW and Survey:	$74,260
Landscaping Add Alternative:	$ 4,930
Underground Fiber Conduit Plan Sheets	$ 3,840
Additional Drainage Calculations:	$10,115
Total	**$93,145**

2. Items with more clarification: **(As Needed)**

Update Legal Descriptions	$975/each
Stormwater Management Option Study:	$13,415
Utility Conflict Services:	$ 2,640

As always, we will strive to meet the City's expectations and goals. We appreciate your consideration of this change order request. Please let us know if you have questions or comments regarding this requested contract change order.

Sincerely,

Trihydro Corporation

Pat Lackey, P.E.
Project Manager

Tammy Reed, P.E.
Assistant Project Manager

999-702-401

Attachment

ATTACHMENT A

Trihydro

October 31, 2017
Project No: 702-407-000
Invoice No: 0124356

Invoice Total $82,215.00

City of New Braunfels
550 Landa St.
New Braunfels, TX 78130

Project 702-407-000 Klein Road - Street and Drainage Project
Trihydro PM: Pat Lackey
Professional Services through October 28, 2017

Task	A000	Design Phase			
Fee					
Total Fee		16,323.56			
Overall Percent Complete		100.00	Total Earned	16,323.56	
			Previous Fee Billing	16,323.56	
			Current Fee Billing	0.00	
			Total Fee		**0.00**
				Total this Task	**0.00**

Task	A011	Drainage Design			
Fee					
Total Fee		10,115.00			
Overall Percent Complete		100.00	Total Earned	10,115.00	
			Previous Fee Billing	0.00	
			Current Fee Billing	10,115.00	
			Total Fee		**10,115.00**
				Total this Task	**$10,115.00**

Task	A017	Survey - ROW			
Fee					
Total Fee		67,170.00			
Overall Percent Complete		100.00	Total Earned	67,170.00	
			Previous Fee Billing	0.00	
			Current Fee Billing	67,170.00	
			Total Fee		**67,170.00**
				Total this Task	**$67,170.00**

Task	A018	Survey - Easements and Replats			
Fee					
Total Fee		7,090.00			
Overall Percent Complete		0.00	Total Earned	0.00	

Project	702-407-000	Klein Road - Street and Drainage Project		Invoice	0124356
			Previous Fee Billing	0.00	
			Current Fee Billing	0.00	
			Total Fee		**0.00**
				Total this Task	**0.00**

Task	A020	Landscape Design			
Fee					
Total Fee		4,930.00			
Overall Percent Complete		100.00	Total Earned	4,930.00	
			Previous Fee Billing	0.00	
			Current Fee Billing	4,930.00	
			Total Fee		**4,930.00**
				Total this Task	**$4,930.00**

Task	B000	Bid Phase			
Fee					
Total Fee		22,310.00			
Overall Percent Complete		0.00	Total Earned	0.00	
			Previous Fee Billing	0.00	
			Current Fee Billing	0.00	
			Total Fee		**0.00**
				Total this Task	**0.00**

Task	C000	Construction Phase			
Fee					
Total Fee		87,921.61			
Overall Percent Complete		0.00	Total Earned	0.00	
			Previous Fee Billing	0.00	
			Current Fee Billing	0.00	
			Total Fee		**0.00**
				Total this Task	**0.00**

Billing Limits	**Current**	**Prior**	**To-Date**	
Total Billings	82,215.00	16,323.65	98,538.65	
Limit			777,150.58	
Remaining			678,611.93	
			Total this Invoice	**$82,215.00**

TERMS: Net 30 Days from invoice date. Amounts remaining unpaid for more than 30 days after the date of the invoice shall be subject to a finance charge of one and a half percent (1 ½ %) per month.

Remit / Make Check Payable To:
Trihydro Corporation
1252 Commerce Drive
Laramie, WY 82070
accounting@trihydro.com

TABLE 1. FEE ESTIMATE CHANGE ORDER NO. 1 - KLEIN ROAD RECONSTRUCTION, CITY OF NEW BRAUNFELS, TEXAS

		Trihydro Corporation								
		Principal	Sr. Project Manager	Project Engineer	Graduate Engineer	CAD Technician	Clerical	RPLS	Survey Crew	**Labor Subtotal**
TASK	**DESCRIPTION**	$180	$150	$125	$100	$85	$45	$125	$145	
	Out-of-Scope Services									
5	**Design Phase: Final (100%) Design**									
	Additional Drainage Calculations and Design	1	10	28	30	20	2		1	$10,115
	Landscaping Design for Add Alternative	1	2	16	10	16	2			$4,930
	Prepare Underground Fiber Conduit Plan	1	2	16		16				$3,840
	Additional Services: Right-of-Way and Easement Mapping/Legal Descriptions									
	Additional work required for 18 additional parcels (13 in original est)	4	60			75	30	305	80	$67,170
	Additional survey required to set caps for 18 additional parcels							8	42	$7,090
	Subtotal (hours)	**7**	**74**	**60**	**40**	**127**	**34**	**313**	**123**	**778**
	Subtotal ($)	**$1,260**	**$11,100**	**$7,500**	**$4,000**	**$10,795**	**$1,530**	**$39,125**	**$17,835**	**$93,145**
	Optional Add-On Services									
A	Stormwater Management Option Study	2	4	60	35	15	4			**$13,415**
B	Update Legal Descriptions, if any (per each)	1		2		2		3		**$975**
	Optional Add-On Services - Total (hours)	**3**	**4**	**62**	**35**	**17**	**4**	**3**	**0**	**128**
	Optional Add-On Services - Total ($)	**$540**	**$600**	**$7,750**	**$3,500**	**$1,445**	**$180**	**$375**	**$0**	**$14,390**

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. B)

Presenter/Contact
Michael Mundell, Solid Waste Manager
(830) 221-4044 - mmundell@nbtexas.org

SUBJECT:
Approval of a contract with SCS Engineers for the development of a Comprehensive Solid Waste Management Plan for the City's Solid Waste and Recycling Division.

BACKGROUND / RATIONALE:
The City of New Braunfels recently solicited a bid seeking a qualified consulting firm to assist with the creation of a Comprehensive Solid Waste Management Plan ("CSWMP") for the City's Solid Waste and Recycling Division. The intent of the plan is to address specific short term (1-5 years), intermediate (6-10 years), and long-range (11-20 years) problems and actions to allow the City to make further progress in reducing waste, maximizing resource recovery and source reduction, maximizing diversion, extending the life of its landfill, as well as create and maintain local jobs. The awarded contractor will evaluate the City's current programs and operations and then, based on the results of the analysis, provide a completed CSWMP that will serve as a guide for the City to make fiscally responsible and environmentally focused budgeting, services, and planning decisions.

A Request for Proposal (RFP) was issued on January 9, 2018, to obtain proposals from firms capable of working with the City's Solid Waste and Recycling Division to develop a comprehensive plan. The City received five proposals which were opened on January 31, 2018. The proposals were evaluated based upon the Professional Qualifications and Experience, Demonstrated Project Experience and Expertise in Projects of Similar Scope, Proposed Work Program, and the Proposed Cost submitted by each proposer.

After review of the proposals, the highest-ranking vendor is SCS Engineers.

The total cost of the contract is not anticipated to exceed $120,000. Funding for the contract has been incorporated into the FY 2017-18 Adopted Budget; however, additional funding may be requested in the FY 2018-19 Proposed Budget if necessary due to the complexity of the project.

The term of the contract will begin upon the award of the contract and terminate upon completion of all work specified by the City.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	**Strategic Priorities 21:**	Ensure sustainable quality development

FISCAL IMPACT:
Funding for the contract described above has been incorporated into the adopted FY 2017-18

budget. Therefore, sufficient funds are available for the contract.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends the approval of a contract with SCS Engineers for the development of a Comprehensive Solid Waste Management Plan for the City's Solid Waste and Recycling Division.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. C)

Presenter/Contact
Kenneth Jacks, Fire Chief
(830) 221-4200 - kjacks@nbtexas.org

SUBJECT:
Approval of a modification to the Service Provider Agreement between the City of New Braunfels and the Comal County Emergency Services District No. 7.

BACKGROUND / RATIONALE:
For approximately ten years, the City of New Braunfels has had a Service Provider Agreement with the Emergency Services District No. 7 ("ESD 7" or "District"), that authorizes the New Braunfels Fire Department to provide emergency services to the District. In exchange, the District pays the City an agreed upon fee. This agreement is entered into under the statutory authority of the Interlocal Cooperation Act and approved by the governing body of each party to the agreement.

The ESD 7 Board held a meeting on February 16, 2018, and approved this modification. The District has experienced and will continue to experience a rapid population growth as has all of Comal County, and the District desires to maintain the same or better level of service for all the residents of the District. The District recognizes that the continuing population growth will lead to greater demand for service runs within the District. The City has offered to modify the agreement for the District to achieve its goal of maintaining or increasing its current level of service in exchange for an additional payment of $80,000.00. With this modification the City will be able to provide the services required under the agreement with better maintained vehicles. This additional payment will be used for maintenance expenses for Fire Department apparatus and shall be incorporated into each of the remaining fiscal years of the Agreement. The District shall continue to have no ownership right or liability in any City equipment. The City will deposit this additional revenue in a separate fund for Fire Department use only.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

FISCAL IMPACT:
Will increase the annual revenue collected from ESD 7 by $80,000 to be used by the fire department to pay for fire apparatus maintenance costs.

COMMITTEE RECOMMENDATION:

STAFF RECOMMENDATION:
Staff recommends approval.

**MODIFICATION TO SERVICE PROVIDER CONTRACT
BETWEEN COMAL COUNTY EMERGENCY SERVICES DISTRICT NO. 7
AND THE CITY OF NEW BRAUNFELS, TEXAS**

THE STATE OF TEXAS §
§
COUNTY OF COMAL §

WHEREAS, Comal County Emergency Services District No. 7 ("District") and the City of New Braunfels, Texas ("City") entered into a Service Provider Contract for "Fire and EMS Services" for a period of seven (7) years commencing October 1, 2013 (the "Agreement"); and

WHEREAS, Section 2 of the Agreement provides for the payment of the Fire and EMS services provided by City to District; and

WHEREAS, it has been determined that the District has experienced and will continue to experience a rapid population growth as has all of Comal County, and the District desires to maintain the same or better level of service for all the residents of the District; and

WHEREAS, the District recognizes that the continuing population growth will lead to greater demand for service runs within the District; and

WHEREAS, the City has offered to modify the Agreement for the District to achieve its goal of maintaining or increasing its current level of service; and

WHEREAS, because of the Modification of the Agreement, the City will be able to provide the services required under the Agreement with better maintained vehicles.

WHEREAS, the parties desire to provide through this Modification the method by which the District shall pay for an additional $80,000 for the fiscal year 2017-2018 as set forth under the quarterly payments set forth under Section 2.02; and

WHEREAS, the parties further agree that this additional $80,000 for maintenance expenses for Fire Department apparatus shall be incorporated into each of the remaining fiscal years of the Agreement, and that the District shall continue to have no ownership right or liability in any City equipment; and

WHEREAS, Exhibit A setting forth the City's cost factors for services provided to the District by the City for fiscal year 2017-2018 is hereby amended and attached hereto; and

WHEREAS, the additional increase of $80,000 per year as set forth in the amended Exhibit A to be paid by the District will not exceed the 95 percent of annual collections of the District;

WHEREAS, the City has agreed to place this additional revenue in a separate fund for the City's Fire Department use only and such account will be available to the District's Board to inspect on reasonable notice and an account review will be presented annually to the District.

NOW, THEREFORE:

1. The foregoing Whereas provisions are incorporated into this Modification of the Agreement as if set out at length.

2. The City and District do hereby agree as follows:

   City shall be entitled to additional payments due for services rendered to District by City in the amount of $80,000 for the fiscal year 2017-2018. The payments shall be applied to the payments due City by District for the remaining years of the Agreement (October 1, 2017 through September 30, 2020) so that the District shall add the amount of $20,000 to each of the twelve (12) quarterly payments due the City under the Agreement. The attached amended Exhibit A for the fiscal year 2017-2018 representing the cost factors for services is hereby adopted for the current fiscal year. These additional payments shall be placed in a separate fund for use by the City's Fire Department only and for the purposes of providing services to the District.

3. All the remaining provisions contained in the Agreement remain valid and binding upon the parties.

This Modification is executed and signed on this ___ day of February, 2018 with an effective date of October 1, 2017.

COMAL COUNTY EMERGENCY SERVICES DISTRICT NO. 7

By: _____
James Frye, President

ATTEST:

_____
Phoebe Fisher, District Secretary

APPROVED AS TO FORM:

By: _____
Ken Campbell, District Attorney

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Robert Camareno, City Manager

_____
Patrick Aten, City Secretary

By: Valeria M. Acevedo
Valeria Acevedo, City Attorney

Exhibit A

ESD #7 Cost of Service

Calculation	FY 2016-17	FY 2017-18
Fire Department base budget	$ 16,781,350	$ 17,994,574
Fire Department Budget	$ 16,781,350	$ 17,994,574
Total General Fund Budget	$ 59,746,880	$ 63,681,976
Total Enterprise Funds' and River Activities Budget	$ 15,490,810	$ 15,260,677
Total Budget	$ 75,237,690	$ 78,942,653
Fire Department as % of Total Budget	22.3%	22.8%
Administrative Support Departments' Budgets	$ 6,098,541	$ 6,756,274
City Council	$ 51,645	$ 38,189
City Administration	$ 783,546	$ 989,248
City Attorney	$ 930,283	$ 907,482
City Secretary	$ 291,937	$ 306,760
Human Resources	$ 690,141	$ 824,499
Finance	$ 1,008,023	$ 1,049,814
Information Technology and Gis	$ 1,648,192	$ 1,948,152
Facilities Maintenance	$ 694,774	$ 692,130
Fire Department's share of Administrative Costs	$ 1,360,246	$ 1,540,058
Total - Fire Department Budget plus Admin Support contribution	$ 18,141,596	$ 19,534,632
Ambulance Billing Revenue	$ 2,190,000	$ 2,625,000
Facilities Cost	$ 15,000,000	$ 15,000,000
Equipment Cost	$ 9,357,000	$ 9,357,000
Fire apparatus	7,517,000	7,517,000
EMS apparatus	1,840,000	1,840,000

ESD call percentage	2016 Estimate Total	2017 Estimate Total
Fire calls	4,770	4,516
EMS calls	7,492	7,656
Weighted average	12,262	12,172
ESD #7 contribution for operating expenditures including Administrative Costs (uses weighted average)	$ 1,208,483	$ 1,362,224
ESD #7 contribution for equipment		
Fire	$ 41,989	$ 44,298
EMS	$ 22,280	$ 23,361
Total	$ 64,269	$ 67,658
ESD #7 revenue offset - uses EMS %	$ (132,591)	$ (166,634)
ESD #7 facilities contribution - uses weighted average	$ 33,307	$ 34,867
Total calculated contribution	***$ 1,173,468***	***$ 1,298,115***
Adjustment		
Net Payment	***$ 1,173,468***	***$ 1,298,115***
Additional Vehicle Maintenance Cost		**80,000**
Adjusted Net Payment		**1,378,115**

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. D)

Presenter/Contact
Tom Wibert, Chief of Police
(830) 221-4100 - twibert@nbtexas.org

SUBJECT:
Approval of a resolution and the ratification of the submission of an application for funding under the U.S. Department of Justice, Victims of Crime Act Formula Grant Program through the Office of the Governor to continue funding for two years for one full-time liaison position and authorizing the City Manager to act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.

BACKGROUND / RATIONALE:
City staff has submitted a grant application in the amount of $132,326.50 to the U.S. Department of Justice, General Victim Assistance Direct Services Program through the Office of the Governor-Criminal Justice Division. The grant funding request is to continue funding for two (2) years for a full-time Crime Victim Liaison for the Criminal Investigations Division (CID).

If approved, the grant will be awarded in September 2018.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Strategic Priorities: Infrastructure Objective 2 - Use a variety of funding sources for operational and capital needs.

FISCAL IMPACT:
Budget Summary

CATEGORY	CJD (80%)	CASH MATCH (20%)	TOTAL
(Two Years)			
Personnel	$105,861.20	$19,509.30	125,370.50
Supplies & Direct Operating Expenses		$900.00	
Travel /Training	0.00	$6,056.00	
TOTALS	$105,861.20	$26,465.30	$132,326.50

Award of this grant avoids the personnel expenditure of $87,154.32. There is a minimum 20%

matching requirement for this grant. Matching funds will include personnel costs and travel/trainings costs totaling $35,598.24.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval.

RESOLUTION 2018-R____

A RESOLUTION AND THE RATIFICATION OF THE SUBMISSION OF AN APPLICATION FOR FUNDING FOR TWO YEARS UNDER THE U.S. DEPARTMENT OF JUSTICE, VICTIMS OF CRIME ACT FORMULA GRANT PROGRAM AND AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTATION ASSOCIATED WITH ANY RESULTING AWARD.

WHEREAS, The City of New Braunfels is eligible and applied for funding under the Department of Justice, Victims of Crime Act Formula Grant Program for two year funding of the Criminal Victim Liaison position; and

WHEREAS, a grant award under this program would benefit the citizens of New Braunfels by enhancing the City of New Braunfels Police Department's effectiveness and efficiency of law enforcement programs and activities; and

WHEREAS; the total grant amount over the two year period is not to exceed $132,326.50 and a 20% percent matching requirement is the City's responsibility and the grant funded portion is 80%; and

WHEREAS; the City of New Braunfels agrees to return all funding to the Governor's Office Criminal Justice Division in the event of loss or misuse of grant funds; and

WHEREAS; the City of New Braunfels authorizes the City Manager to apply for, accept, alter, or terminate the grant application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS;

THAT, the City of New Braunfels City Council will accept a grant from the U.S. Department of Justice, Victims of Crime Act Formula Grant Program and authorizes the City Manager to act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.

PASSED, ADOPTED AND APPROVED on this the 12nd day of March 2018.

City of New Braunfels, Texas

_____

BARRON CASTEEL, Mayor

Attest:

_____

PATRICK D. ATEN, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. E)

Presenter/Contact
Tom Wibert, Chief of Police
(830) 221-4100 - twibert@nbtexas.org

SUBJECT:
Approval of a resolution and the ratification of the submission of an application for funding under the U.S. Department of Justice, Violence Against Women Formula Grant Program through the Office of the Governor - Criminal Justice Division to continue funding one full-time investigator position and authorizing the City Manager to accept funds and act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.

BACKGROUND / RATIONALE:
City staff has submitted a grant application in the amount of $122,752.56 to the U.S. Department of Justice, Violence Against Women Act Grant Program through the Office of the Governor-Criminal Justice Division. In 2015, the Police Department was first awarded the grant funding for the “Criminal Investigations Division Officer” project to hire one, full-time investigator for the Criminal Investigations Division (CID) and has continued to receive this funding.

If approved, the grant will be awarded in September 2018.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Strategic Priorities: Infrastructure Objective 2 - Use a variety of funding sources for operational and capital needs.

FISCAL IMPACT:
Budget Summary

CATEGORY	CJD (71%)	CASH MATCH (29%)	TOTAL
Personnel	$87,154.32	$32,610.24	119,764.56
Travel /Training	0.00	$2,988.00	$2,988.00
TOTALS	$87,154.32	$35,598.24	$122,752.56

Award of this grant avoids the personnel expenditure of $87,154.32. There is a minimum 29%

matching requirement for this grant. Matching funds will include personnel costs and travel/trainings costs totaling $35,598.24.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval.

RESOLUTION 2018-R____

APROVAL OF A RESOLUTION AND THE RATIFICATION OF THE SUBMISSION OF AN APPLICATION FOR FUNDING UNDER THE U.S. DEPARTMENT OF JUSTICE, VIOLENCE AGAINST WOMEN FORMULA GRANT AND AUTHRIZING THE CITY MANAGER TO ACCEPT FUNDS AND ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTAITON ASSOCIATED WITH ANY RESULTING AWARD.

WHEREAS, The City of New Braunfels and Comal County is eligible and has applied for funding under the Department of Justice, Violence Against Women Act (VAWA) Grant Program; and

WHEREAS, the City of New Braunfels Police Department has developed the “Criminal Investigations Division Officer” grant application project; and

WHEREAS, a grant award under this program would benefit the citizens of New Braunfels by enhancing the City of New Braunfels Police Department’s effectiveness and efficiency of law enforcement programs and activities; and

WHEREAS; the total grant amount is not to exceed $122,752.56 and a 29% percent matching requirement is the City’s responsibility and grant funded portion is 71%; and

WHEREAS; the City of New Braunfels agrees to return all funding to the Governor’s Office Criminal Justice Division in the event of loss or misuse of grant funds; and

WHEREAS; the City of New Braunfels authorizes the City Manager to apply for, accept, alter, or terminate the grant application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS;

THAT, the City of New Braunfels City Council will accept a grant from the U.S. Department of Justice, Violence Against Women Act (VAWA) Grant Program and authorizes the City Manager to act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.

ADOPTED AND APPROVED on this the 12nd day of March 2018.

City of New Braunfels, Texas

_____
BARRON CASTEEL, Mayor

Attest:

_____
PATRICK D. ATEN, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. F)

Presenter/Contact
Andrew Cardiel, Emergency Management Coordinator
(830) 221-4270 - acardiel@nbtexas.org

SUBJECT:
Approval of a resolution and the ratification of the submission of an application for funding under the Federal Homeland Security Grant Program through the State Homeland Security Program to fund a Mobile GIS Response Unit.

BACKGROUND / RATIONALE:
This proposal will provide a mobile set of equipment to provide GIS capabilities to any area or agency in the region affected by a terrorism, radiological, or bioterrorism attack regardless of their current technological capabilities. Teams deployed with the equipment will aid in directing recovery operations to the scene as well as the distribution of web-based maps and data for both response and public awareness.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Strategic Priorities: Infrastructure Objective 2-Use a variety of funding sources for operational and capital needs.

FISCAL IMPACT:

Budget Summary Information:

CATEGORY	OOG	CASH MATCH	IN-KIND MATCH	TOTAL
Equipment	$42,835.00	$0.00	$0.00	$42,835.00

There is no matching requirement. Award of this grant provides for the purchase of supplies and equipment including a trailer, generator, laptops, projectors and items necessary to provide geospatial response in an emergency.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval.

RESOLUTION 2018-R____

A RESOLUTION AND THE RATIFICATION OF THE SUBMISSION OF AN APPLICATION FOR FUNDING UNDER THE STATE HOMELAND SECURITY PROGRAM COORDINATED THROUGH THE OFFICE OF THE GOVERNOR'S HOMELAND SECURITY GRANT PROGRAM AND AUTHORIZING THE CITY MANAGER TO ACT ON BEHALF OF THE CITY OF NEW BRAUNFELS IN ALL MATTERS RELATED TO THIS GRANT, INCLUDING EXECUTION OF ALL REQUIRED DOCUMENTAITON ASSOCIATED WITH ANY RESULTING AWARD.

WHEREAS, The City of New Braunfels is eligible and has applied for funding under the State Homeland Security Program; and

WHEREAS, the City of New Braunfels Office of Emergency Management and Geographic Information System Division has developed a plan to support coordinated geospatial response to chemical, biological, radiological, nuclear, explosive and other related terrorist events and seeks funding for equipment and supplies for this plan; and

WHEREAS, a grant award under this program would benefit the citizens of New Braunfels by enhancing the City of New Braunfels' ability to respond effectively and efficiently to any area in our region affected by a terrorism, radiological, or bioterrorism attack; and

WHEREAS; the total requested grant amount not to exceed $42,835 with no matching requirements is to be awarded in October 2018; and

WHEREAS; the City of New Braunfels agrees to return all funding to the Governor's Office Homeland Security Grant Program in the event of loss or misuse of grant funds; and

WHEREAS; the City of New Braunfels authorizes the City Manager to apply for, accept, alter, or terminate the grant application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS;

THAT, the City of New Braunfels City Council will accept a grant from the State Homeland Security Program and authorizes the City Manager to act on behalf of the City of New Braunfels in all matters related to this grant, including execution of all required documentation associated with any resulting award.

PASSED, ADOPTED AND APPROVED on this the 12nd day of March 2018.

City of New Braunfels, Texas

_____
BARRON CASTEEL, Mayor

Attest:

_____
PATRICK D. ATEN, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. G)

Presenter/Contact
Mark Enders, Watershed Program Manager
(830) 221-4020 - Menders@nbtexas.org

SUBJECT:

Approval of a Professional Service Agreement with Douchet and Associates for an amount of $31,450, for engineering design and project support for a stormwater quality treatment facility at North Houston Avenue.

BACKGROUND / RATIONALE:

The City of New Braunfels' 2018 Edwards Aquifer Habitat Conservation Plan (EAHCP) Workplan includes the design and construction of a water quality treatment facility to be installed at the end of North Houston Ave to treat stormwater runoff prior to entering the Upper Spring Run of Landa Lake. This project is intended to fulfill the water quality protection requirements set forth in the EAHCP. Funding for the design and construction of the water quality treatment facility has been approved by the EAHCP Implementing Committee and is available to the City to cover costs associated with design and construction. The City of New Braunfels 2018 projects and budget were also approved by Council at the December 11th, 2017 regular council meeting. At the time of the December 11th meeting, a contractor had not yet been secured for a stormwater quality treatment facility at North Houston Avenue.

The City requested three quotes and Statements of Qualifications from engineering firms to perform design work associated with the project. Doucet and Associates has been selected to perform engineering design work for the project based upon relevant work experience and qualifications. The cost for the contract is $31,450.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	**Strategic Priorities 21**	Ensure sustainable quality development

FISCAL IMPACT:

Funding for this project is provided through the EAHCP program per the executed 2018 EAHCP Program Funding Application and Workplan.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff Recommends recommends approval of a Professional Service Agreement with Doucet and Associates for an amount of $31,450, for engineering design and project support for a stormwater quality treamtent facility at North Houston Avenue.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. H)

Presenter/Contact
Victor Garza, Economic Development Manager
(830) 221-4621 - vgarza@nbtexas.org

SUBJECT:

Approval of a resolution recommended by the New Braunfels Industrial Development Corporation to provide up to $150,000 to the City of New Braunfels for downtown parking improvement projects.

BACKGROUND / RATIONALE:

On October 17, 2017, the New Braunfels Industrial Development Corporation approved in a 6-0 vote an expenditure of up to $150,000 for downtown parking improvement projects. This proposed expenditure would provide the funding necessary to make improvements at three downtown locations including pavement repairs, striping, safety features and lighting, among others. The areas include the old Chase Bank site (additional lighting), Hill Ave and Comal County's Zinc/Bridge lot. Based on estimates, the $150,000 will provide adequate funding to make these improvements as well as project contingency. Any unused funds will be returned to the NBIDC.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	**Strategic Priority 12**	Work with existing entities to ensure sustainable quality development. -Implement the Downtown Plan (including addressing parking)

FISCAL IMPACT:

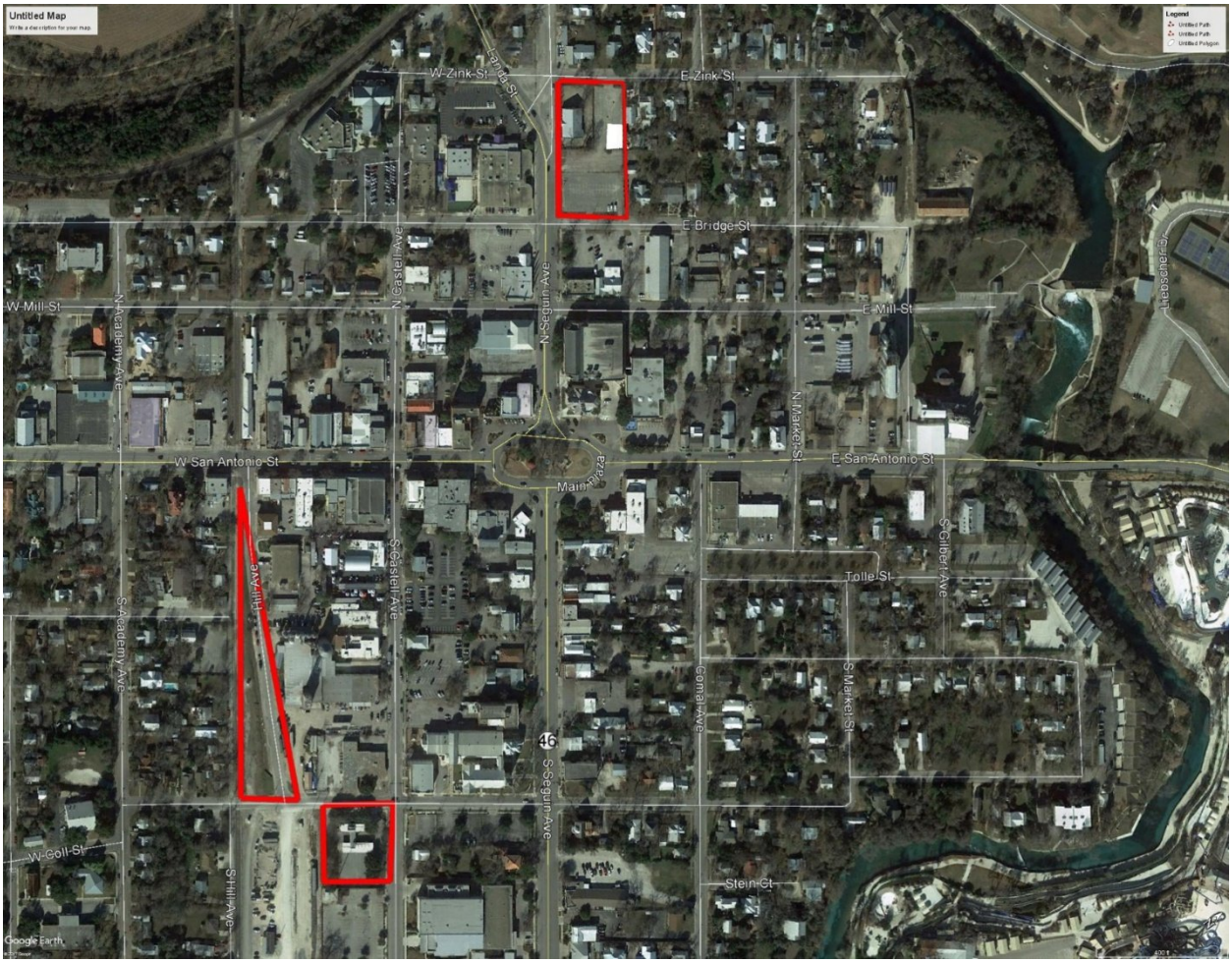
The $150,000 will be taken out of NBIDC funds. The item has been budgeted for this fiscal year.

COMMITTEE RECOMMENDATION: The NBIDC Board approved 6-0 on October 17, 2017.

STAFF RECOMMENDATION:

Staff recommends approval of this expenditure.

City of New Braunfels



RESOLUTION NO. 2018-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION TO PROVIDE FUNDS UP TO THE AMOUNT OF $150,000 FOR FUNDING DOWNTOWN PARKING IMPROVEMENTS TO THE CITY OF NEW BRAUNFELS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Industrial Development Corporation ("IDC") Board of Directors met on October 17, 2017, to consider a request from the City of New Braunfels for up to $150,000 for funding downtown parking improvements; and

WHEREAS, Downtown New Braunfels provides economic and cultural benefits for residents and visitors of New Braunfels and fosters economic development within the city; and

WHEREAS, the IDC is an economic development corporation formed by the City of New Braunfels pursuant to the Local Government Code, Chapters 501-505 that is authorized by Chapter 505.152 to undertake a project for automobile parking facilities found by the board of directors to be required or suitable for tourist, entertainment, convention, auditoriums, concert halls, museums, or exhibition facilities; and

WHEREAS, the estimated total cost of the downtown parking improvements is $150,000; and

WHEREAS, the IDC Board of Directors held a public hearing on October 17, 2017, to solicit public comment with regard to the City's funding request; and

WHEREAS, the IDC Board of Directors, after discussing the request, voted to approve a grant in an amount of up to $150,000 for funding downtown parking improvements to the City of New Braunfels;

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

SECTION 1: That the recommendation of the New Braunfels Industrial Development Corporation to provide a grant to the City of New Braunfels in an amount up to $150,000 for funding downtown parking improvements is hereby approved.

SECTION 2: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this 12th day of March, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Barron Casteel, Mayor

ATTEST:

_____
Patrick D. Aten, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. I)

Presenter/Contact
Victor Garza, Economic Development Manager
(830) 221-4621 - vgarza@nbtexas.org

SUBJECT:
Approval of a resolution recommended by the New Braunfels Industrial Development Corporation to provide up to $32,522 to the Central Texas Technology Center for use in a primary job training facility.

BACKGROUND / RATIONALE:
This item represents a Memorandum of Understanding between Workforce Solutions Alamo and the New Braunfels Industrial Development Corporation. Workforce Solutions Alamo is making a grant request to the Texas Workforce Commission for up to 50% of the cost needed for equipment to provide students and others with advanced training in the manufacturing and machining industries. The funds, if awarded, would be used to offset the costs of providing these machines and tools at the Central Texas Technology Center. If the grant is approved by the Texas Workforce Commission, the NBIDC would agree to provide 25% of the total project costs (along with another 25% from Seguin EDC) towards outfitting the CTTC with the technology.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
NBIDC Funding Policy

FISCAL IMPACT:
Up to $32,522. This represents 50% of the required local match. The other $32,522 is being provided by Seguin EDC if awarded. The total project cost is $130,086, of which the NBIDC would contribute up to $32,522.

COMMITTEE RECOMMENDATION:
NBIDC Board approved the expenditure in a 6-0 vote on September 6, 2017.

STAFF RECOMMENDATION:
Staff recommends the approval of this expenditure as consistent with NBIDC policy.

RESOLUTION NO. 2018-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, FOR A PROJECT EXPENDITURE NOT TO EXCEED $32,522 TO THE CITY OF NEW BRAUNFELS FOR A PROJECT TO PROVIDE TRAINING EQUIPMENT TO THE CENTRAL TEXAS TECHNOLOGY CENTER; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Braunfels realized the importance of higher education for the citizens of New Braunfels and Comal County in 2000 and cooperated in the application process requesting a grant in the amount of $1,250,000.00 from the Economic Development Administration (EDA) through the U.S. Department of Commerce; and

WHEREAS, in February 2002, the U.S. Department of Commerce awarded a $1,250,000.00 grant to the City of New Braunfels to construct an approximate 25,000 sq. ft. workforce training center at the New Braunfels Municipal Airport; and

WHEREAS, a partnership was created with the New Braunfels Industrial Development Corporation (IDC) and the City of Seguin to assist with the funding of the new workforce training center at an amount of more than $1,650,000.00; and

WHEREAS, the Alamo Community College District (now Alamo Colleges) became the curriculum partner to provide a quality, state-of-the-art training and educational institution that opened in April 2004 as the Central Texas Technology Center (CTTC); and

WHEREAS, after more than nine years of operation the CTTC has enjoyed growth and educational successes in workforce development and training, which has brought jobs and wealth creation to the region; and

WHEREAS, the success of the CTTC has been due to the partnerships and collaborations of the City of New Braunfels, City of Seguin, New Braunfels ISD, Comal ISD, Seguin ISD, Navarro ISD, Alamo Colleges, Alamo Area Academies, Workforce Solutions Alamo, and the business and industry sectors in Comal and Guadalupe Counties causing the CTTC to outgrow its facilities; and

WHEREAS, the IDC has found that the presence of the CTTC in the community assists the Board of Directors with its mission to recruit, retain and expand economic opportunities in the community;

WHEREAS, the Workforce Solutions Alamo is requesting a commitment of an amount not to exceed $32,522 for the expansion of the CTTC project representing 25% of the total costs; and

WHEREAS, the New Braunfels Industrial Development Corporation (NBIDC) heard the request in a public meeting held on September 6, 2017; and

WHEREAS, the NBIDC approved the request by a 6-0 vote; and

WHEREAS, the funding approved by this resolution represents the City of New Braunfels and the NBIDC's continuing commitment to the CTTC partnership;

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

SECTION 1: That the recommendation of the New Braunfels Industrial Development Corporation to provide a grant to the Central Texas Technology Center up to $32,522 for use in a primary job training facility is hereby approved.

SECTION 2: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this 12th day of March, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Barron Casteel, Mayor

ATTEST:

_____
Patrick D. Aten, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. J)

Presenter/Contact
Michael Mundell, Solid Waste Manager
(830) 221-4040 - mmundell@nbtexas.org

SUBJECT:
Approval of the second and final reading of an ordinance amending Chapter 110 of the Code of Ordinances relating to Solid Waste commercial rates and proposed operational changes.

BACKGROUND / RATIONALE:
City Council unanimously passed the first reading of this ordinance on February 26, 2018.

The City Council of the City of New Braunfels as established an ordinance containing rules, regulations, policies, and rate provisions affecting solid waste within the City limits and collection and disposal of same (Chapter 110 “Solid Waste”, Code of Ordinances of the City of New Braunfels). In 2010 Council approved the establishment of the Solid Waste Rate Model, for monitoring and making recommendations on changing or amending the Solid Waste rates. In FY 13/14 the rate model was reviewed and updated due to some commercial process improvements and new services. In FY 16/17 as part of an ongoing effort to more equitably distribute the required full cost of service recovery Council approved the first of three possible 8.5% commercial rate adjustments in the Solid Waste Ordinance, along with some operational changes.

If approved by Council, the second 8.5% adjustment in commercial rates to continue to bring that line of business closer to the required full cost of service recovery will be in FY 17/18. The requested operational changes consist of; increasing the cost of a private hauler permit in FY18/19 from $600 to $2,000 per truck per year to begin to more evenly distribute the cost of street maintenance for usage by private solid waste collection vehicles. Improving our dumpster enclosure and vehicle access requirements, over the years the minimal detail has resulted in service issues. The addition of some new fees for requested or required services such as the need for cleaning of the container or the enclosure area due to odor, unsanitary, or unsafe conditions, the need for repair after a fire in the container, assistance to remove unauthorized or oversized items from the container, or there is excess garbage that extends above the rim of the container.

If approved, staff recommends an implementation date of April 1, 2018

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	**City Plan/Council Priority:**	Strategic Priorities: Maintain fiscal stability of City operations

FISCAL IMPACT:

The 8.5% rate adjustment in the commercial line of business will generate approximately $ 25,000 in revenue per month.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval of the ordinance.

ORDINANCE NO. 2018 - ____

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING THE NEW BRAUNFELS CODE OF ORDINANCES CHAPTER 110, SOLID WASTE CODE BY AMENDING COMMERCIAL RATES AND OPERATIONAL CHANGES; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of New Braunfels established an ordinance containing rules, regulations, policies, and rate provisions affecting solid waste within the City limits and collection and disposal of same (Chapter 110 "Solid Waste", Code of Ordinances of the City of New Braunfels); and

WHEREAS, In 2010 Council approved the establishment of the Solid Waste Rate Model, for monitoring and making recommendations on changing or amending the Solid Waste rates; and

WHEREAS, In fiscal year 2013-14, the rate model was reviewed and updated due to some commercial process improvements and new services; and

WHEREAS, In fiscal year 2016-17, as part of an ongoing effort to more equitably distribute the required full cost of service recovery City Council approved the first of three possible 8.5% commercial rate adjustments in the Solid Waste Ordinance, along with some operational changes; and

WHEREAS, If approved by Council, the second 8.5% adjustment in commercial rates to continue to bring that line of business closer to the required full cost of service recovery will be in FY 2017-18; and

WHEREAS, The proposed operational changes consist of increasing the cost of a private hauler permit in FY 2018-19 from $600 to $2,000 per truck per year to begin to more evenly distribute the cost of street maintenance for usage by private solid waste collection vehicles; and

WHEREAS, Additional operation changes are required to improve the City's dumpster enclosure and vehicle access requirements; and

WHEREAS, new fees are necessary for requested or required services such as cleaning containers or the enclosure area of dumpsters due to odor, unsanitary, or unsafe conditions, the need for repair after a fire in the container, assistance to remove unauthorized or oversized items from the container, or removal of excess garbage that extends above the rim of the container; and

WHEREAS, the City Council of the City of New Braunfels, Texas has the authority under its Home Rule Charter and under the laws of the State of Texas to adopt regulations aimed to protect the health, safety, and general welfare of its citizens; and

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

Section 1: That Chapter 110 of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

Chapter 110 SOLID WASTE*

_____

Article I. In General
Sec. 110-1. Short title.
Sec. 110-2. Definitions.
Sec. 110-3. City to provide Solid Waste services.
Sec. 110-4. Placement of Residential garbage, recycling and green waste.
Sec. 110-5. Services not furnished by City.
Sec. 110-6. Collection methods.
Sec. 110-7. Solid Waste Collection Services.
Sec. 110-8. Service charges; billings.
Sec. 110-9. Dumping prohibited.
Sec. 110-10. Meddling and scavenging.
Sec. 110-11. Public disposal.
Sec. 110-12. Permitting of private haulers.
Sec. 110-13. Hardship Residents; carry out service.
Sec. 110-14. Duty of property owners to trim overhanging trees, etc., and remove debris.
Sec. 110-15. Violations by corporations.
Sec. 110-16. Penalty for violation of chapter.
Sec. 110-17. Prohibited materials.
Sec. 110-18. Garbage collection on private streets.
Sec. 110-19. Refusal of service.
Sec. 110-20 - 110-38. Reserved.

Article II. Containers
Division 1. Residential Users
Sec. 110-39. Automated Residential Garbage Collection.
Sec. 110-40. Automated Residential Recycling Collection.
Sec. 110-41. Green Waste.
Sec. 110-42. Residential bulk trash/large brush placement and collection services.
Sec. 110-43--110-55. Reserved.

Division 2. Business, Commercial, Industrial and Institutional Users
Sec. 110-56. Commercial containers furnished by City, use of.
Sec. 110-57. Prohibited items for commercial containers.
Sec. 110-58. Container pads and enclosures for commercial containers.
Sec. 110-59.1. Roll-off service open top
Sec. 110-59.2. Compactor services
Sec. 110-60. Charges.
Sec. 110-61. Containers not furnished by City, requirements for use.
Sec. 110-62. Recyclables to be collected.
Sec. 110-63. Conflicts of ordinances; liability
Sec. 110-64--110-80. Reserved.

ARTICLE I. IN GENERAL

It is hereby declared the policy of the City of New Braunfels, within Comal and Guadalupe counties, State of Texas, to preserve and maintain the clean and wholesome character of its environment and to preserve and maintain the health and welfare of its residents and businesses within

the incorporated area of the City, and in so doing it is necessary to establish regulations governing the accumulation, storage and disposal of garbage, refuse, rubbish, litter and other waste materials within the Incorporated City of New Braunfels.

Sec. 110-1. Short title.

This chapter shall be known and may be cited as the "Solid Waste Code" of the City.

Sec. 110-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Apartment: means a self-contained housing unit that occupies only part of a building. Such a building may be called an apartment building/condominium, especially if it consists of many apartments for rent. Apartments may be owned by an owner/occupier or rented by tenants.

Approved Container: A container of various sizes furnished by the City to residential and commercial customers to store solid waste and recycling for collection.

Bag: means a plastic bag sack or trash compactor sacks designed to store refuse and having sufficient wall strength, a thickness of no less than two (2) mils, to maintain physical integrity when lifted at the top, with opening closed; or biodegradable Kraft paper yard waste bags.

Biodegradable: means decomposable by natural process.

Brush: means cuttings or trimmings from trees or shrubs and similar materials.

Bulky Waste: means large objects or stable matter with weights and/or dimensions and proportions greater than those allowed for in basic collection, including but not limited to stoves, water heaters, washing machines, furniture, loose brush, loose tree limbs and trimmings, and bundles in excess of forty pounds (40 lb.) in weight. This definition shall exclude household waste, construction debris, dead animals, or hazardous waste.

Bundle: means loose objects of the same characteristics, such as tree, shrub or brush trimmings, securely tied together using rope or twine forming an easily handled package not exceeding four feet (4') in length or forty-pounds (40 lb.) in weight.

Business: as used herein, shall mean any commercial operation, or any usage of property for other than residential purposes, involving the employment of any individual, or the sale or manufacture of any product.

Church: a place for the purpose of religious study, worship, fellowship, education and contemplation, including but not limited to a sanctuary, parish house, public school, parochial school, rectory or convent. For the purpose of this article, real property used as a church shall be considered a commercial usage.

Chlorofluorocarbons (CFC's): means coolant found in air conditioners, freezers and refrigerators; also, propellants (in aerosol applications) and solvents; they are also commonly known by the DuPont trade name Freon.

City: means the governmental entity and/or the corporate limits of the City of New Braunfels located in Comal and Guadalupe Counties.

City Recycle Center Aka Recycle Drop-Off Center: means a designated location, either temporary or permanent, within the City of New Braunfels established for the receipt of recyclable material including, but not limited to, aluminum, cardboard, glass, metal, paper, and plastic.

Collection: means the act of removing solid waste (or materials that have been separated for the purpose of recycling) which have been placed for the purpose of collection and transportation to a permitted solid waste disposal or processing facility.

Collection frequency: The number of times per week that collection service is provided.

Commercial Customer: means any enterprise or establishment whose main purpose is to carry on a commercial activity whether for profit or not. Typically includes, but not limited to, such enterprises as; hotels, motels, restaurants, fast food establishments, retail stores, schools, offices, shopping centers/malls/plazas, factories/manufacturing facilities, warehouses, and high density occupied dwellings such as apartment/condominium complexes and mobile home parks.

Construction Waste: means waste resulting from construction or demolition projects; includes all materials that are directly or indirectly the by-products of construction work or that result from demolition of buildings and other structures, including, but not limited to paper, cartons, gypsum board, wood, rubber, glass, metal, plastics, etc.

Container*:* means any portable device in which a material is stored, transported, or processed.

Customer: means a person, firm, partnership, association, corporation, governmental entity, or other entity receiving service provided from the City.

Disposal: means the discharge, deposit, dumping, spilling, leaking, or placing of any solid or liquid waste (whether containerized or non-containerized) into or on any land.

Disposal Site: means a managed area of land upon which solid waste is disposed of in accordance with standards, rules or orders established by the Texas Commission on Environmental Quality (TCEQ).

EPA: means Environmental Protection Agency.

Excess Garbage: Garbage or rubbish that will not fit into the city-issued approved container but may be put in plastic bags, not larger than thirty-three (33) gallons, and placed at the curb at least three (3) feet from the approved container and marked with a City issued excess garbage tag.

Excess Garbage Fee: means fee associated with excess garbage.

Garbage: solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other food products.

Green Waste: means leaves, grass clippings, yard and garden trimmings, brush, including clean woody vegetative material measuring six inches or less in diameter that results from home owner landscaping maintenance and not commercial land clearing operations. This term does not include stumps, roots, yucca, cactus, palm debris, soil or rocks.

Hazardous waste: means any liquid or solid waste identified or listed as a hazardous waste by the administrator of the U.S. Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976.

Hardship Resident: means City residents who for health reasons established to the satisfaction of the Solid Waste Manager or designee, who are unable to physically place their cart curbside for collection, and who live alone or have no one residing with them physically able to place the cart curbside.

Household hazardous wastes: means any hazardous waste determined to be from residential origin and shall include but not limited to bleaches, herbicides, pesticides, drain cleaners, paint thinners and solvents, oil-based paints, and sharp objects such as syringes.

Illegal dumping: discarding waste in an illegal manner, where it doesn't belong and/or where environmental damage is likely due to improper disposal.

Litter: means any man-made or man-used object, organic or inorganic material, or solid waste and specifically includes trash which is not properly placed in a container, or an authorized sanitary waste disposal site; or another approved area, depository or in, a vehicle designated for transport or disposal of litter, trash, garbage or waste.

Missed Service: (City caused) customer whose container was not collected because City inadvertently missed collection of a properly placed container.

Missed Service: (Customer caused) customer whose container was not collected because it did not meet the required conditions of this code.

Municipal Solid Waste: means Garbage, rubbish, refuse, sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, municipal, commercial, mining, and agricultural operations and from community and industrial activities. The term does not include:

(a) Solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows, or industrial discharges subject to regulation by permit issued under Texas Water Code Chapter 26;
(b) Soil, dirt, rock, sand, and other natural man-made inert solid materials used to fill land if the object of the fill is to make the land suitable for the construction of surface improvements; or
(c) Waste materials that result from activities associated with the exploration, development, or production of oil or gas or geothermal resources and other substance or material regulated by the Railroad Commission of Texas under Natural Resources Code, §91.101, unless the waste, substance, or material results from activities associated with gasoline plants, natural gas liquids processing plants, pressure maintenance plants, or re-pressurizing plants and is hazardous waste as defined by the administrator of the United States Environmental Protection Agency under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 United States Code, §§6901 *et seq.*).

Non-collection material: Materials that shall not be collected by the Solid Waste Division, including, but not limited to, rock, dirt, manure, dead animals, hot coals, ashes, embers, tire and wheel combinations, tires, hazardous waste material, lead acid batteries, engines, lawn mowers, riding mowers, liquid waste

of any kind, vehicle bodies, boats, mobile homes, trailers, campers, and other items of like size; waste from undeveloped property, and landscaping waste for new homes or commercial sites.

Overloaded container: A container in which the capacity is exceeded, which is indicated by trash extending above the container rim, so the lid will not close properly.

Point of collection: A geographical point on or near a customer's property where approved containers are placed for collection service.

Premises: means businesses, houses, boardinghouses, theaters, offices, hotels, restaurants, cafes, eating houses, tourist camps, apartments, sanitariums, rooming houses, schools, private residences, tourist camps, vacant lots and all other places within the City where garbage, trash or rubbish accumulates in ordinary quantities.

Putrescible Waste: means organic wastes, such as garbage, waste water treatment plant sludge, and grease trap waste, that is capable of being decomposed by microorganisms with sufficient rapidity as to cause odors or gases or is capable of providing food for or attracting birds, animals, and disease vectors.

Recycling: means a process by which materials that have served their intended use or are scrapped, discarded, used, surplus, or obsolete are collected, separated, or processed and returned to use in the form of raw materials in the production of new products.

Recyclable Material: means a material that has been recovered or diverted from the non-hazardous waste stream for purposes of reuse, recycling, or reclamation. Recyclable material is not solid waste.

Recycling program: means the organized collection of recyclable material for the purpose of resource recovery and recycling in pursuit of the goals of the city.

Refuse: means all putrescible and non-putrescible solid waste including garbage and rubbish.

Residential Unit: means a dwelling within the corporate limits of the City of New Braunfels within Comal and Guadalupe Counties occupied by a person or group of persons.

Roll-off container: means a container used for the storage, collection and transportation of municipal, commercial, institutional, or industrial solid waste.

Route: means a series of concurrent stops to collect solid waste; a path regularly visited by a collection vehicle.

Rubbish: means non-putrescible solid waste (excluding ashes) consisting of both combustible and noncombustible waste materials. Combustible waste materials include but are not limited to paper, rags, cartons, wood, furniture, rubber, plastic, yard trimmings and leaves. Noncombustible waste materials include but not limited to glass, tin cans, and metals.

Salvaging: means the controlled removal of waste materials for utilization, recycling, or sale.

Scavenging: means the uncontrolled and unauthorized removal of materials from a disposal or recycling center, any container, bag, or container within the corporate limits of the City or County.

Scrap Tire: means any tire that can no longer be used for its original intended purpose.

Screening: means process to detect and prevent unauthorized waste from entering the waste stream.

Service area: A geographic area within which solid waste collection services are provided.

Solid Waste Manager: means City official whose responsibility is the overall direction of the Solid Waste Division.

Special Pickup: means service required to pick-up and dispose of discarded items not serviced under normal collection procedures outlined in these provisions.

Special Waste: means any commercial or residential garbage, trash, rubbish, hazardous waste, infectious waste, or other solid waste that because of its quantity, concentration, physical or chemical characteristics or biological properties is not collected by the City's Solid Waste Division.

Uncovered: means any load of garbage or refuse which is uncontrolled to the extent that the garbage or refuse can escape from the carrier either from the top, sides or the bottom of the carrier under ordinary circumstances of travel.

Unprepared Solid Waste: means any solid waste garbage, brush, rubbish, recycling material or green waste which has not been placed in an approved cart or prepared for collection or is in contact with the ground, regardless of surface.

Vacant Lot: means land held and maintained in its natural state without building improvements or active utility account(s).

Vector: means an agent such as an insect or animal which transmits diseases from one person or animal to another.

White Goods: means major appliances such as refrigerators, freezers, washing machines, dryers, hot water heaters, stoves, and dishwashers.

Sec. 110-3. City to provide Solid Waste Services.

The City's Solid Waste and Recycling Division shall be the exclusive provider of residential and commercial garbage, residential recycling, residential green waste and residential refuse collection for all premises within the City. Service can be provided by an approved private hauler, where the Solid Waste Manager or designee has determined certain service is not available or furnished by the City, or it is not in the best interest of the City to provide service. It shall be unlawful for any person or entity to provide residential or commercial garbage, rubbish, recycling, green waste or refuse collection to any person or business for compensation within the City, or to make use of the public streets for that purpose, without first obtaining an approved service agreement with the City.

All residential, commercial, governmental, and non-profit premises must subscribe to City solid waste services or an approved City provider where the City is not providing said service as determined by the Solid Waste Manager or designee.

Sec. 110-4. Placement of Residential garbage, recycling and green waste.

The City's Solid Waste and Recycling Division shall not collect garbage, rubbish, green waste, or recyclable materials where such materials are not prepared for collection and placed as designated by the terms of this section. Failure to comply will be an offense and each day's failure to comply will constitute a separate offense.

(a) All items (example: carts, trash bags, recyclables, green waste and/or biodegradable bags) intended for City collection shall be placed on the addressed side of the structure or designated point of collection approximately five (5) feet laterally from any obstacle. Place cart at the street's edge with the wheels against the curb, where curbs exist, or wheels facing away from main street section, where curbs do not exist.

(b) The Solid Waste Manager or designee shall have the authority to designate an alternative point of collection with consideration for such factors as: employee safety, equipment maneuverability convenience for customers, hazardous conditions such as cables, utility poles, equipment clearance, animals; and collection costs.

(c) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables and green waste shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(d) No items shall be placed out for collection in an alley way, under any overhead lines of any type or low overhanging branches and shall be placed five (5) feet from any obstacle or structure. Exceptions to this shall only be given by the Solid Waste Manager or designee.

(e) Green Waste such as tree leaves and grass shall be placed at the curb in biodegradable Kraft paper yard waste bags and shall not weigh more than forty pounds (40 lbs.) each. Bags will be provided at the discretion of the City and availability will be limited by budgetary and ordering constraints. When bags are not available for distribution by the City the customer will be responsible for securing bags to meet their needs at their cost. Brush, tree trimmings and limbs shall be totally separated from all other waste, including metals, lumber, paper, plastic, furniture, and appliances. Brush that cannot be placed in bags should be cut into four (4) foot lengths and bundled with rope or twine. Any waste regardless of quantity or sizes mixed with tree and shrubbery trimmings constitutes a violation of this section and shall not be collected.

(f) It shall be unlawful to park, place, allow, permit or cause to be parked, place any motor vehicle, trailers, boats, or similar obstruction within five feet (5') of, or obstruct in any manner the collection of solid waste contained in a commercial or residential solid waste or recycling container.

Sec. 110-5. Services not furnished by City.

(a) Disposal services for the following are not furnished by the City's Solid Waste and Recycling Division; the person or company that is in charge of the property where such accumulations or materials are found on the property or in a solid waste container/container shall be responsible for and required to remove and dispose of the accumulations in the manner and by the method

directed by the Solid Waste Manager or designee: *Wholesale food establishments.* Places of wholesale accumulations, such as killing and dressing facilities for animals, fowl, wholesale fruit and vegetable houses, storage and other places where the daily accumulation of garbage and rubbish is more than the ordinary quantities.

(b) *Dead animals.* Whole or part of dead animals, such as but not limited to, cows, horses, and mules.

(c) *Manure.* Manure from cow lots, horse stables, poultry yards, and pigeon lofts.

(d) *Garages and filling stations.* Waste oils from garages or filling stations.

(e) *Used Tires.* Any used tires from service station, retail tire outlets, junk yards, etc.

(f) *Burned materials.* Any accumulations of ashes, clinkers and cinders.

(g) *Construction.* Any accumulations such as brick, broken concrete, lumber, dirt, plaster, sand or gravel, etc.

(h) *Bulky materials.* Automobile frames, dead trees, and other bulky, heavy material.

(i) *White goods*. White goods containing chlorofluorocarbons (CFC's, commonly known by the DuPont trade name Freon) i.e. refrigerators, freezers, and air-conditioning units.

(j) *Electronic goods.* Computers, televisions and other electronic goods.

Sec. 110-6. Collection methods.

No one except the duly authorized agents and employees of the City shall empty garbage carts, recycling carts, or green waste or convey or transport garbage or recyclables on the streets, alleys and public thoroughfares of the City without first obtaining an approved permit with the City.

Anything left or placed within a three-foot radius of any approved container at its point of collection shall be deemed as placed or left there for collection, and the Solid Waste and Recycling Division and its employees shall not be liable for the removal thereof.

Sec. 110-7. Solid Waste Collection Services

Standard residential solid waste collection service shall include once-a-week collection of garbage and once-a-week collection of recyclables and green waste. Standard commercial solid waste collection service shall include garbage collection of a frequency and volume as stated in Sec. 110-8 Service charges; billings but no less than once per week.

(a) *Residential.* In the residential areas, garbage shall be prepared for collection to be made no more than one time per week. Garbage volume shall not exceed one 96-gallon cart or one 48-gallon cart at each collection, the container lid must close completely. Any garbage in excess of this limit shall not be collected unless the bag with the excess garbage is tagged with a City issued sticker and placed at least five (5) feet laterally away from a City issued cart. In those areas where automated recycling is provided (single family residences, duplex apartments, triplex apartments, and fourplex apartments), collection of recyclables and green waste shall be made one time per week.

(1) Any person making application for water and/or electric service inside the City limits shall be deemed to have applied for garbage and recycling services and shall be considered a customer of the Solid Waste and Recycling Division of the City until such time as water and/or electric service to such person has been discontinued. The cost of residential garbage service shall be as defined in Sec. 110-8 Service charges; billings.

(2) New single-family residences or premises shall be exempted from City residential garbage collection service charges while under construction and until initial occupancy of the structure. Initial occupancy shall be interpreted as the sale or lease of the property to a second party for occupancy, commercial use as a model home, or the first electric meter account change from contractor to occupant, whichever occurs first.

(3) Excess garbage stickers shall be made available at locations designated by the Solid Waste Manager or designee.

(4) Excess garbage service utilizing an additional City issued garbage container (limit two), will be evaluated for approval by the Solid Waste Manager or designee. Excess garbage service provided through a City issued additional garbage container shall be required for a minimum four consecutive months before the service can be discontinued, reinstated, changed or modified. The cost of the excess garbage stickers or a City issued additional cart shall be as defined in sec. 110-8 service charges; billings.

(b) *Commercial business.* In the commercial and/or business districts comprising hotels, motels, boardinghouses, apartments, condominiums, churches, rest homes, funeral homes, sanitariums, hospitals, recreation areas, retail, restaurants, and cafes, collection will be made as often as may be necessary to comply with sanitary standards but no less than once weekly.

(1) Commercial customers making application for water and/or electric service inside the City limits shall be deemed to have applied for garbage service and shall be considered a customer of the Solid Waste and Recycling Division of the City until such time as water and/or electric service to such person has been discontinued. The cost of commercial garbage service shall be as defined in sec. 110-8 Service charges; billings. Commercial customers requiring seasonal service may request a change in service with 30 days' notice to the City. Any change in service shall be locked in for a minimum four-month time period before the service can be changed or modified

Sec. 110-8. - Service charges; billings.

(a) *Residential*. The fair and reasonable charges for providing garbage removal service for residential areas shall be as set out in this subsection and unless noted otherwise such charges shall be collected monthly.

(1) Residential unit:
Refuse $13.40
Recycling 4.26
Total 17.66

(2) Apartment minimum 13.40

(3) Brush/bulky pick up, minimum for first one-half hour 25.00
Each one-half hour thereafter 25.00

(4) Excess garbage tags, per five tags 10.00

(5) Excess garbage fee for additional residential cart 6.50

(6) Administrative fee for additional recycling cart ..... No charge

(7) Administrative fee for additional cart, per request for service charge per each container 10.00

(8) Replacement cart (second request and after): Actual cost of cart

(9) Container rental (each 3—8 cubic yard container) 45.00

(10) Container collection service, per each collection:
Three cubic yards 15.00
Four cubic yards 20.00
Six cubic yards 30.00
Eight cubic yards 40.00

(11) Missed service (resident-caused) (as determined by solid waste manager or designee), each occurrence 15.00

(12) Missed service (city-caused), or undetermined cause ..... No charge

(b) *Commercial/business.* The fair and reasonable charges for providing garbage removal service for each business shall be as set out in this subsection, and such charges shall be collected monthly:

(1) *Commercial standard carts collected one time per week.*
a. Minimum charge (two 96-gallon carts) ..... $ 29.32
b. Additional commercial 96-gallon cart (limit two), each 14.66
c. Administrative fee for additional cart, per request for service change 10.00
d. Brush/bulky pick up, minimum for first one-half hour …… 25.00

(2) Necessary dumpster cleaning, repair, and painting after a fire in container …… 250.00

(3) Dumpster cleaning required by Solid Waste Manager or customer requested, due to odor, unsanitary, or unsafe condition …… 75.00

(4) Mechanical assistance to remove unauthorized and/or oversized items from container ……65.00

(5) Manual collection of excess garbage and rubbish on site …… 140.00 per hour based on total amount of time including, but not limited to, travel, loading, disposal, and weight of contents.

(6) Installation of locking mechanism …… 30.00

(7) Key charge …… 5.00

(8) Waiting time for blocked container (requested by customer) …… 134.40/hour; 2.24/minute

(9) Overloaded/excess garbage fee

a. 3 cubic yards …… 15.00
b. 4 cubic yards …… 20.00
c. 6 cubic yards …… 30.00
d. 8 cubic yards …… 40.00
e. 10 cubic yards …… 50.00

(10) *Three cubic yards.*

a. One time per week 97.71
b. Two times per week 112.18
c. Three times per week 123.95
d. Four times per week 184.22
e. Five times per week 185.08
f. Six times per week 185.92

(11) *Four cubic yards.*

a. One time per week 123.02
b. Two times per week 138.33
c. Three times per week 153.04
d. Four times per week 187.49
e. Five times per week 232.50
f. Six times per week 247.22

(12) *Six cubic yards.*

a. One time per week 174.82
b. Two times per week 191.30
c. Three times per week 208.37
d. Four times per week 265.61
e. Five times per week 317.84
f. Six times per week 320.79

(13) *Eight cubic yards.*

a. One time per week 226.03
b. Two times per week 249.99
c. Three times per week 263.70
d. Four times per week 343.74
e. Five times per week 374.94
f. Six times per week 411.33

(14) *Ten cubic yards.*

a. One time per week 277.83
b. Two times per week 312.51
c. Three times per week 319.03
d. Four times per week 421.82
e. Five times per week 446.76
f. Six times per week 467.36

(15) *Three cubic yard compactor, customer-owned.*

a. One time per week 108.57
b. Two times per week 133.88
c. Three times per week 156.50
d. Four times per week 227.62
e. Five times per week 239.33
f. Six times per week 251.03

Four cubic yard compactor, customer-owned.

a. One time per week 139.29
b. Two times per week 165.45
c. Three times per week 196.44
d. Four times per week 241.74
e. Five times per week 303.03
f. Six times per week 334.02

Six cubic yard compactor, customer-owned.

a. One time per week 196.52
b. Two times per week 234.70
c. Three times per week 273.47
d. Four times per week 352.41
e. Five times per week 420.91
f. Six times per week 445.57

Eight cubic yard compactor, customer-owned.

a. One time per week 253.15
b. Two times per week 304.24
c. Three times per week 350.50
d. Four times per week 452.24
e. Five times per week 515.99
f. Six times per week 579.51

(19) *20 cubic yard compactor, customer-owned.*

a. One time per month 393.86
b. Two times per month 786.63
c. Three times per month 1,180.48

30 cubic yard compactor, customer-owned.

a. One time per month 508.87
b. Two times per month 1,017.73
c. Three times per month 1,526.60

40 cubic yard compactor, customer-owned.

a. One time per month 623.88
b. Two times per month 1,247.75
c. Three times per month 1,871.63

Open top roll-off rates 20, 30 and 40 cubic yards.

a. Minimum one-month rental 150.00
b. Delivery fee 150.00
c. Service fee, plus disposal fee for weight of container contents 150.00

(c) *Discarded used tire pickup.* The collection and removal of discarded tires from service stations, retail tire outlets, junkyards and similar establishments shall be the responsibility of those respective establishments at their own cost and are not considered municipal solid waste.

(d) *Lien created.* The mayor or local health authority shall file a statement of expenses incurred under this section, giving the amount of such expenses, the date on which such work was done or improvements made, with the county clerk of Comal County, Texas; and the city shall have the privileged lien on such lot or lots or real estate upon which such work was done or improvements made to secure the expenditures so made, in accordance with the provisions of V.T.C.A., Health and Safety Code § 342.003 et seq., which such lien shall be second only to tax liens and liens for street improvements; and such amount shall bear ten percent interest per

year from the date such statement was filed. It is further provided that for any such expenditures and interest, as aforesaid, suit may be instituted, and recovery and foreclosure of such lien may be had in the name of the city; and the statement of expenses so made, as aforesaid, or a certified copy thereof shall be prima facie proof of the amount expended for such work improvements.

(e) *Special provisions.* A fee in the amount shown on the schedule below shall be assessed to each commercial business account requiring a collection frequency greater than their normal weekly pick up. This fee shall be collected monthly and shall be known as a call-in collection of commercial containers:

Call-in collection charges:

Three cubic yards $123.88
Four cubic yards 152.75
Six cubic yards 211.25
Eight cubic yards 276.07
Ten cubic yards 345.11

Call-in collection charges (roll-off/front load compacting containers).

Three cubic yards 133.06
Four cubic yards 170.75
Six cubic yards 240.39
Eight cubic yards 310.32
20 cubic yards 482.79
30 cubic yards 623.77
40 cubic yards 764.75

(f) *Penalty.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined in any sum not exceeding $1,000.00, and each day's violation shall constitute a separate and distinct offense. If the owner or occupant of any lot, lots or premises under the provisions of this chapter shall be a corporation, and shall violate any provisions of this section, the president, vice-president, secretary, treasurer of such corporation, or any manager, agent, or employee of such corporation shall be also severally liable for the penalties provided in this section.

(g) *Billings.* A bill for garbage collection services will be rendered no less frequently than monthly. The "net amount due" stated on the bill is due when the bill is rendered. The bill shall be considered delinquent in 14 days from the date rendered (the "net amount due date" shown on the bill). A delinquency or late charge equal to ten percent of the net amount due shall be payable in addition to the next amount due if the bill is not paid by the net amount due date.

(h) *Fees.* All fees paid for garbage and recycling services shall be placed in a separate enterprise fund for the purpose of funding the provision of these services. All fees and rates shall be set by resolution or ordinance and adopted by city council.

(i) *Charges set:* The City council shall from time to time set by resolution or ordinance all charges and assessments to be collected from each customer. The City shall reimburse for up to six (6) months of any overcharges. Customers may be liable for up to six (6) months of undercharges.

Sec. 110-9. - Dumping prohibited.

(a) It shall be unlawful and is hereby declared a public nuisance for any person to throw, dump, deposit or place any litter, trash, or waste material of any kind on public or private property within the city limits or its extraterritorial jurisdiction. It shall be an affirmative defense to prosecution that the litter, trash, or waste material was thrown, dumped, deposited or placed at a city-designated disposal area.

(b) Any person who shall violate any of the provisions of this section or fail to comply therewith shall be deemed guilty of a class "C" misdemeanor and, upon conviction, shall be fined not less than $200.00 nor more than $2,000.00 and be liable for cleanup costs associated with removal. This offense is hereby declared to be a strict liability offense and the culpable mental state required by V.T.C.A., Penal Code Ch. 6.02 is hereby specifically negated and clearly dispensed with.

Sec. 110-10. - Meddling and scavenging.

The meddling with or theft from garbage cans and recycling containers or in any way pilfering, scavenging, or scattering contents from any such container is prohibited. It is further prohibited for any person to place or remove anything in any can, container, dumpster, or container unless placed or removed by the person or entity owning or exercising control over the container or paying for its use.

Sec. 110-11. - Public disposal.

(a) *Residence and business owners.* Residence and business owners shall not dispose of garbage, trash, rubbish, bottles, broken glass, cans, and dead animals by placing same in public trash barrels or garbage containers in public places, along city streets, or in driveways, rivers or creeks.

(b) *Picnics and parties.* Persons picnicking in or using the facilities of any park or any public place in the city shall place all their garbage, trash, rubbish, bottles, broken glass, cans, and dead animals in trash barrels or containers provided in such public places for that purpose.

(c) *River related activities.* Persons using river amenities shall place all their garbage, trash, rubbish, recyclable material, etc. in appropriate bags or devices while in the water or upon exit from the water in barrels or containers provided in such public places for that purpose and shall not deposit litter in the river or on adjacent lands.

Sec. 110-12. Permitting of private haulers.

(a) It is unlawful to operate a solid waste vehicle without a permit. It shall be an offense for a person to engage in the business or occupation of hauling, collecting, disposing, or offer to haul, collect or

dispose of solid waste or recyclable materials within the City's corporate limits unless the person has obtained and affixed a current, valid permit decal to each vehicle covered by this section. Under authority of V. T. C. A., Local Government Code CH. 217, sub. Ch. C, regulation by a home rule municipality. It is further declared a public nuisance for a person to collect or offer to collect, or to dispose or offer to dispose of, solid waste within the City's corporate limits unless the person has secured and affixed a current, valid permit decal to each vehicle covered by this section.

(1) For the purpose of this section *Vehicle* means a "for-hire" or other commercial, industrial, motorized instrument of solid waste conveyance regulated under this section, and used, designed and/or equipped to collect, move, or dispose of solid waste materials within the corporate limits of the City. For example, vehicle includes, but is not limited to, those owned or operated to haul waste generated by the owner of the vehicle, such as a demolition company, construction company, commercial or residential builder, including but not limited to hazardous or special wastes regularly or occasionally collected or disposed within the City's jurisdiction, including those vehicles that transport liquid wastes.

(b) *Permitting procedure.*

(1) Each application for a permit required by this section shall be made to the Solid Waste and Recycling Division, and shall include:

a. Name, business address, and telephone number of the applicant solid waste hauler;
b. The trade name under which the applicant hauls or intends to haul solid waste;
c. The number and type of vehicle(s) the applicant intends to operate, together with a general physical description of each vehicle (e.g. year made, model, manufacture's rate capacity) along with state registration number;
d. The period the applicant has been engaged in the activity of hauling solid waste refuse and the daily hours of operation intended for collection transportation and disposal activities.
e. Address of container, number of containers at each location, and size of containers
f. Statement whether the applicant or any person or entity with whom he has been associated or employed has a claim or judgment against him for damages resulting from the negligent operation of a vehicle;
g. Statement of the financial ability and responsibility of the applicant;
h. Certificates of Insurance - copy of proof that the applicant has a valid general (public) liability insurance policy for the full term of the license period in the amounts of not less than $500,000.00. In addition, a business automobile liability coverage for each vehicle operated by the hauler with combined single limits for bodily injury and property damage of not less than $500,000.00. The policies shall contain a provision requiring that the City be provided with a 30-day notice, in writing, of cancellation or material change in the policies. In the event of cancellation or material change in the hauler's policies, the permit shall be suspended along with the hauler's vehicular activities until such time as the hauler can again secure appropriate coverage.; and
i. Such other information as the permitting officer may reasonably require.

(2) Each application for a permit under this section shall be accompanied by a permit fee in an amount equal to $2,000.00 for each truck with a gross vehicle weight of 7,000 pounds or more and $150.00 for each truck with a gross vehicle weight of 6,999 pounds and less operated.

(3) The permitting period under this section shall be for one year, twelve (12) months from the date of issuance, if issued and fully paid at commencement of the permit year, January 1 of each

year. Quarterly permits may be secured on January 1, April 1, July 1, and September 1 of each calendar year, or the next business day should any of the above dates fall upon weekends or City holidays. These individual quarterly permits and quarterly fee payments shall not be pro-rated for use of the vehicle during partial quarters. Failure to pay within a ten (10) day grace period will result in a ten (10) percent late fee penalty. The annual permit is required to be renewed each year by January 2 or the first City working day after January 1 and the permit fee shall be paid each time the permit is renewed for the upcoming calendar year ending on December 31.

a. Prior to the issuance of a solid waste hauler permit, the applicant shall pay the current permit fee for each vehicle in accordance with the vehicle permit fees in this section. Such fees may be reviewed by the City annually and adjusted by the City Council.
b. Applicant will be entitled to prorate annual permit fees for vehicle units added after commencement of the annual permit period. Proration's shall not be allowed on a daily or monthly basis but will be calculated on a quarterly basis. Any portion of a quarter for which a permit fee is paid must satisfy the entire quarterly obligation.
c. Late payments, made after a ten (10) day grace period, applicable to annual and quarterly payments, shall be subject to a ten (10) percent late fee penalty.
d. Vehicles owned and/or leased by the City are exempt from paying the vehicle permit fee and from displaying a permit decal.

(4) The permit issued under this section is nontransferable and may be revoked by the City at any time when in its judgment such action is in the best interest of the public, without refund or rebate to the permittee for any unused portion of the permit fee.

(5) Before any permit under this section is issued or renewed, the Solid Waste Manager or designee shall evaluate the application as necessary to determine whether the Solid Waste and Recycling Division could or should provide a comparable service and whether the public convenience or necessity requires the granting of such permit. The Solid Waste and Recycling Division shall refuse to issue a permit to an applicant when it has been determined that the best interest of the public will not be served. In such case, the application fee shall be wholly refunded to the applicant. Denial of a permit by the City of New Braunfels prevents the applicant from providing service in the City of New Braunfels. Supplying false information to the Solid Waste and Recycling Division shall be grounds for refusal to grant a permit or revocation of a permit if already issued. The hauler shall at least annually update the information contained in the application to reflect any substantive changes in the information required by the initial application. Before issuance or renewal of a permit, the Solid Waste Manager or designee shall verify that all trucks shall be marked in a manner that will make them readily identifiable and that a sticker for the current permit is affixed to the truck permitted and being used for such purpose. Commercial concerns that are not in the business of hauling solid waste for others but rather are hauling waste generated by themselves or their own commercial activities, shall permit their vehicles in accordance with this section.

(6) Prior to the issuance of a permit, the Solid Waste and Recycling Division may require the applicant to submit for inspection by the Solid Waste and Recycling Division at a City facility each. Any City inspections hereunder shall be conducted by trained and qualified City technicians. In the event that the Solid Waste and Recycling Division chooses to inspect the vehicle, the Solid Waste and Recycling Division or its agents shall determine whether the vehicle(s) is constructed and equipped in accordance with the provisions of this section and that the vehicle(s) are generally in good

repair. In addition to the initial optional Solid Waste and Recycling Division inspection prior to the issuance of a permit, designated employees of the Solid Waste and Recycling Division are hereby authorized to randomly re-inspect the vehicles at "off-road" locations periodically in order to observe that the vehicles are generally maintained in good repair and are likely not to constitute a public health hazard or public nuisance under provisions of this and any other governing ordinances. These optional "off-road" Solid Waste and Recycling Division inspections may take place at a City facility to be designated by the Solid Waste and Recycling Division. These "off-road" Solid Waste and Recycling Division inspections do not supplant the legally mandated inspection of motor vehicle requirements of the State Department of Public Safety or the State Department of Transportation. All transport vehicles shall have a valid department of public safety inspection sticker properly displayed.

(7) The City will monitor collection sites within its jurisdiction on an as needed basis and may pursue enforcement, including, but not limited to, issuance of criminal citations to drivers of non-compliant vehicles used for hauling, citations to responsible legal entities, and establishment of predicates for civil enforcement against any responsible person.

(8) For purposes of notice, where required by this section, it shall be sufficient to notify the permittee by certified mail at the address represented in the permit application. When a violation of this section is alleged, in contemplation of criminal or civil prosecution, certified mail, return receipt, shall be sufficient evidence of notice of violation to a permittee in whose name a permit has been issued, whether the permit is current or delinquent.

When a violation of this section is alleged, based upon a vehicle's displaying no evidence of a permit, a citation given directly to the driver of the vehicle shall be the same as and legally sufficient to effect notice of the violation to the owner. In which case, the driver is the apparent agent of the owner, as allowed by law. Thereafter, service of process for civil or criminal prosecutions shall be conducted as prescribed by law. Where the permittee is a corporation, notice may be personally, hand delivered to the president, any vice president, or agent of the corporation. In the event the president, a vice president, or registered agent cannot with reasonable diligence be found at the registered office, duplicate copies of the notice shall be sent to the registered agent identified according to records of the secretary of state by certified mail, return receipt requested. Or, in the alternative or in supplementation, any sufficient form of substituted service provided by law may be employed.

(9) Prior to the issuance of any permit under this section, the applicant shall demonstrate, upon the Solid Waste Manager's request, the payment of any undisputed, previously due and outstanding, sales and/or property taxes, fees, and other debts owed to the City including.

Contractors and subcontractors who perform city contracts and/or who participate in public projects must be in compliance with permit and fee requirements. Non-compliant haulers are not eligible to perform City contracts or to act as subcontractors to City contractors. Eligibility shall be verified by the city's various departments in coordination with the Solid Waste and Recycling Division.

(10) Upon the applicant's fulfilling the requirements set out in this section, the department will issue either an annual or quarterly permit(s) to the applicant for the qualifying vehicle(s). The annual permit(s) shall be valid for a period of twelve (12) months from the date of issuance or

for a quarter (three (3) months), dependent on timely payment of vehicle permit fees. The requirements set out herein must be satisfied prior to the reissuance of a permit.

a. A permit issued by the City pursuant hereto does not authorize the collection, transporting, discharge, or disposal of regulated hazardous solid wastes. Any transporter carrying hazardous solid waste from, within, or through, the City shall have obtained applicable state department of health services, state commission on environmental quality, or EPA permit(s), all as may be necessary, and use the appropriate hazardous solid waste transportation and disposal manifest and routing system.

b. Prior to the operation of any vehicle regulated by this article, each permittee:

1. Shall clearly and visibly display on both exterior sides of each vehicle on the door(s) or fender(s) the business or trade name of the hauler contained in the permit application in a color clearly contrasting with the background color in three-inch letters or larger.

2. Shall permanently affix the permit decal for prominent display as instructed by the solid waste and recycling division. The permitted solid waste hauler shall keep the vehicle permit issuance receipt, or a copy thereof, with the vehicle and/or equipment operator at all times.

3. A permit issued under this section is non-transferable from one solid waste hauler to another solid waste hauler without prior written approval of the Solid Waste Manager and submittal of proper re-registration information to the City. A permitted hauler who changes names or transfers permits by sale or other enterprise transfer, such as lease, must notify the City and pay an administrative transfer fee of twenty-five dollars ($25.00) per vehicle or as established by subsequent City budget ordinances.

c. Solid waste hauling vehicle specifications and maintenance requirements.

1. It shall be the duty of the permittee to ensure that all solid waste transportation vehicles utilizing the public streets, public alleys, and highways within the corporate limits of the city to transport solid waste at all operational times conform to the following minimum vehicle specifications and maintenance requirements. Failure to do so shall constitute a violation of this section and permit conditions.

2. The permittee shall be required to maintain and operate its solid waste hauling vehicles and related equipment in good order to render sanitary service subject to the terms of this ordinance and the permit(s) issued pursuant hereto. The vehicles that are seven thousand (7,000) pounds gross vehicular weight or more used in the collection of solid waste refuse shall be all metal, watertight, and shall be equipped with closed bodies equipped with hydraulically operated devices for compacting collected garbage. Those vehicles that are seven thousand (7,000) pounds gross vehicular weight or more shall meet all federal and state laws and regulations brush trucks and vehicles designed to haul roll-off collection containers, are also regulated by the state tarp law. All vehicles shall be kept in a clean and sanitary condition and all vehicles shall be cleaned inside and outside at least once each week. The hauler shall additionally cause the vehicle exterior to be clean, vector free, and relatively odor free at the beginning of each working day and provide for intermittent wash downs of

vehicle and equipment exteriors and wash outs of container interiors as necessary to generally maintain the above conditions. Failure to comply with this section may result in revocation of a vehicle permit granted herein.

d. It shall be unlawful for a person to do or perform any act prohibited by this section and it shall be unlawful for a person to fail to do or perform any act required hereby. Each day's violation hereof shall constitute a separate offense. Any person or permittee who is found guilty in the municipal court of the City of violating this section and/or waste hauler permit provisions shall be fined not less than five hundred dollars ($500.00) nor more than two thousand dollars ($2,000.00) for each offense. If the finder of fact (the court or jury) imposes fine more than five hundred dollars ($500.00), the finder of fact must also find that the violation was committed knowingly, intentionally, or recklessly. Each day on which a violation shall occur or continue shall be deemed a separate and distinct actionable offense. In addition to the penalties provided for herein, the City may seek recovery in a court of competent jurisdiction for any actual damages it might suffer. The City may also seek reasonable attorney fees, court costs, and other expenses of litigation along with all other relief, both in law and in equity, to which it might be entitled. Additional recoveries and relief in law and/or equity under existing federal or state law are not precluded by specific recoveries obtained by the City under this section.

1. In prosecuting permit violations, the Solid Waste and Recycling Division will refer cases for civil and criminal prosecution and will assist the office of the city attorney in preparing and prosecuting petitions in courts of competent jurisdiction. The office of the City attorney is authorized to pursue civil relief, which may include, but is not limited to, an injunctive order, to remove vehicles belonging to offenders from streets and City property, and to enjoin persons from operating vehicles in violation of this section's permitting provisions. In such case, a petition for injunctive relief need not be preceded by a criminal conviction. The City may be entitled to its attorney’s fees and costs and may plead entitlement to delinquent permit fees, and interest on the debt and judgment as may be allowed by law. The City may plead and prove facts to uphold issuance of a court order, the violation of which shall place the offender at risk of contempt of court and jail.

In addition to criminal prosecution, this section is cumulative, and not exclusive, of any other remedies at law and in equity to which the City may be entitled.

2. A hauler's use of City property, streets, alleys, roads, or other rights-of-way, without permit, shall create a presumption of debt. The City may elect to pursue debt enforcement against a hauler who uses such City property without proper permit(s). If the City elects this remedy, the City may plead the value of the service rendered to the delinquent hauler. In such case, the City may enforce a final judgment by all means at its disposal, including but not limited to recording and fixing liens, acquiring execution, foreclosure, and seizure orders from the court, and orders from the court directing sale of hauler's property to satisfy the judgment.

e. Any person who knowingly makes any false statements, representations, or certifications in any permit application or affidavit filed with the City or required to be maintained pursuant to this article shall, upon conviction, be punished by a fine of not more than two thousand dollars ($2,000.00).

Sec. 110-13. Hardship Residents; Carry out service.

City residents who for health reasons establish to the satisfaction of the Solid Waste Manager or designee, that they are unable to physically place their container curbside for collection, and who live alone or have no one residing with them physically able to place the container curbside, are eligible for carry out service. A statement from a medical physician verifying the need for carry out service shall be required before carry-out service is established. The container for carry out service shall be placed near the front of the house, at a point visible from the street. Containers for carry out collection shall not be placed inside fenced areas or a garage. Carry out service constitutes retrieving cart from near or at the front of the residence, rolling the cart to the street, collecting the material, and returning the cart to where it was obtained from originally.

Sec. 110-14. Duty of property owners to trim overhanging trees, etc., and remove debris.

It shall be the duty of the occupant, owner or agent of every premises in the City to keep all trees and shrubs on his premises well-trimmed so that they will not impede the collection of residential or commercial containers.

Sec. 110-15. Violations by corporation.

Whenever a corporation which cannot be arrested violates this chapter, the officer or servant authorizing or responsible for such violation shall be personally liable for such penalty, or the corporation may be sued in the justice court by the City for the maximum penalty.

Sec. 110-16. Penalty for violation of chapter.

Any person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined any sum not less than $25.00 and not exceeding $1,000.00 for the first offense; upon conviction for a second or subsequent offense, the fine shall be any sum not less than $150.00 and not exceeding $2,000.00; and each day's violation shall constitute a separate and distinct offense.

Sec. 110-17. Prohibited materials.

The following categories of solid waste are defined as non-collection items and shall not be placed at curbside or in a container at any residence, business or premises for collection by the Solid Waste and Recycling Division.

(a) Rock;
(b) Dirt;
(c) Dead animals or dead animal waste;
(d) Hot coals, ashes, or embers
(e) Tires, tire and wheel combinations;
(f) Hazardous waste material;
(g) Lead acid batteries;
(h) Vehicle bodies, engines, boats, camper shells;
(i) Other waste classified as special waste by the Texas Commission on Environmental Quality;

(j) Construction and demolition site material including, but not limited to, bricks, building blocks, concrete, sand, gravel, and roofing; and further including, but not limited to, mobile homes, travel trailers or other items of like size, and waste from undeveloped or vacant property, including brush shall not be collected by the City. These materials shall be the responsibility of the owner and/or contractor and must be removed at the expense of the owner and/or contractor.

Sec. 110-18. Collection on private streets.

If in the opinion of the Solid Waste Manager or designee, gated or private neighborhood streets are arranged so that collection may occur without creating a safety hazard, the City may choose to require proper indemnification from the community association or individual property owner(s) prior to providing collection. The community association or individual property owner(s) shall furnish combination or gate code entry into said community for garbage, recycling, and green waste collection. The community association or individual property owner(s) must maintain, at their expense, suitable access drives or roads to the satisfaction of the Solid Waste Manager or designee. Any damage to said access drives or roads attributed to City collection vehicles must also be repaired by the community association or individual property owner(s) at their expense.

Collection locations shall be subject to the approval of the Solid Waste Manager or designee. In the event the City does not collect garbage, recycling, and green waste within a private location, all units within the community may be exempted from payment of garbage and recycling fees upon furnishing of evidence ensuring acceptable removal of all garbage, recycling, and green waste by private means. To receive such exemption, written application must be submitted to and approved by Solid Waste Manager or designee.

Single-family residences or premises not abutting public roadways, and to which access is possible only across private property, and premises abutting public roadways but on which the dwelling is so remote from such roadway as to make City collection of garbage, recycling, and green waste impractical, may be exempted from such collection service and charges.

Sec. 110-19. Refusal of service.

If any of the regulations and provisions contained herein is not adhered to, the City retains the right to refuse service to that container and/or customer.

Sec. 110-20--110-38. Reserved.

ARTICLE II. CONTAINERS*

DIVISION 1. RESIDENTIAL USERS

Sec. 110-39. Automated Residential Garbage Collection.

(a) Customers shall be provided a ninety-six (96) or forty-eight (48) gallon cart by the City. An additional cart may be requested by customer if a customer's volume exceeds issued cart. Requests for an additional cart will be evaluated for approval by the Solid Waste Manager or designee and will be collected at an additional fee as defined in Section 110-8 Service charges; billings.

(b) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables, green waste, bags, bundles, and carts shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(c) Customer's carts which were not collected because they were not placed at curb or collection point as required by subsection (b) above are considered a "missed service" (resident caused). As determined by the Solid Waste Manager or designee customers with "missed service"(resident caused) can receive collection service for an additional fee as defined in Section 110-8 Service charges; billings. Missed service (City caused), or undetermined cause, will be collected at no additional cost to customers.

(d) Customers shall ensure cart placed for service is not blocked by a motor vehicle or any other obstruction within five (5) feet of a customer's cart placed for collection. Any vehicle or any other fixed obstruction including but not limited to, power lines or low hanging tree limbs will be cause for non-collection, if the customer calls for service a return service fee as outlined in Sec. 110-8 Service charges; billings shall apply.

(e) The cart for automated pickup shall be the property of the City. Abuse and damage to cart by customer placing materials prohibited by subsection (f) below may result in an assessment equal to the cost of a cart and/or time involved to repair or replace such cart. At the discretion of the Solid Waste Manager or designee garbage service may be discontinued until fees for the replacement or repair to cart are reimbursed to the City.

(f) Only residential refuse is to be placed in carts. Yard waste, brush and limbs, construction debris, tires, dead animals, hazardous substances, hot ashes/coals and stable matter such as dirt, brick and rock will not be accepted.

(g) All solid waste shall be bagged prior to placement in cart to help eliminate windblown litter.

(h) Pointed or sharp objects, including, but not limited to, broken glass, jagged metal, razors, needles and wire, shall be sufficiently wrapped in paper or boxed in other suitable carts and securely taped or tied before bagging or bundling to prevent injury when handled.

(i) Any garbage or waste not placed in the cart provided will not be collected by City Solid Waste and Recycling Division and shall remain the responsibility of the customer/generator for disposal.

(j) The City may, at the discretion of the Solid Waste Manager or designee, utilize a manual or semi-automated solid waste collection system for residential collection in areas where automated collection vehicles cannot safely or efficiently operate.

(k) All household medical and infectious solid waste including lancets, syringes and hypodermic needles must be properly contained before disposing of in the solid waste cart. Household and infectious waste must be placed in plastic bags and securely tied before placing in the solid waste cart. Lancets, syringes and hypodermic needles must be placed in a rigid, leak-proof and puncture resistant container with a secured and taped lid and must be clearly labeled identifying the contents before

placing in the solid waste cart. Depositing or disposing of improperly contained household medical and infectious waste or lancets, syringes and hypodermic needles in any solid waste cart or in any recycling cart whatsoever is prohibited.

(l) Any violation of the rules and regulations as set out herein shall be punishable as such for health, safety and public welfare violations, pursuant to Sec. 110-16 of this Code. Additionally, any customer not complying with the provisions of this chapter shall be subject to having their garbage collection service suspended until such time as they comply with the violated ordinance provisions.

Sec. 110-40. Automated Residential Recycling Collection.

(a) Customers shall be provided a ninety-six (96) or forty-eight (48) gallon cart by the City. An additional cart may be requested by customer if customer's volume exceeds issued cart. Requests for an additional cart will be evaluated for approval by Solid Waste Manager or designee and will be assessed a onetime administrative fee as defined in Sec. 110-8 Service charges; billings.

(b) Collection materials shall be placed no earlier than 8:00 p.m. the day prior to collection day, and no later than 6:30 a.m. on the day of scheduled collection. At all other times garbage, recyclables, green waste, bags, bundles, and carts shall be kept at the side or rear of structure no closer to the street than the front of said structure.

(c) Customer's carts which were not collected because they were not placed at curb or collection point as required by subsection (b) above are considered a "missed service" (resident caused). As determined by the Solid Waste Manager or designee customers with "missed service" (resident caused) can receive collection service for an additional fee as defined in Sec. 110-8 Service charges; billings. Missed service (City caused), or undetermined cause, will be collected at no additional cost to the customer.

(d) Customers shall ensure cart placed for service is not blocked by a motor vehicle or any other obstruction within five (5) feet of a customer's cart placed for collection. Any vehicle or any other fixed obstruction including but not limited to, power lines or low hanging tree limbs will be cause for non-collection, if the owner of the cart calls for service a return service fee as outlined in Sec. 110-8 Service charges; billings shall apply.

(e) The cart for automated pickup shall be the property of the City. Abuse and damage to cart by customer placing materials prohibited by subsection (f) below may result in an assessment equal to the cost of a cart and/or time involved to repair or replace such cart. At the discretion of the Solid Waste Manager or designee recycling service may be discontinued until fees for the replacement or repair to cart are reimbursed to the City.

(f) Only residential recycling is to be placed in carts. Garbage, refuse, yard waste, brush and limbs, construction debris, tires, dead animals, lancets, syringes, hypodermic needles, hazardous substances, diapers, hot ashes/coals and stable matter such as dirt, brick and rock will not be accepted. Any prohibited items found in the cart will result in a non-collection; all unauthorized items must be removed from the cart by the resident or home owner before servicing. If the customer calls for a return service a fee as outlined in Sec. 110-8 Service charges; billings shall apply.

(g) All recyclables shall not be bagged prior to placement in cart except shredded paper it should be put in a paper bag and closed with staples.

(h) Any recycling not placed in the cart provided will not be collected by City Solid Waste and Recycling Division and shall remain the responsibility of the customer/generator for disposal.

(i) The City may, at the discretion of the Solid Waste Manager or designee, utilize a manual or semi-automated solid waste collection system for recycling collection in areas where automated collection vehicles cannot safely or efficiently operate.

(j) Any violation of the rules and regulations as set out herein shall be punishable as such for health, safety and public welfare violations, pursuant to Sec.110-16 of this Code. Additionally, any customer not complying with the provisions of this chapter shall be subject to having their recycling collection service suspended until such time as they comply with the violated ordinance provisions.

Sec. 110-41. Green Waste.

(a) Green Waste such as tree leaves and grass shall be placed at the curb in biodegradable Kraft paper yard waste bags and shall not weigh more than forty pounds (40 lbs.) each. Brush, tree trimmings and limbs shall be totally separated from all other waste, including metals, lumber, soil, rocks, paper, plastic, furniture, and appliances. Any waste regardless of quantity or sizes mixed in with bundles or bags constitutes a violation of this section and shall not be collected.

(b) Green Waste to be placed for collection shall be cut in lengths not exceeding four feet and tied securely in bundles with rope or twine.

(c) Every nurseryman, tree surgeon, and every person who cuts or trims trees, shrubs or grass as an independent contractor, shall remove or cause to be removed all materials from premises serviced by said entity and it shall be unlawful for such a person to deposit any bundles, bags, tree, tree or shrub cuttings or trimmings at any location for collection by the City.

Sec. 110-42. Residential bulk trash/large brush placement and collection services.

Bulky trash/large brush items, such as discarded furniture and appliances or tree branches not practical to containerize or collect by hand maybe collected upon requests for a fee. The City will collect normal household discarded furniture and appliances, including sofas, chairs, beds, washers, dryers, water heaters and similar items, but not including root balls, furnaces, air conditioning units, freezers, refrigerators, computers, televisions, electronics and tires. Tree limbs, tree trunks must be cut in lengths of no more than 10 feet. Items for collection shall be placed at curbside no earlier than noon the day preceding the scheduled collection.

Bulk trash/large brush placed out for curbside collection shall be placed on the resident's property, parallel to the street or curb and no more than three feet from the street or curb line. The Solid Waste Manger or designee may designate alternative placement and collection points. Bulk trash/large brush shall not be placed on the sidewalk or in the street, behind a fence or any obstruction or barrier. Brush, tree trimmings and limbs shall be totally separated from all other waste, including metals, lumber, soil, rocks, paper, plastic, furniture, and appliances.

Bulk trash/large brush shall not be placed within five feet of any fixed object, solid waste or recycling cart, under power lines, low hanging tree branches or in any manner which would interfere with or be hazardous to pedestrians, bicyclists, equestrians or motorists.

The City uses mechanical collection equipment. If bulk trash/large brush cannot be placed for collection as set forth in this subsection, the Solid Waste Manager or designee, at his discretion, may collect the bulk trash/large brush and may require a waiver which holds the City harmless for any and all damage associated with the collection activity. A waiver must be signed prior to collection.

Bulk trash/large brush collection will be collected at an additional fee as defined in Sec. 110-8 Service charges; billings. If the bulk trash/large brush items are not out on the scheduled collection date when the Solid Waste Operator arrives to perform the requested service, the minimum collection fee as defined in Sec. 110-8 Service charges; billings shall be assessed.

Sec. 110-43--110-55. Reserved

DIVISION 2. BUSINESS, COMMERCIAL, INDUSTRIAL AND INSTITUTIONAL USERS

Business establishments shall be serviced by the City's Solid Waste and Recycling Division. If service is not available or furnished by the City or it is not in the best interest of the City to provide said service as determined by the Solid Waste Manager or designee, i.e. businesses require containers larger than the City can provide, or containers in which materials would be placed that the City will not accept (i.e. building materials), service may be provided by a commercial hauler permitted to operate in the city. Every business establishment must contract with either the City or an approved commercial hauler, if the City is unable to provide the required level of service, for weekly waste disposal service for their business.

All containers, regardless of whether collection service will be provided by the City or by private hauler, shall be maintained in a safe and sanitary condition and shall be cleaned by the owner/occupant of the container site as often as necessary to prevent the container from becoming malodorous. Litter and debris shall not be allowed to accumulate around the container, and all refuse shall be deposited in such manner as to prevent it from blowing out of the container.

(a) No special waste, hazardous waste, medical waste, paints, solvents, flammable liquids, green waste or hot ashes shall be placed in any container for which the City provides collection service. The director of public works, upon consultation with the Solid Waste Manager or designee, is hereby authorized to promulgate further regulations regarding containers in order to provide standards for location and maintenance not in conflict with this section.

Sec. 110-56. Commercial Containers furnished by City, use of.

(a) Upon request for garbage collection service, the Solid Waste Manager or designee shall designate the service level requirements for that location. Requirements pertaining to the type and number of solid waste containers or frequency of collection are based on the type of commercial activity at the location, and the size of the development itself. The Solid Waste Manager or designee, may upon notice, require replacement of containers and/or changes in container type or the service levels at any location when he deems the current service level to be inadequate causing a health, sanitation, or litter problem.

(b) Commercial service shall be based on containers of various sizes. The concept is to place the minimum number of containers to be serviced the minimum times per week. The container location will be determined by the Solid Waste Manager or designee and will be based on the approved site plan, routing accessibility, customer convenience and serviceability for both the customer and the City.

(c) Businesses which generate a small amount of waste shall be furnished two (2) automated containers 96-gallon in size. Containers will be collected by the City once a week. As requested by the customer and where warranted as determined by the Solid Waste Manager or designee up to two (2) additional containers may be obtained for an additional fee. Container fees are as defined in Sec. 110-8 Service charges; billings. Containers shall be placed on or near the curb line in front of such place of business, in such manner and at such time as shall be prescribed by the City. Immediately after the garbage has been removed by the collector the customer shall remove same from the curb line or alley to a place within or next to the business establishment until the next regularly scheduled time for the collection.

(d) No person shall place or permit to be placed any manure, offal, soil, dead animals, including fish and entrails and heads thereof, hot coals, ashes, embers, rocks or construction waste materials in containers provided by the City under this section. All garbage that is subject to decomposition shall be well wrapped in paper, plastic bags or other biodegradable material before being deposited in the container.

(e) All boxes and cartons to be placed for collection under this division must be completely broken down before being deposited in the container.

(f) It shall be unlawful to make a fire or burn any material in a solid waste container furnished by the City or to paint or mark upon such container or to place any poster, placard or sign upon such container. Fees for damages listed in this subsection are as defined in Sec. 110-8 Service charges; billings.

(g) Public, business and commercial institutions using the City's larger container(s) for the removal of garbage and trash shall provide a readily accessible site for placement of container(s) on the establishment's property. If access to the container requires the driver to carry a key and unlock a lock to empty the container, a Key charge will apply as defined in Sec. 110-8 Service charges; billings. Locating containers in streets, right-of-way, the traveled portion of alleys, and sight triangles is strictly prohibited. Maintenance of the site, cleanliness of the container, together with the approach shall be the responsibility of the owner. The City shall not be responsible for damage caused by collection vehicles to driveways, parking lots, or other sites.

(h) Lids of all containers furnished under this article shall be kept closed at all times except when the container is being filled. Items that are larger than the container and that would extend out of the container opening shall not be placed in the container. All items placed out for collection shall be located in a designated container unless otherwise approved in this ordinance. Cleaning up materials spilled from the container when emptying shall be the responsibility of the property owner or occupant.

(i) It shall be unlawful for any person to deposit any garbage, trash, or other material in any container furnished by the City other than the owner or occupant of any premise that is paying for the container service.

(j) If a container is unserviceable, such as being blocked, overloaded with excess trash, or containing prohibited items, the City truck shall only return to empty the container after the container is clear from other vehicles, the excess garbage has been paid for, prohibited items, and/or excess garbage are removed from in and/or around the container. The container enclosure shall not be used for the storage of items that may impede the collection process. A call-in collection service fee shall apply as defined in Sec. 110-8 Service charges; billings.

(k) For additional fees as defined in Sec. 110-8 Service charges; billings customers may request special collection services for:
    (1) The collection of segregated brush.
    (2) The collection of bulky waste, such as furniture items and appliances.
    (3) The cleanup of excess garbage and rubbish on site.
    (4) The removal of large bulky items placed in containers.

Sec. 110-57. - Prohibited items for commercial containers.

(a) It shall be unlawful to place any item in any container furnished by the City that because of weight, size, or other physical property, could cause damage to the collection vehicle. These items include, but are not limited to, any one item over three feet in any dimension that would cause it to extend above the rim of the container, any one item weighing in excess of 50 pounds, any of the materials found in Sec. 110-17 Prohibited materials.

(b) If tires are detected, they will be returned to the customer responsible for the use of the container.

(c) Persons, businesses, and other entities placing such items identified in subsections (a), (b), and Sec. 110-17 Prohibited materials in any container furnished by the City will be required to remove these items before collection can take place.

Sec. 110-58. Container pads and enclosures for commercial containers.

All new container, new account holder, and service requests to change container size must first comply with the following standards for container pads and screening prior to collection by the City:

(a) No dumpster or screening shall be permanently placed or constructed upon any site without first obtaining a permit from the Building Department. In order to obtain such permit, an application accompanied by a plat of the property on which the dumpster and screening is to be located, drawn to scale and showing construction details, the location of all structures, utilities, storm drain inlets, public rights-of-way, and the location of the proposed dumpster and all required screening, shall be submitted to the Building Department and Solid Waste and Recycling Division. The plat shall contain a statement that it is a true and accurate depiction of the site shown thereon and be signed by the owner or person who has charge, care, or control of the premises.

(b) Pavement Standards, all solid waste service locations on site shall be constructed with the following minimum standard:

1. All container pads and aprons shall be constructed of concrete six inches thick. The reinforcement within the concrete section shall consist of number four bars on 18-inch centers, centered within the pavement thickness.

(c) Required Screening, all containers are required to be screened from the right-of-way and all adjacent properties by a minimum seven-foot-high screen. A gate is required when opening is in view of the public right-of-way. Gates shall have a minimum width of 12 feet when open, shall swing 180 degrees from the closed position, and shall utilize a positive-locking mechanism while in the open position.

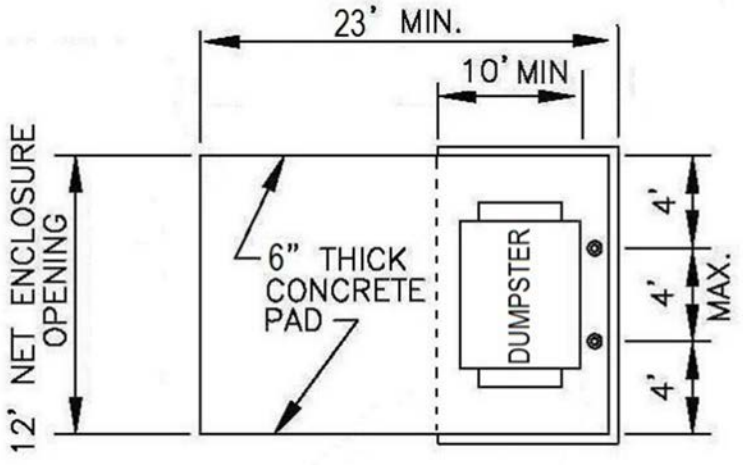
(d) Enclosures shall not be located closer than thirty feet (30') of any storm drain or in drainage flow areas.

(e) It is the City's preference that screening structures be located outside of any public easement. If maintenance of City utilities requires the removal of a screening structure, it must be replaced at the property owner's expense.

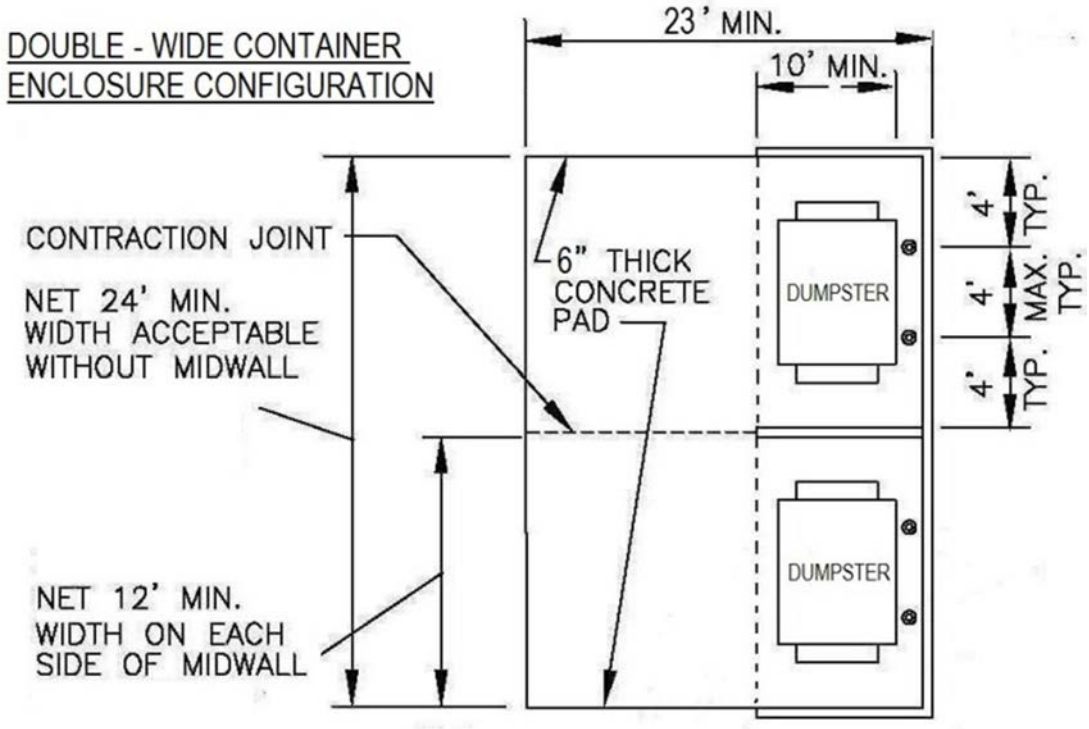
(f) Minimum interior clear measurements of enclosures: Bollards and other such obstructions shall not be set within the minimum dimensions for enclosures.

1. Interior clearance (inside the screen) dimensions for a:
   a. Single (3, 4, 6, or 8-yard) dumpster enclosure shall be 10 feet deep x 12 feet wide. The minimum width of the gate or doors shall be no less than the enclosure opening, and they shall open 180˚.

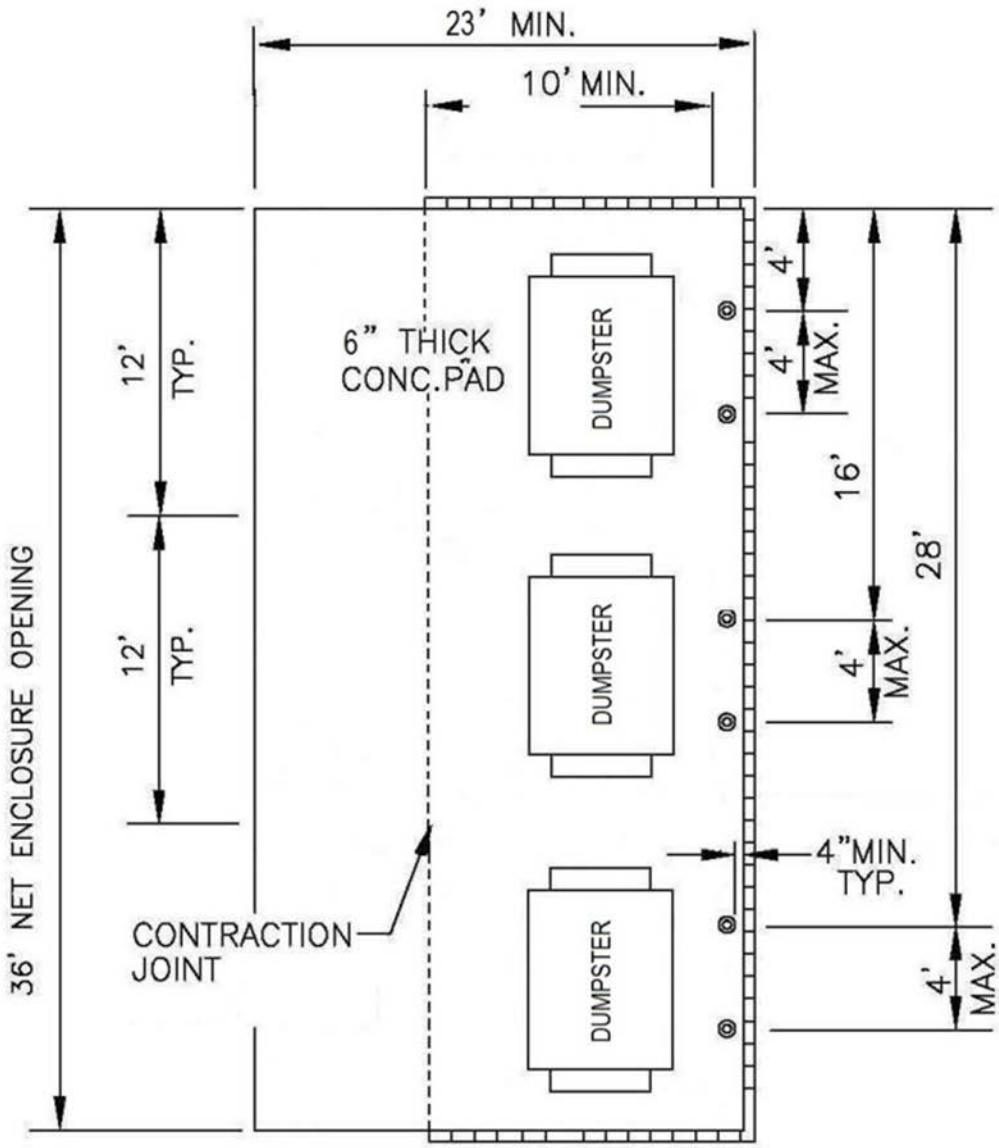
SINGLE - WIDE CONTAINER
ENCLOSURE CONFIGURATION



b. Double (two 3, 4, 6, or 8-yard) dumpster enclosure shall be no less than 10 feet deep x 24 feet wide. The minimum width of the gate or doors shall be no less than the enclosure opening, and they shall open 180˚.



c. Triple (three 3, 4, 6, or 8-yard) dumpster enclosure shall be 10 feet deep x 36 feet wide. The minimum width of the gate or doors shall be no less than the enclosure opening, and they shall open 180˚.

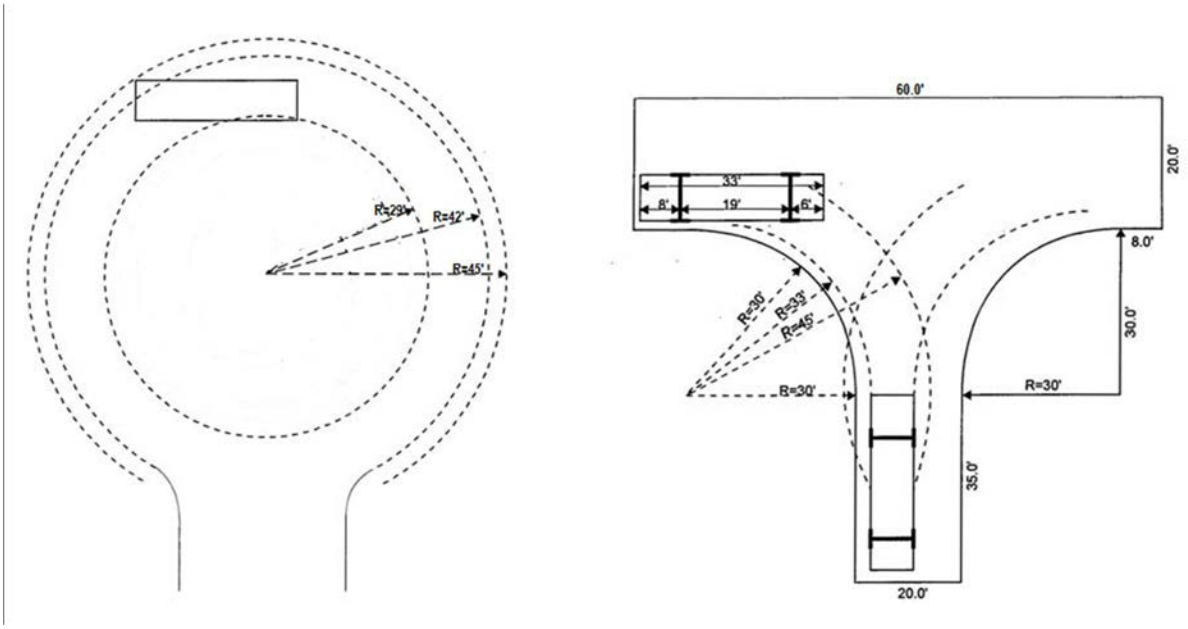


TRIPLE - WIDE CONTAINER ENCLOSURE CONFIGURATION

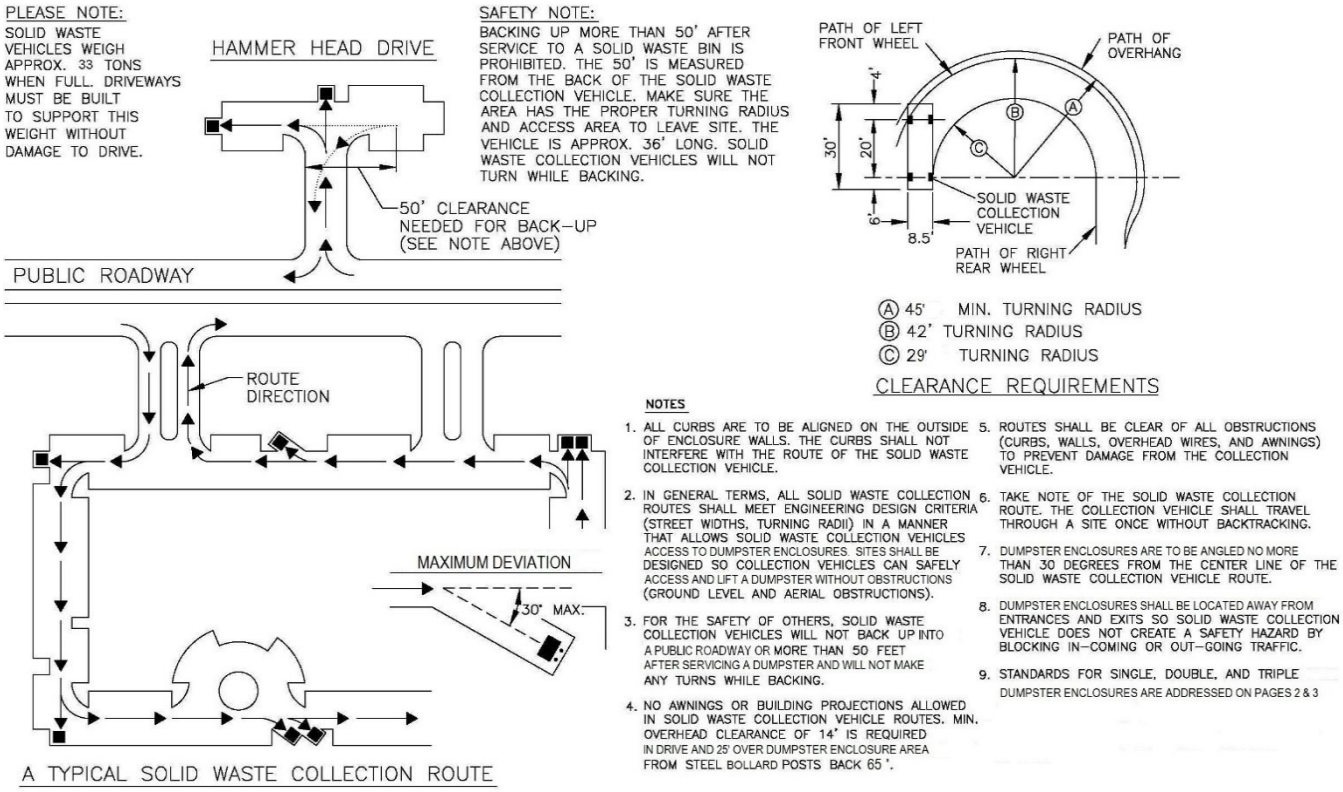
d. A roll-off compactor enclosure shall be a minimum of 29 feet deep x 16 feet wide. The minimum width of the gate or doors shall be no less than the enclosure opening.

(g) Pad shall be level with roadway or slope to roadway for easy access by collection vehicles. All access areas shall be a minimum unobstructed width of 20 feet, 65 feet in length and 16 feet in height. Outside turning radii in these areas shall be a minimum of 45 feet. At no time shall a collection vehicle be required to back while turning or more than 50 feet while on the property or be required to back out into or in

from a public right-of-way. In such cases, a tee or circle turnaround that meets the minimum standards, as shown below, will be required.



In all cases, approach design should facilitate a looping or circle ingress/egress path that avoids necessity of collection vehicle having to conduct backing maneuvers as much as possible. Screens may be constructed of stone, masonry block; wood or chain link fencing with slats and shall be constructed so as to screen viewing by persons standing at ground level on the site, or an immediately adjoining property.



(h) Dimensions for maneuvering, the maximum deviation from the access path to the enclosure shall be 30˚, a clear maneuvering area of up to 65 feet in front of the container will be required. No parking will be allowed in the maneuvering area.

(i) Whenever, in the opinion of the Solid Waste Manager or designee, a dumpster and/or the screen cannot be located upon a particular site so as to conform with these requirements, or there are special circumstances which make the requirements wholly impracticable, the Solid Waste Manager or designee may designate a location for the dumpster which in his discretion is the most accessible and aesthetically appropriate or make exemptions from the requirements as necessary.

Sec. 110-59.1 Roll-off service open top.

(a) Roll-off containers are large open top containers used primarily on construction sites. Open top roll-off containers are available for rental in sizes of 20, 30, and 40 cubic yards.

(b) To obtain the service, an agreement shall be signed with the Solid Waste and Recycling Division. Any unauthorized materials found in the container will be removed before service or if they are found after dumping they will be returned to the customer. Examples of unauthorized items may be, but are not limited to, dead animals, brush, yard waste, tires, or white goods still containing CFC's.

(c) The fees for roll-off service are as defined in Sec. 110-8 Service charges; billings, but include the following:
   (1) A monthly rental fee for use of the container.
   (2) A service fee to pick-up, transport, and return container to the site or return to stock.
   (3) Weight of container contents.

Sec. 110-59.2. Compactor services.

(a) The City provides collection services for compactors owned by the customer. The City does not own, rent, or repair compactors.

(b) Privately owned compactors must be compatible with the City's hauling equipment.

(c) The fees for servicing compactors are as defined in Sec. 110-8 Service charges; billings.

Sec. 110-60. Charges.

All businesses, commercial, industrial and institutional users, hotels, motels, resorts, churches, governmental entities, non-profits and schools afforded garbage and refuse service by container system provided for in section 110-56 shall pay a charge as defined in Section 110-8(b)

(a) *Assessed monthly.* The charges fixed herein for the collection, removal and disposal of all solid waste shall be entered on the customer's monthly utility bill. All customers must first establish a utility billing account number prior to the Solid Waste and Recycling Division making service arrangements available.

(b) *Failure to pay.* Any customer who fails or refuses to pay the monthly charge when due shall no longer receive garbage collection service from the City until all related charges are paid in full.

(c) *Unprepared solid waste.* The Solid Waste and Recycling Division shall cause the cleanup of improperly or unprepared waste, litter or debris that constitutes a hazard or nuisance to the community. The Manual collection fee shall be charged as defined in Sec. 110-8 Service charges; billings.

Sec. 110-61. Containers not furnished by City, requirements for use.

(a) Unless otherwise approved by the Solid Waste Manager or designee the private collection of municipal solid waste within the limits of the City is prohibited. Businesses requiring containers larger than the City can provide or containers in which materials would be placed that the City will not accept (i.e., building materials) shall request permission in writing directed to the Solid Waste Manager or designee to arrange for optional services as needed.

(b) Businesses, commercial, industrial and institutional users, resorts, apartments and contractors that utilize large containers not available from the City and who have placed them on their property may do so at their own expense, after City approval of the service provider.

(c) Only permitted private haulers meeting the requirements of section 110-12 will be authorized to haul containers as described in this section within the City.

(d) Locating containers in streets, right-of-way, the traveled portion of alleys, and sight triangles is strictly prohibited. Maintenance of the site, together with the approach shall be the responsibility of the owner. The City shall not be responsible for damage caused by collection vehicles to driveways, parking lots, or other sites.

Sec. 110-62. Recyclables to be collected.

The City solid waste and recycling division shall continue to monitor commercial recycling as established under section 110-12, Licensing of private haulers of the solid waste ordinance.

Sec. 110-63. Conflicts of ordinances; liability.

(a) In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the City, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

(b) In cases where two or more sections of this chapter disagree, the most stringent or restrictive shall prevail.

Sec. 110-64--110-80. Reserved

SECTION 2: REPEALER.
All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only. 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 3: SEVERABILITY.
It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. EFFECTIVE DATE AND PUBLICATION.
This Ordinance shall become adopted and effective upon April 1, 2018, signature required by City Charter, and filing with the City Secretary's Office. This ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this _____ day of _____, 2018.

PASSED AND APPROVED: Second reading this _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

_____
Barron Casteel, Mayor

ATTEST:

_____
Patrick Aten, City Secretary

APPROVED AS TO FORM:

_____
Valeria M. Acevedo, City Attorney

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. K)

Presenter/Contact
Garry Ford, City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:
Approval of the second and final reading of an ordinance amending Section 126-354 of the Code of Ordinances to revise Parking by Permit Area H.

BACKGROUND / RATIONALE:
Council District: 5

City Council unanimously approved the first reading of an ordinance amending Section 126-354 of the City of New Braunfels Code of Ordinances to revise Parking by Permit Area H on February 26, 2018.

Staff has received a request from residents along East Mill Street to be included in the existing Parking by Permit Area H. The requested area consists of single-family homes.

A signed petition has been received from a resident requesting parking by permit on the northwest side of East Mill Street from the intersection with North Market Avenue to 343 East Mill Street between the hours of 8:00 a.m. and 8:00 p.m. from May 1st through September 30th, which is consistent with the existing Parking by Permit Area H ordinance. Staff contacted the resident at 218 North Market Avenue, which is on the corner of North Market Avenue and East Mill Street, and confirmed that even though she did not sign the petition she would be in favor of extending Parking by Permit Area H on the side of her residence that is on East Mill Street.

The proposed designated parking by permit area is a contiguous residential area and matches the schedule of existing parking by permit areas. Over two-thirds of the affected residents have submitted a signed statement of the following:

> *We the undersigned are residents and/or property owners of the proposed designated permit area described in this application. We understand that: (i) if this area is designated, certain restrictions will be placed upon on-street parking within the area; (ii) residents and/or residential property owners of the area will be entitled to obtain a limited number of parking permits exempting their vehicles from such parking restrictions, but if a resident and/or property owner owns a vehicle without having a permit displayed, that vehicle will be subject to the parking restrictions; (iii) parking permits will be issued for a term of one year and require replacement each year; (iv) the cost of issuing the annual parking permits will be paid by the residents and/or property owners.*

A public hearing on the application shall be conducted by City Council. Notices of the public hearing were mailed to all property owners (as shown on the latest tax roll) and residents within the designated permit area.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

Strategic Priority: Public Safety; Objective 5: Develop comprehensive program for river related issues which includes addressing river related issues in a timely manner and reviewing options to address river related activities and quality of life issues.

FISCAL IMPACT:

Traffic control signs cost approximately $150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of amending Parking by Permit Area H to include the northwest side of East Mill Street from the intersection with North Market Avenue to 343 East Mill Street.

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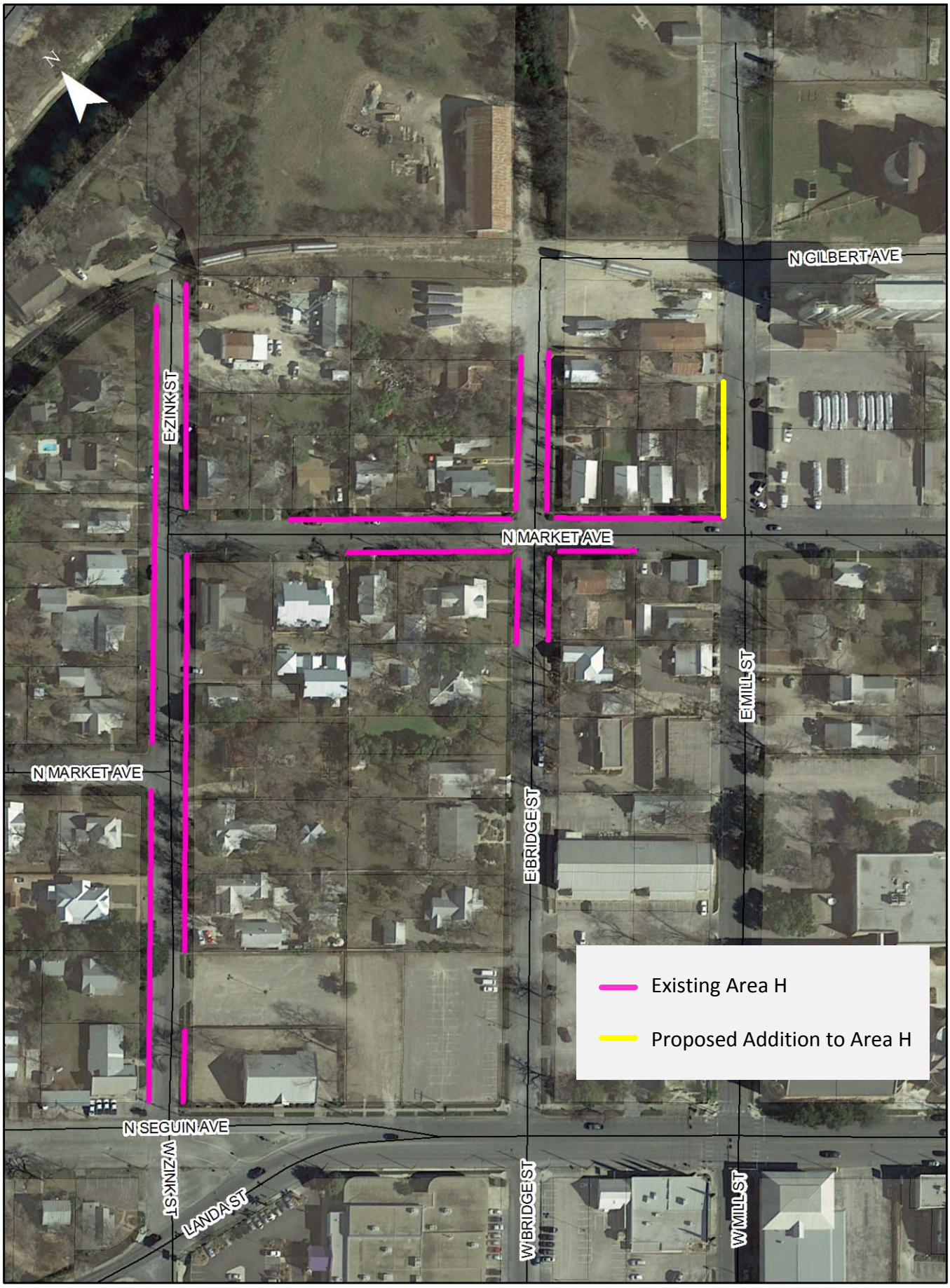

Proposed Addition to Parking by Permit Area H

Sec. 126-354. - Parking by permit only.

(c) *Designated permit areas.* No person shall park and leave standing any vehicle whether attended or unattended between the times listed and locations designated below without first having obtained a valid parking permit for the designated permit area from the city. Said designated permit area shall be designated as a tow-away zone:

(9) Area H, between the hours of 8:00 a.m. and 8:00 p.m. from May 1st through September 30th.

a. On both sides of East Zink Street from Seguin Avenue excluding 146 East Zink Street.

b. On both sides of N. Market Avenue from 341 and 342 through to 290 and 218 N. Market Avenue.

c. On both sides of E. Bridge Street from 352 and 353 through to 274 and 283 E. Bridge Street.

d. On the northeast side of N. Market Avenue in front of 360 N. Market Avenue.

e. On the northwest side of E. Mill Street from the intersection with N. Market Avenue to 343 E. Mill Street.

ORDINANCE NO. 2018-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-354 (c) TO AMEND PARKING BY PERMIT AREA H.

WHEREAS, the City Council has determined that Section 126-354 (c)(9) Parking by Permit Only, Designated Permit Areas, Area H be amended in order to protect the health, safety and welfare of the citizens.

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

I.

THAT Section 126-354 (c) is hereby amended to read:

(9) Area H, between the hours of 8:00 a.m. and 8:00 p.m. from May 1st through September 30th.

a. On both sides of East Zink Street from Seguin Avenue excluding 146 East Zink Street.
b. On both sides of N. Market Avenue from 341 and 342 through to 290 and 218 N. Market Avenue.
c. On both sides of E. Bridge Street from 352 and 353 through to 274 and 283 E. Bridge Street.
d. On the northeast side of N. Market Avenue in front of 360 N. Market Avenue.
e. On the northwest side of E. Mill Street from the intersection with N. Market Avenue to 343 E. Mill Street.

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

THAT all provisions hereof are hereby declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which will be and remain in full force and effect.

IV.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the _____ day of _____, 2017.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2017.

CITY OF NEW BRAUNFELS, TEXAS

_____
BARRON CASTEEL, MAYOR

ATTEST:

_____
PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

_____

VALERIA M. ACEVEDO, CITY ATTORNEY

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. L)

Presenter/Contact
Garry Ford, City Engineer
(830) 221-4020 - gford@nbtexas.org

SUBJECT:
Approval of the second and final reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking in front of the Fire Department Connection (FDC) on North Seguin Avenue at the Comal County Courthouse.

BACKGROUND / RATIONALE:
Council District: 5

City Council unanimously approved the first reading of an ordinance amending Section 126-346 of the Code of Ordinances to restrict parking in front of the Fire Department Connection (FDC) on North Seguin Avenue at the Comal County Courthouse on February 26, 2018.

Engineering staff received a request from the Fire Department to restrict parking in front of the FDC at the Comal County Courthouse on North Seguin Avenue. This request is due to concerns about lack of space for fire trucks trying to access the hookups that are located outside of the right of way.

There are currently parking spaces marked on the pavement in front of the courthouse on North Seguin Avenue, with a gap to accommodate access for fire trucks. There is concern that these pavement markings are not enforceable and are ignored by drivers, so an ordinance is requested to formalize this parking restriction. Current ordinance restricts standing or parking within 15 feet of a fire hydrant; however, the FDC is outside of the right of way. There are no marked parking spaces that are being removed.

The Fire Department is in favor of the proposed no parking zone.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
2006 Comprehensive Plan: Transportation Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative, and continuing transportation system planning and development.

FISCAL IMPACT:
Traffic control signs cost approximately $150 each. Sufficient funding is available in the FY17-18 approved streets and drainage budget.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:

Staff recommends approval of restricting parking on the northeast side of North Seguin Avenue from 91 feet northwest of the traffic circle for a distance of 52 feet in a northwesterly direction.

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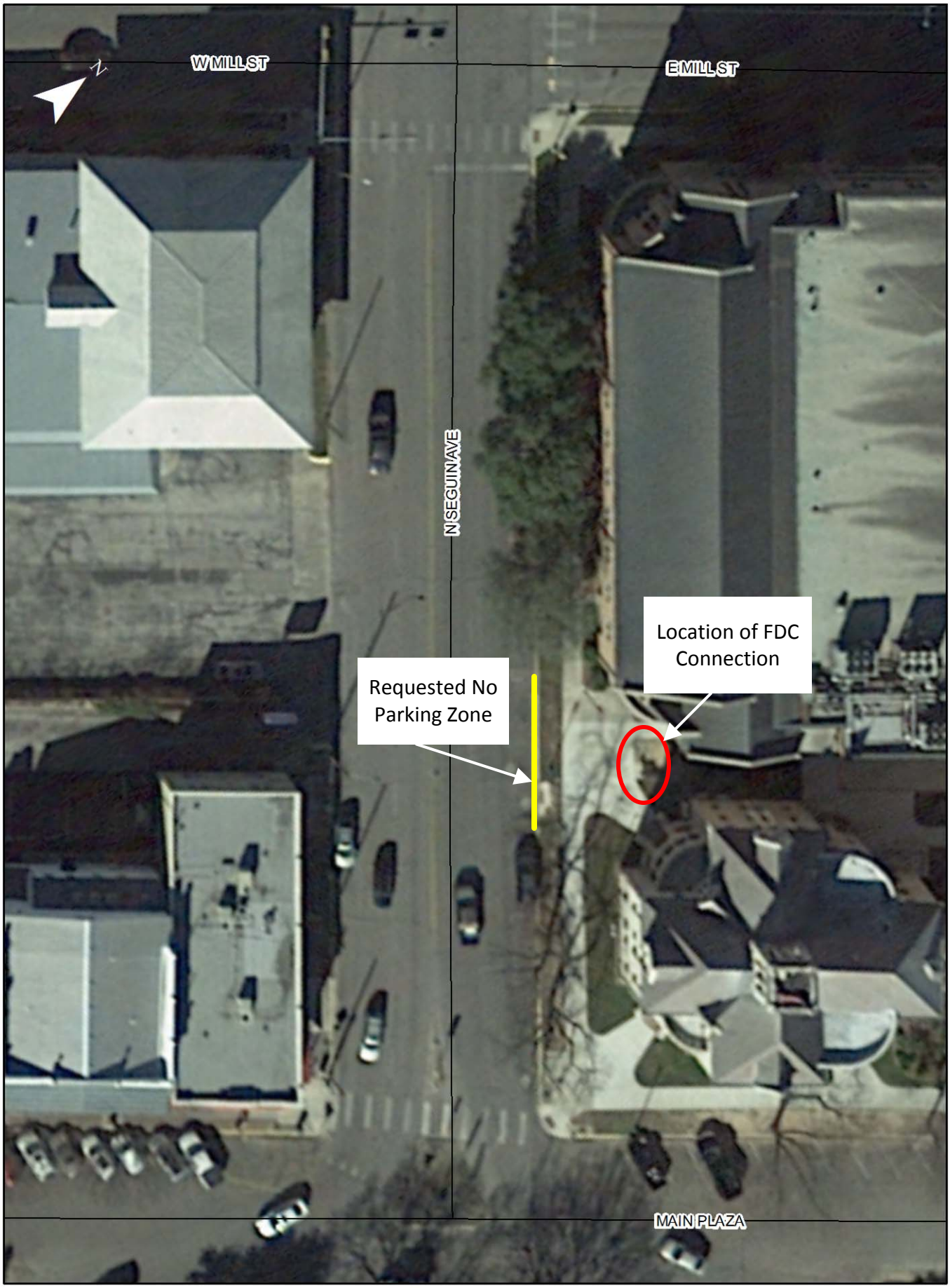

Requested No Parking Zone at FDC Connection on North Seguin Avenue

ORDINANCE NO. 2018-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 126-346 OF THE CITY OF NEW BRAUNFELS CODE OF ORDINANCES TO RESTRICT PARKING IN FRONT OF THE FIRE DEPARTMENT CONNECTION ON NORTH SEGUIN AVENUE AT THE COMAL COUNTY COURTHOUSE.

WHEREAS, after engineering and field investigation, the Transportation and Traffic Advisory Committee and the City Engineer have recommended that traffic control signs be installed on certain streets, avenues, thoroughfares and boulevards within the corporate limits of the City of New Braunfels in order to protect the health, safety and welfare of the citizens.

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

I.

THAT the City of New Braunfels Code of Ordinances Section 126-346 (f) is hereby amended as follows:

(112) On the northeast side of North Seguin Avenue from 91 feet northwest of the traffic circle for a distance of 52 feet in a northwesterly direction. Such no parking zone shall be designated as a tow away zone.

II.

THAT the Public Works Department is directed to obtain and install the traffic control signs in the locations as set forth in this ordinance, and is directed to maintain the signs in a manner that provides for the health, welfare and safety of the citizens of New Braunfels.

III.

THAT all provisions hereof declared to be severable and if any provisions hereof is declared to be invalid or unconstitutional, such shall not invalidate or affect the remaining provisions hereof which remain in full force and effect.

IV.

All other ordinances or parts of ordinances in conflict herewith are repealed to the extent that they are in conflict.

V.

This Ordinance shall become adopted and effective upon its second reading, signature required by City Charter, and filing with the City Secretary's Office. This Ordinance must also be published in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this the _____ day of _____, 2018.

PASSED AND APPROVED: Second reading this the _____ day of _____, 2018.

CITY OF NEW BRAUNFELS, TEXAS

_____
BARRON CASTEEL, MAYOR

ATTEST:

_____
PATRICK D. ATEN, CITY SECRETARY

APPROVED AS TO FORM:

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VALERIA M. ACEVEDO, CITY ATTORNEY

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. A)

Presenter/Contact
Barron Casteel, Mayor
mayor@nbtexas.org

SUBJECT:
Discuss and consider approval of a resolution concerning air quality permit number 147392L001, which if approved would authorize construction and operation of a rock crushing plant located at the intersection of State Highway 46 and Farm to Market 3009.

BACKGROUND / RATIONALE:
This item was placed on the agenda by Mayor Casteel.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
N/A

FISCAL IMPACT:
N/A

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
N/A

RESOLUTION NO. 2018 - _____

A RESOLUTION CONCERNING AIR QUALITY PERMIT NUMBER 147392L001, WHICH IF APPROVED WOULD AUTHORIZE CONSTRUCTION AND OPERATION OF A ROCK CRUSHING PLANT LOCATED AT THE INTERSECTION OF STATE HIGHWAY 46 AND FARM TO MARKET (FM) 3009.

WHEREAS, Texas Commission on Environmental Quality (TCEQ) has received an application for air quality permit number 147392L001; and

WHEREAS, the TCEQ has held a public meeting on said permit application on February 27, 2018 in which many Comal County residents expressed valid concerns about a new rock crushing quarry operation which is in a rapidly growing residential area located outside of the City's extraterritorial jurisdictional limits; and

WHEREAS, the TCEQ has only those authorities granted it by the Texas Legislature; and

WHEREAS, Texas counties only have authorities granted them by the Texas Legislature, which do not include land use authority; and

WHEREAS, in this matter, due to the lack of local regulatory control by counties and municipalities, residents can only seek redress or assistance from their state legislative representatives; and

WHEREAS, the City Council supports private property rights and the rights of property owners to develop their property as they wish so long as they do so in compliance with all federal, state and local laws and regulations; and

WHEREAS, the City requests assistance from both Senator Donna Campbell and Representative Kyle Biedermann to provide their leadership to answer and address with the necessary legislation the numerous concerns of many Comal County residents who would be affected by the location of the proposed rock crushing quarry, increased dust emissions, defacement of our scenic hill country, increased heavy truck traffic, and the loss of natural resources depletion for their least valuable use; and

WHEREAS, the City Council supports the health and safety of all citizens of Comal County and the environment.

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

The City Council requests the following:

1. That the TCEQ, in reviewing the air quality permit application submitted for the construction and operation of a rock crushing plant, use all its expertise and authority to protect the health, safety and welfare of the citizens and environment of Comal County; and
2. That all operations at proposed site, including but not limited to air emissions, water usage and water protection, water run-off, and increased traffic be considered as appropriate and authorized; and
3. That we encourage our representatives in the Texas Legislature to work with the TCEQ to review requirements for air quality permits, water quality over sight, and other environmental protections in Texas, for Texans and strengthen them as needed.

Passed and approved this the 12th day of March 2018.

_____
Barron Casteel, Mayor

ATTEST:

_____
Patrick Aten, City Secretary

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. B)

Presenter/Contact
Dawn Butrym, NBU CFO
dbutrym@nbutexas.com

SUBJECT:

Discuss and consider approval of an ordinance authorizing the issuance of the City of New Braunfels, Texas Utility System Revenue Bonds, Series 2018, pledging the Net Revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems to the Payment of said Bonds and resolving other matters incident and related thereto.

BACKGROUND / RATIONALE:

The New Braunfels Utilities (NBU) Board of Trustees in its June 29, 2017 Board Meeting reviewed and approved NBU's Fiscal Year 2018 Budget and Five Year Financial and Operating Plan for fiscal years 2018 through 2022. At the joint NBU and City Council workshop of September 26, 2017, NBU staff reviewed and discussed this plan with the City Council. In order to accomplish the operating and capital goals set out in the plan it required a comprehensive strategy of obtaining appropriate (i) rates, (ii) impact fees and (iii) bond financing. The first goal of obtaining the necessary rates was accomplished on November 9, 2015 when the City Council approved updated rates for electric, water, and wastewater services through the year 2020. The second part of the plan has been underway and the impact fee consultants are finalizing the new impact fee report to the New Braunfels Impact Fee Advisory Committee. A public hearing is scheduled with the City Council on May 29, 2018 and would be on the report and resulting fees and the first reading of the ordinance on the updated plan. This agenda item is in regard to the third part of this comprehensive strategy - the bond financing requirements necessary to complete the capital projects included in the plan.

In order to fund the capital projects underway over the next 18 months, NBU will require bond financing of $49 million.

The NBU Board of Trustees at its February 22, 2018 Board Meeting authorized NBU staff to proceed with the necessary steps for the issuance of up to $49 million in Bonds.

After bond issuance costs, net proceeds will be used to fund capital projects, which are not funded by the revenues of the utility system or impact fees, and other sources. Many of these projects are either currently underway or need to be funded, near term, to ensure these projects meet established timelines. Per NBU's fiscal year 2018 budget and financing requirements, all of the $49 million will fund water ($22 million [45 percent]), wastewater ($9 million [18 percent]), and electric ($18 million [37 percent]) capital projects. Some of the major projects that will be funded over FY 2018 are:

- Gruene Wastewater Treatment Facility ($9 million)
- Trinity Aquifer Wellfield Treatment Addition ($15 million)
- Aquifer Storage Recovery Project ("ASR") ($2.9 million)

- Old FM 306 Ground Storage Tank ($2.9)
- FM 758 Substation ($3.2 million)
- Rebuild Kerlick Communications Tower ($1.7 million)
- Distribution Transformers ($1.1 million)

The City is also a qualified issuer under Government Code Chapter 1371 which allows the delegation of authority by the City Council to finalize the bond transaction within certain parameters. Section 1207.007 of the Government Code allows for the parameter delegation of the refunding component of the bond issue. The approval to issue bonds under these authorities would set certain parameters, such as (i) the maximum original principal amount of $50 million, (ii) a maximum maturity date of July 1, 2048, and (iii) a coupon interest rate that would not exceed 6%. If all of these parameters are met then the ultimate final approval of pricing would be delegated to certain appointed officials, such as the City Manager and the CEO of NBU. This process eliminates the strict deadline (timeline) of having to coordinate pricing to the date of a Council meeting or calling a special meeting. This gives the City and NBU the flexibility to time its actions in the market by adjusting the pricing in response to potential positive market developments or to avoid adverse market developments. The City Manager would be fully advised as the financing is completed. This approach also has the advantage of not requiring an additional separate City Council meeting to approve the Bond Issue. This parameter bond process was used in NBU's last three bond offerings beginning with series 2012 and has also been used in previous bond offerings of the City of New Braunfels.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
N/A

FISCAL IMPACT:

COMMITTEE RECOMMENDATION:
The NBU Board of Trustees at its February 22, 2018 Board Meeting authorized NBU staff to proceed with the necessary steps for the issuance of up to $49 million in Bonds.

STAFF RECOMMENDATION:
NBU recommends approval of the ordinance.

A RESOLUTION relating to the issuance of "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2018," and resolving other matters incident and related thereto.

WHEREAS, pursuant to the authority contained in Texas Government Code, Section 1502.051 et seq. and by the Charter of the City of New Braunfels, Texas (the "City"), the complete management and control of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems (the "Systems"), during such time as the net revenues of the Systems may be encumbered pursuant to the ordinances authorizing the issuance of the City's outstanding revenue bonds, are vested in the Board of Trustees of the Systems (the "Board of Trustees"); and

WHEREAS, the Board of Trustees and the City intend that revenue bonds should be issued for the purposes of providing funds for improvements, extensions and repairs to the Systems, in accordance with the provisions of Texas Government Code, Chapter 1502, as amended; and

WHEREAS, the Board of Trustees hereby finds and determines the best interest of the City and the Systems would be served by proceeding with the issuance and sale of revenue bonds as contemplated; now, therefore,

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NEW BRAUNFELS WATERWORKS, SANITARY SEWER AND ELECTRIC LIGHT AND POWER SYSTEMS:

SECTION 1: The President of the Board of Trustees, Secretary to the Board of Trustees, the CEO, and the Chief Financial Officer, any one or more of said officials, together with the Board's financial advisor, SAMCO Capital Markets and bond counsel, Norton Rose Fulbright US LLP, are hereby authorized and directed to proceed on behalf of New Braunfels Utilities with the offering and sale of revenue bonds hereinabove referenced, and the CEO and Chief Financial Officer and other appropriate officials of the Board are hereby authorized and directed to assist and furnish said consultants with information and data needed in connection with the issuance of such bonds.

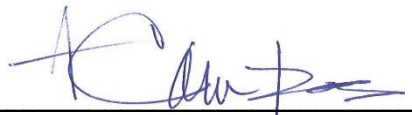
SECTION 2: Any previous actions of such consultants related to the issuance of such bonds are hereby confirmed and approved in all respects.

SECTION 3: It is officially found, determined and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at said meeting, including this Resolution, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 4: This Resolution shall be in force and effect from and after its passage on the date shown below.

PASSED AND ADOPTED, this February 22, 2018.

NEW BRAUNFELS UTILITIES



President of the Board of Trustees

ATTEST:

Secretary to Board of Trustees

(Board Seal)

A RESOLUTION DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT

WHEREAS, the Board of Trustees (the "Board") of New Braunfels Utilities ("NBU") intends to request the City Council of the City of New Braunfels, Texas to issue debt for improvements, extensions and repairs to the waterworks, sewer and electric light and power systems and facilities (the "Projects"); and

WHEREAS, prior to the issuance of such obligations, NBU will make expenditures for the Projects from existing funds on hand, and it is the intent of the Board for NBU to reimburse itself with funds from the proceeds from the sale of such future tax-exempt obligations; and

WHEREAS, under Treas. Reg. §1.150-2 (the "Regulations"), an official intent to reimburse certain expenditures with the proceeds of future tax exempt obligations must be declared by the governing body of the issuer of the obligations for those certain expenditures made up to 60 days prior to the date of this reimbursement resolution; and

WHEREAS, the Board desires to preserve NBU's ability to reimburse itself for those certain capital expenditures with proceeds of future tax-exempt obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE NEW BRAUNFELS UTILITIES THAT the Board reasonably expects to reimburse capital expenditures with respect to the Projects paid with funds on hand from the proceeds of sale of tax exempt obligations hereafter to be issued, and this resolution shall constitute a declaration of official intent under the Regulations. The maximum principal amount of tax exempt obligations expected to be issued for the Projects is $50,000,000.

PASSED AND ADOPTED this February 22, 2018.

_____
President, Board of Trustees
New Braunfels Utilities

ATTEST:

_____
Secretary, Board of Trustees
New Braunfels Utilities

ORDINANCE NO. 2018-____

AN ORDINANCE authorizing the issuance of "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE BONDS, SERIES 2018"; pledging the net revenues of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems to the payment of the principal of and interest on said bonds; enacting provisions incident and related to the issuance, payment, security, sale and delivery of said bonds; establishing procedures for the sale and delivery of said Bonds; delegating matters relating to the sale and issuance of said Bonds to authorized City and Systems officials and providing an effective date.

WHEREAS, the City Council of the City of New Braunfels, Texas (the "City") finds and determines that revenue bonds in the principal amount as provided in the Pricing Certificate hereinafter referenced should be issued for the purpose of providing funds for improvements, extensions and repairs to the City's waterworks, sewer and electric light and power systems and facilities as authorized by the provisions of Texas Government Code, Chapter 1502, as amended; and

WHEREAS, the City shall by this Ordinance, in accordance with the provisions of Texas Government Code, Chapter 1371, as amended, delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount and certain other specified terms of the Bonds to be issued and negotiate the terms of sale thereof; and

WHEREAS, the City Council hereby further finds and determines that all of such revenue bonds can and should be issued on a parity with the outstanding and unpaid revenue bonds of the City (hereinafter called and defined as "Previously Issued Bonds") payable from and secured by a parity lien on and pledge of the Net Revenues of the System in that (i) the CEO of the System (as hereinafter defined) will execute a certificate stating (a) that, to the best of his knowledge and belief, the City is not now in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System and (b) payments into all special funds or accounts created and established for the payment and security of all outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been made and the amounts on deposit in such special funds or accounts are the amounts now required to be on deposit therein; (ii) the bonds herein authorized shall be scheduled to mature as to principal on July 1 in each year; (iii) the City has secured or can secure a certificate or opinion of a Certified Public Accountant to the effect that, according to the books and records of the City, the "Net Earnings" of the System, for the last completed Fiscal Year, are at least equal to 1.40 times the average annual requirement for the payment of principal of and interest on all outstanding "Bonds Similarly Secured" (hereinafter defined) after giving effect to the issuance of the bonds herein being issued and (iv) this ordinance shall provide for (a) additional amounts to be deposited in the "Bond Fund" to pay principal and interest on the bonds herein authorized and (b) the amount to be accumulated in the Reserve Fund to be equal to not less than the average annual requirement for the payment of principal of and interest on all "Bonds Similarly Secured" to be outstanding after the issuance of the bonds herein authorized and any additional amount to be maintained therein shall be accumulated within 60 months from the date of the bonds herein authorized are delivered; now, therefore,

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

SECTION 1: Authorization - Designation- Principal Amount-Purpose. Revenue bonds of the City shall be and are hereby authorized to be issued in the aggregate principal amount set forth in the Pricing Certificate, to be designated and bear the title "CITY OF NEW BRAUNFELS, TEXAS, UTILITY SYSTEM REVENUE BONDS, SERIES 2018" (hereinafter referred to as the "Bonds"), for the purpose of providing funds for improvements, extensions and repairs to the City's waterworks, sewer and electric light and power systems and facilities and costs of issuance in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Chapter 1371 and Section 1502.051(c), as amended.

SECTION 2: Fully Registered Obligations - Bond Date - Authorized Denominations - Stated Maturities - Interest Rate(s). The Bonds shall be issued as fully registered obligations only, shall be dated as provided in the Pricing Certificate (the "Bond Date"), shall be in denominations of $5,000 or any integral multiple (within a Stated Maturity) thereof, and shall become due and payable on July 1 in each of the years and in principal amounts (the "Stated Maturities") and bear interest at the per annum rate(s) in accordance with the details set forth in the Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date(s) specified in the Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year of twelve 30-day months). Interest on the Bonds shall be payable on January 1 and July 1 in each year, commencing on the date set forth in the Pricing Certificate, until maturity or earlier redemption.

SECTION 3: Delegation of Authority to Pricing Officers. (a) As authorized by Chapter 1371, Texas Government Code, as amended, the City Manager of the City and the CEO or the Chief Financial Officer of the System (any two, jointly, the "Pricing Officer") is hereby authorized to act on behalf of the City in selling and delivering the Bonds and carrying out the other procedures specified in this Ordinance, including determining the aggregate principal amount of the Bonds, the date of the Bonds, any additional or different designation or title by which the Bonds shall be known, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which the Bonds will mature, the principal amount to mature in each of such years, the rate of interest to be borne by each such maturity, the date from which interest on the Bonds will accrue, the interest payment dates, the record date, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, determination of the use of a book-entry-only securities clearance, settlement and transfer system, the terms of any bond insurance applicable to the Bonds, including any modification of the continuing disclosure undertaking contained in Section 46 hereof as may be required by the purchasers of the Bonds in connection with any amendments to Rule 15c2-12, and all other matters relating to the issuance, sale and delivery of the Bonds, all of which shall be specified in the Pricing Certificate, provided that:

(i) the aggregate original principal amount of the Bonds shall not exceed $50,000,000;

(ii) the maximum interest rate for the Bonds shall not exceed 6.00%; and

(iii) the maximum maturity date of the Bonds shall not exceed July 1, 2048.

The execution of the Pricing Certificate shall evidence the sale date of the Bonds by the City to the Purchasers (hereinafter defined).

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to make the selection of the municipal bond insurance company for the Bonds (the "Insurer") and to obtain from the Insurer a municipal bond insurance policy in support of the Bonds. The Pricing Officer shall have the authority to determine the provisions of the commitment for any such policy and to execute any documents to effect the issuance of said policy by the Insurer.

(b) In establishing the aggregate principal amount of the Bonds, the Pricing Officer shall establish an amount not exceeding the amount authorized in subsection (a)(i) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date hereof. The Bonds shall be sold to the purchaser(s)/underwriter(s) named in the Pricing Certificate (the "Purchasers"), at such price and with and subject to such terms as set forth in the Pricing Certificate and the Purchase Contract (hereinafter defined), and may be sold by negotiated or competitive sale or by private placement. The Pricing Officer is hereby delegated the authority to designate the Purchasers, which delegation shall be evidenced by the execution of the Pricing Certificate.

SECTION 4: Terms of Payment-Paying Agent/Registrar. The principal of, premium, if any, and the interest on the Bonds, due and payable by reason of maturity, redemption or otherwise, shall be payable only to the registered owners or holders of the Bonds (hereinafter called the "Holders") appearing on the registration and transfer books maintained by the Paying Agent/Registrar and the payment thereof shall be in any coin or currency of the United States of America, which at the time of payment is legal tender for the payment of public and private debts, and shall be without exchange or collection charges to the Holders.

The selection and appointment of ZB, National Association dba Amegy Bank, Houston, Texas to serve as the initial Paying Agent/Registrar for the Bonds is hereby approved and confirmed. Books and records relating to the registration, payment, exchange and transfer of the Bonds (the "Security Register") shall at all times be kept and maintained on behalf of the City by the Paying Agent/Registrar, all as provided herein, in accordance with the terms and provisions of a Paying Agent/Registrar Agreement (the "Paying Agent/Registrar Agreement"), substantially in the form attached hereto as **Exhibit A**, and such reasonable rules and regulations as the Paying Agent/Registrar and the City may prescribe. The President of the Board of Trustees and Secretary to the Board of Trustees or the City Manager, the CEO of the System or the Chief Financial Officer of the System are each hereby authorized to execute and deliver such Paying Agent/Registrar Agreement in connection with the delivery of the Bonds. The City covenants to maintain and provide a Paying Agent/Registrar at all times until the Bonds are paid and discharged, and any successor Paying Agent/Registrar shall be a bank, trust company, financial institution or other entity qualified and authorized to serve in such capacity and perform the duties and services of Paying Agent/Registrar. Upon any change in the Paying Agent/Registrar for the Bonds, the City agrees to promptly cause a written notice thereof to be sent to each Holder by United States Mail, first class postage prepaid, which notice shall also give the address of the new Paying Agent/Registrar.

Principal of and premium, if any, on the Bonds shall be payable at the Stated Maturities or the redemption thereof, only upon presentation and surrender of the Bonds to the Paying Agent/Registrar initially in Salt Lake City, Utah or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the Designated Payment/Transfer Office"). Interest on the Bonds shall be paid to the Holders whose name appears in the Security Register at the close of business on the Record Date (the 15th day of the month next preceding each interest payment date) and shall be paid by the Paying Agent/Registrar (i) by check sent United States Mail, first class postage prepaid, to the address of the Holder recorded in the Security Register or (ii) by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Holder. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

In the event of a nonpayment of interest on a scheduled payment date, and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

SECTION 5: Registration - Transfer - Exchange of Bonds-Predecessor Bonds. The Paying Agent/Registrar shall obtain, record, and maintain in the Security Register the name and address of each and every owner of the Bonds issued under and pursuant to the provisions of this Ordinance, or if appropriate, the nominee thereof. Any Bond may be transferred or exchanged for Bonds of other authorized denominations by the Holder, in person or by his duly authorized agent, upon surrender of such Bond to the Paying Agent/Registrar for cancellation, accompanied by a written instrument of transfer or request for exchange duly executed by the Holder or by his duly authorized agent, in form satisfactory to the Paying Agent/Registrar.

Upon surrender of any Bond (other than the Initial Bond(s) authorized in Section 8 hereof) for transfer at the Designated Payment/Transfer Office of the Paying Agent/Registrar, the Paying Agent/Registrar shall register and deliver, in the name of the designated transferee or transferees, one or more new Bonds of authorized denominations and having the same Stated Maturity and of a like aggregate principal amount as the Bond or Bonds surrendered for transfer.

At the option of the Holder, Bonds (other than the Initial Bond(s) authorized in Section 8 hereof) may be exchanged for other Bonds of authorized denominations and having the same Stated Maturity, bearing the same rate of interest and of like aggregate principal amount as the Bonds surrendered for exchange, upon surrender of the Bonds to be exchanged at the Designated Payment/Transfer Office of the Paying Agent/Registrar. Whenever any Bonds are surrendered for exchange, the Paying Agent/Registrar shall register and deliver new Bonds to the Holder requesting the exchange.

All Bonds issued in any transfer or exchange of Bonds shall be delivered to the Holders at the Designated Payment/Transfer Office of the Paying Agent/Registrar or sent by United States

Mail, first class, postage prepaid to the Holders, and, upon the registration and delivery thereof, the same shall be the valid obligations of the City, evidencing the same obligation to pay, and entitled to the same benefits under this Ordinance, as the Bonds surrendered in such transfer or exchange.

All transfers or exchanges of Bonds pursuant to this Section shall be made without expense or service charge to the Holder, except as otherwise herein provided, and except that the Paying Agent/Registrar shall require payment by the Holder requesting such transfer or exchange of any tax or other governmental charges required to be paid with respect to such transfer or exchange.

Bonds cancelled by reason of an exchange or transfer pursuant to the provisions hereof are hereby defined to be "Predecessor Bonds," evidencing all or a portion, as the case may be, of the same obligation to pay evidenced by the new Bond or Bonds registered and delivered in the exchange or transfer therefor. Additionally, the term "Predecessor Bonds" shall include any mutilated, lost, destroyed, or stolen Bond for which a replacement Bond has been issued, registered and delivered in lieu thereof pursuant to the provisions of Section 32 hereof and such new replacement Bond shall be deemed to evidence the same obligation as the mutilated, lost, destroyed, or stolen Bond.

Neither the City nor the Paying Agent/Registrar shall be required to issue or transfer to an assignee of a Holder any Bond called for redemption, in whole or in part, within 45 days of the date fixed for the redemption of such Bond; provided, however, such limitation on transferability shall not be applicable to an exchange by the Holder of the unredeemed balance of a Bond called for redemption in part.

SECTION 6: Book-Entry Only Transfers and Transactions. Notwithstanding the provisions contained in Sections 4 and 5 hereof relating to the payment, and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry Only" securities clearance, settlement and transfer system provided by The Depository Trust Company (DTC), a limited purpose trust company organized under the laws of the State of New York, in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representation, by and between the City and DTC (the "Depository Agreement").

In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold said Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general or the City determines that DTC is incapable of properly discharging its duties as securities depository for the Bonds, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and provide for the Bond certificates to be issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register

maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of Sections 4 and 5 hereof.

SECTION 7: Execution - Registration. The Bonds shall be executed on behalf of the City by the Mayor or Mayor Pro Tem under its seal reproduced or impressed thereon and countersigned by the City Secretary. The signature of said officers on the Bonds may be manual or facsimile. Bonds bearing the manual or facsimile signatures of individuals who are or were the proper officers of the City on the Bond Date shall be deemed to be duly executed on behalf of the City, notwithstanding that such individuals or either of them shall cease to hold such offices at the time of delivery of the Bonds to the initial purchaser(s) and with respect to Bonds delivered in subsequent exchanges and transfers, all as authorized and provided in Texas Government Code, Chapter 1201, as amended.

No Bond shall be entitled to any right or benefit under this Ordinance, or be valid or obligatory for any purpose, unless there appears on such Bond either a certificate of registration substantially in the form provided in Section 9(c), manually executed by the Comptroller of Public Accounts of the State of Texas, or his duly authorized agent, or a certificate of registration substantially in the form provided in Section 9(d), manually executed by an authorized officer, employee or representative of the Paying Agent/Registrar, and either such certificate duly signed upon any Bond shall be conclusive evidence, and the only evidence, that such Bond has been duly certified, registered and delivered.

SECTION 8: Initial Bond(s). The Bonds herein authorized shall be initially issued either (i) as a single fully registered bond in the total principal amount shown in the Pricing Certificate with principal installments to become due and payable as provided in the Pricing Certificate and numbered T-1, or (ii) as multiple fully registered bonds, being one bond for each year of maturity in the applicable principal amount and denomination and to be numbered consecutively from T-1 and upward (hereinafter called the “Initial Bond(s)”) and, in either case, the Initial Bond(s) shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond(s) shall be the Bonds submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller of Public Accounts of the State of Texas and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond(s), the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond(s) delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

SECTION 9: Forms.

(a) Forms Generally. The Bonds, the Registration Certificate of the Comptroller of Public Accounts of the State of Texas, the Registration Certificate of Paying Agent/Registrar, and the form of Assignment to be printed on each of the Bonds, shall be substantially in the forms set forth in this Section with such appropriate insertions, omissions, substitutions, and other variations as are permitted or required by this Ordinance and with the Bonds to be completed and modified with the information set forth in the Pricing Certificate, may have such letters, numbers, or other marks of identification (including identifying numbers and letters of the Committee on Uniform Securities Identification Procedures of the American Bankers Association) and such legends and endorsements (including insurance legends on insured Bonds and any reproduction of an opinion

of counsel) thereon as may, consistently herewith, be established by the City or determined by the Pricing Officer. The Pricing Certificate shall set forth the final and controlling forms and terms of the Bonds. Any portion of the text of any Bonds may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Bond.

The definitive Bonds and the Initial Bond(s) shall be printed, lithographed, or engraved, typewritten, photocopied or otherwise reproduced in any other similar manner, all as determined by the officers executing such Bonds as evidenced by their execution thereof.

(b) Form of Definitive Bond.

REGISTERED
NO._____

REGISTERED
$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE BOND
SERIES 2018

Bond Date:	Interest Rate:	Stated Maturity:	CUSIP NO.
_____	_____%	July 1, 20____	_____

Registered Owner:

Principal Amount:

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and political subdivision in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, solely from the revenues hereinafter identified, on the Stated Maturity date specified above the Principal Amount hereinabove stated (or so much thereof as shall not have been paid upon prior redemption) and to pay interest on the unpaid principal amount hereof from the [Bond Date][date of the initial delivery of the Bonds] at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on January 1 and July 1 in each year, commencing July 1, ____ until maturity or prior redemption. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof, upon presentation and surrender, at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while this Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount hereof may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the 15th day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of

payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

This Bond is one of the series specified in its title issued in the aggregate principal amount of $_____ (herein referred to as the "Bonds"), for the purpose of providing funds for improvements, extensions and repairs to the City's waterworks, sewer and electric light and power systems and facilities and costs of issuance, in conformity with the Constitution and laws of the State of Texas, including Texas Government Code, Section 1502.051(c), as amended, and pursuant to an Ordinance adopted by the City Council of the City (herein referred to as the "Ordinance").

[The Bonds maturing on the dates hereinafter identified (the "Term Bonds") are subject to mandatory redemption prior to maturity with funds on deposit in the Bond Fund established and maintained for the payment thereof in the Ordinance, and shall be redeemed in part prior to maturity at the price of par and accrued interest thereon to the date of redemption, and without premium, on the dates and in the principal amounts as follows:

Term Bonds due July 1, 20__		Term Bonds due July 1, 20__	
Redemption Date	Principal Amount	Redemption Date	Principal Amount

The particular Term Bonds of a stated maturity to be redeemed on each redemption date shall be chosen by lot by the Paying Agent/Registrar; provided, however, that the principal amount of Term Bonds for a stated maturity required to be redeemed on a mandatory redemption date may be reduced, at the option of the City, by the principal amount of Term Bonds of like stated maturity which, at least 50 days prior to the mandatory redemption date, (1) shall have been acquired by the City at a price not exceeding the principal amount of such Term Bonds plus accrued interest to the date of purchase thereof, and delivered to the Paying Agent/Registrar for cancellation or (2) shall have been redeemed pursuant to the optional redemption provisions appearing below and not theretofore credited against a mandatory redemption requirement.**]**

The Bonds maturing on and after July 1, 20__, may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part in principal amounts of $5,000 or any integral multiple thereof (and if within a Stated Maturity selected by lot by the Paying Agent/Registrar), on July 1, 20__, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to a redemption date, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of the Bonds to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date therefor, provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within 45 days of the redemption date therefor; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that said redemption is conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

The Bonds are special obligations of the City payable solely from, and, together with outstanding Previously Issued Bonds (identified and defined in the Ordinance), equally and ratably secured by a first lien on and pledge of the Net Revenues (as defined in the Ordinance) of the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems (the "System"). The Bonds do not constitute a legal or equitable pledge, charge, lien or encumbrance upon any property of the City or the System, except with respect to the Net Revenues. The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

Subject to satisfying the terms and conditions prescribed therefor, the City has reserved the right to issue additional revenue obligations payable from, and, together with the Bonds and

Previously Issued Bonds, equally and ratably secured by a parity lien on and pledge of, the Net Revenues of the System.

Reference is hereby made to the Ordinance, a copy of which is on file in the Designated Payment/Transfer Office of the Paying Agent/Registrar, and to all of the provisions of which the Holder by the acceptance hereof hereby assents, for definitions of terms; the description of and the nature and extent of the security for the payment of the Bonds; the properties constituting the System; the Net Revenues pledged to the payment of the principal of and interest on the Bonds; the nature and extent and manner of enforcement of the lien and pledge securing the payment of the Bonds; the terms and conditions for the issuance of additional revenue obligations; the terms and conditions relating to the transfer or exchange of this Bond; the conditions upon which the Ordinance may be amended or supplemented with or without the consent of the Holders; the rights, duties, and obligations of the City and the Paying Agent/Registrar; the terms and provisions upon which the liens, pledges, charges and covenants made therein may be discharged at or prior to the maturity or redemption of this Bond, and this Bond deemed to be no longer Outstanding thereunder; and for the other terms and provisions contained therein. Capitalized terms used herein have the same meanings assigned in the Ordinance.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or its redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a “Special Record Date”) will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each Holder appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

It is hereby certified, recited, represented and declared that the City is a body corporate and political subdivision duly organized and legally existing under and by virtue of the Constitution and laws of the State of Texas; that the issuance of the Bonds is duly authorized by law; that all acts, conditions and things required to exist and be done precedent to and in the issuance of the Bonds to render the same lawful and valid obligations of the City have been properly done, have happened and have been performed in regular and due time, form and manner as required by the Constitution and laws of the State of Texas, and the Ordinance; that the Bonds do not exceed any Constitutional or statutory limitation; and that due provision has been made for the payment

of the principal of and interest on the Bonds by a pledge of the Net Revenues of the System as aforestated. In case any provision in this Bond shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The terms and provisions of this Bond and the Ordinance shall be construed in accordance with and shall be governed by the laws of the State of Texas.

IN WITNESS WHEREOF, the City Council of the City has caused this Bond to be duly executed under the official seal of the City as of the Bond Date.

CITY OF NEW BRAUNFELS, TEXAS

_____
Mayor

COUNTERSIGNED:

_____
City Secretary

(City Seal)

(c) Form of Registration Certificate of Comptroller of Public Accounts to appear on Initial Bond(s) only.

REGISTRATION CERTIFICATE OF
COMPTROLLER OF PUBLIC ACCOUNTS

OFFICE OF THE COMPTROLLER	(	
OF PUBLIC ACCOUNTS	(	REGISTER NO. _____
THE STATE OF TEXAS	(	

I HEREBY CERTIFY that this Bond has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and duly registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS my signature and seal of office this _____.

_____
Comptroller of Public Accounts
of the State of Texas

(Seal)

(d) Form of Certificate of Paying Agent/Registrar to appear on Definitive Bonds only.

REGISTRATION CERTIFICATE OF PAYING AGENT/REGISTRAR

This Bond has been duly issued and registered under the provisions of the within-mentioned Ordinance; the bond or bonds of the above entitled and designated series

originally delivered having been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts, as shown by the records of the Paying Agent/Registrar.

The designated offices of the Paying Agent/Registrar in Salt Lake City, Utah is the Designated Payment/Transfer Office for this Bond.

ZB, NATIONAL ASSOCIATION dba AMEGY BANK,
Houston, Texas, as Paying Agent/Registrar

By: _____
Authorized Signature

Registration Date:

_____

(e) Form of Assignment.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns, and transfers unto (Print or typewrite name, address, and zip code of transferee:)_____ _____(Social Security or other identifying number_____) the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED:

_____

Signature guaranteed:

_____

NOTICE: The signature on this assignment must correspond with the name of the registered owner as it appears on the face of the within Bond in every particular.

(f) The Initial Bond(s) shall be in the form set forth in paragraph (b) of this Section, except that the form of a single fully registered Initial Bond shall be modified as follows:

REGISTERED
NO._____

REGISTERED
$_____

UNITED STATES OF AMERICA
STATE OF TEXAS
CITY OF NEW BRAUNFELS, TEXAS,
UTILITY SYSTEM REVENUE BOND
SERIES 2018

Bond Date:

_____

Registered Owner:

Principal Amount:

The City of New Braunfels (hereinafter referred to as the "City"), a body corporate and municipal corporation in the Counties of Comal and Guadalupe, State of Texas, for value received, hereby promises to pay to the Registered Owner named above, or the registered assigns thereof, from the revenues hereinafter identified, the Principal Amount hereinabove stated on July 1 in each of the years and in principal installments in accordance with the following schedule:

Year of Stated Maturity	Principal Amount	Interest Rates

(Information to be inserted from the Pricing Certificate).

(or so much principal thereof as shall not have been redeemed prior to maturity) and to pay interest on the unpaid Principal Amount hereof from the [Bond Date][date of the initial delivery of the Bonds] at the per annum rates of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on January 1 and July 1 in each year, commencing _____ until maturity or prior redemption. Principal installments of this Bond are payable in the year of maturity or on a redemption date to the registered owner hereof by ZB, National Association dba Amegy Bank, Houston, Texas (the "Paying Agent/Registrar"), upon presentation and surrender, at its designated office initially in Salt Lake City, Utah or, with respect to a successor Paying Agent/Registrar, at the designated offices of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the 15th day of the month next preceding each interest payment date, and interest shall be paid by the Paying Agent/Registrar by check sent United States Mail, first class postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. All payments of principal of, premium, if any, and interest on this Bond shall be in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due.

SECTION 10: Definitions. For all purposes of this Ordinance and in particular for clarity with respect to the issuance of the Bonds herein authorized and the pledge and appropriation of revenues to the payment of the Bonds, the following definitions are provided:

(a) The term "Additional Bonds" shall mean the additional parity revenue obligations the City reserves the right to issue in accordance with the terms and conditions prescribed in Section 22 hereof.

(b) The term “Board of Trustees” shall mean the “Board of Trustees of New Braunfels Utilities” which, pursuant to Texas Government Code, Section 1502.070, et seq., the Charter of the City of New Braunfels, the ordinances authorizing the issuance of the Previously Issued Bonds and this Ordinance, is responsible for the complete management and control of the System.

(c) The term “Bonds” shall mean the “City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2018”, dated as provided in the Pricing Certificate and authorized by this Ordinance.

(d) The term “Bonds Similarly Secured” shall mean the Previously Issued Bonds, the Bonds and Additional Bonds.

(e) The term “Fiscal Year” shall mean the twelve-month financial accounting period used for the operations of the System now ending on July 31 of each year; provided, however, the City Council, by passage of an ordinance, may change the Fiscal Year to another period of not less than twelve (12) calendar months.

(f) The term “Government Obligations” shall mean (i) direct noncallable obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States, including obligations unconditionally guaranteed or insured by the agency or instrumentality and on the date of their acquisition or purchase by the City are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and on the date of their acquisition or purchase by the City, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent and (iv) any other then authorized securities or obligations that may be used to defease obligations such as the Bonds under the then applicable laws of the State of Texas.

(g) The term “Net Revenues” shall mean the gross revenues of the System, less current expenses of operation and maintenance, including all salaries, labor, materials, repairs and extensions necessary to render efficient service, provided, however, that only such repairs and extensions as in the judgment of the Board of Trustees, reasonably and fairly exercised, are necessary to keep the System in operation and render adequate service to the City and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the security of any bonds payable from and secured by a lien on the Net Revenues of the System shall be deducted in determining “Net Revenues”. Payments pursuant to contracts for the purchase of power and energy, supply of water and other materials, goods or services for the System to the extent authorized by law and the provisions of such contracts are also included and defined as operating and maintenance expenses of the System.

(h) The term “Outstanding” shall mean when used in this Ordinance with respect to Bonds or Bonds Similarly Secured means, as of the date of determination, all Bonds theretofore issued and delivered, except:

(1) those Bonds or Bonds Similarly Secured cancelled by the Paying Agent/Registrar or delivered to the Paying Agent/Registrar for cancellation;

(2) those Bonds or Bonds Similarly Secured paid or deemed to be paid in accordance with the provisions of Section 30 hereof; and

(3) those Bonds or Bonds Similarly Secured that have been mutilated, destroyed, lost, or stolen and replacement Bonds have been registered and delivered in lieu thereof as provided in Section 32 hereof or similar provisions with respect to Bonds Similarly Secured.

(i) The term "Previously Issued Bonds" shall mean the outstanding and unpaid bonds of the following series:

(1) "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2004", dated January 15, 2004, and issued in the original principal amount of $10,337,595.90,

(2) "City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2012," dated October 1, 2012, and issued in the original principal amount of $23,940,000,

(3) "City of New Braunfels, Texas, Utility System Revenue Bonds, Series 2015," dated January 15, 2015, and issued in the original principal amount of $26,870,000, and

(4) "City of New Braunfels, Texas, Utility System Revenue and Refunding Bonds, Series 2016," dated March 1, 2016, and issued in the original principal amount of $62,235,000.

(j) The term "System" shall mean the City's Waterworks, Sanitary Sewer and Electric Light and Power Systems, and shall be construed to mean all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the City of New Braunfels through purchase, construction or otherwise, and used in connection with said System, and in any wise appertaining thereto, whether situated within or without the limits of said City.

SECTION 11: Pledge. The City hereby covenants and agrees that the Net Revenues of the System, with the exception of those in excess of the amounts required for the payment and security of the Bonds Similarly Secured, are hereby irrevocably pledged, equally and ratably, to the payment and security of the Previously Issued Bonds, the Bonds, and Additional Bonds, if issued, including the establishment and maintenance of the special funds created and established for the payment and security thereof, all as hereinafter provided, and it is hereby ordained that the Bonds Similarly Secured, and the interest thereon, shall constitute a first lien on the Net Revenues of the System in accordance with the terms and provisions hereof and be valid and binding and fully perfected from and after the date of adoption of this Ordinance without physical delivery or transfer or transfer of control of the Net Revenues, the filing of this Ordinance or any other act; all as provided in Chapter 1208 of the Texas Government Code.

Texas Government Code, Section 1208, as amended, applies to the issuance of the Bonds and the pledge of the Net Revenues of the System granted by the City under this Section 11, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Bonds are Outstanding such that the pledge of the Net Revenues of the System granted by the City under this Section 11 is to be subject to the filing requirements of Texas Business and Commerce Code, Chapter 9, as amended, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law

to comply with the applicable provisions of Texas Business and Commerce Code, Chapter 9, as amended, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 12: Rates and Charges. For the benefit of the Holders of the Bonds and in addition to all provisions and covenants in the laws of the State of Texas and in this Ordinance, the City Council and Board of Trustees agree and covenant, while any of the Bonds are outstanding, to establish and maintain rates and charges for facilities and services afforded by the System that are reasonably expected on the basis of available information and experience and with due allowance for contingencies to provide revenues in each Fiscal Year sufficient to pay:

(a) all operating, maintenance, depreciation, replacement, betterment and interest charges and other costs incurred in the maintenance and operation of the System as referenced in Section 10(g) or required by statute to be a first claim on and charge against the revenues of the System, and

(b) the principal of and interest on the Previously Issued Bonds and the Bonds and make all required payments to the special funds created for the payment and security of the Bonds Similarly Secured.

SECTION 13: Special Fund Designations. The City acting through the Board of Trustees covenants and agrees that the following special funds or accounts heretofore created for the payment and security of Bonds Similarly Secured are hereby reaffirmed and shall continue to be maintained while the Bonds are Outstanding, to wit:

(a) Special Utility System Revenue Bond Interest and Sinking Fund, hereinafter called the “Bond Fund”, which Fund is and shall continue to be maintained at an official depository bank of the City selected by the Board of Trustees, and moneys deposited in this Fund shall be used to pay principal of and interest on the Bonds Similarly Secured when and as the same becomes due and payable.

(b) Special Utility System Revenue Bond Reserve Fund, hereinafter called “Reserve Fund”, which Fund is and shall continue to be maintained at an official depository bank of the City selected by the Board of Trustees, and moneys deposited in this Fund shall be used to pay principal of and/or interest on the Bonds Similarly Secured falling due at any time when moneys in the Bond Fund are insufficient for such purpose and to retire the last of the Bonds Similarly Secured that are outstanding.

SECTION 14: Utility System Fund. The City hereby covenants and agrees that all revenues of every nature derived from the operation and ownership of the System shall be kept separate and apart from other funds of the City, and, in accordance with the ordinances authorizing the issuance of the Previously Issued Bonds, all such revenues of the System, as collected and received by the Board of Trustees, shall be deposited into an account designated the “Utility System Fund” (heretofore created and established and hereinafter called “System Fund”), which account is and shall continue to be kept and maintained at an official depository bank of the City and the Board. All revenues in the System Fund shall be pledged and appropriated to the extent required for the following uses and in the order of precedence shown:

FIRST: To the payment of all necessary and reasonable maintenance and operation expenses of the System, as referenced in

Section 10(g) hereof or required by statute to be a first charge on and claim against the revenues of the System.

SECOND: To the payment of the amounts required to be deposited in the special Funds created and maintained for the payment and security of the Bonds Similarly Secured, including the establishment and maintenance of the Required Reserve (hereinafter defined in Section 16 hereof) in accordance with the provisions of the ordinances authorizing the issuance of Bonds Similarly Secured.

THIRD: To the payment of other obligations or indebtedness payable from and secured by a lien on and pledge of the Net Revenues of the System that is junior and subordinate to the lien and pledge securing the payment of the Bonds Similarly Secured.

Any Net Revenues remaining in the System Fund after satisfying the foregoing payments, or making adequate and sufficient provision for the payment thereof, may be appropriated and used by the Board of Trustees for any purpose now or hereafter permitted by law, including a transfer to the City's general fund as permitted by Texas Government Code, Section 1502.058, as amended.

SECTION 15: Bond Fund. In addition to the deposits to the Bond Fund for the payment of the Previously Issued Bonds, the City hereby covenants and agrees, and the Board of Trustees is hereby directed, to deposit into the Bond Fund prior to each principal and interest payment date for the Bonds from the Net Revenues of the System a sum equal to one hundred percent (100%) of the amount required to fully pay the interest on and principal of the Bonds then falling due, such deposits to pay maturing principal and accrued interest on the Bonds to be made in substantially equal monthly amounts on or before the last day of the month beginning the month the Bonds are delivered to the initial purchasers.

The monthly deposits to the Bond Fund for the payment of principal of and interest on the Bonds shall continue to be made until such time as (i) the total amount on deposit in the Bond Fund and Reserve Fund is equal to the amount required to pay all outstanding Bonds Similarly Secured or (ii) the Bonds are no longer Outstanding.

Accrued interest, if any, received from the purchaser of the Bonds shall be deposited in the Bond Fund, and may be taken into consideration and reduce the amount which would otherwise be required to be deposited in the Bond Fund from the Net Revenues of the System.

SECTION 16: Reserve Fund. The City hereby covenants and agrees, and the Board of Trustees is hereby directed, to accumulate, and, when accumulated, to continuously maintain in the Reserve Fund an amount equal to at least the average annual principal and interest requirements of the Bonds Similarly Secured (calculated on a Fiscal Year basis as of the date the last series of Bonds Similarly Secured outstanding were delivered), which amount is hereby referred to as the "Required Reserve".

In accordance with the provisions of the ordinances authorizing the issuance of the Previously Issued Bonds, by reason of the issuance of the Bonds, the total amount required to be accumulated and maintained in the Reserve Fund shall be as provided in the Pricing Certificate, which amount shall be equal to not less than the Required Reserve. Any amount due to the Reserve Fund by reason of the issuance of the Bonds may be deposited to the Reserve Fund as

provided in the Pricing Certificate, including the accumulation of the Required Reserve amount over a period of not to exceed sixty months from the date of the Pricing Certificate.

Subject to the provisions of the preceding paragraph, so long as the money and investments in the Reserve Fund total not less than the Required Reserve, no deposits need be made to the credit of the Reserve Fund; but when and if the Reserve Fund at any time contains less than the Required Reserve (after giving affect to the accumulation of the Required Reserve as provided in the Pricing Certificate), the City covenants and agrees, and the Board of Trustees is hereby directed, to cure the deficiency in the Required Reserve within twelve months from the date the deficiency in funds occurred with available Net Revenues of the System pledged to the payment of the Bonds, and the City, acting through the Board of Trustees, hereby covenants and agrees that, subject to the required payments to the Bond Fund for Bonds Similarly Secured, the Net Revenues of the System remaining in the System Fund shall be applied and appropriated and used to establish and maintain the Required Reserve and to cure any deficiency in such amount, as required by the terms of this Ordinance and any other ordinance pertaining to Bonds Similarly Secured.

The City, acting through the Board of Trustees, may, at its option, withdraw all surplus in the Reserve Fund in excess of the Required Reserve and deposit the same in the System Fund.

To the extent permitted by law, the City expressly reserves the right at any time to satisfy all or any part of the Required Reserve by obtaining for the benefit of the Reserve Fund one or more Reserve Fund Surety Policies (a "Reserve Fund Surety Policy"). In the event the City elects to substitute a Reserve Fund Surety Policy for any funded amounts in the Reserve Fund, it may apply any bond proceeds thereby released, to the greatest extent permitted by law, to any of the purposes for which such funds may lawfully be applied, including the payment of debt service on the Bonds Similarly Secured. A Reserve Fund Surety Policy shall be an insurance policy or other similar guarantee in a principal amount equal to the portion of the Required Reserve to be satisfied which is issued by a financial institution or insurance company or other entity that is rated either for the long term unsecured debt of the issuer of such surety bond or for obligations insured, secured or guaranteed by such issuer have a rating in the highest letter category by one or more major municipal securities rating or evaluation services. The premium for any such policy may be paid from bond proceeds or other funds of the City lawfully available for such purpose. Any reimbursement of amounts drawn against a Reserve Fund Surety Policy shall be limited to the amounts actually paid under such policy, and such right to reimbursement shall never constitute a separate obligation independent of the Bonds.

SECTION 17: Payment of Bonds. While any of the Bonds are Outstanding, the Board of Trustees shall cause to be transferred to the Paying Agent/Registrar therefor, from funds on deposit in the Bond Fund and, if necessary, in the Reserve Fund, amounts sufficient to fully pay and discharge promptly as each installment of interest and principal of the Bonds accrues or matures or comes due by reason of redemption prior to maturity, such transfer of funds to be made in such manner as will cause immediately available funds to be deposited with the Paying Agent/Registrar for the Bonds at the close of the business day next preceding the date of payment for the Bonds. The Paying Agent/Registrar shall cancel or destroy all paid Bonds, and furnish the Board of Trustees with an appropriate certificate of cancellation or destruction.

SECTION 18: Investment of Funds. Moneys in any Fund required to be maintained pursuant to this Ordinance may, at the option of the Board of Trustees, be placed in time deposits or certificates of deposit secured (to the extent not insured by the Federal Deposit Insurance Corporation) by obligations of the type authorized by the laws of the State of Texas for the security

of public funds insofar as the System Fund is concerned and by obligations of the type hereinafter described insofar as the Bond Fund and Reserve Fund are concerned, or be invested, in direct obligations of the United States of America, obligations guaranteed or insured by the United States of America, which, in the opinion of the Attorney General of the United States, are backed by its full faith and credit or represent its general obligations, or invested in indirect obligations of the United States of America, including, but not limited to, evidences of indebtedness issued, insured or guaranteed by such governmental agencies as the Federal Land Banks, Federal Intermediate Credit Banks, Banks for Cooperatives, Federal Home Loan Banks, Government National Mortgage Association, Farmers Home Administration, Federal Home Loan Mortgage Association, Small Business Administration, or Federal Housing Association or such other investments as are permitted by the investment policies of the Board of Trustees; provided that all such deposits and investments shall be made in such a manner that the money required to be expended from any Fund will be available at the proper time or times. Such investments shall be valued in terms of current market value as of a certain date within 60 days of the close of the Fiscal Year. All interest and income derived from deposits and investments in the Bond Fund immediately shall be credited to, and any losses debited to, the Bond Fund. When the Required Reserve is fully established, all interest and interest income derived from deposits and investments in the Reserve Fund immediately shall be credited and deposited in the System Fund as the same are received, otherwise such interest and interest income shall remain in the Reserve Fund. All such investments shall be sold promptly when necessary to prevent any default in connection with the Bonds Similarly Secured.

SECTION 19: Deficiencies in Funds. If in any month the City acting through the Board of Trustees shall, for any reason, fail to pay into the Bond Fund and Reserve Fund the full amounts above stipulated, amounts equivalent to such deficiencies shall be set apart and paid into said Funds from the first available and unallocated Net Revenues of the System in the following month or months and such payments shall be in addition to the amounts hereinabove provided to be otherwise paid into said Funds during such month or months.

SECTION 20: Excess Revenues. Any Net Revenues of the System in excess of those required to fully establish and maintain the special funds created for the payment and security of the Bonds Similarly Secured may be used for the redemption of the Bonds Similarly Secured, or may be appropriated and used by the Board of Trustees for any purpose now or hereafter permitted by law, including a transfer to the City's general fund as permitted by Texas Government Code, Section 1502.058, as amended; provided, such transfer of money to the general fund of the City does not impair the ability of the Board of Trustees to make subsequent deposits to the special Funds created for the payment and security of the Bonds Similarly Secured.

SECTION 21: Security of Funds. All moneys on deposit in the Funds for which this Ordinance makes provision (except any portion thereof as may be at any time properly invested) shall be secured in the manner and to the fullest extent required by the laws of the State of Texas for the security of public funds and as otherwise prescribed herein.

SECTION 22: Issuance of Additional Parity Bonds. The City hereby reserves the right hereafter to issue additional parity obligations (herein called "Additional Bonds") payable from and, together with the Previously Issued Bonds and the Bonds, equally secured by a parity first lien on and pledge of the Net Revenues of the System, and the Previously Issued Bonds, the Bonds and Additional Bonds shall be in all respects of equal dignity. The Additional Bonds may be issued in one or more installments; provided, however, that none shall be issued unless and until the following conditions have been met:

(a) The CEO (or other official having primary responsibility for the fiscal affairs of the System) shall have executed a certificate stating (i) that the City is not then in default as to any covenant, obligation or agreement contained in any ordinance or other proceeding relating to any obligations of the City payable from and secured by a lien on and pledge of the Net Revenues of the System and (ii) payments into all special funds or accounts created and established solely for the payment and security of any outstanding obligations payable from and secured by a lien on and pledge of the Net Revenues of the System have been duly made and that the amounts on deposit in such special funds or accounts are the amounts then required to be deposited therein.

(b) The Additional Bonds shall be scheduled to mature or be payable as to principal on July 1 or January 1 (or both) in each year the same are to be outstanding or during the term thereof.

(c) The City has secured from a Certified Public Accountant a certificate or opinion to the effect that, according to the books and records of the City, the Net Earnings of the System for the preceding Fiscal Year or for any 12 consecutive months out of the 15 months immediately preceding the month the ordinance authorizing the Additional Bonds is adopted are at least equal to one and forty hundredths (1.40) times the average annual requirement for the payment of principal of and interest on all outstanding Bonds Similarly Secured after giving effect to the Additional Bonds then proposed. The term "Net Earnings" as used herein, shall mean all income and revenues derived from the operation and ownership of the System (including income and earnings from the investment of moneys in any special fund created for the payment and security of the Bonds Similarly Secured) less expenses for the maintenance and operation thereof, but not deducting depreciation or other expenditures which, under generally accepted accounting principles, should be charged to capital expenditures.

(d) The ordinance authorizing the issuance of the Additional Bonds provides for deposits to be made to the Bond Fund in amounts sufficient to pay the principal of and interest on such Additional Bonds as same mature.

(e) The ordinance authorizing the issuance of the Additional Bonds provides that the amount to be accumulated and maintained in the Reserve Fund shall be in an amount equal to not less than the average annual requirement for the payment of principal of and interest on all Bonds Similarly Secured then to be outstanding after giving effect to the issuance of the proposed Additional Bonds, and provides that any additional amount to be maintained in the Reserve Fund shall be accumulated within sixty (60) months from the date the Additional Bonds are delivered.

Bonds Similarly Secured may be refunded (pursuant to any law then available) upon such terms and conditions as the governing body of the City may deem to be in the best interest of the City and its inhabitants, and if less than all such outstanding revenue bonds are refunded the proposed refunding bonds shall be considered as "Additional Bonds" under the provisions of this Section and the Accountant's certificate or opinion required in subdivision (c) shall give effect to the issuance of the proposed refunding bonds (and shall not give effect to the bonds being refunded following their cancellation or provision being made for their payment).

SECTION 23: Issuance of Inferior Lien Obligations. The City retains the right to create and issue obligations payable from and secured by a lien on the pledge of the Net Revenues of the System junior and subordinate to the lien and pledge securing the payment of the Bonds Similarly Secured.

SECTION 24: Management and Control of System. Pursuant to authority contained in Texas Government Code, Section 1502.051, et seq, and by the Charter of the City of New Braunfels, Texas, the complete management and control of the System, during such time the Net Revenues of the System may be encumbered pursuant to this Ordinance and the ordinances authorizing the Previously Issued Bonds, shall be in the hands of a Board of Trustees to consist of five freeholders of the City of New Braunfels, one of whom shall be the Mayor of the City, to be known as the "Board of Trustees of New Braunfels Utilities", in which name said Board of Trustees shall act and transact business, hereinafter referred to as the "Board of Trustees".

All members of the Board of Trustees shall be appointed by the governing body of the City of New Braunfels, Texas, to serve for five (5) year terms of office; provided, vacancies in office for any reason other than the expiration of a trustee's term of office, shall be filled only for the unexpired term of the office vacant. Furthermore, any member of the Board of Trustees whose term of office has expired shall continue to serve as a member of the Board until his successor in office has been appointed or elected. Appointments to the Board of Trustees resulting from the expiration of a member's term of office shall be made by the governing body of the City of New Braunfels at its first regular meeting in October each year in which the term of office to be filled shall expire or as soon as possible thereafter.

The members of the Board of Trustees shall continue to organize their body by the election of one of its members as President and another as Vice President; the Board shall also appoint a Secretary who may or may not be a member of said Board, as said Board may elect. The Board of Trustees may make such resolutions and by-laws for the orderly handling of its affairs and the governing of its own procedure, and shall thereafter manage and operate the Systems with the same freedom and in the same manner ordinarily as enjoyed and followed by the Board of Directors of a private corporation operating properties of a similar nature; provided, however, that nothing in this Section shall be construed to take away from the City Council of the City of New Braunfels the exercise of any duty imposed upon said governing body under the provisions of the other Sections of this Ordinance and/or the Charter of the City of New Braunfels. A majority of the Trustees shall constitute a quorum for the transaction of business at any meeting.

The Board of Trustees shall obtain and keep continually in force an employee's fidelity and indemnity bond of the so-called blanket type, written by a solvent and recognized indemnity company, and covering losses to the amount of not less than $5,000.00 per person. The premiums of such bonds shall be paid from the System's Revenues and shall constitute operating expenses of the System.

The Board of Trustees shall elect and appoint a CEO and an attorney or attorneys. The CEO shall appoint all employees. The members of the Board, other than the Mayor of the City, shall receive an annual compensation of not less than Twelve Hundred Dollars ($1,200.00) and such compensation may be increased from time to time by the City Council as it is deemed advisable, provided the total compensation paid to the members of the Board shall never exceed in any one year five percent (5%) of the gross receipts of the System in such year. The members of the Board of Trustees, either singly or collectively, shall not be personally liable for any act or omission not willfully fraudulent or mala fide. Any member of the Board of Trustees, other than the Mayor of the City, who shall be continuously absent from all meetings of the Board for a period of four consecutive months shall, unless he shall have been granted a leave of absence by the unanimous vote of the remaining members of the Board, be considered to have vacated his office. Any member of the Board of Trustees, other than the Mayor of the City, may be removed only by action of the governing body of the City for adequate cause.

Subject to the provisions and restrictions contained in this Ordinance and the City Charter, all of the provisions and covenants of which shall be binding upon the Board of Trustees in like manner as they would have been binding on the City Council of the City of New Braunfels, had management and control of the System been retained by the City Council, the Board of Trustees shall have complete authority and control of the management and operation of the System; and among the powers that may be exercised by the said Board of Trustees, but not limited thereto, the same are hereby enumerated for greater certainty:

(a) To take, have and exercise exclusive possession and control of the System and all additions thereto, and to collect, and enforce the collection of all funds and revenues that may be or become owing or that may arise out of the operation of the System, and to disburse the same in accordance with the provisions of this Ordinance and Sections 1502.070 and 1502.071, Texas Government Code, as amended;

(b) To maintain, improve, enlarge and extend the Waterworks, Sanitary Sewer and Electric Light and Power Systems;

(c) To fix, alter and amend all rates for all services to be furnished by said System, subject to approval and confirmation of the City Council;

(d) To employ and pay the compensation of a CEO and attorneys, engineers and other professional or technical aides as said Board of Trustees may deem necessary in the proper conduct of the business of the System;

(e) To adopt, alter, amend and enforce all such rules and regulations governing the conduct of the business of the System as said Board of Trustees may deem necessary or proper; and

(f) To do any and all things necessary in reference to the installing and maintaining of a complete system of records and accounts pertaining to the operations of the System and to provide Net Revenues for the payment of the Bonds Similarly Secured and other special obligations of the System in the manner provided by Texas Government Code, Section 1502.057, as amended, and other applicable laws and in accordance with the provisions of any ordinance authorizing the issuance of Bonds Similarly Secured.

SECTION 25: Maintenance and Operation - Insurance. The City hereby covenants and agrees that through the Board of Trustees the System shall be maintained in good condition and operated in an efficient manner and at reasonable cost. So long as any of the Bonds are outstanding, the City agrees to maintain insurance for the benefit of the Holders of the Bonds on the System of a kind and in an amount which usually would be carried by municipal corporations of the State of Texas engaged in a similar type of business. Nothing in this Ordinance shall be construed as requiring the City to expend any funds which are derived from sources other than the operation of the System but nothing herein shall be construed as preventing the City from doing so.

SECTION 26: Records - Accounts - Accounting Reports. The City hereby covenants and agrees that so long as any of the Bonds remain Outstanding, the Board of Trustees will keep and maintain a proper and complete system of records and accounts pertaining to the operation of the System separate and apart from all other records and accounts in accordance with generally accepted accounting principles prescribed for municipal corporations, and complete and correct entries shall be made of all transactions relating to said System, as provided by Texas

Government Code, Section 1502.057, as amended, and other applicable laws. The Holder of any Bonds, or any duly authorized agent or agents of such Holders, shall have the right at all reasonable times to inspect all such records, accounts and data relating thereto and to inspect the System and all properties comprising same. The City acting through the Board of Trustees further agrees that, as soon as possible following the close of each Fiscal Year, an audit of such books and accounts shall be made by an independent firm of Certified Public Accountants or Licensed Public Accountants. Each such audit, in addition to whatever other matters may be thought proper by the Accountant, shall particularly include the following:

(a) A detailed statement of the income and expenditures of the System for such Fiscal Year;

(b) A balance sheet as of the end of such Fiscal Year;

(c) The Accountant's comments regarding the manner in which the Board of Trustees has carried out the requirements of this Ordinance and his recommendations for any changes, or improvements in the operation, records and accounts of the System;

(d) A list of the insurance policies in force at the end of the Fiscal Year on the System properties, setting out as to each policy the amount thereof, the risk covered, the name of the insurer and the policy's expiration date; and

(e) A list of securities, if any, in which the Bond Fund and Reserve Fund has been invested, and a statement of the manner in which money in the System Fund, Bond Fund and Reserve Fund has been secured in such Fiscal Year;

Expenses incurred in making the audits above referred to are to be regarded as maintenance and operation expenses of the System and paid as such. Copies of the aforesaid annual audit shall be immediately furnished to the Executive Director of the Municipal Advisory Council of Texas at his or her office in Austin, Texas, and upon written request, to the original purchaser, and any subsequent Holder of twenty-five percent (25%) in principal amount of the Bonds Outstanding.

SECTION 27: Remedies in Event of Default. In addition to all the rights and remedies provided by the laws of the State of Texas, the City covenants and agrees particularly that in the event the City (a) defaults in payments to be made to the Bond Fund or Reserve Fund as required by this Ordinance, or (b) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance, the Holder of any of the Bonds shall be entitled to a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the City Council and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein, and every such right or power may be exercised from time to time and as often as may be deemed expedient. The specific remedies herein provided shall be cumulative of all other existing remedies and the specification of such remedies shall not be deemed to be exclusive.

SECTION 28: Special Covenants. The City hereby further covenants as follows:

(a) It has the lawful power to pledge the revenues supporting this issue of Bonds and has lawfully exercised said power under the Constitution and laws of the State of Texas, including Texas Government Code, Section 1502.070, as amended; that the Previously Issued Bonds, the Bonds issued hereunder, and the Additional Bonds, when issued, shall be ratably secured under said pledge of income in such manner that one bond shall have no preference over any other bond of said issues;

(b) Other than for the payment of the Previously Issued Bonds and the Bonds, the Net Revenues of the System have not in any manner been pledged to the payment of any debt or obligation of the City or of the System;

(c) While any of the Bonds or any interest thereon remain Outstanding, the City will not sell or encumber the System or any substantial part thereof; provided, that this covenant shall not be construed to prohibit the sale of such machinery or other properties or equipment by the Board of Trustees which has become obsolete or otherwise unsuited to the efficient operation of the System; and, further, with the exception of the Additional Bonds expressly permitted by this Ordinance to be issued in Section 22 hereof, it will not encumber the Net Revenues of the System unless such encumbrance is made junior and subordinate to all of the provisions of this Ordinance;

(d) No free service will be allowed to any customer of the System, including the City and its various departments; and

(e) To the extent that it legally may, the City further covenants and agrees that, so long as any of the Bonds are Outstanding, no franchise shall be granted for the installation or operation of any competing waterworks, sanitary sewer or electric light and power system other than those owned by the City and the operation of such systems by anyone other than the City is hereby prohibited.

SECTION 29: Bonds are Special Obligations. The Bonds are special obligations of the City payable from the pledged Net Revenues and the Holders thereof shall never have the right to demand payment thereof out of funds raised or to be raised by taxation.

SECTION 30: Defeasance. If the City shall pay or cause to be paid, or there shall otherwise be paid to the Holders, the principal of, premium, if any, and interest on the Bonds, at the times and in the manner stipulated in this Ordinance and the Pricing Certificate, then the pledge of the Net Revenues of the System under this Ordinance and all other obligations of the City to the Holders shall thereupon cease, terminate, and become void and be discharged and satisfied.

Bonds or any principal amount(s) thereof shall be deemed to have been paid within the meaning and with the effect expressed above in this Section when (i) money sufficient to pay in full such Bonds or the principal amount(s) thereof at maturity or to the redemption date therefor, together with all interest due thereon, shall have been irrevocably deposited with and held in trust by the Paying Agent/Registrar, or an authorized escrow agent, or (ii) Government Obligations shall have been irrevocably deposited in trust with the Paying Agent/Registrar, or an authorized escrow agent, which Government Obligations have been certified by an independent accounting firm to mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money, together with any moneys deposited therewith, if any, to pay when due the principal of and interest on such Bonds, or the principal amount(s) thereof, on and prior to the Stated Maturity thereof or (if notice of redemption has been

duly given or waived or if irrevocable arrangements therefor acceptable to the Paying Agent/Registrar have been made) the redemption date thereof. The City covenants that no deposit of moneys or Government Obligations will be made under this Section and no use made of any such deposit which would cause the Bonds to be treated as "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, or regulations adopted pursuant thereto.

Any moneys so deposited with the Paying Agent/Registrar, or an authorized escrow agent, and all income from Government Obligations held in trust by the Paying Agent/Registrar or an authorized escrow agent, pursuant to this Section which is not required for the payment of the Bonds, or any principal amount(s) thereof, or interest thereon with respect to which such moneys have been so deposited shall be remitted to the City or deposited as directed by the City. Furthermore, any money held by the Paying Agent/Registrar for the payment of the principal of and interest on the Bonds and remaining unclaimed for a period of three (3) years after the Stated Maturity, or applicable redemption date, of the Bonds such moneys were deposited and are held in trust to pay shall, upon the request of the City, be remitted to the City against a written receipt therefor. Notwithstanding the above and foregoing, any remittance of funds from the Paying Agent/Registrar to the City shall be subject to any applicable unclaimed property laws of the State of Texas.

SECTION 31: Ordinance a Contract - Amendments.

(a) This Ordinance shall constitute a contract with the Holders from time to time, be binding on the City, and shall not be amended or repealed by the City so long as any Bond remains Outstanding except as permitted in this Section. The City, may, without the consent of or notice to any Holders, from time to time and at any time, amend this Ordinance in any manner not detrimental to the interests of the Holders, including the curing of any ambiguity, inconsistency, or formal defect or omission herein.

In addition, the City, with the written consent of holders of Bonds aggregating in principal amount more than 50% of the aggregate principal amount of then Outstanding Bonds, shall have the right from time to time to approve any amendment to this Ordinance which may be deemed necessary or desirable by the City, provided, however, that without the consent of the registered owners of all of the Bonds then outstanding, no such amendment, addition, or rescission may (i) change the date specified as the date on which the principal of, or any installment of interest on any Bond is due and payable, reduce the principal amount of the Bonds, or the rate of interest thereon, change the coin or currency in which any Bond or interest thereon is payable, or in any other way modify the terms of payment of the Bonds, (ii) give any preference to any Bond over any other Bond, or (iii) reduce the aggregate principal amount of the Bonds required to be held by Holders for consent to any amendment, addition, or waiver.

(b) If at any time the City shall desire to amend this Ordinance under this Section, the City shall cause notice of the proposed amendment to be sent by United States Mail, first class postage prepaid, to the Holders of Bonds at the address appearing in the Security Register. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the principal office of the paying agent for inspection by all holders of the Bonds.

(c) Whenever at any time the City shall receive an instrument or instruments executed by the holders of more than 50% in aggregate principal amount of all Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendment described in said notice and which specifically consent to and approve such amendment in substantially the form of the

copy thereof on file with the paying agent, the governing body of the City may pass an amendatory ordinance in substantially the same form.

(d) Upon the passage of any amendatory ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be amended in accordance with such amendatory ordinance, and the respective rights, duties and obligations under this Ordinance of the City and the holders of then outstanding Bonds shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such amendments.

(e) Any consent given by the holder of a bond pursuant to the provisions of this Section shall be irrevocable for a period of six months from the date of the first publication of the notice provided for in this Section or the date of such consent, whichever is later, and shall be conclusive and binding upon all future holders of the same bond during such period. After the applicable period of time a consent is irrevocable has expired, the holder who gave consent, or a successor in title, may revoke such consent by filing notice thereof with the paying agent and the City, but such revocation shall not be effective if the holders of more than 50% in aggregate principal amount of the then Outstanding Bonds have, prior to the attempted revocation, consented to and approved the amendment.

(f) For the purpose of this Section, the fact of the holding of bonds by any holder and the amount and numbers of such bonds and the date of their holding same, may be proved by the Security Register maintained by the Paying Agent/Registrar or by affidavit of the person claiming to be such holder, or by a certificate executed by any trust company, bank, banker or any other depository wherever situated showing that at the date therein mentioned such person had on deposit with such trust company, bank, banker or other depository, the Bonds described in such certificate. The City may conclusively assume that such ownership continues until written notice to the contrary is served upon the City.

SECTION 32: Mutilated-Destroyed-Lost and Stolen Bonds. In case any Bond shall be mutilated, or destroyed, lost or stolen, the Paying Agent/Registrar may execute and deliver a replacement Bond of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Bond, or in lieu of and in substitution for such destroyed, lost or stolen Bond, only upon the approval of the City and after (i) the filing by the Holder thereof with the Paying Agent/Registrar of evidence satisfactory to the Paying Agent/Registrar of the destruction, loss or theft of such Bond, and of the authenticity of the ownership thereof and (ii) the furnishing to the Paying Agent/Registrar of indemnification in an amount satisfactory to hold the City and the Paying Agent/Registrar harmless. All expenses and charges associated with such indemnity and with the preparation, execution and delivery of a replacement Bond shall be borne by the Holder of the Bond mutilated, or destroyed, lost or stolen.

Every replacement Bond issued pursuant to this Section shall be a valid and binding obligation, and shall be entitled to all the benefits of this Ordinance equally and ratably with all other Outstanding Bonds; notwithstanding the enforceability of payment by anyone of the destroyed, lost, or stolen Bonds.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds.

SECTION 33: Covenants to Maintain Tax-Exempt Status.

(a) Definitions. When used in this Section, the following terms shall have the following meanings:

"Closing Date" means the date on which the Bonds are first authenticated and delivered to the initial purchasers against payment therefor.

"Code" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"Computation Date" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (1) any Investment has the meaning set forth in Section 1.148-5 of the Regulations; and (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City and the Board of Trustees shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City and the Board of Trustees shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds:

(1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or

indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds, or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds.

(f) Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe.

(h) Rebate of Arbitrage Profits. Except to the extent otherwise provided in Section 148(f) of the Code and the Regulations and rulings thereunder:

(1) The City and the Board of Trustees shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts,

expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City and the Board of Trustees may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(2) Not less frequently than each Computation Date, the City and the Board of Trustees shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City and the Board of Trustees shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.

(3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the construction fund, or other appropriate fund, or if permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the Bond Fund the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(4) The City and the Board of Trustees shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(i) Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City and the Board of Trustees shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party.

(j) Elections. The City hereby directs and authorizes the Mayor, City Manager, President of the Board of Trustees, CEO or Chief Financial Officer of the System, individually or

jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form or document.

SECTION 34: Sale of Bonds - Official Statement Approval. The Bonds authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with a bond purchase agreement in the event of a negotiated sale, letter agreement to purchase in the event of a private placement, or the successful bid form in the event of a competitive sale, as applicable (the "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer in accordance with Section 3 hereof. The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City, as the act and deed of this Council, and to make a determination as to whether the terms are in the City's best interests, which determination shall be final.

With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

1. The details of the purchase and sale of the Bonds;

2. The details of any public offering of the Bonds by the Purchasers, if any;

3. The details of any Official Statement or similar disclosure document (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12 compliance, if applicable;

4. A security deposit for the Bonds, if any;

5. The representations and warranties of the City to the Purchasers;

6. The details of the delivery of, and payment for, the Bonds;

7. The Purchasers' obligations under the Purchase Contract;

8. The certain conditions to the obligations of the City under the Purchase Contract;

9. Termination of the Purchase Contract;

10. Particular covenants of the City;

11. The survival of representations made in the Purchase Contract;

12. The payment of any expenses relating to the Purchase Contract;

13. Notices; and

14. Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Mayor and City Secretary of the City and the President and Secretary of the Board of Trustees are further authorized and directed to deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement prepared in connection with the offering of

the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement as delivered by said officials shall constitute the Official Statement authorized for distribution and use by the Purchasers.

SECTION 35: Control and Custody of Bonds. The Mayor of the City shall be and is hereby authorized to take and have charge of all necessary orders and records relating to the Bonds, including the Initial Bond(s) and the definitive Bonds, pending the approval of the Bonds by the Attorney General of Texas, the registration of the Initial Bond(s) by the Comptroller of Public Accounts and the delivery thereof to the Purchasers.

Furthermore, the Mayor, Mayor Pro Tem, City Secretary, City Manager, President of the Board of Trustees, Secretary to the Board of Trustees and the CEO or Chief Financial Officer of the System, individually or collectively, are hereby authorized and directed to furnish and execute such documents and certifications relating to the City and the issuance of the Bonds, including certifications as to facts, estimates, circumstances and reasonable expectations pertaining to the use, expenditure and investment of the proceeds of the Bonds, as may be necessary for the approval of the Attorney General, the registration by the Comptroller of Public Accounts and the delivery of the Bonds to the Purchasers, and, together with the City's financial advisor, bond counsel and the Paying Agent/Registrar, make the necessary arrangements for the delivery of the Initial Bond(s) to the Purchasers and the initial exchange thereof for definitive Bonds.

SECTION 36: Proceeds of Sale. Immediately following the delivery of the Bonds, proceeds of sale shall be deposited to a construction fund maintained for the City or used to pay costs of issuance and any accrued interest shall be deposited to the credit of the Bond Fund, all as provided in the Pricing Certificate. Any proceeds of sale remaining after payment of the costs of issuance for the Bonds shall deposited in the Bond Fund for the Bonds. Pending expenditure for authorized projects and purposes, such proceeds of sale may be invested in authorized investments and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Bond Fund as shall be determined by the appropriate authorized officials of the City. All surplus proceeds of sale of the Bonds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Bond Fund.

SECTION 37: Legal Opinion. The obligation of the Purchasers to accept delivery of the Bonds is subject to being furnished a final opinion of Norton Rose Fulbright US LLP, Attorneys, Dallas, Texas, approving such Bonds as to their validity, said opinion to be dated and delivered as of the date of delivery and payment for such Bonds. A true and correct reproduction of said opinion is hereby authorized to be printed on the definitive Bonds or an executed counterpart thereof shall accompany the global Bonds deposited with The Depository Trust Company.

SECTION 38: Notices to Holders-Waiver. Wherever this Ordinance provides for notice to the Holders of Bonds of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and sent by United States Mail, first class postage prepaid, to the address of each Holder as it appears in the Security Register.

In any case where notice to Holders is given by mail, neither the failure to mail such notice to any particular Holders, nor any defect in any notice so mailed, shall affect the sufficiency of such notice with respect to all other Bonds. Where this Ordinance provides for notice in any manner, such notice may be waived in writing by the Holder entitled to receive such notice, either before or after the event with respect to which such notice is given, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders of Bonds shall be filed with the Paying

Agent/Registrar, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 39: Cancellation. All Bonds surrendered for payment, redemption, transfer or exchange, if surrendered to the Paying Agent/Registrar, shall be promptly cancelled by it and, if surrendered to the City, shall be delivered to the Paying Agent/Registrar and, if not already cancelled, shall be promptly cancelled by the Paying Agent/Registrar. The City may at any time deliver to the Paying Agent/Registrar for cancellation any Bonds previously certified or registered and delivered which the City may have acquired in any manner whatsoever, and all Bonds so delivered shall be promptly cancelled by the Paying Agent/Registrar. All cancelled Bonds held by the Paying Agent/Registrar shall be destroyed as directed by the City.

SECTION 40: CUSIP Numbers. CUSIP numbers may be printed or typed on the definitive Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the definitive Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor attorneys approving said Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed or typed on the definitive Bonds.

SECTION 41: Benefits of Ordinance. Nothing in this Ordinance, expressed or implied, is intended or shall be construed to confer upon any person other than the City, the Paying Agent/Registrar and the Holders, any right, remedy, or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the City, the Paying Agent/Registrar and the Holders of the Bonds.

SECTION 42: Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict and the provisions of this Ordinance shall be and remain controlling as to the matters contained herein.

SECTION 43: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

SECTION 44: Governing Law. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 45: Severability. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 46: Continuing Disclosure Undertaking. This Section shall apply unless the Pricing Officer determines in the Pricing Certificate that an undertaking is not required pursuant to the Rule (defined below).

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"*MSRB*" means the Municipal Securities Rulemaking Board.

"*Rule*" means SEC Rule 15c2-12, as amended from time to time or officially interpreted by the SEC.

"*SEC*" means the United States Securities and Exchange Commission.

(a) Annual Reports. The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, beginning with the year stated in the Pricing Certificate, financial information and operating data with respect to the City of the general type included in the final Official Statement approved by the Pricing Officer and described in the Pricing Certificate and (2) within twelve months after the end of each fiscal year ending in and after the year specified in the Pricing Certificate, audited financial statements of the City. If the audit of such financial statements is not complete within twelve months after any such fiscal year end, the City shall file unaudited financial statements within such twelve month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Any financial statements so provided shall be prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB's Internet Web site or filed with the SEC.

(b) Notice of Certain Events. The City shall provide notice of any of the following events with respect to the Bonds to the MSRB in a timely manner and not more than 10 business days after occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material;
11. Rating changes;

12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

For these purposes, any event described in the immediately preceding subsection (c)12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

(c) Filings with the MSRB. All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

(d) Limitations, Disclaimers and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section while, but only while, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) hereof of any Bond calls and defeasance that cause the City to be no longer such an "obligated person."

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY,

WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything to the contrary in this Ordinance, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent an underwriter of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 47: Further Procedures. Any one or more of the Mayor, Mayor Pro Tem, or City Manager of the City or the President of the Board of Trustees, CEO or Chief Financial Officer of the System are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro Tem or City Manager of the City or President of the Board of Trustees, CEO or Chief Financial Officer of the System or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance, including the Pricing Certificate: (i) in order to cure any ambiguity, formal defect or omission in this Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of this Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such

document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

SECTION 48: Municipal Bond Insurance. The Bonds may be sold with the principal of and interest thereon being insured by a municipal bond insurance provider authorized to transact business in the State of Texas. The Pricing Officer is hereby authorized to make the selection of municipal bond insurance (if any) for the Bonds and make the determination of the provisions of any commitment therefor.

SECTION 49: Public Meeting. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Texas Government Code, Chapter 551, as amended.

SECTION 50: Effective Date. This Ordinance shall take effect and be in force immediately from and after its passage on the date shown below as provided in Texas Government Code, Section 1201.028, as amended.

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PASSED AND APPROVED, this March 12, 2018.

CITY OF NEW BRAUNFELS, TEXAS

_____
Mayor

ATTEST:

_____
City Secretary

APPROVED AS TO FORM:

_____
City Attorney

(City Seal)

EXHIBIT A

PAYING AGENT/REGISTRAR AGREEMENT

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. C)

Presenter/Contact
Patrick Aten, City Secretary
(830) 221-4010 - paten@nbtexas.org

SUBJECT:
Discuss and consider approval of the appointment of one individual to the New Braunfels Housing Authority for a term ending January 22, 2020.

BACKGROUND / RATIONALE:
The New Braunfels Housing Authority is a five-member board with two-year alternating terms.

Vacancies were posted through March 1, 2018. The following applications were received:

- Janet Sprayue (incumbent since 2016)
- Gordon Bold
- Jerry Major

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:
N/A

FISCAL IMPACT:
N/A

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval of the appointment of one individual to the New Braunfels Housing Authority for a term ending January 22, 2020.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. D)

Presenter/Contact
Stacey Dicke, Parks and Recreation Director
(830) 221-4350 - sdicke@nbtexas.org

SUBJECT:
Discuss and consider approval of the first reading of an ordinance amending the Code of Ordinances Chapter 118, Article V, Parkland.

BACKGROUND / RATIONALE:
The City's first Park Land Dedication and Development Ordinance was passed in 2006. Since that time, population, land values, and other costs associated with park development have increased; therefore, it is incumbent on the City to periodically review the ordinance for currency.

Staff has worked with Dr. John Crompton of Texas A&M University, to update the ordinance. An overview of the ordinance was presented on the following dates:

- January 11, 2016 City Council Presentation
- April 10, 2016 Development Community Workshop (Dr. Crompton)
- April 11, 2016 City Council Workshop (Dr. Crompton)
- May 3, 2016 Planning Commission (Dr. Crompton)
- September 29, 2016 Development Community Workshop (Dr. Crompton)
- May 11, 2017 Development Community Workshop
- June 6, 2017 Joint Park Board/Planning Commission Meeting
- June 13, 2017 Development Community Workshop
- June 20, 2017 Parks & Recreation Advisory Board Presentation
- July 5, 2017 Planning Commission
- October 16, 2017 City Council Presentation
- March 6, 2018 Planning Commission
- March 12, 2018 City Council Presentation

Fees in-lieu-of land dedication and park development fees are one tool the City uses to acquire and develop new park land. This new Ordinance will help to fiscally sustain the City's need to acquire and develop new parks as population increases. The Parks and Recreation Strategic Master Plan will guide the identification of service levels needed for park land acquisition and construction.

The proposed changes are highlighted below in the table.

	NEW ORDINANCE	OLD ORDINANCE

Use of park funds	Funds must be spent within 7 years	Previously 10 years
Review and update Park Development Fee	Every 3 years	No review
Cash in-lieu-of park land dedication - Neighborhood/Community	$208 per dwelling unit	$100 per dwelling unit
Park Development Fee Neighborhood/Community	$2,035 per dwelling unit	$500 per dwelling unit
Cash in-lieu-of park land dedication - Regional Park	$142 per dwelling unit	No regional park fee
Park Development Fee Regional Park	$1,387 per dwelling unit	No regional park fee
Private Park Credit	Fee in-lieu-of park land dedication 50% eligible for credit; No credit for park development fee; New guidance manual provides park standards for private park credit process 2-acre minimum	Fee in-lieu-of and park development fee 100% eligible for credit for private parks; No manual or standards; 2-acre minimum

Additional changes to the ordinance include:

- A Park Land Dedication and Development Ordinance Manual has been developed to accompany the ordinance providing details on ordinance application.
- Park Quadrants will be referred to as Park Districts.
- Codification of the cities right to reimburse itself for the purchase of park land from the park development fund.
- Requirement for close out procedure to submit affidavit and receipts for private park development are codified.
- Warranty required for public park improvements is clarified.
- The formula to calculate fees is equivalent to the current level of service vs. Master Plan goals.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Maintain fiscal stability of City operations, update user fees

FISCAL IMPACT:

In recent history, 1,000 dwelling units per year have been assessed the parkland dedication fee. Therefore, if this trend were to continue and the proposed fee fully implemented, total fee collection

would increase from approximately $600,000 to $1,750,000 annually.

COMMITTEE RECOMMENDATION:
The Parks and Recreation Advisory Board recommended approval of the revised ordinance and associated fees at their meeting on June 20, 2017.

At its March 6, 2018 meeting, the Planning Commission voted 5-2 to recommend a $1,000 Neighborhood/Community Park Development Fee, a $200 Cash In-Lieu-Of Neighborhood/Community Park Land Dedication, $0 Regional Park Development Fee, $0 Cash In-Lieu-Of Regional Park Land Dedication, 100% credit eligibility for fee in-lieu-of-and park development fee for private parks, implementation of 120 days upon approval date to grandfather Master Plans submitted to the Planning Division, and to allow funding to be provided in a trust bond or letter of credit. Commissioners Bowers and Laskowski voted in opposition, and Commissioners Sonier and Tubb were absent.

STAFF RECOMMENDATION:
In order to provide the City Council a sound methodology to maintain the community's investment in parks for New Braunfels, staff recommends approval of the ordinance.

Neighborhood Park (3-5ac)					
Item	Unit	Qty	Unit Cost	Total Amount	
Professional Service					
Arch/Eng/Survey Design Services	Percentage		14%	$	172,621.93
Project Management	Percentage		5%	$	61,650.69
Geotech/Construction Testing	Percentage		2%	$	18,495.21
				$	252,767.83
Mobilization					
Mobilization	Percentage		5%	$	44,796.08
Bond and Insurance	Percentage		3%	$	26,877.65
General Conditions	Percentage		2%	$	17,918.43
				$	89,592.16
Sitework					
				$	145,600.00
Parking/Roadway					
				$	100,975.00
Utilities					
				$	120,821.64
Typical Park Amenities					
				$	515,225.00
Miscellaneous					
				$	13,300.00
Landscape/Irrigation					
				$	247,500.00
Construction Cost				$	1,233,013.80
Contingency (10%)				$	123,301.38
Total Project Cost				$	1,609,083.01
			cost per acre	$	321,816.60

Community Park (10-15ac)					
Item	Unit	Qty	Unit Cost	Total Amount	
Professional Service					
				$	756,846.48
Mobilization					
				$	296,502.50
Sitework					
				$	504,375.00
Parking/Roadway					
				$	364,200.00
Utilities					
				$	418,500.00
Typical Park Amenities					
				$	1,656,350.00
Miscellaneous					
				$	21,600.00
Landscape/Irrigation					
				$	721,875.00
Construction Cost				$	3,983,402.50
Contingency (10%)				$	398,340.25
Total Project Cost				$	5,138,589.23
			cost per acre	$	342,572.62

Park Acreage Comparisons				
City	**2015 Population Estimates**	**Total Park Acres**	**Acres Per 1,000**	
San Marcos	58,892	2,233.00	**37.92**	
Grapevine	51,404	1,600.00	**31.13**	
Buda	13,705	355.00	**25.90**	
Missouri City	47,139	1,086.00	**23.04**	
Austin	931,830	18,950.00	**20.34**	
Round Rock	115,997	2,035.00	**17.54**	
Kyle	35,733	611.00	**17.10**	
Baytown	76,335	1,286.00	**16.85**	
Rowlett	60,236	994.00	**16.50**	
Mansfield	64,274	950.00	**14.78**	
College Station	107,889	1,448.35	**13.42**	
Leander	37,899	505.00	**13.32**	
Cedar Park	65,945	860.00	**13.04**	
Allen	98,143	1,185.00	**12.07**	
North Richland Hills	69,204	835.00	**12.07**	
Schertz	37,938	395.00	**10.41**	
San Antonio	1,469,845	14,423.40	**9.81**	does not include golf courses (1074.5998)
Flower Mound	71,253	693.73	**9.74**	
Seguin	27,864	267.00	**9.58**	
Frisco	154,407	1,449.00	**9.38**	
Denton	131,044	1,210.00	**9.23**	
Richardson	110,815	1,000.00	**9.02**	
Pflugerville	57,122	504.20	**8.83**	
Bryan	82,118	690.07	**8.40**	
Hutto	22,722	185.00	**8.14**	
Waco	132,356	1,050.50	**7.94**	does not include golf course (170 acres)
Georgetown	63,716	478.00	**7.50**	
League City	98,312	608.66	**6.19**	
New Braunfels	70,534	429.25	**6.09**	includes cemeteries, does not include golf course
Conroe	68,602	392.00	**5.71**	
Cibolo	26,637	85.00	**3.19**	
Universal City	19,986	63.40	**3.17**	

NPRA reports a typical PARD has 9.5 acres of park land per 1,000 residents
The average from Texas peer cities is 13.7 acres per 1,000
NB is below both averages and falling behind

0

Neighborhood/Community Parks

Population	Neigh/Comm Park LOS	Residents per Acre	
91,116	190.95	480	Population (City Limit + ETJ) = 76,525

Land Requirement

Acre per Residents	Residents Per Household	DU per Acre	
480	2.85	168	RPH = 2.78 per Census data

Fee in Lieu of Land

Cost of Acre	DU per Acre	Fee per DU	
$ 35,000	168	$ 208	$ per acre from 2015 Appraisal Study

Park Development Fee

Development Cost per Acre	DU per Acre	Fee	
$ 342,500	168	$ 2,038	Development Costs per 2016 actual project costs

Total Fee

Fee in Lieu	Park Development	Total
$ 208	$ 2,038	**$ 2,246**

Regional Parks

Population	Regional LOS	Residents per Acre
91,116	130	705

Land Requirement

Acre per Residents	Residents Per Household	DU per Acre
705	2.85	247

Fee in Lieu of Land

Cost of Acre	DU per Acre	Fee per DU
$ 35,000	247	$ 142

Park Development Fee

Development Cost per Acre	DU per Acre	Fee
$ 342,500	247	$ 1,387

Total Fee

Fee in Lieu	Park Development	Total
$ 142	$ 1,387	**$ 1,529**

Combined Fee	**$ 3,775**

ORDINANCE No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS; PROVIDING FOR DEVELOPER FUNDED RECREATIONAL AREAS IN THE FORM OF NEIGHBORHOOD/COMMUNITY AND REGIONAL PARKS; PROVIDING FOR APPLICABILITY; PROVIDING FOR REQUIREMENTS AND GUIDELINES FOR PARK LAND DEDICATION AND FEES; PROVIDING FOR PARK DEDICATION FEES; PROVIDING FOR PRIVATE PARK CREDIT; PROVIDING FOR REGULAR REVIEW; PROVIDING FOR PENALTY FOR THE VIOLATION HEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels is a home rule municipality given broad discretionary powers under the Texas Constitution to regulate for the public health, safety and general welfare of its citizens;

WHEREAS, the City Council of the City of New Braunfels finds that parks and recreational areas are a vital and integral part of a municipality's health and general welfare;

WHEREAS, the City Council of the City of New Braunfels finds that providing its citizens parks and recreational areas serves a legitimate public goal;

WHEREAS, urban development imposes increased demands upon a City's parks and recreational system;

WHEREAS, the City of New Braunfels is experiencing a high rate of urban growth and based on predictions through 2031 the population is projected to approximately increase by 41%;

WHEREAS, the City Council of the City of New Braunfels has a Parks and Recreation Strategic Master Plan which provides for acquisition and development of parks to serve the recreational needs of the City and provide for its citizens health and general welfare;

WHEREAS, the following park land requirements are based the accurate values including population, level of service for neighborhood/community and regional parks, and the cost of land and construction;

WHEREAS, the City Council hereby finds and determined that the average cost of park development is Three Hundred Forty-Two Thousand Five Hundred Dollars ($342,500) per acre and the average cost of park land acquisition is Thirty-Five Thousand ($35,000);

WHEREAS, in accordance with this formula, the park land dedication requirements for neighborhood/community parks is set at One Hundred Sixty-Eight (168) dwelling units per one (1) acre of park land and regional parks is set at Two Hundred Forty-Seven (247) dwelling units per one (1) acre of park land.

WHEREAS, in accordance with this formula, the fees in lieu of neighborhood/community parks is set at Two Hundred Eight Dollars ($208) and for regional parks is set at One Hundred Forty-Two Dollars ($142);

WHEREAS, in accordance with this formula, the park development fees for neighborhood/community parks is set at Two Thousand and Thirty-Eight Dollars ($2,038) and for regional parks is set at One Thousand Three Hundred Eighty-Seven Dollars ($1,38); and

WHEREAS, the City of New Braunfels Parks Advisory Board and the Planning Commission has reviewed and recommended this proposed ordinance;

WHEREAS, the City Council of the City of New Braunfels finds that this ordinance is not arbitrary and imposes reasonable regulations on development.

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

Chapter 118 of the City Code of Ordinances for the City of New Braunfels, Texas, hereby is amended to provide for a neighborhood park dedication ordinance, to read as follows:

ARTICLE V: PARK LAND

Section 118-57 Purpose.

This Article is adopted to provide public recreational areas in the form of neighborhood/community and regional park facilities as a function of subdivision and site development in the City of New Braunfels and its Extra-Territorial Jurisdiction (ETJ). This Article is enacted in accordance with the home rule powers of the City of New Braunfels granted under the Texas Constitution, and the statutes of the State of Texas, including, but not by way of limitation, Texas Local Government Code Chapter 212 as may be amended from time to time.

It is hereby declared by the City Council that public recreational areas in the form of neighborhood and community and regional parks are necessary and in the public welfare, and that the only adequate procedure to provide neighborhood/community and regional parks is to integrate such requirements into the procedure for planning and developing property or subdivisions in the City and its ETJ, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing residential property.

Neighborhood/community parks are those parks providing for a variety of outdoor recreational opportunities. Neighborhood parks are generally between five (5) to 10 acres and are located within half-mile to one-mile from a majority of the residences to be served. Community parks are generally 10 to 50 acres and are located within one-mile to three-mile of the majority of the residences to be served. The City has adopted by council action the Comprehensive Plan and the Parks and Recreation Strategic Master Plan, as well as other master plans which serve as planning policy and guidance for the development of a municipal park and recreation system for the city. The plans assess the needs for park land and park improvements. The park districts established by the New Braunfels City Council are shown in Appendix A to this ordinance and shall be prima facie proof that any park located therein is within such a convenient distance from any residence located therein. The primary cost of neighborhood/community parks should be borne by the landowners of residential property who, by reason of the proximity of their property to such parks, shall be the primary beneficiaries of such facilities.

Regional parks are those parks that provide outdoor recreational opportunities for all city residents, rather than only those residents who reside proximate to them. The acquisition and development of the “basic” infrastructure and facilities for the usage of these parks should be based upon the demand from the area residents they are intended to serve. The primary cost of regional parks should be borne by all city residents.

Section 118-58 Ordinance Review

The City shall review the fees established and the amount of park land dedication required in this Article at least once every three (3) years. Failure to review by the City Council shall not invalidate this ordinance.

Section 118-59 Applicability.

This Article applies to a landowner who develops land for residential use located within the City or within its ETJ**.** Typically, the landowner of a proposed residential development is the developer.

This Article does not apply to activities involving the remodeling, rehabilitation or other improvements to an existing residential structure, or to the rebuilding of a damaged structure, or to permits required for accessory uses, unless such activity results in a new dwelling.

If a dedication requirement arose prior to enactment or amendment of this Article, subsequent development for the subject tract to which the dedication requirement applies may be subject to vesting as set forth in Chapter 245 Texas Local Government Code. Depending on the circumstances, additional dedication may be required if there is an increase in the number of dwelling units from what was originally proposed.

Section 118-60 General Requirements.

The City Manager or his/her designee shall administer this Article, with certain review, recommendation and approval authorities being assigned to the Planning Commission, the Parks and Recreation Advisory Board and various city departments as specified herein.

A developer of residential property shall be required to 1a.) Dedicate public park land for a neighborhood/community park or payment of a fee in lieu thereof; 1b.) Dedicate public park land for a regional park or payment of a fee in lieu thereof; 2a.) Make payment of a neighborhood/community park development fees; and 2b.) Make payment of a regional park development fees.

Requirements herein are based on actual dwelling units for an entire development. Increases or decreases in final unit count may require an adjustment in fees paid or land dedicated. If the actual number of dwelling units exceeds the original estimate, additional park land and additional park development fees may be required to meet the requirements in this Article.

The identification of park districts for neighborhood/community parks is shown in Appendix A. The required land dedications and schedules of fees are attached hereto as Appendix B and incorporated and made a part of this Article for all purposes. Implementation process, minimum design and construction standards are set forth by the Parks and Recreation Department in the Park Land Dedication and Development Ordinance Manual and minimum drainage standards set forth by the City's Drainage Manual, as may be amended from time to time, referenced herein and incorporated by reference.

Section 118-60.1 Approval Process.

With each subdivision application, planned development application, and multifamily site development permit, Developer shall submit to Planning and the Parks Departments a completed park land dedication worksheet, identified in Appendix D and letter indicating the developer's intent to meet the park land dedication requirements pursuant to this Article.

Section 118-60.2 Appeal Process.

Any decision under this Article made by the Director of Parks and Recreation may only be appealed to the City Parks and Recreation Advisory Board and must be appealed within ten working days of the City's decision.

The Director of Parks and Recreation may refer approval of park land dedication or park development fees to the City Parks and Recreation Advisory Board for any reason.

Within ten working days, any decision made by the City Parks and Recreation Advisory Board may only be appealed in writing through the City Manager to the City Council.

Section 118-60.3 Submitting Park Fees.

Any fees required to be paid pursuant to this article shall be remitted:

a. Prior to the issuance of any site development building permits for multi-family development; or
b. Prior to recordation of each final plat for single family, duplex or townhouse development.

Section 118-60.4 Use of Park Fees.

All park land dedication and park development fees for neighborhood/community parks will be deposited in a fund referenced to the park district to which they relate. Regional park land dedication fees will be deposited in a fund referenced to regional parks. Funds shall be used solely for the acquisition or leasing of park land and the development, improvement, or upgrades of new and existing parks. All expenditures shall be administered in accordance with the current purchasing requirements of the city. Fees in-lieu-of neighborhood/community and regional park land dedication and development may only be used for purchase and/or development of parks located within the same district as the development. Funds shall not be used for the operation and maintenance of parks.

Section 118-61 Public Park Land Dedication.

The amount of land to be dedicated for public park land purposes shall be as set forth in Appendix B. The total amount of land dedicated for the development shall be dedicated to the City in fee simple by filed deed:

a. Prior to the issuance of any site development building permits for multi-family development,
b. Prior to recordation of the final plat for a single family, duplex, or townhouse development, or
c. For a phased development the entire park shall be either platted concurrently with the plat of the first phase of the development.

If a developer proposes to dedicate land to the city for park development purposes pursuant to the terms, conditions and requirements of this Article, he or she shall permit the City's representatives to make onsite inspections of the property for the purposes of determining site suitability and identification of any visual hazards or impediments to park development and use. If the property owner or developer has any form of environmental assessment on the tract, a copy of that assessment shall be provided to the City. The City may initiate and/or require the developer to initiate specific environmental studies or assessments if the visual inspection of the site gives rise to the belief that an environmental problem may exist on the site. The Director may require the employment of those consultants necessary to evaluate any environmental issues relating to the site providing that the City makes such determination in good faith. If an environmental hazard is identified on the site, the developer must remove the hazard prior to its acceptance into the park and recreation system of the City. The City will not accept park land dedication sites encumbered by hazardous and or waste materials or dump sites.

The developer shall be responsible for certain minimum utilities as listed below at a location acceptable to the Director of Parks and Recreation or designee. The Director of Parks and Recreation or designee will be required to approve such location prior to final approval and release of fiscal requirements of said subdivision.

a. A metered water supply located 12 feet behind the curb in accordance with the size of the park
b. A six-inch sewer stub, or in accordance with the size of the park, ten feet behind the curb

Any disturbed park land shall be restored and the soil stabilized by vegetative cover by the developer prior to dedication to the city.

Section 118-62 Public Park Land Guidelines and Requirements.

Parks should be easy to access and open to public view so as to benefit area development, enhance the visual character of the City, protect public safety and minimize conflict with adjacent land uses. The following guidelines and requirements shall be used in designing parks and adjacent development.

1. Any land dedicated to the City under this Article must be suitable for park and recreation uses. The dedication shall be free and clear of any and all liens and encumbrances that interfere with its use for park purposes. The Director of Parks and Recreation or his/her designee shall determine whether any encumbrances interfere with park use. Minerals may be reserved from the conveyance provided that there is a complete waiver of the surface use by all mineral owners and lessees. A current title report must be provided with the land dedication.
   Grantor shall not conduct any drilling, mining, exploration for or development of oil, gas, and other minerals on the surface of the park, or in any such way as to interfere with City's use thereof, but the Mineral Estate Owner, heirs, administrators, executors, successors and assigns may extract oil, gas, water or other minerals from and under the park by directional drilling or other means which do not interfere with or disturb City's use of the surface estate interest in the park.
   The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Comal County Tax Assessor shall be submitted with the dedication or plat.
2. The City Council and the Parks and Recreation Department generally consider that development of an area less than five (5) acres for neighborhood/community park purposes may be inefficient for public maintenance. Therefore, no fewer than five acres will be accepted.
3. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain as long as, due to its elevation, it is suitable for park improvements. Sites should not be severely sloping or have unusual topography which would render the land unusable for recreational activities.
4. At the discretion of the City, land in floodplains may be considered as part of a dedication requirement on a three for one basis. That is, three acres of floodplain will be equal to one acre of park land or not more than 50% shall be allowed in a floodplain.
5. Where feasible, park sites should be located adjacent to schools in order to encourage shared facilities and joint development of new sites.
6. Neighborhood/community park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.
7. Where appropriate, sites with existing trees or other scenic elements are preferred and may be reviewed by the City's Urban Forester to make recommendations.
8. Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specific specifications in the City's Drainage Manual.
9. Where park sites are adjacent to schools or existing or proposed subdivisions, access ways may be required to facilitate public access to parks.
10. It is desirable that twenty-five percent (25%) of the perimeter of a park abut a public street.
11. The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.
12. Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication.

Section 118-63 Fee in Lieu of Public Park Land.

Residential developments with dwelling units that generate less than the 1-acre minimum park land dedication set forth in Appendix B shall pay a fee in lieu of land dedication.

In lieu of dedicating park land to the city for a neighborhood/community and regional park, a developer may request to meet some or all of the park land dedication requirements, or may be required by the City through payment of a fee in lieu thereof in amounts as set forth in Appendix B. Such fees shall be due at the same time as fees are due for final platting or for issuance of a site building permit, whichever occurs first.

The City may, from time to time, require that a fee be submitted in lieu of land dedication in amounts as set forth in Appendix B for, either, both, some or all of neighborhood/community and regional park land dedications. Likewise, the City may, from time to time, require that land be dedicated in amounts as set for in Appendix B that no fee in lieu of land will be accepted.

Section 118-64 Credit for Private Parks and Recreation Amenities.

Developers may request up to fifty percent (50%) credit for fee in lieu of land dedication for private "resident only" parks once findings of conditions of this Article are met as defined below. The amount retained for deposit in the city's park land dedication fund are for purposes of defraying the financial burden private subdivisions impose on the existing public park system in New Braunfels.

Examples of park improvements eligible for private park credit include various active and passive outdoor amenities. A detailed list is provided in Park land Dedication & Development Ordinance Manual and Guidelines. Credit for a private park must meet the standards set forth below concerning adequate size, character and location and following the Park land Dedication & Development Ordinance Manual and Guidelines. Before credit is approved, the City shall make written findings that the following conditions are met:

a. At least 50% of the required park land dedication or a minimum of one (1) acre of park land or whichever is greater, not including floodway or floodplain unless approved by the Parks and Recreation Director.
b. That yards, court areas, setbacks and other open areas required to be maintained by the zoning and subdivision rules and regulation ordinances shall not be included in the computation of such private open space.
c. That the private ownership and maintenance of the open space is adequately provided for by recorded agreement, covenants or restrictions.
d. That the use of the park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors.
e. That the proposed private park is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location.

Required documentation. In order to receive the credit for private parks, the developer shall submit the required documentation in Section 118-60 to the city at the time of final plat filing sufficient to establish that the requirements of above have been satisfactorily met. In the event that the developer proposes to construct the improvements at a later date, as in a phased development, the city shall require that the developer pay all park land development fees in advance and the park fee in lieu of land dedication paid in advance ~~or the park fee in lieu of land only in the form of a letter of credit or surety bond as approved by the Parks and Recreation Director and City Attorney~~, and that the recreational amenities will be installed concurrent with the build-out of the subdivision, and in no case greater than two (2) years. The Parks and Recreation Director shall evaluate and approve the documentation submitted prior to any credit

being given. In cases where the equivalency of the improvements are disputed, the required level of improvements shall be as finally determined by the City Council.

Section 118-65 Park Development Fee.

In addition to the land dedication requirements, park development fees are established herein, sufficient to develop these public parks in ways that meet the City of New Braunfels' standards. The amount of development fees assessed to a development and the basis for the calculation is as shown in Appendix B. The process for the approval and collection of development fees shall be the same as for the park land dedication requirements as specified in Section 118-60.1 and 118-60.3. The park development fees shall be processed simultaneously with the park land dedication requirements.

Section 118-66 Construction of Public Park Improvements in Lieu of Park Development Fee.

With the approval of the City, a developer may elect to construct eligible public park improvements in lieu of paying the associated development fee as set forth herein. In such event:

A park site plan, developed in cooperation with the Parks and Recreation Department staff, is submitted and approved by the Director of the Parks and Recreation Department or his/her designee prior to submission of final plat or upon application for a site building permit, whichever is applicable.

Detailed plans and specifications for park improvements hereunder shall be due and processed in accordance with the procedures and requirements pertaining to public improvements for final plats and for building permit issuance, whichever is applicable.

All plans and specifications shall meet or exceed the City's standards in effect at the time of the submission.

If the improvements are constructed on land that has already been dedicated to and/or is owned by the City, then the developer must post payment and performance bonds equal to park development fees or value of the park agreed upon, whichever is greater to guarantee the payment to subcontractors and suppliers and to guarantee the developer completes the work in accordance with the approved plans, specifications, ordinances, and other applicable laws. This includes guaranteeing performance in lieu of completing the park improvements prior to final plat recordation.

The construction of all improvements must be completed in accordance with the requirements relating to the construction of public improvements for final plats and issuance of building site permits, whichever is applicable.

The developer shall be required to provide a two-year maintenance bond that is equal in amount to the twenty percent (20%) of the construction cost of said park improvements and a manufacturer's letter stating any play structure, equipment, and safety surfaces were installed in accordance with the manufacturers' installation requirements.

The developer shall provide a copy of the application and subsequent inspection report prepared by the State Department of Licensing and Regulation of their contracted reviewer for compliance with the Architectural Barriers Act, codified as Vernon's Ann. Civ. St. art 9102.

All park improvements shall be inspected by the City while construction is in progress. Once the park improvements are constructed, and after the Director of Parks and Recreation has accepted such improvements, the developer shall convey such improvements to the city free and clear of any lien or other encumbrances.

The public park improvements will be considered complete with a Letter of Completion and Acceptance from the city and will be issued after the following requirements are met:

a. Improvements have been constructed in accordance with the approved plans;
b. All park land upon which the improvements have been constructed has been dedicated as required under this Article; and
c. All manufacturers' warranties have been provided for any equipment installed in the park as part of these improvements.
d. Upon issuance of a Certificate of Completion and Acceptance, the developer warrants the improvements for a period of two (2) years.

The developer shall be liable for any costs required to complete park development if:

a. Developer fails to complete the improvements in accordance with the approved plans; or
b. Developer fails to complete any warranty work.

Section 118-67 Warranty Required for Public Park Improvements.

All materials and equipment provided to the City shall be new unless otherwise approved in advance by the Director of Parks and Recreation or his/her designee, and all work will be of good quality, free from faults and defects, and in conformance with the designs, plans, specifications, and drawings, and recognized industry standards. This warranty, any other warranties express or implied, and any other consumer rights, shall inure to the benefit of the City only and are not made for the benefit of any party other than the City.

All work by the developer or landowner not conforming to these requirements, including but not limited to unapproved substitutions, may be considered defective.

This warranty is in addition to any rights or warranties expressed or implied by law.

Where more than a one (1) year warranty is specified in the applicable plans, specifications, or submittals for individual products, work, or materials, the longer warranty shall govern.

This warranty obligation may be covered by any performance or payment bonds tendered in compliance with this Article.

If any of the work performed by developer or landowner is found or determined to be defective, or otherwise not in accordance with this ordinance, the designs, plans, drawings or specifications within two (2) years after the date of the issuance of a certificate of Final Completion of the work or a designated portion thereof, whichever is longer, or within two (2) years after acceptance by the City of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this ordinance, then the developer shall promptly correct the defective work at no cost to the City.

During the applicable warranty period and after receipt of written notice from the City to begin corrective work, developer shall promptly begin the corrective work. The obligation to correct any defective work shall be enforceable under this Code of Ordinances. The guarantee to correct the defective work shall not constitute the exclusive remedy of the City, nor shall other remedies be limited to the terms of either the warranty or the guarantee.

If within twenty (20) calendar days after the City has notified developer of a defect, failure, or abnormality in the work, developer has not started to make the necessary corrections or adjustments, the City is

hereby authorized to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by developer.

The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by developer, its contractors, or subcontractors, or by the surety.

The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be two (2) years after the installation or completion. The two (2) year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section of the ordinance.

Section 118-68 Reimbursement for City Acquired Park Land.

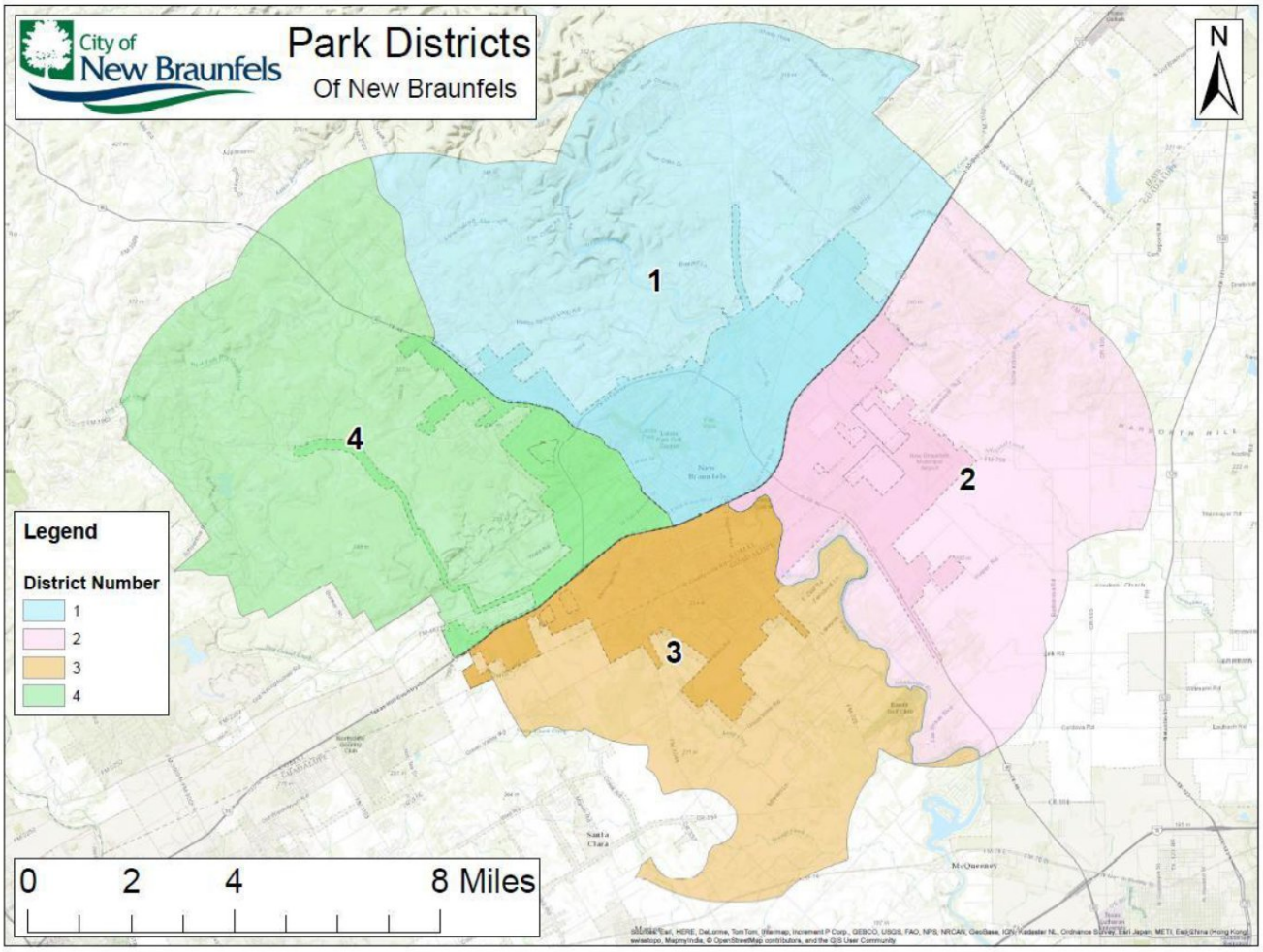
The City may from time to time acquire land for parks in advance of actual or potential development. If the City does acquire park land in a park quadrant for a neighborhood/community or regional park, the City may require subsequent dedications to be in fee in lieu of land only. This will be to reimburse the City for the cost(s) of acquisition.

Section 118-69 Right to Refund.

The City shall account for all fees in lieu of land and all development fees paid under this Article with reference to the individual plat(s) involved. Any fees paid for such purposes must be expended by the City within seven (7) years from the date received by the City for acquisition and/or development of a park as required herein. Such funds shall be considered to be spent on a first-in, first-out basis. If not so expended, the landowners of the property on the expiration of such period shall be entitled to a prorated refund of such sum, computed on a square footage of area basis. The owners of such property must request such refund within one (1) year of entitlement, in writing, or such right shall be barred.

Appendix A

Map of New Braunfels Park Districts



Appendix B

Park Land Dedication Requirements & Calculations

Starting Values:

City/ETJ Population: 91,611

City/ETJ Residents per Household (HH): 2.85

Current Level of Service (LOS):

- Community/Neighborhood Parks: 190.95 acres
- Regional Parks: 130 acres

Cost of Land per Acre in New Braunfels: $35,000

Cost of Construction per Acre: $342,500

Community/Neighborhood Park Land Requirements:

LAND REQUIREMENT

1 park acre per 168 dwelling units (DU)
480 residents ÷ 2.85 HH
(population ÷ LOS = 480 residents)

FEE IN LIEU OF LAND

$208 per DU
$35,000 ÷ 168 DU

PARK DEVELOPMENT FEE

$2,038 per DU
$342,500 ÷ 168 DU

Regional Park Land Requirements:

LAND REQUIREMENT

1 park acre per 247 dwelling units (DU)
480 residents ÷ 2.85 HH
(population ÷ LOS = 480 residents)

FEE IN LIEU OF LAND

$142 per DU
$35,000 ÷ 247 DU

PARK DEVELOPMENT FEE

$1,387 per DU
$342,500 ÷ 247 DU

Appendix C

Development Costs for City of New Braunfels Neighborhood/Community Parks (3-15 acres)

Average Cost per one acre of land: $35,000
Development cost per acre $342,500

Neighborhood Park (3-5 ac)	
Item	
Professional Service	$252,767.83
Mobilization	$89,592.16
Sitework	$145,600.00
Parking/Roadway	$100,975.00
Utilities	$120,821.64
Typical Park Amenities	$515,225.00
Miscellaneous	$13,300.00
Landscape/Irrigation	$247,500.00
Construction Costs	$1,233,013.80
Contingency (10%)	$123,301.38
Total Project Cost*	**$1,609,083.01**

Community Park (10-15 ac)	
Item	
Professional Service	$756,846.48
Mobilization	$296,502.50
Sitework	$504,375.00
Parking/Roadway	$364,200.00
Utilities	$418,500.00
Typical Park Amenities	$1,656,350.00
Miscellaneous	$21,600.00
Landscape/Irrigation	$721,875.00
Construction Costs	$3,983,402.50
Contingency (10%)	$398,340.25
Total Project Cost*	**$5,138,589.23**

**Does not include the cost of land.*

Appendix D

Park Land Dedication Worksheet

Project Name: _____

Location: _____

Applicant: _____

Email: _____

Phone: _____

What type of development is this? Select all that apply.

- ☐ Residential (detached single family)
- ☐ Residential (2-family)
- ☐ Residential (commercial)
- ☐ Residential (multi-family)
- ☐ Other, please describe:

Does this subdivision have 5 or more acres for public park land dedication? If yes, please describe the terrain and the location of the public park land.

Does this subdivision have 2 or more acres for a private park? If yes, please describe the terrain and the location of the private park and potential amenities and who will maintain the private park.

Please list number of dwelling units.

Master Plan: _____
Unit 1: ____
Unit 2: ____
Unit 3: ____
TOTAL: _____

Park Land Dedication and Development Ordinance Manual & Guidelines

City of New Braunfels Parks & Recreation Department

3/1/2018

EXECUTIVE SUMMARY

Just as utilities, trash collection and public safety are all public services essential to a thriving community, parks are critical to establishing and maintaining the quality of life in New Braunfels, encouraging healthy lifestyles, and contributing to the economic and environmental well-being of our community. Every two years, the City of New Braunfels conducts a community-wide citizen survey to gauge our residents' opinions about public service and their local government. In 2017, we learned that:

- ✓ 90% of respondents visited a local park in 2016.
- ✓ 62% of all respondents felt outdoor recreation opportunities were very important to their quality of life.
- ✓ 93% of all respondents rank our City parks as good to excellent.
- ✓ 88% of all respondents rank the New Braunfels natural environment as very good to excellent.
- ✓ 80% of all respondents rank recreational opportunities as very good to excellent.

Clearly, we know that parks and outdoor recreational opportunities are important to our community. But as the city grows, so does the pressure on the city's parks. If we do not continually improve or expand our existing parks, and find opportunities to create new ones, then the same number of parks must serve more and more people.

But why do parks and outdoor recreation matter? Why should residents, businesses and the development community care?

- Parks improve the local tax base and increase property values. Research has proven that private property values increase the closer such land is located to a public park. This increase in private property value due to the proximity to parks increases property tax revenues and improves local economies.
- Parks and protected public lands are proven to improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, produce habitat for wildlife, and provide a place for children and families to connect with nature and recreate outdoors together.
- Parks are a tangible reflection of the quality of life in a community. They provide identity for citizens and are a major factor in the perception of quality of life in a given community. Parks and recreation services are often cited as one of the most important factors in surveys of how livable communities are.
- Parks provide gathering places for families and social groups, as well as for individuals of all ages and economic status, regardless of their ability to pay for access.

Having a strong parkland dedication and development ordinance is important to enable the City to collect land or cash in lieu of land for future parks to support increases in population. Having a strong ordinance allows the New Braunfels City Council to decide where the money is spent, leading to equitable distribution and filling in gaps where parks do not currently exist. And finally, a strong ordinance continues to invest in the health and well-being of our community.

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Background

Park land dedication ordinances have a long legal history in the U.S. and in Texas. They were created by municipalities as a means to acquire land and funding for parks in newly developed areas of a community. The intent of a park land ordinance is to ensure that as land is subdivided for residential development, the impact new residents will have on the operations and maintenance of the City's existing park system is fiscally recognized. The ordinance requirements are a condition of residential development and are assessed through the platting process.

Park land dedication ordinances require a formula for the park land requirement and park development fee calculations. These formulas consider current population, current levels of service, and the current cost of land and construction. These values help to establish the three elements of a park land dedication ordinance: 1.) the land requirement, 2.) the fee-in-lieu of land dedication, and 3.) the park development fee.

The City of New Braunfels first Park Land Dedication and Development Ordinance was passed in 2006. Since that time, population, land values, and other costs associated with park development have increased; therefore, it is incumbent on the City to periodically review the ordinance for currency.

Ordinance Overview

First, the new Ordinance amends the way the City accounts for new growth and its impact on the park system. The Ordinance calculations are based off the current (2017) population estimates, market value of land and construction costs. This type of formula allows the requirements and fees to reflect the current rates with the status of the market at the time of development.

Fees in-lieu-of land dedication and park development fees are one tool the City uses to acquire and develop new park land. This new Ordinance will help to fiscally sustain the City's need to acquire and develop new parks as population increases. The revenues from the ordinance will be placed in a park development fund based on four established park districts. The revenues will be used for land acquisition and park development and construction. The Parks & Recreation Strategic Master Plan will guide the identification of service levels needed for park land acquisition and construction.

Through a credit, the new Ordinance recognizes the value and contribution of a development that chooses to invest in its own private park. The credit, not to exceed a maximum 50%, is applicable to the fee in-lieu-of land requirement. Additionally, the new ordinance will eliminate certain conditions, such as the four out of nine local park requirements and the two (2) acre park requirement. It will provide more predictable and reliable standards and allow for more fiscal surety options including bond and letter of credit.

Conclusion

The City's parks, rivers and open space are central to the high quality of life and environment for those who live, work, and play in New Braunfels. Furthermore, the City's park system adds to the overall economy and attraction for new development. Thus, the park system should grow through planned investments that ensures that as the city grows the park system meets the needs for new residents that does not place an undue burden on its current residents. Park land requirements and fees are one mechanism to provide fiscal sustainability for the new growth. The new park land dedication and

development ordinance achieves this and ensures that the regular review is provided to continue to successfully plan for future parks as the community grows.

Finally, the City is interested in collaborating with the development community to identify parcels of land that are suitable for park development. Pre-development meetings are a good place to discuss with City staff the location for public park through land dedication. Please do not hesitate to contact the Park Development Manager to discuss opportunities.

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DEFINITIONS

Community/Neighborhood Parks. Parks providing for a variety of outdoor recreational opportunities and are city-owned serving neighborhoods in the City of New Braunfels.

Community Parks. Generally, between 10 to 50 acres and are located within one-mile to three-mile of the majority of the residences to be served.

Dwelling Unit. A building structure used as a home, residence or sleeping place by one or more persons.

Extraterritorial Jurisdiction (ETJ). A 3.5 mile radius around the city limits where services can be provided.

Neighborhood Parks. Generally, between five (5) to 10 acres and are located within half-mile to one-mile from a majority of the residences to be served.

Park land Level of Service Standard (LOS). A tally of current park acres and facilities serving residents.

Population. Include the estimated population of the city within the city limits and the extraterritorial jurisdiction.

Private Park. Owned, managed, and maintained by a property or home owners association.

Public Park. Owned, managed, and maintained by the City of New Braunfels.

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ORDINANCE OVERVIEW

APPLICABILITY

The Parkland Dedication and Development Ordinance applies to all new residential subdivisions within the city limits and the ETJ. The following subdivision development must comply with ordinance requirements for both neighborhood/community parks and regional parks:

- Single-family dwelling units (2-family, townhomes)
- Multi-family dwelling units (apartment, condominiums)

If a development master plan was approved prior to _____ it must comply with the 2006 Park Development Ordinance or verify it was approved prior to 2006 for exemption status.

Subdivision developments under a planned development agreement or other development agreements must meet or exceed the requirements of the ordinance.

Non-residential commercial developments are exempt from the ordinance.

PARK LAND DEDICATION & FEE IN-LIEU-OF LAND METHODOLOGY

The Ordinance requires residential land development to dedicate land for public community/neighborhood and regional parks. In order to accurately determine the park land dedication requirements and the appropriate fees, three basic values are established:

1. Population
2. Park land level of service (LOS)
3. Cost of park development/construction

The 2016 population estimates from the U.S. Census is 91,611 or 2.85 residents per household (HH). The population is based on residents within the city limits and the ETJ. The population of the ETJ is included because the City's platting ordinance applies to the ETJ.

Total park land in the City is 433.25 acres (including cemeteries.) The park land ordinance focuses on community/neighborhood and regional parks. Total acreage for community/neighborhood parks is 190.95 acres (current LOS.) Total acreage for regional parks is 130 acres (current LOS.) Legally tenable park land dedication and fees cannot be more than the current level of service. In other words, park land *goals* cannot be used to establish the dedication requirements or fees. The pre-determined values provide an accurate requirement for park land dedication and fee in-lieu-of- land using the following calculations.

1. Calculate the residents per park acres by dividing the population by the LOS

Total Population 91,611	÷	*LOS 190.95 acres*	=	*480 total residents per Community/Neighborhood park acre*

2. Divide the residents per park acre by average household (HH) to get dwelling units per acre of park land.

Residents per acre 480	÷	Residents per HH 2.85	=	168 DU *per Community/Neighborhood park acre*

The same steps are followed for the Regional Parks.

1. Calculate the residents per park acres by dividing the population by the LOS

Total Population 91,611	÷	*LOS 130 acres*	=	*705 total residents per regional park acre*

2. Divide the residents per park acre by average HH to get dwelling units per acre of regional park land.

Residents per acre 705	÷	Residents per HH 2.85	=	247 DU per *regional park acre*

The new Ordinance requires one (1) acre of park land for every 168 dwelling units built in order to maintain the City's current level of service for neighborhood/community parks. For regional parks, one (1) acre of park land for every 247 dwelling units built is required in order to maintain the City's current level of service for regional parks.

In-lieu-of dedicating public park land for a neighborhood/community and regional parks, developers may pay a fee in-lieu-of land dedication, based on the cost per acre of $35,000 and the dwelling unit per acre. The cost of land per acre is $35,000 which is based on a 2015 real estate assessment of city-wide land sales.

Cost per acre $35,000	÷	168 DU/acre	=	Fee in lieu of parkland dedication $208 per DU for community/ neighborhood parks.
Cost per acre $35,000	÷	247 DU/acre	=	Fee in lieu of parkland dedication $142 per DU for regional parks.

PARK DEVELOPMENT FEE METHODOLOGY

The ordinance is intended to establish a sustainable fiscal mechanism to support public park improvements in new community/neighborhood and regional parks as well as additional amenities to existing community/neighborhood and regional parks. The park development fees are based on the construction costs per acre and the number of dwelling units per acre.

Any park developed publicly or privately will vary in costs depending on size, amenities and the land type. For the purposes of this Ordinance, estimated construction costs were utilized. Staff evaluated existing parks and recent park construction costs to determine typical costs for City park projects to determine the cost per acre. The cost to construct a neighborhood (2-5 acres) or community park (10-15 acres) five (5) acre park was $1,609,083 and $5,138,589, respectively. The development cost per acre was used for both neighborhood/community and regional parks. The cost per acre is a moderate estimate using the higher construction cost of $5,138,589 and the higher park acreage of 15 acres. These estimates do not include the cost of land.

Development Cost per acre $342,500	÷	DU per park acre 168	=	Park Development Fee $2,038 per DU
Development Cost per acre $342,500	÷	DU per park acre 247	=	Park Development Fee $1,387 per DU

ORDINANCE PROCEDURES & COMPLIANCE

The following provides a description of the process for complying with the new Ordinance in order to meet the City's goals of preserving the existing park land LOS and accurately assess fees from new development to support development of parkland and/or future land acquisition. Below are various options for compliance.

With the submission of a development master plan or preliminary/final plat, the developer or its representative, must submit the following:

- Park Land Dedication Worksheet
- Letter of intent that details how the development will comply with the ordinance
- Any plats must include the park location, park acreage and park type (public/private and neighborhood/community and/or regional) and the appropriate plat note.

Fees for in-lieu-of land and park development are due at the time of recordation and may be submitted in the form of a cash deposit. If public park improvements will be constructed in-lieu of park development, fees may be submitted in the form of a cash deposit, bond or letter of credit upon approval of the Parks and Recreation Director and the City Attorney.

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PARK LAND DEDICATION

1. Pay a Fee In-Lieu-of Park Land Dedication
   A developer that does not have a minimum of five (5) acres of land to dedicate for public park land and does not intend to set-aside land for private park space must pay a fee in-lieu-of land and a park development fee. This is the simplest way to comply with the ordinance and is typically the best option for developments of 168 dwelling units or less. The City considers an acre of parkland inadequate to provide a quality community/neighborhood park. In accordance with the ordinance, fees assessed would be used in the park district of a subdivision with less than 168 units. Park development fees are assessed at the full rate for community/ neighborhood and regional parks.

2. Dedicate Five (5) Acres, or the required acreage, for Public Park Land
   All development has the option to meet this park land requirement through the dedication of public park land. Contact the City's Park Development Manager to discuss the land dedication requirements. Allow City Parks Department staff to visit the site to evaluate the property. Submit any environmental reports or assessments to park staff. Provide certain minimum utilities including a minimum water supply and sewer stub, appropriate for the size of the park. Land is dedicated to the City in fee simple by filed deed:
   a. Prior to the issuance of any site development building permits for multi-family development,
   b. Prior to recordation of the final plat for a single family, duplex, or townhouse development, or
   c. For a phased development, the entire park shall be platted concurrently with the plat of the first phase of the development.

   All fees for park development are set at the regular rate are due at the time of recordation and may be submitted in the form of a cash deposit.

3. Construct Public Park Improvements
   If a developer is constructing public park improvements in-lieu of a park, development fees may be submitted in the form of a cash deposit, bond or letter of credit upon approval of the Parks and Recreation Director and the City Attorney. The following guidelines and requirements shall be used in designing parks and adjacent development.

   1. Any land dedicated to the City under this Article must be suitable for park and recreation uses. The dedication shall be free and clear of any and all liens and encumbrances that interfere with its use for park purposes. The Director of Parks and Recreation or his/her designee shall determine whether any encumbrances interfere with park use. Minerals may be reserved from the conveyance provided that there is a complete waiver of the surface use by all mineral owners and lessees. A current title report must be provided with the land dedication.

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Grantor shall not conduct any drilling, mining, exploration for or development of oil, gas, and other minerals on the surface of the park, or in any such way as to interfere with City's use thereof, but the Mineral Estate Owner, heirs, administrators, executors, successors and assigns may extract oil, gas, water or other minerals from and under the park by directional drilling or other means which do not interfere with or disturb City's use of the surface estate interest in the park.

The property owner shall pay all taxes or assessments owed on the property up to the date of acceptance of the dedication by the City. A tax certificate from the Comal County Tax Assessor shall be submitted with the dedication or plat.

2. The City Council and the Parks and Recreation Department generally consider that development of an area less than five (5) acres for neighborhood/community park purposes may be inefficient for public maintenance. Therefore, no fewer than five acres will be accepted.

3. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in a federally regulated floodplain as long as, due to its elevation, it is suitable for park improvements. Sites should not be severely sloping or have unusual topography which would render the land unusable for recreational activities.

4. At the discretion of the City, land in floodplains may be considered as part of a dedication requirement on a three for one basis. That is, three acres of floodplain will be equal to one acre of park land or not more than 50% shall be allowed in a floodplain.

5. Where feasible, park sites should be located adjacent to schools in order to encourage shared facilities and joint development of new sites.

6. Neighborhood/community park sites should be adjacent to residential areas in a manner that serves the greatest number of users and should be located to minimize users having to cross arterial roadways to access them.

7. Where appropriate, sites with existing trees or other scenic elements are preferred and the may be reviewed by the City's Urban Forester to make recommendations.

8. Detention/retention areas may not be used to meet dedication requirements but may be accepted in addition to the required dedication. If accepted as part of the park, the detention/retention area design must meet specific specifications in the City's Drainage Manual.

9. Where park sites are adjacent to schools or existing or proposed subdivisions, access ways may be required to facilitate public access to parks.

10. It is desirable that twenty-five percent (25%) of the perimeter of a park abut a public street.

11. The site should not be encumbered by overhead utility lines or easements of any type which might limit the opportunity for park and recreation development.

12. Rare, unique, endangered, historic or other significant natural areas will be given a high priority for dedication pursuant to this article. Areas that provide an opportunity for linkages between parks or that preserve the natural character of the surrounding environment may be required by the city to be included in the park land dedication.

4. Private Park Credit for Fees In-Lieu-Of Park Land Dedication
Private park land credit is eligible for up to 50% reimbursement of the fee in-lieu-of land requirement based on the requirements established in Sec. 118-69 of the City Code. Fees in-lieu-of park land and park development are due at the time of recordation and are considered fiscal surety to the city for the development of a private park.

Residential subdivisions with less than 168 dwelling units do not qualify for this credit because they do not generate a park land requirement of an acre. The Parks and Recreation Department considers an acre of parkland inadequate to provide a community/neighborhood and regional parks.

During pre-development, discuss with the parks staff the location and requirements for a private park. If the land/location is suitable and meets the acreage requirements, a letter of intention is required to begin this process and should be submitted no later than the initial plat submission. The letter should include the park land worksheet, description of the location (types of vegetation or landmarks), the total acreage (floodplain/non-floodplain) and proposed improvements. Upon receiving this letter of intention, the City will respond to discuss the process.

Private parkland credit requires a minimum of one (1) acre of developable park land per 168 dwelling units, not including floodway or floodplain unless approved by the Parks and Recreation Director. Setbacks, court areas, yards, and other open space areas required by zoning do not qualify in the parkland acreage. Before credit and reimbursement of fees, the City must make written findings that certain conditions are met. Below lists the requirements and conditions:

- A minimum of one (1) acre of park land per 168 dwelling units
- Must not exceed a 20% grade on more than 50% of the land
- 25% of the park abut a public street
- Sites encumbered by hazardous or municipal waste
- Adjacent to a school and/or residential areas serving the most people as possible
- Sites with tree and other scenic elements

- Sites with rare, unique, historic or endangered other significant natural areas
- Not encumbered by overhead utilities or other obstructions to limit park improvements
- Floodway or floodplain may be accepted if, due to its elevation, is suitable for park improvements
- That the private ownership and maintenance of the park is adequately provided for by recorded agreement, covenants or restrictions.
- That the use of the park is restricted for park and recreation purposes by recorded covenant, which runs with the land in favor of future owners of the property and which cannot be defeated or eliminated without the written consent of the city or its successors.
- That the proposed private park is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access and location.

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PARK IMPROVEMENTS PERMITTED

This is a list of park improvements eligible for public and private park development.

Park Improvements	Acceptable	Alternatives	Unacceptable
Playscape/Playground	X		
Tennis court	X		
Basketball court	X		
Volleyball court	X		
Racquetball court	X		
Pickle Ball court	X		
Amphitheater	X		
Bocce Court	X		
Disc Golf	X		
Trails not in Hike & Bike Trails Master Plan	X		
Skate spot	X		
Shade structures	X		
Swings	X		
Water play feature	X		
Dog park	X		
Community garden		X	
Educational signage with open space		X	
Interactive public art		X	
Swimming pool (cannot exceed 50% of the total park costs)		X	
Regulation soccer, football field with irrigation	X		
Restrooms		X	
Trails identified on Hike & Bike Trails Master Plan		X	
Shrubs, sod, and any re-vegetation	X		
Clubhouse or mailboxes			X
Subdivision signage			X
Administrative or engineering cost			X
Public improvement required in the subdivision process (i.e, sidewalks, drainage, streets, utilities)			X
Parking lot			X

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PARK DEVELOPMENT STANDARDS

All improvements and equipment shall be in accordance with Parkland Dedication and Development Ordinance Manual & Guidelines – Park & Facility Equipment Standards.

Required Improvement	Approx. Cost	Minimum Standard
Grading & Drainage	$50,000	Site improvements necessary to ensure that the park drains appropriately and is free from standing water. Minimum of.5% grade on any open spaces. No slope of any turf or landscape area shall exceed 3:1.
Playground	Varies	Commercial grade, IPEMA certified, and conforms to ASTM F187. Fall surface IPEMA certified and conform to ASTM F1292. If park will ultimately be transferred to the City of New Braunfels, the equipment must meet the following park and facility standards: 1- A minimum Limited Warranty of 15 years for metal members and plastics. 2- All metal members must be powder-coated steel with five (5) inch diameter posts. 3- Playground border must be permanent material consisting concrete or natural stone. 4- Fall surface must be engineered wood fiber, synthetic turf, pour-in-place rubber or a combination of these.
Playground Shade Structure	$20,000	Soft or hard shades must cover at least 75% of the playground fall surface area. Limited 20-year non-prorated warranty on call commercial share fabric and Teflon stitching against cracks, tears, material breakdown or significant fading as direct result of UV exposure. Limited 1-year warrant on all moving parts, surface coat finish, or any other product or part not covered by one of the above warranties.
Site Amenities	$15,000	Minimum of six (6) benches, four (4) picnic tables, two (2) pet waste stations using the Mutt-Mitt style bags and one (1) drinking fountain. If the park will ultimately be transferred to the city the amenities must be steel, powders coated, and have one (1) ADA table.
Shade Structure	$30,000	Gazebo or pavilion with concrete slab and picnic tables. Shade must be minimum of 20'X20' square or 400 sqft in any other shape. Minimum of four (4) square, four-seat or two (2) rectangle two-seat picnic tables.
Walking/Multi-purpose Trail	Varies	Minimum 1/4-mile walking trail constructed of asphalt, concrete, or decomposed granite. Minimum 10 feet in width and looped so that a specific number of laps equals one (1) mile. Trails near homes should be at least 10' from residential property lines. Trails can connect to existing

		City trail system and required sidewalks. All material types must be placed on a compacted sub-grade with at least 95% density. No slopes greater than 5% and no cross slop greater than 2%. If trail will ultimately be transferred to the City of New Braunfels, the trails requires a concrete surface, five (5) feet of right-of-way on either side of the trail, and meet other requirements set-forth in Greenway Trail Standards. Must be ADA compliant.
Practice Field	$20,000	Minimum one (1) acre set aside for practice space in the form of one (1) large open space or a combination of smaller spaces with no single space being smaller than 10,000 sq ft. Space(s) must be leveled and have a maximum slope of 2% in any direction. Total area(s) must be irrigated with an automatic underground irrigation system laid out with head-to-head spacing. The space(s) must be solid sod with a Hybrid Bermuda of an appropriate variety for sports such as Tif 419 or Tifsport. Must also include at least two (2) chain-link fenced backstops placed as to allow the most flexibility for the space(s).
"Street Trees" and Shade Trees	Varies	"Street Trees" shall be planted within the first twenty feet (20') of the park site behind the right-of-way and spacing shall be one (1) tree per forty linear feet (40'). The remainder of the park shall be planted at a ratio of one (1) tree per 5,000 square feet of remaining gross park area. All trees must be irrigated. All tree irrigation zones shall be independent of any turf or planting bed zones. All trees must be shade trees selected from the City's Approved List and be a minimum of two inches (2") in caliper size at time of planting. Parks must attempt to any retained, healthy, existing hardwood tree that is surveyed.
Park Signage	$5,000	Owners choice, but if park will ultimately be transferred to the City of New Braunfels, the monument must follow the wayfinding standards established by the City. City will provide text for Park Rules Signs.
Basketball Court	$40,000	Minimum 1/2 size of UIL standard with at least two (2) goals. Concrete or asphalt court with alkyd surfacing and lines for baselines, free throw line(s) and the "lane". If the park will ultimately be transferred to the City of New Braunfels, the court and equipment shall meet the City's Park & Facility Standards and the following additional requirements: 1) if asphalt court, it must have a concrete perimeter beam that is at least 12" wide.
Tennis Court	$65,000	Minimum one (1) regulation court including six (6) foot perimeter fence, net windscreens, and court

		surfacing/striping. Fenced concrete or asphalt court with alkyd surfacing and all lines necessary for a regulation court. If the park will ultimately be transferred to the City of New Braunfels, the court and equipment must meet the following additional requirements: 1) If asphalt court, it must have a concrete perimeter beam that is at least 12" wide.
Sand Volleyball	$15,000	Minimum one (1) regulation court including net and sand that meets specifications. Net(s) must be adjustable with metal poles that are either galvanized or powder-coated for durability. Sand must be minimum 12" deep and free from rocks and other debris.
Additional Walking/Nature Trail		Additional walking trail constructed of compacted decomposed granite, concrete or asphalt. Minimum six (6) feet in width and looped so that a specific number of laps equals one (1) mile. All material types shall be placed on a compacted subgrade with at least 95% density and pass ADA inspection.
Disc Golf Course	$12,000	Nine (9) Hole Disc Golf Course including baskets and appropriate tee markers and rules signage. Permanently installed Commercial quality baskets.
Dog Park	$20,000	Minimum 1/2 acre fenced area with irrigated turf. Dog Park must be leveled and have a maximum slope of 5% in any direction. Total area(s) must be irrigated with an automatic underground irrigation system laid out with head-to-head spacing. The space(s) must be solid sodded with a Hybrid Bermuda of an appropriate variety for heavy use such as Tif 419. Shall also include a four feet (4') high chain-link perimeter fence.
Fitness Equipment	$15,000	Outdoor Fitness Equipment installed in a grouping at start or end along the walking trail. All equipment must be institutional or commercial grade and compliant with ASTM F2277 Standard Test Methods for Evaluating Design and Performance Characteristics of Selectorized Strength Equipment, ASTM F1749 Standard Specification for Fitness Equipment and Fitness Facility Safety Signage and Labels, ASTM F2216 Standard Specification for Selectorized Strength Equipment and ASTM F2276 Standard Specification for Fitness Equipment.

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PARK & FACILITY EQUIPMENT STANDARDS

The purpose of these standards is to establish the minimum level of quality, provide continuity across the City of New Braunfels Parks System and to aid in the efficiency of maintenance of the system. Substitutions must be approved by Parks & Recreation Director.

Item	Preferred Supplier	Product #	Description
Basketball Equipment	Patterson-Williams Athletic Manufacturing Company or equivalent.	#PWA-22 #PWA-39 #PWA-1525	Backboard Heavy Duty Power Coated Aluminum Backboard Extra Heavy Duty Double Rim w/ Universal Mount Plate & Super Nylon Net 6 Foot Steel Post
BBQ Grills	GameTime or equivalent.	#49 #60	GameTime #49 Family Sized Grill GameTime #60 Deluxe Waist-Hi Stove
Benches	Visions Innovative Products, Inc. Mfg. or equivalent. WEBCOAT Products	B6PERFS B6WBPERFS Pad Dimensions	6' Perforated Bench In-ground Mount Design. Surface-mount when installing on asphalt or concrete pads. Colors: Seat – Green; Frame - black 6' Perforated Bench with back, In-ground Mount Design. Surface mount when mounting on asphalt or concrete pads. Colors: Seat - green; Frame - black For concrete foundations, allow 36 inches beyond the end of the bench.
Drinking Fountains	Most Dependable Fountains or equivalent.	440 DB	Direct Bury Fountain. Color: Green Option: Pet fountain. Pad Dimensions: A clear paved area of 5' x 5' shall be provided in front of each drinking fountain. Concrete pad/approach shall be ADA accessible, linked to adjacent walk/trail & slightly sloped for drainage.
Park Entrance Signs	Various		Meets city wayfinding designs and sizes.
Irrigation	Hunter Industries		Commercial controllers, Baseline two-wire or Hunter controllers and valves. Remaining components must be Hunter. Watts 957 series backflow.
Pavilions	Various		Icon Shelter (Model, style, size and color to be determined) Roof: 24

			gauge Pre-Cut Multi Rib Metal Panels. Primed & Painted Frame. All metal supports – 3/16 wall thickness, Mounted on a minimum 4" thick reinforced concrete slab with footings.
Pet Waste Bag Dispensers	Mutt-Mitt		Dispenser: 400 bag capacity, .08 gauge aluminum, powder coated-forest green, 15.5" x 9.4" x 3.25", locking front access panel. Baggies: Opaque brown, 13" long x 8" wide, 0.7 mill thickness, biodegradable.
Picnic Tables	Visions Innovative Products, Inc. Mfg. or equivalent. WEBCOAT Products	T6RC T6RCHDCP T8RC T8RCHDCP	Ft Table w/attached seats. Colors: Table & seats - green; Frame – black. *Pad Dimensions*: For concrete foundations, allow 36 inches beyond the edges of the table. 6Ft ADA Accessible Table w/attached seats. Colors: Table & seats - green; Frame – black 8Ft. Table w/attached seats. Colors: Table & seats - Green; Frame - black. 8Ft ADA Accessible Table w/attached seats. *Colors*: Table & seats - green; Frame – black
Play Equipment	Various Automatically Approved Manufacturers – Playworld Systems, Landscape Structures, Burke, Little Tikes and GameTime or equivalent.		Brand, equipment model numbers & colors to be determined. Five inch (5") minimum powder-coated steel posts. Fall Surface shall be Engineered Wood Fiber, synthetic turf, poured-in-place rubber or a combination of these.
Playground Shade	Modern Shade, LLC or equivalent.		
Natural Area Vegetation	Native American Seed or equivalent.		Native Wildflower or Prairie Mix; no thorns permitted (i.e., Yuccas Palms, Agarita, or roses)
Tennis Equipment	Various	T.E.2-7 T.E.90-1S	Super Pro 5000 Tennis Net; 42 feet long Court Master Posts, Royale Square posts with internal wind.

Trails – Concrete			See Greenway Trail Standards.
Trash Receptacles	Superior Recreational Products WEBCOAT Products	TR32Crown	32-gallon tapered and flared ribbed steel with flattop and rain bonnet
Volleyball Equipment	West Coast Netting or equivalent.	YMCA-32 AGP -3.5	Heavy competition volleyball net – 18 ounce white vinyl, 39" H x 32' L, 5/32" top cable, 1/8" bottom cable and 7/8" wood doweling. Netting passes through and is attached to the dowel. Heavy gauge steel volleyball system, complete with pole and movable hardware (winch, pulley, top drive cap & hooks)
Exercise Equipment	Various Automatically Approved Manufacturers – Playworld Systems, Landscape Structures, Burke, Little Tikes and GameTime or equivalent.		

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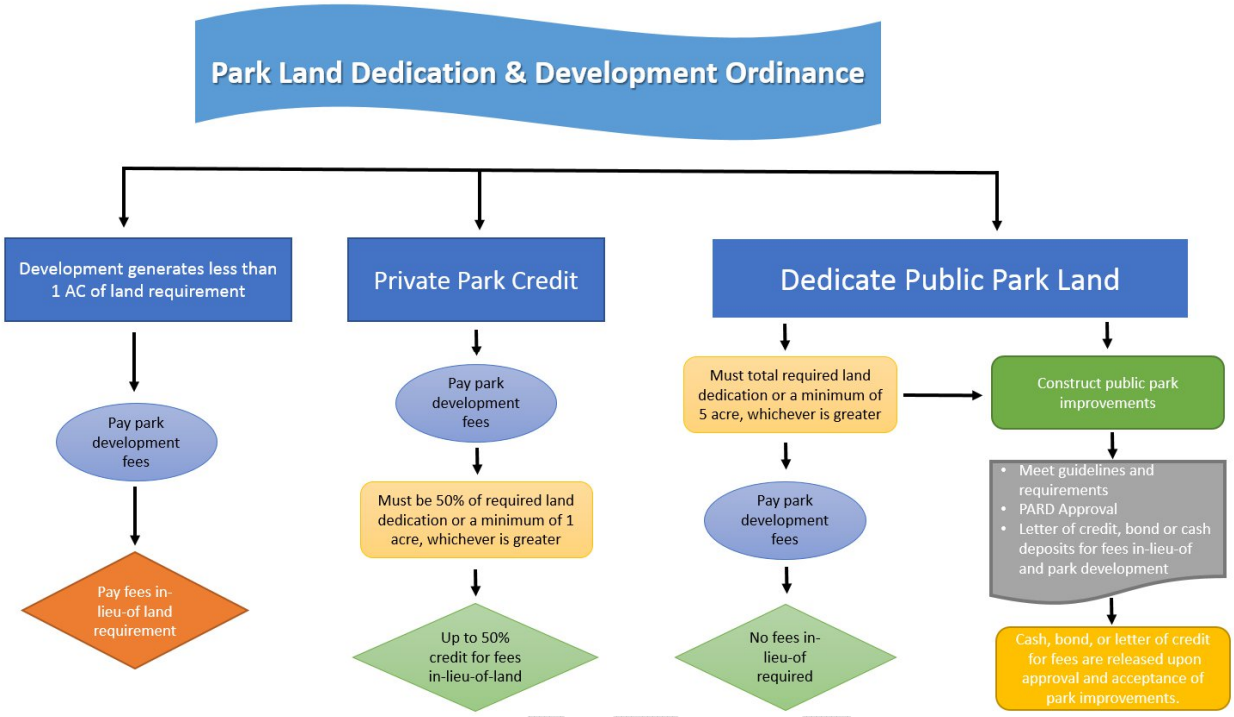

Example: 256 single-family detached subdivision

NEIGHBORHOOD/COMMUNITY PARK (168 DU per 1 acre of park land)

Park Land Requirements: 1.52 acres of park land is required to sustain the current LOS for neighborhood/community Park, but this is less than five (5) acres what the city requires to accept public land dedication. The developer has several choices:

Pay the fees in-lieu-of land and pay the park development fees.

Fees in-lieu-of land:	$ 53,248
Development Fee:	$520,960
	$574,208

Dedicate the full 5-acre public park or and pay the park development fees

Dedication 5 acres:	$ 0
Development Fee:	$520,960
	$520,960

Dedicate the 5 acres, develop the public park improvements and pay the park development fees

Dedication 5 acres:	$ 0
Development Fee:	$520,960
Public park improvements	$520,960 (credit)
	$ 0

Build a private park of at least 1.52 acres and request credit up to 50% of the fees in-lieu-of land.

Fees in-lieu-of land:	$ 53,248
Development Fee:	$520,960
Private Park Credit:	$ 26,624 (credit)
	$547,584

REGIONAL PARK (252 DU per 1 acre of park land)

Park Land Requirements: 1.01 acres of park land is required to sustain the current LOS for regional park, but this is less than what the city requires to accept land dedication. The developer has several choices:

Pay the fees in-lieu-of land and pay the park development fees.

Fees in-lieu-of land:	$ 36,352
Development Fee:	$254,560
	$390,912

Dedicate the full 5-acre public park or and pay the park development fees

Dedication 5 acres:	$ 0
Development Fee:	$254,560
	$254,560

Dedicate the 5 acres, develop the public park improvements and pay the park development fees

Dedication 5 acres:	$ 0
Development Fee:	$254,650
Public park improvements	$254,560 (credit)
	$ 0

Build a private park of at least 1.01 acres and request credit up to 50% of the fees in-lieu-of land.

Fees in-lieu-of land:	$ 18,176
Development Fee:	$254,560
Private Park Credit:	$ 18,176 (credit)
	$ 272,736

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City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. E)

Presenter/Contact
Bryan Woods, Assistant City Manager
bwoods@nbtexas.org

SUBJECT:
Public hearing and consideration of the first reading of an ordinance regarding proposed amendments to the Code of Ordinances regarding development-related fees.

BACKGROUND / RATIONALE:
Case No.: CS-18-002

Council District: All

Applicant: City of New Braunfels

Staff Contacts: Christopher J. Looney
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According to the US Census Bureau, the City of New Braunfels is continuing to increase in size as one of the top 10 fastest growing cities in America; on par with Georgetown and San Marcos. The quality of life in the community, as well as new industry/jobs, are attracting the new residents. This requires rapid new subdivision layout, new home construction and new commercial services.

The development process is more than just a simple permit issuance upon payment of a fee. Complex drawings prepared by registered architects and licensed engineers must be submitted. Packets of materials to distribute to various reviewing entities (some outside of and separate from the City) must accompany the drawings. These plans must first be reviewed for application completeness at intake. Then they must be reviewed against all adopted codes and ordinances, including the International Building and Fire Codes, the platting ordinance, the sign ordinance, and/or the zoning ordinance. As the plans are reviewed, any inconsistencies with adopted codes must be addressed by

the applicants before the plans can be approved. Depending on the project, some plans require approval by boards, commissions and/or City Council, while others can be approved administratively.

This is a labor-intensive and time-consuming undertaking for all municipalities who must conduct the same or similar processes. The costs to manage and staff this operation should not be borne by local taxpayers alone; development should pay for itself. Development-related fees in New Braunfels have not maintained pace with the costs of doing business. Therefore, staff is recommending changes in the fees (see attached). These changes will allow for:

- Technological enhancements and continued maintenance of the permitting and plan review software;
- Third-party plan review;
- After a review of efficiencies gained with third-party contractual services and technological enhancements, additional staff may be added if needed;
- Staff focus on other core projects such as code amendments, public projects, neighborhood or master plans, and continuous improvements.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

	Yes	**City Plan/Council Priority:** 2017/2018 to 2021/2022 5-year Financial Forecast *Pros and Cons Based on Policies Plan*	**Pros: Strategic Issues for Growth and Development** • Adjusting Development Application Fees to Market Rates • Process Improvements • Technology Enhancements **Cons:** None.

FISCAL IMPACT:

The proposed fee changes will provide the resources to hire adequate staff and fund any necessary contractual services to provide technical review of development applications. These added resources will facilitate an expedient and predictable development review process reducing time and, in turn, costs for the developer and builder. The charges will also reduce the present burden on the local taxpayer to pay for the costs of development.

COMMITTEE RECOMMENDATION:

At their regular meeting on February 6, 2018, the Planning Commission postponed their first consideration of this item. At their regular meeting on March 6, 2018, the Planning Commission recommended approval of the proposal with the following conditions:

1. Eliminate the proposed fee for pre-development meetings;
2. Implement an initial 6-month evaluation of efficiency gains; and
3. Establish turnaround/cycle time metrics for applications/permits.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed application and development-related fee changes. They are aligned with adopted Strategic Issues noted in the table above, and will result in faster permit/plan review cycle time, saving customers time and money.

Attachments:
Spreadsheet of draft fee changes
Draft ordinance

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APPLICATION	CURRENT FEE	PROPOSED FEE
BUILDING PERMITTING PLAN REVIEW INSPECTIONS		
Permit Application fee	$0	Residential: $50 Commercial: $100
Residential Plan Review fee	$0	Residential: 25% of permit cost not to exceed $2,500
Commercial Plan Review fee	$0	Commercial: 25% of permit cost not to exceed $15,000
Building Permit fee	Calculation with multiplier	No change
Inspection fees	Residential - $0 Commercial - $0 Re-inspections -$35 with double fee for each subsequent re-inspection	Residential - $35 Commercial - $50 Re-inspections -No change
Airport Hazard Inside city limits - one- and two-family dwelling	$100 (+$.05/square foot)	$100
Airport Hazard Inside city limits - anything other than one- and two-family dwelling	$250 (+$.10/sf for commercial)	$250

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Airport Hazard In ETJ - one- and two–family dwelling	$50	$100
Airport Hazard in ETJ anything other than one- and two-family dwelling	$75	$250
New Occupant Permit (Previously referred to as "Existing Certificate of Occupancy")	$50	$150
Building Moving Fee	$100	No change
Building Demolition fee (up to 100,000 cubic feet)	$50	No change
Building Demolition fee (over 100,000 cubic feet)	$50 + $.50/1,000 cubic feet over 100,000	No change
Temporary C of O	$250	No change
Temporary C of O extension	$100	No change
Electrical, Plumbing, Mechanical, Fuel Gas,	Misc.	No change
Contractor Registration	Varies	Deletion of the fee for Electrical Contractor registration; no change on the remainder
Stop-work order - issued	$50	No change
Stop-work order - lift	$50	No change
ENGINEERING PLAN REVIEW AND INSPECTIONS		
Site Preparation	$0	$2,500 plus $50/acre or lot whichever is greater
Inspection fees	$0	Infrastructure - $100 ETJ 200% of standard fee Re-inspection - $150 After-hours/weekend/holiday - $250
Subdivision/Public Infrastructure Plan Review	$500 plus $15 per lot	$3,500 plus $50/acre or lot whichever is greater
FLOODPLAIN		
Floodplain permit application fee -Residential	$100 + $.05/square foot	$100

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Floodplain permit application fee - Non-Residential	$250 + $.10/square foot	$250
Floodplain plan review	$0	$1,500
CLOMR	$0	$2,500
LOMR without CLOMR	$0	$3,000
LOMR with CLOMR	$0	$1,500
LOMA	$0	$500
Revision review	$0	$500
Flood zone verification letter	$10	$25
PLATTING RELATED		
Right-of-way Abandonment and closures	$150	$500
Legal Lot Determination	$150	No change
Plat Appeal (Rough Proportionality Claims)	$100	No change
Plat Extension	$200	No change
Plat Revision	$200	No change
Plat Vacation	$200	No change
Plat Waiver/Subdivision Variance (not including sidewalk waivers - see below)	$150 each	No change
Master Plan	$100 plus $1.00 per lot or $2.00 per acre, whichever is greater	$1,000.00 plus $50 /acre ($2,500 max)
Minor Revision to Approved Master Plan (Administrative)	$0	50% of original application fee
Preliminary Plat	Plat Type I below	$1,000.00 plus $50 /acre ($2,500 max)
Final Plat/Minor Plat/Development Plat	Plat Type I below	$1,250.00 plus $100 /acre ($2,500 max)
Replat, not administrative	Plat Type II below	$1,000.00 plus $50 /acre ($3,000 max)
Vacation of previously recorded plat	$45	$150
Amending Plat/Amendment to Plat- admin	Plat Type III below	$500.00 plus $100 /acre ($1,000 max)

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Type I (not prevously platted)		
Plat*Type I (less than 1 acre)	$75 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type I (1 to 4.99 acres)	$150 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type I (5 to 10 acres)	$225 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type I (more than 10 acres)	$300 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Type II (replat requiring public hearing in platted residential subdivision in any zone)		
Plat*Type II (less than 1 acre)	$115 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type II (1 to 4.99 acres)	$230 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type II (5 to 10 acres)	$345 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Plat*Type II (more than 10 acres)	$460 plus $2.00 per lot or $4.00 per acre, whichever is greater.	Replace with above
Type III (Administrative plat or replat; corrections without vacating plat)		
Plat*Type III (less than 1 acre)	$45	Replace with above
Plat*Type III (1 to 4.99 acres)	$45	Replace with above
Plat*Type III (5 to 10 acres)	$45	Replace with above
Plat*Type III (more than 10 acres)	$45	Replace with above
Right-of-Way Determination	$500	No change
Mail notification (per mailed notice)	$2.15	No change

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Newspaper notification (per published notice)	$115	No change
TRAFFIC IMPACT ANALYSIS	(additional to all permits and plats)	
TIA Worksheet	$0	$100
Level 1	$0	$500
Level 2	$0	$750
Level 3	$0	$1,250
Revision review	$0	$500
Scoping Meeting	$0	No change
DRAINAGE REVIEW	(additional to all permits and plats)	
Master Drainage Plan (with PDs and Master Plans)	$0	$500
Preliminary Drainage Plan (with Preliminary Plats)	$0	$100
Type 1 development category	$0	$250
Type 2 development category	$0	$500
Type 3 development category	$0	$2,000
Type 3 with water quality	$0	$2,500
Type 3 with stormwater connection	$0	$3,000
Type 1 or 2 revision review	$0	$250
Type 3 revision review	$0	$1,000
FIRE		
Short term rental annual inspection	$0	$125
Fixed Pipe Suppression System	$50	$120
Fixed Pipe Modification	$25	$120
Fire Sprinkler System (Under 200 heads)	$150	$240
Fire Sprinkler System (Over 200 heads)	$150 plus $0.50 each add. Head. ($1500 max)	$240 plus $0.75 each add. Head. ($2000 max)
Fire Alarm System (Up to 200 signaling devices)	$150	$240
Fire Alarm System (Over 200 signaling devices)	$150 plus $0.50 each add. Device. ($500 max)	$240 plus $0.75 each add. device. ($1000 max)
Standpipe/Water Supply (Fire line)	$100	$180
Smoke Control System	$75	$120

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Flammable or Combustible Liquid Tank Permit	$120	$180
Fire Sprinkler Modification (Up to 20 heads)	$75	$120
Fire Alarm Modification (Up to 10 devices)	$75	$180
Re-Inspection / Re-test	$50	$100/hr
Tent Permit Fee (Annual)	$400	No change
Tent Permit Fee (Per Event)	$75	No change
Preliminary Fire Systems Plan review	$0	$60/hr with 1 hour minimum
Licensed Daycare Inspection	$50	$60
Licensed Nursing Care Center Inspection	$150	$180
Licensed Hospital Inspection	$200	$240
Licensed Institutional (restrained) Inspection	$200	$240
Licensed In-Home Facilities Inspection	$50	$60
Licensed Homes/Adoption Centers Inspection	Exempt	No change
Fire Watch	$50/hour	$60/hour
MEETINGS		
Predevelopment meetings	$0	$300 - credited toward the related application/permit fee submitted after the meeting
Comment Review meetings	$0	First - $250 Additional - $500 each
Plat resubmittal meeting	$0	No change
SIGNS		
Sign Permit - free standing (not including any associated building permits)	square feet of advertising face 1-100 = $30 101-300 = $60 301-600 = $90 601-900 = $120 901 or greater = $150	$2.50 per square ft ($50 min)
Banners – temporary, on premise / building	$30	$50

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Conditional Sign Permits and Sign Variances	$300	$750
Temporary Community signs	$0	$50
Temporary over Street Banners	$30 +125 each location	$50 + $125 each location
ZONING		
Future Land Use Plan Amendment	$500	No change
Historic Landmark Designation	$0	No change
Zoning Change Less than 1 acre	$500	see Zoning Change
Zoning Change 1 acre to 9.99 acres	$680	see Zoning Change
Zoning Change 10 acres to 19.99 acres	$950	see Zoning Change
Zoning Change 20 acres or more	$1,200	see Zoning Change
Zoning Change	varies (see above)	$1,000 plus $100/acre (max. $3,000)
Special Use Permit Less than 1 acre	$500	See Special Use Permit
Special Use Permit 1 acre to 9.99 acres	$680	See Special Use Permit
Special Use Permit 10 acres to 19.99 acres	$950	See Special Use Permit
Special Use Permit 20 acres or more	$1,200	See Special Use Permit
Special Use Permit	varies (see above)	$1,500 plus $100/acre (max. $4,000)
Planned Development Less than 1 acre	$250 plus base rezoning filing fee	See Planned Development
Planned Development 1 to 9.99 acres	$340 plus base rezoning filing fee	See Planned Development
Planned Development 10 to 19.99 acres	$475 plus base rezoning filing fee	See Planned Development
Planned Development 20 acres or more	$600.00 plus base rezoning filing fee	See Planned Development
Planned Development	varies (see above)	$2,000 plus $100/acre (max. $5,000)
PD Administrative Revision	$0	$200
Rezoning case signs	$15 each	No change
Mail notification (per mailed notice)	$2.15	No change
Newspaper notification (per published notice)	$115	No change

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Registration of a Nonconforming Use	$75	$200
Zoning Verification - basic	$10	$25
Zoning Verification - detailed	$10	$100
Home Occupation Certification	$0	$25
ZBA & AMBA		
Variance Application	$200 (+$50 for each additional variance request)	Homestead: $350 (+$50 for each additional variance request) Non Homestead: $700 (+$50 for each additional variance request)
Special Exception	$200	$700
Appeal of an Administrative Determination	$250	$700
ZBA case signs	$15 ea	No change
Mail notification (per mailed notice)	$2.15	No change
MISC		
Appeal of building design standard	$300	$500
Misc. Appeals to City Council	$0	$500
Sidewalk Waiver	$300	No change
Main Street Sidewalk Permits	$10 for new - $5 for renewal	No change
Residential Buffer Wall Exemption	$0	$100
Short term rental permit	$50	$200
Street Name Change	$550	No change
Tree Removal Permit (commercial only)	$100	No change
Valet Parking Permit	$50	$150
Vendor (Temp) Permits	$25	$75
Setback determination	$0	$100

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Masonry wall objection	$0	$100
Offsite parking agreement	$200 (ZBA)	$200
Regional Thoroughfare Plan Amendment	$900	No change
Code Text Amendment request	$500	$900
Temporary Mobile Storage Units (Moving Pods)	$25	No change
Mobile Food Court permit	$300	No change
License Agreement	$250	No change
Vested Rights Determination	$200	No change
Annexation (Voluntary)	$1,000	No change
Development Agreement application fee	$0	$500
Development Agreement processing	$0	$5,000
Development Agreement amendment review	$0	$2,500
ADDITIONAL REVIEW (RESUBMITTALS)		
Additional Review (each after 2nd review)	$0	$1,500 for 3rd review $1,500 + 10% of original review fee for 4th review $1,500 + 20% of original review fee for 5th review $1,500 + 30% of original review fee for 6th review
Additional review - Accessory Permits (signs, fences, etc) (each after 2nd review)	$0	$250 each after 2nd review
INFORMATION TECHNOLOGY		
Technology fee	$0	3% on all review fees

ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING CHAPTER 144, CHAPTER 118, CHAPTER 106, CHAPTER 14, AND CHAPTER 54 BY ADOPTING NEW FEES FOR DEVELOPMENT-RELATED SERVICES BY ESTABLISHING APPENDIX D, FEE SCHEDULE; PROVIDING A SAVINGS CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels, Texas, **provides as part of its municipal business to the public,** development application processes and services pursuant to federal law, state statute and local ordinance; and

WHEREAS, the City Council of the City of New Braunfels, Texas seeks to establish reasonable administrative fees in order to recoup the cost of conducting such processes and delivering such services on the public's behalf without unduly relying on taxes; and

WHEREAS, the City Council of the City of New Braunfels, Texas directed a benchmark fee study be conducted **which reflected that many Texas municipalities charge development fees, such as those set forth below, to offset the cost of providing such development services;** and

WHEREAS, the City Council of the City of New Braunfels, Texas was briefed on fees for cost of development related services at a meeting on October 16, 2017; and

WHEREAS, the City Council of the City of New Braunfels, Texas directed the City to implement new fees to pay for required services; and

WHEREAS, the local and regional development community provided feedback on the proposed new fees; and

WHEREAS, after public notice the New Braunfels Planning Commission held a public hearing and was briefed on the proposed new fees at their regular meeting on February 6, 2018; and,

WHEREAS, after public notice the New Braunfels Planning Commission held a second public hearing and made a recommendation on the proposed new fees at their regular meeting on March 6, 2018; and

WHEREAS, the City Council of the City of New Braunfels, Texas intends that the funds raised from these fees shall not materially exceed the cost of providing such development-related services; and

WHEREAS, the City Council of the City of New Braunfels, Texas finds **that the schedule of fees included below, is reasonable and prudent in light of the municipal effort and resources that must be expended to operate a regulatory program and provide certain technical reviews, authorizations, permits, and approvals, and** that adopting new fees for development-related services will reduce the amount of taxpayer subsidization of development activities and allow for the City to contract services, enhance technology, and/or increase staff to facilitate an expedient and predictable development review process reducing time and, in turn, costs **in a rapidly growing city.**

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

Section 1. Findings of Fact

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact are found to be true and correct and that they are hereby adopted by the City Council and made a part hereof for all purposes. The City Council hereby finds and determines that the rules, regulations, terms, conditions, provisions, and requirements are reasonable and necessary to protect the public health, safety, and quality of life.

Section 2. Amendment to Chapter 144, Zoning Ordinance

Chapter 144 of City of New Braunfels Code of Ordinances is hereby amended so as to read as follows with all related fees for services included in Appendix D of the New Braunfels Code of Ordinances.

A. Section 144-1.3 ~~Definitions.~~ Fees. Unless otherwise provided for in this code of ordinances, permits and fees shall be collected in the amounts provided for in the schedule found in Appendix D of the New Braunfels Code of Ordinances. Any reference to fees contained in any code adopted by reference in this code or contained in any chapter of this code shall be superseded by the comprehensive permit and fee schedule in Appendix D of the New Braunfels Code of Ordinances. All fees provided for in the fee schedule shall be non-refundable.

B. Section 144-1.4 Definitions.

C. Section 144-1.2-4 Written verification of the zoning ~~classification~~district. Written verification of the zoning ~~classification~~district in which any property has been placed may be given only upon payment of a zoning verification fee ~~of $10.00~~ to the Planning and Community Development Department per Appendix D of the New Braunfels Code of Ordinances.

D. Section 144-2.1 Changes and Zoning Amendments, 1(c)(3)(iii) Filing fees.

1. ~~The following f~~Fees related to zoning, rezoning, special use permit, planned development district and text amendments shall be paid in advance in accordance with Appendix D of the New Braunfels Code of Ordinances:

~~Zoning, rezoning or special use permit:~~

~~Filing Fees~~	~~Amount~~
~~Less than one acre . . .~~	~~$500.00~~
~~One acre to 9.99 acres . . .~~	~~$680.00~~
~~Ten acres to 19.99 acres . . .~~	~~$950.00~~
~~20 acres or more . . .~~	~~$1,200.00~~

~~Planned Development Detail Plan Fee:~~

~~Filing Fees~~	~~Amount~~
~~Less than one acre . . .~~	~~$250.00~~
~~One acre to 9.99 acres . . .~~	~~$340.00~~
~~Ten acres to 19.99 acres . . .~~	~~$475.00~~
~~20 acres or more . . .~~	~~$600.00~~

~~2. The filing fee for a text amendment shall be $500.00~~

~~3.~~

2. *Exemption from fee.* An application for a zoning ~~classification~~district or text amendment initiated by the ~~City Council, Planning Commission, or Planning Director of the~~ City shall be without fee.

E. Section 144-2.1-2 Procedure before the Planning Commission:

(a) *Public hearing and notification*. The Planning Commission shall hold a public hearing on all proposed zoning changes and text amendments. Written notices of all such public hearings shall be sent by the Planning and Community Development Department ~~Director~~ to all owners of real property ~~living~~ within 200 feet of the property on which the change is proposed. Such notices shall be ~~given~~sent not less

than ten days before the day set for hearing to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same properly addressed and first class postage paid in the city post office. If the property lying within 200 feet of the property proposed for a zoning change is located in territory which was annexed to the City and is not included on the most recently approved city tax roll, notice to such owners shall be given by publication once in a newspaper of general circulation in the city at least 15 days prior to the hearing. Notice shall state the time and place of such hearing. In addition to the written and published notification, a zoning pending change sign shall be placed adjacent to each public street or right-of-way abutting the subject property or if the property does not front a public street or right-of-way, adjacent to the closest public street or right-of-way, located in the middle of the frontage, and within three feet of the curb or pavement, or as prescribed by the Planning and Community Development Department at the time of application. One sign shall be required for the first 100 feet of frontage of the tract, and, thereafter, one additional sign for every 200 feet of frontage, or fraction thereof, except that not more than three (3) signs shall be required on each roadway frontage. If the tract has less than 200 feet of frontage per roadway, then only one sign is required per road. All signs shall be clearly visible to the public from the adjacent public streets. The applicant shall post the sign(s) at least 15 days prior to the Planning Commission's meeting and maintain said sign(s) in good condition and in place until final action by City Council. If the sign(s) is not posted 15 days prior to the Planning Commission hearing, the applicant's case shall be withdrawn and rescheduled. In the event that a sign(s) is removed from the property or damaged, the applicant shall be responsible for purchasing a replacement sign(s) and installing it immediately. The sign(s) shall be furnished by the City and a fee ~~of $15.00 per sign~~ shall be charged the applicant per Appendix D of the New Braunfels Code of Ordinances.

F. Section 144-2.2-3(b)(2) Fee and sign. The fee for variance~~s~~ requests and related signs shall be per Appendix D of the New Braunfels Code of Ordinances ~~$200 plus $50 for each standard of the code a variance is sought, plus $15.00 per sign~~. (See Sec. 2.2-5)

G. Section 144-2.2-5(b) *Sign*. In addition to the mailed notification, a variance or special exception sign shall be placed adjacent to each public street or right-of-way, abutting the

subject property, or if the property does not front a public street or right-of-way, to the closest public street or right-of-way, located in the middle of the frontage, and within three feet of the curb or the pavement, or as prescribed by the Planning and Community Development Department at the time of application. One sign shall be required for the first 100 feet of frontage of the tract, and, thereafter, one additional sign for every 200 feet of frontage, or fraction thereof, except that no more than three (3) signs shall be required on each roadway frontage. If the tract has less than 200 feet of frontage per roadway, then only one sign is required per road. All signs shall be clearly visible to the public from the adjacent public streets. The applicant shall post the sign(s) at least 15 days prior to the ZBA meeting and maintain said sign(s) in good condition and in place until final action. If the sign(s) is not posted 15 days prior to the ZBA meeting, the applicant's case shall be withdrawn and rescheduled. In the event that a sign(s) is removed from the property or damaged, the applicant shall be responsible for purchasing a replacement sign(s) and installing it immediately. The sign(s) shall be furnished by the City and a fee ~~of $15.00 per sign~~ shall be charged the applicant per Appendix D of the New Braunfels Code of Ordinances.

H. Section 144-2.2-6(b) *Procedure for Appeal*. The appellant must file with the Planning and Community Development Department a written Notice of Appeal specifying the grounds for the appeal and pay a fee ~~of $250.00~~ per Appendix D of the New Braunfels Code of Ordinances. The Notice of Appeal shall be filed within 45 calendar days after the decision has been rendered. Upon receiving the Notice, the official from whom the appeal is taken shall immediately transmit to the ZBA all papers constituting the record of action that is appealed. The chair of the ZBA or any two members may call a special meeting to consider appeals.

I. Section 144-5.1-1(i)(4) Valet parking operator permit. (iii) The permit fee shall be ~~$50.00~~ per Appendix D of the New Braunfels Code of Ordinances.

J. Section 144-5.3-1(c)(3) Tree removal permit approval authority and appeal. (ii) If a request to remove a protected or heritage tree(s) is denied by the Planning and Community Development Director, the applicant may appeal the denial to the Zoning Board of Adjustment by filing written notice of such appeal, along with a nonrefundable fee ~~of~~ ~~$75.00~~ per Appendix D of the New Braunfels Code of Ordinances, with the City, within 90

days of the notice of denial. The hearing shall be conducted in compliance with the Texas Open Meetings Act.

K. Section 144-5.17-5 Short Term Rental (a) *Application.* Application for a Short Term Rental Permit shall be in writing on an application form available in the Planning and Community Development Department ~~Director's office~~, shall be accompanied by a one-time payment of the fee ~~of $50~~ per Appendix D of the New Braunfels Code of Ordinances and shall include the following information, at a minimum:

L. Section 144-5.17-6 Inspections. (a) *Annual Fire Inspection.* The City's Fire Marshal's Office will perform annual inspections for compliance with this Ordinance. The fee for an annual Fire inspection is per Appendix D of the New Braunfels Code of Ordinances.

M. Section 144-5.20-10(d)(5) The AHZD development permit application shall include the following information:

(i) Completed AHZD development permit application form.

(ii) Applicable permit fees in city limits shall be per Appendix D of the New Braunfels Code of Ordinances.~~:~~

~~1. One- and two-family dwelling AHZD permit ($.05/sf for residential) + $100.00~~

~~2. Other than one- and two-family dwelling AHZD permit ($.10/sf for commercial) + $250.00~~

When applicable, the AHZD development permit application may be filed with the application for building permit or separately prior to application for building permit.

(iii) Applicable permit fees in the ETJ shall be per Appendix D of the New Braunfels Code of Ordinances.~~:~~

~~1. One- and two-family dwelling AHZD permit $50~~

~~2. Other than one- and two-family dwelling AHZD permit $75.~~

N. Section 144-5.22 Non-Residential and Multifamily Design Standards. (b)(2) An appeal must be made in writing on an application form available in the Planning and Community Development Department, shall be accompanied by an application fee per Appendix D of the New Braunfels Code of Ordinances ~~of $300~~ and shall include a site plan, building elevation plan and landscape plan

O. Section 144-5.23 Appeal of Building Design Standards. -2 Permit and Fee. An application processing fee per Appendix D of the New Braunfels Code of Ordinances ~~of $25.00~~ is required for each Temporary Vending Operation permit application. No fee is required for applications with non-profit status. Proof of tax-exemption from the IRS is required.

P. Section 144-5.24 Temporary Mobile Storage Units. -2 Permit and Fee. An application processing fee per Appendix D of the New Braunfels Code of Ordinances ~~of $25.00~~ is required for each application to place a temporary mobile storage unit.

Q. Section 144-5.25 Heliports and Helistops. -2 Permit and Fee. An application processing fee per Appendix D of the New Braunfels Code of Ordinances ~~of $25.00~~ is required for each application to operate a heliport or helistop in the appropriate zoning district and according to FAA and other regulations.

R. Section 144-5.26-6 Mobile Food Courts. (b)(3) The Mobile Food Court Permit application shall include the following information:
   (i) Completed Mobile Food Court Permit application form.
   (ii) A permit fee per Appendix D of the New Braunfels Code of Ordinances ~~of $300~~.

S. Section 144-7. Fees. Sec. 7.1 Fee Schedule. The following is a list of applications with associated required fees that are not specified in other sections of this chapter that are now included in Appendix D of the New Braunfels Code of Ordinances.

Appeal of an off-site parking determination	~~$300~~
Future Land Use Plan Amendment	~~$500~~
Mail Notification (per mailed notice)	~~$2.15~~
Newspaper Notification (per published notice)	~~$115~~
Off-site Parking	~~$250~~
Registration of a Nonconforming Use	~~$75~~
Residential Buffer Wall Exemption	~~$100~~
Special Event Permit (for profit)	~~$150~~
Special Event Permit (non-profit)	~~$75~~
Street Name Change	~~$550~~
Tree Removal	~~$100~~
Vested Rights Determination	~~$200~~

Voluntary Annexation ~~$1,000~~

Section 3. Amendment to Chapter 118, Platting Ordinance

Chapter 118 of City of New Braunfels Code of Ordinances is hereby amended so as to read as follows with all related fees for services included in Appendix D of the New Braunfels Code of Ordinances.

A. Section 118-19.c. Each plat shall be processed according to the procedures set forth in this Chapter, provided however that no plat shall be processed which attempts to amend or remove any covenant(s) or restriction(s) of the preceding plat until such preceding plat or portion of such preceding plat has been vacated or amended by replat in compliance with the provisions set forth in this Chapter.

1. ~~Upon receipt and completion of all appropriate application form(s) and fee(s) by the Planning Department, a determination shall be made as to whether the plat is a type I, type II, or type III submission as defined below:~~

   ~~(a) *Type I plat submission*: A plat depicting a subdivision of land that has not been previously platted.~~

   ~~(b) *Type II plat submission*: A plat depicting a replat or resubdivision of land, which at any time during the preceding five years was limited by an interim or permanent zoning classification or deed restriction to residential use of not more than two residential units per lot. A type II plat submission shall require public notice as provided for in this Chapter.~~

   ~~(c) *Type III plat submission*: A replat designed to amend the preceding plat for which property owner notice is not required, minor plats, and development plats.~~

2. Application fee(s): Application fee(s) shall be <u>included with the submission of a complete application</u> <u>per Appendix D of the New Braunfels Code of Ordinances</u> based upon the <u>type of plan or plat submitted as specified in this Chapter.</u> ~~following schedule. The fee(s) must be paid before a plat and application is accepted for review and processing.~~

	~~Type I*~~	~~Type II*~~	~~Type III~~
~~Master Plan**~~			
~~Less than 1 acre~~	~~$ 75.00~~	~~$115.00~~	~~$45.00~~
~~$100.00~~			

~~1 to 4.99 acres $150.00 $230.00 $45.00 $100.00~~

~~5 to 10 acres $225.00 $345.00 $45.00 $100.00~~

~~More than 10 acres $300.00 $460.00 $45.00 $100.00~~

~~* In addition to the application fee, Type I and Type II plat submissions will be assessed a fee of $2.00 per lot or $4.00 per acre, whichever is greater.~~

~~** In addition to the application fee, Master Plans will be assessed a fee of $1.00 per lot or $2.00 per acre, whichever is greater.~~

~~There shall be only one fee paid to process simultaneous submissions of a preliminary and a final plat.~~

3. Construction plan review fee: ~~Prior to the review of c~~Construction plans required by this Chapter or Chapter 114, shall be submitted to the City for review with a construction plan review fee per Appendix D of the New Braunfels Code of Ordinances ~~of $500.00 plus $15.00 per lot within the development whose construction plans are to be reviewed shall be paid to the City~~.

B. Section 118-56 Closure, abandonment, and sale of public right-of-way. (b)*Fee*. Each request shall be accompanied by the payment of a nonrefundable application fee in the amount specified in Appendix D of the New Braunfels Code of Ordinances to cover the expense of administrative processing, notification, and legal publication incurred by the City.

C. Section 118-68 *Fee Schedule.* The following is a list of applications with associated required fees that are not specified in other sections of this chapter that are now included in Appendix D of the New Braunfels Code of Ordinances.

Sidewalk Waiver	~~$300~~
Legal Lot Determination	~~$150~~
Plat Waiver/Variance	~~$150~~
Plat Vacation	~~$200~~
Plat Extension	~~$200~~
Plat Appeal (Rough Proportionality Claims)	~~$100~~
Plat Revision	~~$200~~
Voluntary Annexation	~~$1,00~~
License Agreement	~~$250~~
Regional Thoroughfare Plan Amendment	~~$900~~
Right-of-Way Determination	~~$500~~
Vested Rights Determination	~~$200~~
Newspaper notification (per published notice)	~~$115~~
Mail notification (per mailed notice)	~~$2.15~~

Section 4. Amendment to Chapter 106, Signs

Chapter 106 of City of New Braunfels Code of Ordinances is hereby amended so as to read as follows with all related fees for services included in Appendix D of the New Braunfels Code of Ordinances.

A. 106-6.2 Permit fees. Permit fees shall be per Appendix D of the New Braunfels Code of Ordinances. ~~based on the following schedule:~~

~~**Total square feet of advertising faces for permanent free standing sign**~~	~~**Fee**~~
~~1—100~~	~~$ 30.00~~
~~101—300~~	~~60.00~~
~~301—600~~	~~90.00~~
~~601—900~~	~~120.00~~
~~901 or greater~~	~~150.00~~
~~Temporary signs, banners and all other signs~~	~~30.00~~
~~Off-premise sign registration fee~~	~~25.00~~

B. Section 106-8.6 Conditional Sign Permit Fees. The application fee for a conditional sign permit shall be per Appendix D of the New Braunfels Code of Ordinances ~~$300.00~~.

C. Section 106-17 Temporary Street Banners. (f) *Procedures.* The city, in consultation with New Braunfels Utilities, shall establish acceptable locations for street banners, fees for installing and removing banners at the approved locations, specifications for construction and composition of street banners, and procedures for application, installation, and removal of banners. Once installed, a banner will not be removed prior to the date specified on the approved application unless upon mutual consent of the applicant and the city. A banner will remain installed for a maximum of two weeks and no less than one week. However, if the city determines that the banner presents an unacceptable risk to personal safety or property, it will be removed. Applicants who knowingly supply false or misleading information in their applications or other submissions may be disqualified from current or future participation in the banner program. City fees will be assessed per Appendix D of the New Braunfels Code of Ordinances.

Section 5. Amendment to Chapter 14, Buildings and Building Regulations

Chapter 14 of City of New Braunfels Code of Ordinances is hereby amended so as to read as follows with all related fees for services included in Appendix D of the New Braunfels Code of Ordinances.

A. Sec. 14-1. - Standard Swimming Pool Code adopted; amendments; appeals; re-inspection fee; penalty.

(a) The International Swimming Pool and Spa Code (ISPSC), 2015 edition, as published by the International Code Council (ICC) is hereby adopted and incorporated by reference as the standard for residential swimming pools, for one- or two-family dwellings.

(b) The International Swimming Pool and Spa Code (ISPSC), 2015 edition is adopted as the standard for multifamily, commercial and public swimming pools.

(c) Permit limitations. An application for a permit for any proposed work shall be deemed abandoned if the permit has not been issued (physically received by the applicant) within 30 days of the date of the application's approval, with or without conditions imposed by the city and any reviewing department or agency. An application is considered approved once all reviews are complete and the permit is ready to be issued subject to any condition attached thereto. If abandoned, the work shall not be commenced and no inspections will be made until another application has been made and another permit approved and issued. All permits shall expire a maximum of six months after the date the application is approved or conditionally approved, regardless of whether the permit had been issued (received by the applicant). Extensions of the expiration period may be made by the building official upon presentation by the applicant of good and justifiable cause. Examples of justification could include natural or manmade disasters, scope of extremely large projects that typically require more than six months to complete, or a lack of availability of materials due to regional or nationwide shortages.

(1) Fees. Fees for pools and related systems, equipment, and appurtenances shall be based on the schedules approved for the building, electrical, mechanical, gas, and plumbing codes of the city as outlined in Appendix of the Code of Ordinances.

~~(2) Refunds. With approval of the building official, a refund equal to 50 percent of the permit fee may be made to the applicant if the request is made within the first 90 days after the date of permit application. No refunds shall be made after the 90-day period has lapsed.~~

(~~3~~2) Electrical applications to comply with the 2014 National Electrical Code.

(d) Reinspection fees are outlined in Appendix D of the Code of Ordinances.~~A fee of $35.00 must be paid to the city for each re-inspection of work authorized under the code adopted in this section. The re-inspection fee will double with each failed inspection. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspection.~~

(e) Where there is conflict between the code adopted in this section and any city, state, ~~of~~ or federal law, the more restrictive requirements shall govern unless the less restrictive requirements are preemptive under state or federal law.

(f) Any person, firm, corporation, agent, or entity that violates a provision of the code adopted by this section, or fails to comply therewith or with any of the provisions thereof, or violates a detail, statement, plan, or specification for a permit approved there under, shall be guilty of a misdemeanor. Each and every day or portion thereof during which any such violation or failure to comply is committed or continued shall be deemed a separate offense subject to a fine of not more than $2,000.00 for each day and each offense upon conviction in a court of competent jurisdiction.

B. Section 14-2. - Standard Amusement Device Code adopted; amendments; re-inspection fee; penalty.

(c) Reinspection fees are outlined in Appendix D of the Code of Ordinances.~~A fee of $35.00 must be paid to the city for each re-inspection of work authorized under the code adopted by this section. The re-inspection fee will double with each failed inspection. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspection.~~

C. Section 14-28. ~~Building code fees~~Reserved.

~~(a) Building permit fees for work other than new construction, additions or items that do not have a square footage shall be based on valuation calculated using the following table rounded to the nearest thousand identified as Building Permit Fee Schedule A:~~

~~The following fees shall be paid with the application for a building permit for permits other than new construction or additions or items that do not have a square footage such as infrastructure, fences, swimming pool, retaining walls, etc.; for residential, fees shall be based on building permit fee column only.~~

~~Permit Fee Schedule A~~

Const Cost	Bldg Permit Fee	Fire Rev Fee	Bldg Rev Fee	TOTAL FEES
$1,000.00	$20.00	$20.00	$10.00	$50.00
2,000.00	25.00	20.50	12.50	58.00
3,000.00	30.00	21.00	15.00	66.00
4,000.00	35.00	21.50	17.50	74.00
5,000.00	40.00	22.00	20.00	82.00
6,000.00	45.00	22.50	22.50	90.00
7,000.00	50.00	23.00	25.00	98.00
8,000.00	55.00	23.50	27.50	106.00
9,000.00	60.00	24.00	30.00	114.00
10,000.00	65.00	24.50	32.50	122.00
11,000.00	70.00	25.00	35.00	130.00
12,000.00	75.00	25.50	37.50	138.00
13,000.00	80.00	26.00	40.00	146.00
14,000.00	85.00	26.50	42.50	154.00
15,000.00	90.00	27.00	45.00	162.00
16,000.00	95.00	27.50	47.50	170.00
17,000.00	100.00	28.00	50.00	178.00
18,000.00	105.00	28.50	52.50	186.00
19,000.00	110.00	29.00	55.00	194.00

(b) Building permit fees for new construction or new additions, shall be calculated on square footage using the following table identified as Building Permit Fee Schedule B which is dependent upon the use group involved.

(1) Buildings with multiple (mixed) use groups shall be charged the applicable fee per use group.

(2) Shell buildings shall be charged a fee based on 80 percent of the calculated permit fee (0.80 x permit fee).

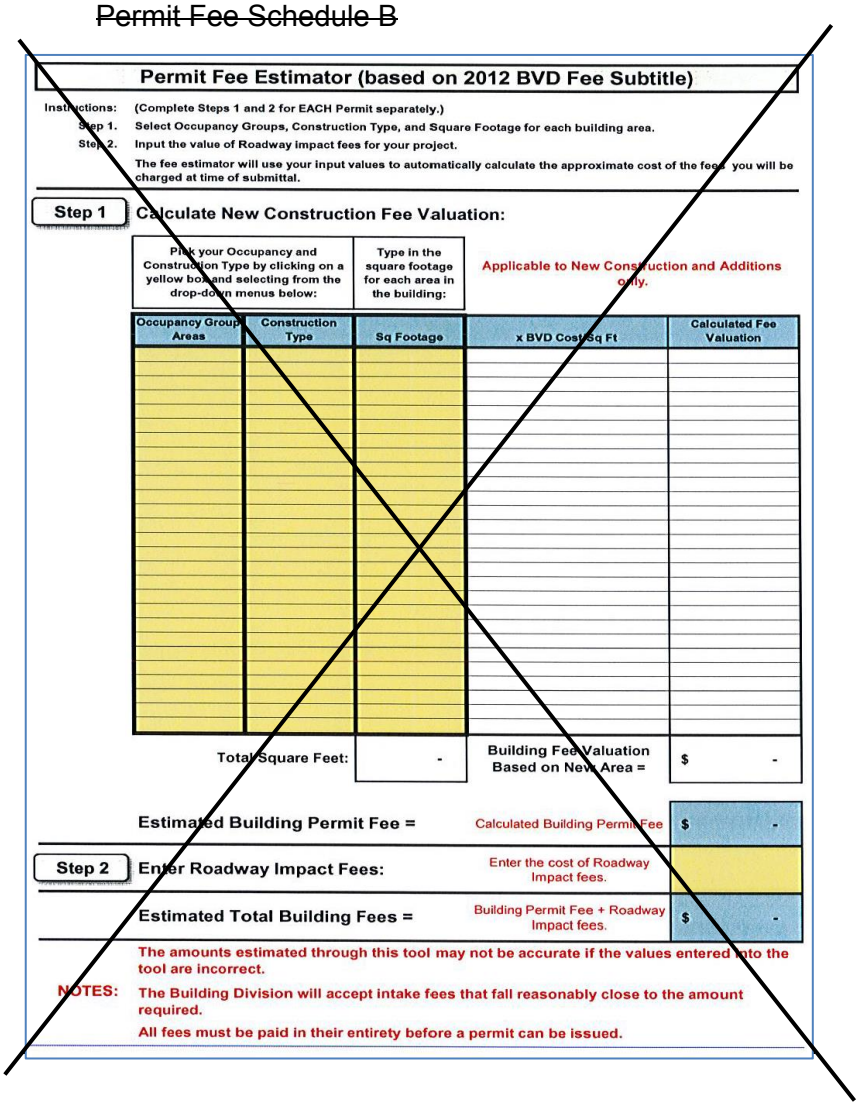
(3) When proposed work involves both remodel of existing and new construction/addition, the fee for the remodel will be based on the remodel valuation and the fee for the new construction/addition shall be based on the square footage.

(c) One permit with the fee based on the square footage would include all four trades: Building permit, plumbing permit, electrical permit, and mechanical permit.

(1) As part of the building permit application, permit and plan review fees are all inclusive. The contractor will disclose all registered subs at time of permit application or at time of permit pick up. If necessary, contractor may disclose registered subs in writing (email, fax, letter) prior to start of work.

(2) Permit fees are derived from ICC's 2012 Building Valuation Data (BVD) fee schedule using a spreadsheet that has been set with an appropriate multiplier.

Permit Fee Schedule B



Permit Fee Estimator (based on 2012 BVD Fee Subtitle)

Instructions: (Complete Steps 1 and 2 for EACH Permit separately.)
Step 1. Select Occupancy Groups, Construction Type, and Square Footage for each building area.
Step 2. Input the value of Roadway impact fees for your project.
The fee estimator will use your input values to automatically calculate the approximate cost of the fees you will be charged at time of submittal.

Step 1 Calculate New Construction Fee Valuation:

Pick your Occupancy and Construction Type by clicking on a yellow box and selecting from the drop-down menus below:

Type in the square footage for each area in the building:

Applicable to New Construction and Additions only.

Occupancy Group Areas	Construction Type	Sq Footage	x BVD Cost/Sq Ft	Calculated Fee Valuation

Total Square Feet: -

Building Fee Valuation Based on New Area = $ -

Estimated Building Permit Fee = Calculated Building Permit Fee $ -

Step 2 Enter Roadway Impact Fees: Enter the cost of Roadway Impact fees.

Estimated Total Building Fees = Building Permit Fee + Roadway Impact fees. $ -

The amounts estimated through this tool may not be accurate if the values entered into the tool are incorrect.

NOTES: The Building Division will accept intake fees that fall reasonably close to the amount required.
All fees must be paid in their entirety before a permit can be issued.

Reference Tables:

Occupancy Group Definitions

IBC Occupancy Group	ICC BVD Uses	2015 ICC Uses
A-1	Assembly, theaters, with stage	Theaters, auditoriums
A-1a	Assembly, theaters, without stage	Theaters, auditoriums
A-2	Assembly, nightclubs	
A-2a	Assembly, restaurants, bars, banquet halls	Restaurants
A-3	Assembly, churches	Churches
A-3a	Assembly, general, community halls, libraries, museums	Bowling alleys, libraries
A-4	Assembly, arenas	
B	Business	Banks, Medical Office, Office
E	Educational	Schools
F-1	Factory and industrial, moderate hazard	Industrial plants
F-2	Factory and industrial, low hazard	Industrial plants
H-1	High Hazard, explosives	
H-2,3,4	High Hazard	
H-5	HPM	
I-1	Institutional, supervised environment	Convalescent hospitals, homes for the elderly
I-2	Institutional, incapacitated	Hospitals
I-2a	Institutional	Nursing homes
I-3	Institutional, restrained	Jails
I-4	Institutional, day care facilities	
M	Mercantile	Stores, service stations (mini-marts)
R-1	Residential, hotels	Hotels and motels
R-2	Residential, multiple family	Apartment houses
R-3	Residential, one- and two-family	Dwellings
R-4	Residential care, assisted living facilities	
S-1	Storage, moderate hazard	Service stations (canopies & service bays), warehouses
S-2	Storage, low hazard	Public garages, warehouse

U	Utility, miscellaneous	Residential garage, private garage

Construction Types

Type of User	Construction Type and Circumstances
Single Family	Use R-3 Under Occupancy Group and VB under Construction Type for all aspects of all Single Family projects.
Small Businesses	Construction type for commercial projects/businesses varies according to type of material and size of project. Note that alterations or additions valued at $50,000.00 or more and new construction projects valued at $100,000.00 or more must involve a licensed design professional.
Design Professionals	Designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. However, a permit can only be issued to a registered contractor.

The International Code Council using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California, has compiled this Building Valuation Table. ICC has developed this data to aid jurisdictions in determining fees.

Group (2012 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	212.00	204.85	199.65	191.24	179.60	174.56	184.86	164.20	157.69
A-1 Assembly, theaters, without stage	194.08	186.93	181.72	173.31	161.68	156.64	166.93	146.29	139.78
A-2 Assembly, nightclubs	166.35	161.60	157.13	150.84	141.62	137.83	145.25	128.47	123.67
A-2 Assembly, restaurants, bars, banquet halls	165.35	160.60	155.13	149.84	139.62	136.83	144.25	126.47	122.67
A-3 Assembly, churches	195.96	188.81	183.60	175.20	163.70	158.66	168.82	148.30	141.80
A-3 Assembly, general,	163.95	156.80	150.60	143.19	130.66	126.63	136.81	115.27	109.76

community halls, libraries, museums									
A-4 Assembly, arenas	193.08	185.93	179.72	172.31	159.68	155.64	165.93	144.29	138.78
B Business	169.14	162.95	157.42	149.72	135.78	130.75	143.54	119.31	113.65
E Educational	178.16	172.02	166.90	159.29	148.37	140.44	153.73	129.09	124.71
F-1 Factory and industrial, moderate hazard	100.75	96.02	90.26	86.94	77.68	74.37	83.16	64.01	60.19
F-2 Factory and industrial, low hazard	99.75	95.02	90.26	85.94	77.68	73.37	82.16	64.01	59.19
H-1 High Hazard, explosives	94.40	89.68	84.92	80.59	72.52	68.22	76.82	58.86	0.00
H234 High Hazard	94.40	89.68	84.92	80.59	72.52	68.22	76.82	58.86	54.03
H-5 HPM	169.14	162.95	157.42	149.72	135.78	130.75	143.54	119.31	113.65
I-1 Institutional, supervised environment	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
I-2 Institutional, hospitals	287.21	281.02	275.49	267.79	252.87	0.00	261.61	236.40	0.00
I-2 Institutional, nursing homes	198.55	192.37	186.83	179.13	165.20	0.00	172.95	148.74	0.00
I-3 Institutional, restrained	192.65	186.47	180.93	173.23	160.79	154.76	167.05	144.32	136.66
I-4 Institutional, day care facilities	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
M Mercantile	123.91	119.17	113.69	108.40	98.85	96.06	102.82	85.70	81.90
R-1 Residential, hotels	169.51	163.62	159.09	152.26	140.12	136.46	148.59	125.88	121.46
R-2 Residential, multiple family	142.14	136.24	131.71	124.88	113.41	109.75	121.89	99.18	94.76
R-3 Residential, one- and two-family	133.78	130.13	126.82	123.67	118.74	115.78	119.75	110.94	103.92

R-4 Residential, care/assisted living facilities	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
S-1 Storage, moderate hazard	93.40	88.68	82.92	79.59	70.52	67.22	75.82	56.86	53.03
S-2 Storage, low hazard	92.40	87.68	82.92	78.59	70.52	66.22	74.82	56.86	52.03
U Utility, miscellaneous	71.08	67.13	62.83	59.33	53.24	49.79	56.48	41.64	39.44

(d) A fee of $35.00 must be paid to the city for each re-inspection of work authorized under the code adopted in this section. The re-inspection fee will double with each failed inspection. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspection.

(e) For the moving of any building or structure, the fee shall be $100.00.

(f) For the demolition of any building or structures, the fee shall be:

0 up to 100,000 cu. ft. $50.00

100,000 cu. ft. and over, per 1,000 cu. ft. 0.50

(g) Penalties. The building official shall have the authority to require, where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be $200.00 or double the original permit fee per occurrence as determined by the building official, but the payment of such fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

(h) Plan review fee. Plans for which a permit has not been applied for may be submitted for review by the city. If using Permit Fee Schedule A: A fee equal to one-half of the building permit, fire review and building review fee shall be paid: or, if using Permit Fee Schedule B: A fee equal to one-half of the building permit fee will be charged. If a building permit application is made for construction of a building shown on plans reviewed under the plan check program within 30 days of the plan check, and the building official determines the plans are essentially the same as those submitted for plan checking, only the additional one-half of the permit fee shall be paid.

(i) An application fee of $50.00 shall be paid to the city by applicants desiring a certificate of occupancy for change of use on an existing building in the city prior to occupancy of said building.

~~(j) A temporary certificate of occupancy fee of $250.00 shall be paid to the city, with a $100.00 refund if the permanent certificate of occupancy is issued within 30 days of the temporary certificate of occupancy issuance. For each request of extension for the temporary certificate of occupancy, a fee of $100.00 shall be paid to the city.~~

D. Section 14-51. - Electrical code.

The National Electrical Code ~~2005~~2014 is hereby adopted as the electrical code of the city, except:

(1) Section 80-35, Effective Date, is not adopted.

(2) Section 80.15, Electrical Board of the National Electrical Code, is deleted.

(3) That paragraph 80.23(B)(3) of the ~~2005~~2014 National Electrical Code is deleted.

E. Section 14-57. ~~Registration and bond generally~~Electrical Contractor Registration.

~~It shall be unlawful for any corporation, partnership, association, or individual to engage in the business of installing, altering or changing of any electrical wiring and apparatus within any building in the city that does not have a valid, unexpired electrical contractor's registration from the city. The registration must be issued in the name of the individual who met the requirements of this article. Nothing contained in this article shall be construed to prevent a property owner from doing electrical work in a building owned by him to be occupied by him as a dwelling or home of a two-family dwelling or single-family dwelling type; provided, that the property owner must actually perform the work and that no person other than the actual owner shall do any part of the work unless such persons possess a electrical contractor's registration in full compliance with all provisions of this article, and further provided, that all work performed and material used meets the requirements of this article and the city electrical inspector's approval.~~

~~(1) An applicant for any electrical registration shall make application to the building department on the form provided by that department. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.~~

~~(2) Electrical contractor's registration. The applicant must show proof of state registration and pay a registration fee of $200.00 (new applicants).~~

(3) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of $300,000.00 liability insurance, conditioned that the person engaged in the electrical business will faithfully observe all the laws pertaining to electric installation and maintenance, and further, that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the electric business, or by any other unfaithful or inadequate work done either by the person or his agents or employees.

(4) Upon acceptance of the proof of insurance required under subsection (3) of this section by the city, the individual, firm or corporation desiring to do such work shall secure from the building department of the city an electrical contractor's registration, which shall not be transferable. In the event of the dissolution of any company or partnership holding such registration, the member in whose name the registration was issued and who retains such registration shall be required to renew the certificate of insurance provided for in this section before doing any such work provided for in this article. The person obtaining an electrical contractor's registration shall pay to the city the sum of $200.00 for the first year and $75.00 as an annual renewal fee for such registration. Every registered electrical contractor shall have his city registration in his possession when performing or supervising electrical work.

(5) Master electrician's registration. The applicant must show proof of state registration and pay a registration fee of $100.00. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a master electrician's registration shall pay the sum of $100.00 for the first year and the sum of $50.00 as an annual renewal fee for such registration. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(6) Journeyman electrician's registration. The applicant must show proof of state registration and pay a registration fee of $100.00. No insurance is required of a

journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a journeyman electrician's registration shall pay the sum of $100.00 for the first year and the sum of $50.00 as an annual renewal fee for such registration. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(7) Wireman electrician's registration. The applicant must show proof of state registration and pay a registration fee of $50.00. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a wireman electrician's registration shall pay the sum of $50.00 for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single family and duplex residences only.

(8) Maintenance electrician's registration. The applicant must show proof of state registration and pay a registration fee of $50.00. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a maintenance electrician's registration shall pay the sum of $50.00 for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.

(9) Sign electrician's registration. The applicant must show proof of state registration and pay a registration fee of $50.00. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. The person obtaining a sign electrician's registration shall pay the sum of $50.00

~~for the first year and the sum of $25.00 as an annual renewal fee for such registration. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.~~

~~(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. The cost of such registration will be $25.00 annually. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.~~

It shall be unlawful for any corporation, partnership, association, or individual to engage in the business of installing, altering or changing of any electrical wiring and apparatus within any building in the city that does not have a valid, unexpired electrical contractor's registration from the city. The registration must be issued in the name of the individual who met the requirements of this article. Nothing contained in this article shall be construed to prevent a property owner from doing electrical work in a building owned by him to be occupied by him as a dwelling or home of a two-family dwelling or single-family dwelling type; provided, that the property owner must actually perform the work and that no person other than the actual owner shall do any part of the work unless such persons possess a electrical contractor's registration in full compliance with all provisions of this article, and further provided, that all work performed and material used meets the requirements of this article and the city electrical inspector's approval.

(1) An applicant for any electrical registration shall make application to the building division on the form provided by the city. All questions on such form must be completely and truthfully answered upon submission of the application in order to receive favorable consideration for registration issuance.

(2) Electrical contractor's registration. The applicant must show proof of state registration

(3) Liability insurance required. Before any person shall be issued an electrical contractor's registration, retain such registration or engage in the business of electrical work in the city, he shall first provide proof of $300,000.00 liability insurance, conditioned that the person engaged in the electrical business will faithfully observe all the laws pertaining to electric installation and maintenance, and further, that the city shall be indemnified

and saved harmless from all claims arising from accidents and damage of any character whatsoever caused by the negligence of such person engaged in the electric business, or by any other unfaithful or inadequate work done either by the person or his agents or employees.

(4) Upon acceptance of the proof of insurance required under subsection (3) of this section by the city, the individual, firm or corporation desiring to do such work shall secure from the building division of the city an electrical contractor's registration, which shall not be transferable. In the event of the dissolution of any company or partnership holding such registration, the member in whose name the registration was issued and who retains such registration shall be required to renew the certificate of insurance provided for in this section before doing any such work provided for in this article. The person obtaining an electrical contractor's registration shall pay to the city the sum of $200.00 for the first year and $75.00 as an annual renewal fee for such registration. Every registered electrical contractor shall have his city registration in his possession when performing or supervising electrical work.

(5) Master electrician's registration. The applicant must show proof of state registration. No insurance is required of a master electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every master electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered master electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(6) Journeyman electrician's registration. The applicant must show proof of state registration. No insurance is required of a journeyman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every journeyman electrician shall have his city registration in his possession when performing or supervising electrical work. A properly registered journeyman electrician is considered qualified to provide immediate permitted job-site supervision of electrical installations, provided that he is under the general, which may include permitted job-site supervision by the electrical contractor who holds the permit issued in accordance with this article.

(7) Wireman electrician's registration. The applicant must show proof of state registration. No insurance is required of a wireman electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every wireman electrician shall have his city registration in his possession when performing electrical work. A wireman electrician may supervise no more than one apprentice electrician at the permitted job-site location, and is limited to single family and duplex residences only.

(8) Maintenance electrician's registration. The applicant must show proof of state registration. No insurance is required of a maintenance electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every maintenance electrician shall have his city registration in his possession when performing electrical work. A maintenance electrician shall perform his duties only for the company for which he is employed.

(9) Sign electrician's registration. The applicant must show proof of state registration. No insurance is required of a sign electrician, and he may not be issued an electrical permit except that this restriction shall in no way deprive him of property owner's rights available to any citizen as described elsewhere in this article. Every sign electrician shall have his city registration in his possession when performing electrical work. A sign electrician shall perform his duties under the direct, permitted job-site supervision of a journeyman or electrical contractor who holds a valid city registration.

(10) Apprentice electrician. An electrical contractor may employ a person as an apprentice electrician and such person shall be identified by the issuance of an apprentice electrician's registration by the city. Every apprentice shall have his city registration in his possession when performing electrical work. An apprentice electrician shall perform his duties under the direct, permitted job-site supervision of a wireman, journeyman or electrical contractor, who holds a valid city registration.

(11) All registrations issued under the provisions of this article shall expire on June 30th of each year, unless sooner revoked.

(12) Any holder of an expired registration issued under the provisions of this article may renew such registration within 30 days of its expiration by paying the annual renewal fee for such registration. A holder of a registration issued under the provisions of this article, which has expired in excess of 30 days, shall be considered as a new applicant.

(13) Any person who has applied for an electrician's registration and who has been refused such registration by the administrative authority of this article may apply to the construction board of appeals for a full hearing.

F. ~~Section 14-64. - Electrical fees.~~

~~(a) The following electrical fees shall be paid with an application for an electrical permit:~~

~~Electrical Permit Fee Schedule~~

~~Additional circuits ..... $10.00~~

~~Additions and/or repairs ..... 25.00~~

~~Commercial meter 120 volt, 120/240 single phase meter ..... 60.00~~

~~Commercial meter 240 volt, 120/240 three phase meter ..... 80.00~~

~~Commercial meter 277 volt, 277/480 single phase meter ..... 90.00~~

~~Commercial meter 480 volt, 277/480 three phase meter ..... 135.00~~

~~Electric motors first HP ..... 8.00~~

~~Electric motors additional HP ..... 3.00~~

~~Fee for issuing permit ..... 15.00~~

~~Fuel pumps or dispensers, each ..... 22.00~~

~~Manufactured home service connection ..... 25.00~~

~~Manufactured structure service connection (commercial) ..... 50.00~~

~~Mercury vapor—parking pole fixtures ..... 10.00~~

~~Meter put backs, (remove and replace same) ..... 17.50~~

~~Residential 231 amp to 400 amp meter ..... 65.00~~

~~Residential 401 amp and larger ..... 100.00~~

~~Residential 55 amp to 230 amp meter ..... 45.00~~

~~Residential or commercial panel with 1 to 6 circuits ..... 20.00~~

~~Residential or commercial panel with 6 to 24 circuits ..... 40.00~~

~~Residential or commercial panel with 25 or more circuits ..... 65.00~~

~~Residential—100 amp to 231 amp meter ..... 55.00~~

~~Residential 231 amp to 400 amp meter ..... 80.00~~

~~Residential 401 amp and larger ..... 110.00~~

~~Residential 55 amp to 100 ..... 45.00~~

~~Sign circuit ..... 10.00~~

~~Swimming pool circuit ..... 12.50~~

~~Underground or in-slab, over 100 ft. ..... 7.50~~

~~Underground or in-slab, under 100 ft. ..... 5.00~~

~~Welder circuit ..... 25.00~~

~~X-ray or MRI circuit ..... 40.00~~

~~(b) A fee of $35.00 must be paid for each re-inspection of work authorized under this article. The re-inspection fee will double with each failed inspection. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspections.~~

Sections ~~14-65~~ 14-64 – 14-90. – Reserved.

G. Sec. 14-93 – 14-95. - Reserved.

~~Sec. 14-94. - Plumbing fees.~~

~~The following plumbing permit fees shall be paid with the application for a plumbing permit.~~

~~Plumbing Permit Fee Schedule~~

~~Bathtub ..... $5.00~~

~~Dishwashing machine ..... 5.00~~

~~Drinking fountain ..... 5.00~~

~~Fee for issuing permit ..... 15.00~~

~~Stub out for future fixtures ..... 5.00~~

~~General repairs ..... 30.00~~

~~Grease trap ..... 5.00~~

~~Irrigation outlet ..... 2.00~~

~~Hose bib ..... 5.00~~

~~Lavatory ..... 5.00~~

~~Medical gas ..... 5.00~~

~~RPZ valve ..... 5.00~~

~~Sampling well ..... 5.00~~

~~Service (P traps/drains) ..... 5.00~~

~~Sewer lift station ..... 15.00~~

~~Sewer line ..... 10.00~~

~~Sinks (kitchen/mop/utility/etc.) ..... 5.00~~

~~Shower (stall/group) ..... 5.00~~

~~Urinal ..... 5.00~~

~~Washing machine ..... 5.00~~

~~Water closet ..... 5.00~~

~~Water heater ..... 5.00~~

~~Water line ..... 5.00~~

~~Water softener ..... 5.00~~

~~Sec. 14-95. - Reserved.~~

H. Section 14-96. – Violations and penalties.

(a) Any person or agent who shall violate a provision of this article or fail to comply therewith or with any of the provisions thereof, or violate a detail, statement or plan submitted and approved there under, shall be guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or continued, and upon conviction in the court of jurisdiction for any such violation, such person shall be punished by a fine of not more than $2,000.00.

(b) The building official shall have the authority to require, where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall be $200.00 or double the original permit fee per occurrence as determined by the building official, but the payment of such fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

I. Sec. 14-119 – 14-140. - Reserved.

~~Sec. 14-120. - Mechanical fees.~~

~~The following mechanical permit fees shall be paid with an application for a mechanical permit:~~

~~Mechanical Permit Fee Schedule~~

~~Fee for issuing permit ..... $15.00~~

~~Fee for HVAC for first thousand plus $5.00 for each additional thousand ..... 10.00~~

~~Example:~~

~~1.00 to 1,000.00~~	~~10.00 + 15.00~~	~~= 25.00~~
~~1,000.01 to 2,000.00~~	~~15.00 + 15.00~~	~~= 30.00~~
~~2,000.01 to 3,000.00~~	~~20.00 + 15.00~~	~~= 35.00~~
~~3,000.01 to 4,000.00~~	~~25.00 + 15.00~~	~~= 40.00~~
~~4,000.01 to 5,000.00~~	~~30.00 + 15.00~~	~~= 45.00~~

5,000.01 to 6,000.00	35.00 + 15.00	= 50.00
6,000.01 to 7,000.00	40.00 + 15.00	= 55.00
7,000.01 to 8,000.00	45.00 + 15.00	= 60.00
8,000.01 to 9,000.00	50.00 + 15.00	= 65.00
9,000.01 to 10,000.00	55.00 + 15.00	= 70.00
10,000.01 to 11,000.00	60.00 + 15.00	= 75.00
11,000.01 to 12,000.00	65.00 + 15.00	= 80.00
12,000.01 to 13,000.00	70.00 + 15.00	= 85.00
13,000.01 to 14,000.00	75.00 + 15.00	= 90.00
14,000.01 to 15,000.00	80.00 + 15.00	= 95.00
15,000.01 to 16,000.00	85.00 + 15.00	= 100.00
16,000.01 to 17,000.00	90.00 + 15.00	= 105.00
17,000.01 to 18,000.00	95.00 + 15.00	= 110.00
18,000.01 to 19,000.00	100.00 + 15.00	= 115.00
19,000.01 to 20,000.00	105.00 + 15.00	= 120.00

Secs. 14-121—14-140. - Reserved.

J. Sec. 14-153. - Inspection fees and reinspection fees shall be as outlined in Appendix D of the Code of Ordinances.

Permit fees under this article shall be the same as for the plumbing and/or gas code.

K. Sec. 14-177.6. - Fuel gas fees.

(a) The following fuel gas permit fees shall be paid with an application for a fuel gas permit:

Fuel Gas Permit Fee Schedule

Gas line $15.00

Gas test 15.00

Fee for issuing permit 15.00

~~(b) A fee of $35.00 must be paid for each re-inspection of work authorized under this article. The re-inspection fee will double with each failed inspection. The re-inspection fee must be paid by the person or agent to whom the permit was issued prior to any re-inspection.~~

L. Sec. 14-403. ~~– Fee refunds.~~Reserved.

~~The building official shall authorize the refunding of fees as follows:~~

~~(1) The full amount of any fee paid hereunder that was erroneously paid or collected.~~

~~(2) Not more than 50 percent of the permit fee paid when no work has been done under a permit issued in accordance with this Code.~~

~~(3) Not more than 90 percent of the plan fee paid when an application for a permit for which a fee has been paid is withdrawn or canceled before any plan review effort has been expended.~~

~~(4) The building official my refund an amount he/she determines if some, but not all plan review effort has been expended and a permit has not yet been issued.~~

~~The building official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment~~.

Section 6. Amendment to Chapter 54, Fire Prevention and Protection

Chapter 54 of City of New Braunfels Code of Ordinances is hereby amended so as to read as follows with all related fees for services included in Appendix D of the New Braunfels Code of Ordinances.

A. Sec. 54-87. - Fire prevention and protection fees.

(a) Fees are as adopted in Appendix D of the Code of Ordinances.

~~(a) Tent permits for all tents 200 square feet or greater is $75.00. Applicants that use tents on a regular basis may apply for an annual tent permit and the fee for the annual tent permit is $400.00.~~

~~(b) System permits:~~

~~(1) Fixed pipe suppression system permit: $50.00 per system~~

~~(2) Fire sprinkler system permit:~~

~~$150.00 for systems with up to 200 heads.~~

~~$0.50 for each additional head.~~

~~$1,500.00 maximum fee.~~

~~(3) Fire alarm system permit:~~

~~$150.00 for systems with up to 200 initiating and/or signaling devices.~~

~~$0.50 for each additional initiating and/or signaling device.~~

~~$500.00 maximum fee.~~

~~(4) Standpipe/water supply permit: $100.00 per system when not installed in conjunction with new building construction.~~

~~(5) Smoke control system permit: $75.00 per system.~~

~~(6) Temporary flammable or combustible liquid tank permit: $120.00 per system.~~

~~(7) System modification permit:~~

~~Existing fire sprinkler system (up to 20 sprinkler heads) is $75.00.~~

~~Existing fire alarm system (up to ten initiating/signaling devices) is $75.00.~~

~~Existing fixed pipe fire suppression system is $25.00.~~

~~(8) Re-inspection/retest fee: $50.00 for each re-inspection/retest. This fee shall be paid before any subsequent inspections are made.~~

~~(9) Double permit fees may be imposed where the fire code official finds that a condition, activity or occupancy requiring a permit exists and no permit has been issued by the fire official.~~

~~(10) Licensed facility inspections:~~

~~Daycares ..... $ 50.00~~

~~Nursing or care centers ..... 150.00~~

~~Hospitals ..... 200.00~~

~~Institutional restrained ..... 200.00~~

~~Licensed in home facilities ..... 50.00~~

~~Foster homes or adoption centers ..... Exempt~~

~~These fees only apply to state licensed facilities that require annual fire inspections for operational permits. Non-profit governmental organizations are exempt from this section.~~

~~(11) Fire watch: $50.00 per hour per qualified fire service personnel.~~

Section 7. Amendment to the Code of Ordinances, Establishing Appendix D

The City of New Braunfels Code of Ordinances is hereby amended to create Appendix D, so as to read as follows.

APPENDIX D. FEE SCHEDULE

Section A. Schedule of Development Fees.

APPLICATION	FEE
BUILDING PERMITTING, PLAN REVIEW, INSPECTIONS	
Permit Application fee (all new construction, additions and substantial alterations)	Residential: $50 Commercial: $100
Residential Plan Review fee (all new construction, additions, alterations, change in use, existing C of O and interior)	Residential: 25% of permit cost not to exceed $2,500
Commercial Plan Review fee (all new construction, additions, alterations, change in use, existing C of O and interior)	Commercial: 25% of permit cost not to exceed $15,000
Building Permit fee	See Section B
Inspection fees	Residential - $35 Commercial - $50 Re-inspections - $35 (double for each re-inspection)
Airport Hazard Inside city limits - one- and two-family dwelling	$100
Airport Hazard Inside city limits - anything other than one- and two-family dwelling	$250
Airport Hazard In ETJ - one- and two–family dwelling	$100
Airport Hazard in ETJ anything other than one- and two-family dwelling	$250
New Occupant Permit (Previously referred to as "Existing Certificate of Occupancy")	$150
Building Moving Fee	$100
Building Demolition fee (up to 100,000 cubic feet)	$50
Building Demolition fee (over 100,000 cubic feet)	$50 + $.50/1,000 cubic feet over 100,000
Temporary C of O	See Section B
Temporary C of O extension	See Section B
Electrical, Plumbing, Mechanical, Fuel Gas,	See Section B
Contractor Registration	See Chapter 14
Stop-work order - issued	$50
Stop-work order - lift	$50
ENGINEERING PLAN REVIEW AND INSPECTIONS	
Site Preparation	$2,500 plus $50/acre or lot whichever is greater

Inspection fees	Infrastructure - $100 ETJ 200% of standard fee Re-inspection - $150 After-hours/ weekend/holiday - $250
Subdivision/Public Infrastructure Plan Review	$3,500 plus $50/acre or lot whichever is greater
FLOODPLAIN	
Floodplain permit application fee -Residential	$100
Floodplain permit application fee - Non-Residential	$250
Floodplain plan review	$1,500
CLOMR	$2,500
LOMR without CLOMR	$3,000
LOMR with CLOMR	$1,500
LOMA	$500
Revision review	$500
Flood zone verification letter	$25
PLATTING RELATED	
Right-of-way Abandonment and closures	$500
Legal Lot Determination	$150
Plat Appeal (Rough Proportionality Claims)	$100
Plat Extension	$200
Plat Revision	$200
Plat Vacation	$200
Plat Waiver/Subdivision Variance (not including sidewalk waivers)	$150
Master Plan	$1,000.00 plus $50 /acre ($2,500 max)
Minor Revision to Approved Master Plan (Administrative)	50% of original application fee
Preliminary Plat	$1,000.00 plus $50 /acre ($2,500 max)
Final Plat/Minor Plat/Development Plat	$1,250.00 plus $100 /acre ($2,500 max)
Replat, not administrative	$1,000.00 plus $50 /acre ($3,000 max)
Vacation of previously recorded plat	$150
Amending Plat/Amendment to Plat- admin	$500.00 plus $100 /acre ($1,000 max)
Right-of-Way Determination	$500
Mail notification (per mailed notice)	$2.15
Newspaper notification (per published notice)	$115
TRAFFIC IMPACT ANALYSIS	
TIA Worksheet	$100

Level 1	$500
Level 2	$750
Level 3	$1,250
Revision review	$500
Scoping Meeting	$0
DRAINAGE REVIEW	
Master Drainage Plan (with PDs and Master Plans)	$500
Preliminary Drainage Plan (with Preliminary Plats)	$100
Type 1 development category	$250
Type 2 development category	$500
Type 3 development category	$2,000
Type 3 with water quality	$2,500
Type 3 with stormwater connection	$3,000
Type 1 or 2 revision review	$250
Type 3 revision review	$1,000
FIRE	
Short term rental annual inspection	$125
Fixed Pipe Suppression System	$120
Fixed Pipe Modification	$120
Fire Sprinkler System (Under 200 heads)	$240
Fire Sprinkler System (Over 200 heads)	$240 plus $0.75 each add. Head. ($2000 max)
Fire Alarm System (Up to 200 signaling devices)	$240
Fire Alarm System (Over 200 signaling devices)	$240 plus $0.75 each add. device. ($1000 max)
Standpipe/Water Supply (Fire line)	$180
Smoke Control System	$120
Flammable or Combustible Liquid Tank Permit	$180
Fire Sprinkler Modification (Up to 20 heads)	$120
Fire Alarm Modification (Up to 10 devices)	$180
Re-Inspection / Re-test	$100/hr
Tent Permit Fee (Annual)	$400
Tent Permit Fee (Per Event)	$75
Preliminary Fire Systems Plan review	$60/hr with 1 hour minimum
Licensed Daycare Inspection	$60
Licensed Nursing Care Center Inspection	$180
Licensed Hospital Inspection	$240
Licensed Institutional (restrained) Inspection	$240
Licensed In-Home Facilities Inspection	$60

Licensed Homes/Adoption Centers Inspection	Exempt
Fire Watch	$60/hour
MEETINGS	
Predevelopment meetings	$300 – credited toward the related application/permit fee submitted after the meeting
Comment Review meetings	First - $250 Additional - $500 each
Plat resubmittal meeting	$0
SIGNS	
Sign Permit - free standing (not including any associated building permits)	$2.50 per square ft ($50 min)
Banners – temporary, on premise / building	$50
Conditional Sign Permits and Sign Variances	$750
Temporary Community signs	$50
Temporary over Street Banners	$50 + $125 each location
ZONING	
Future Land Use Plan Amendment	$500
Historic Landmark Designation	$0
Zoning Change	$1,000 plus $100/acre (max. $3,000)
Special Use Permit	$1,500 plus $100/acre (max. $4,000)
Planned Development	$2,000 plus $100/acre (max. $5,000)
PD Administrative Revision	$200
Rezoning case signs	$15 each
Mail notification (per mailed notice)	$2.15
Newspaper notification (per published notice)	$115
Registration of a Nonconforming Use	$200
Zoning Verification - basic	$25
Zoning Verification - detailed	$100
Home Occupation Certification	$25
ZBA & AMBA	
Variance Application	Homestead: $350 (+$50 for each additional variance request) Non Homestead: $700 (+$50 for each additional variance request)
Special Exception	$700
Appeal of an Administrative Determination	$700

ZBA case signs	$15 each
Mail notification (per mailed notice)	$2.15
MISC	
Appeal of building design standard	$500
Misc. Appeals to City Council	$500
Sidewalk Waiver	$300
Main Street Sidewalk Permits	$10 for new, $5 for renewal
Residential Buffer Wall Exemption	$100
Short term rental permit	$200
Street Name Change	$550
Tree Removal Permit (commercial only)	$100
Valet Parking Permit	$150
Vendor (Temp) Permits	$75
Setback determination	$100
Masonry wall objection	$100
Offsite parking agreement	$200
Regional Thoroughfare Plan Amendment	$900
Code Text Amendment request	$900
Temporary Mobile Storage Units (Moving Pods)	$25
Mobile Food Court permit	$300
License Agreement	$250
Vested Rights Determination	$200
Annexation (Voluntary)	$1,000
Development Agreement application fee	$500
Development Agreement processing	$5,000
Development Agreement amendment review	$2,500
ADDITIONAL REVIEW (RESUBMITTALS)	
Additional Review (each after 2nd review)	$1,500 for 3rd review $1,500 + 10% of original review fee for 4th review $1,500 + 20% of original review fee for 5th review $1,500 + 30% of original review fee for 6th review
Additional review - Accessory Permits (signs, fences, etc) (each after 2nd review)	$250 each after 2nd review
INFORMATION TECHNOLOGY	
Technology fee	3% on all review fees

Section B. Additional fees specific to Building Permitting.

(a) Building permit fees for work other than new construction and additions, shall be based on valuation of the project, calculated using the following table rounded to the nearest thousand identified as Building Permit Fee Schedule A:

Building Permit Fee Schedule A Residential:

Total Valuation	Permit Fee
$0 - $50,000	$20 + $5 Per $1,000 or fraction there of
$50,001 - $100,000	$265 + $4 per $1,000 or fraction there of
$100,001 - $500,000	$465 + $3 per $1,000 or fraction there of
$500,001 - and above	$1,665 + $2 per $1,000 or fraction there of

Building Permit Fee Schedule A Commercial:

Total Valuation	Permit Fee
$0 - $50,000	$50 + $6 per $1,000 or fraction there of
$50,001 – 500,000	$350 + $5 per $1,000 or fraction there of
$500,001 – and above	$2,600 + $4 per $1,000 or fraction there of

The above fees shall be paid with the application for a building permit for permits other than new construction or additions or items that do not have a square footage such as infrastructure, fences, swimming pool, retaining walls, etc.

(b) Building permit fees for new construction or new additions, shall be calculated on square footage using the following table identified as Building Permit Fee Schedule B which is dependent upon the Use and Construction Type.

(1) Buildings with multiple (mixed) use groups shall be charged the applicable fee per use group.

(2) Shell buildings shall be charged a fee based on 80 percent of the calculated permit fee (0.80 x permit fee).

(3) When proposed work involves both remodel of existing and new construction/addition, the fee for the remodel will be based on the remodel valuation and the fee for the new construction/addition shall be based on the square footage.

(4) Permit fees are derived from ICC's 2012 Building Valuation Data (BVD) fee schedule using a spreadsheet that has been set with an appropriate multiplier.

Building Permit Fee Schedule B.

Permit Fee Estimator (based on 2012 BVD Fee Subtitle)

Instructions: (Complete Steps 1 and 2 for EACH Permit separately.)
Step 1. Select Occupancy Groups, Construction Type, and Square Footage for each building area.
Step 2. Input the value of Roadway impact fees for your project.
The fee estimator will use your input values to automatically calculate the approximate cost of the fees you will be charged at time of submittal.

Step 1 Calculate New Construction Fee Valuation:

Pick your Occupancy and Construction Type by clicking on a yellow box and selecting from the drop-down menus below:	Type in the square footage for each area in the building:	Applicable to New Construction and Additions only.

Occupancy Group Areas	Construction Type	Sq Footage	x BVD Cost/Sq Ft	Calculated Fee Valuation

A-1	Assembly, theaters, with stage	Theaters, auditoriums
A-1a	Assembly, theaters, without stage	Theaters, auditoriums
A-2	Assembly, nightclubs	
A-2a	Assembly, restaurants, bars, banquet halls	Restaurants
A-3	Assembly, churches	Churches
A-3a	Assembly, general, community halls, libraries, museums	Bowling alleys, libraries
A-4	Assembly, arenas	
B	Business	Banks, Medical Office, Office
E	Educational	Schools
F-1	Factory and industrial, moderate hazard	Industrial plants
F-2	Factory and industrial, low hazard	Industrial plants
H-1	High Hazard, explosives	
H-2,3,4	High Hazard	
H-5	HPM	
I-1	Institutional, supervised environment	Convalescent hospitals, homes for the elderly
I-2	Institutional, incapacitated	Hospitals
I-2a	Institutional	Nursing homes
I-3	Institutional, restrained	Jails
I-4	Institutional, day care facilities	
M	Mercantile	Stores, service stations (mini-marts)
R-1	Residential, hotels	Hotels and motels
R-2	Residential, multiple family	Apartment houses
R-3	Residential, one- and two-family	Dwellings
R-4	Residential care, assisted living facilities	
S-1	Storage, moderate hazard	Service stations (canopies & service bays), warehouses
S-2	Storage, low hazard	Public garages, warehouse

U	Utility, miscellaneous	Residential garage, private garage

Construction Types

Type of User	Construction Type and Circumstances
Single Family	Use R-3 Under Occupancy Group and VB under Construction Type for all aspects of all Single Family projects.
Small Businesses	Construction type for commercial projects/businesses varies according to type of material and size of project. Note that alterations or additions valued at $50,000.00 or more and new construction projects valued at $100,000.00 or more must involve a licensed design professional.
Design Professionals	Designer or design professional that prepared the plans for the building for which a building permit is sought may submit a building permit application. However, a permit can only be issued to a registered contractor.

The International Code Council using the Marshall Valuation Service, as published by the Marshall and Swift Publication Company, Los Angeles, California, has compiled this Building Valuation Table. ICC has developed this data to aid jurisdictions in determining fees.

Group (2012 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	212.00	204.85	199.65	191.24	179.60	174.56	184.86	164.20	157.69
A-1 Assembly, theaters, without stage	194.08	186.93	181.72	173.31	161.68	156.64	166.93	146.29	139.78
A-2 Assembly, nightclubs	166.35	161.60	157.13	150.84	141.62	137.83	145.25	128.47	123.67
A-2 Assembly, restaurants, bars, banquet halls	165.35	160.60	155.13	149.84	139.62	136.83	144.25	126.47	122.67
A-3 Assembly, churches	195.96	188.81	183.60	175.20	163.70	158.66	168.82	148.30	141.80
A-3 Assembly, general, community	163.95	156.80	150.60	143.19	130.66	126.63	136.81	115.27	109.76

halls, libraries, museums									
A-4 Assembly, arenas	193.08	185.93	179.72	172.31	159.68	155.64	165.93	144.29	138.78
B Business	169.14	162.95	157.42	149.72	135.78	130.75	143.54	119.31	113.65
E Educational	178.16	172.02	166.90	159.29	148.37	140.44	153.73	129.09	124.71
F-1 Factory and industrial, moderate hazard	100.75	96.02	90.26	86.94	77.68	74.37	83.16	64.01	60.19
F-2 Factory and industrial, low hazard	99.75	95.02	90.26	85.94	77.68	73.37	82.16	64.01	59.19
H-1 High Hazard, explosives	94.40	89.68	84.92	80.59	72.52	68.22	76.82	58.86	0.00
H234 High Hazard	94.40	89.68	84.92	80.59	72.52	68.22	76.82	58.86	54.03
H-5 HPM	169.14	162.95	157.42	149.72	135.78	130.75	143.54	119.31	113.65
I-1 Institutional, supervised environment	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
I-2 Institutional, hospitals	287.21	281.02	275.49	267.79	252.87	0.00	261.61	236.40	0.00
I-2 Institutional, nursing homes	198.55	192.37	186.83	179.13	165.20	0.00	172.95	148.74	0.00
I-3 Institutional, restrained	192.65	186.47	180.93	173.23	160.79	154.76	167.05	144.32	136.66
I-4 Institutional, day care facilities	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
M Mercantile	123.91	119.17	113.69	108.40	98.85	96.06	102.82	85.70	81.90
R-1 Residential, hotels	169.51	163.62	159.09	152.26	140.12	136.46	148.59	125.88	121.46
R-2 Residential, multiple family	142.14	136.24	131.71	124.88	113.41	109.75	121.89	99.18	94.76
R-3 Residential, one- and two-family	133.78	130.13	126.82	123.67	118.74	115.78	119.75	110.94	103.92

R-4 Residential, care/assisted living facilities	168.08	162.18	157.65	150.82	138.52	134.86	146.99	124.28	119.86
S-1 Storage, moderate hazard	93.40	88.68	82.92	79.59	70.52	67.22	75.82	56.86	53.03
S-2 Storage, low hazard	92.40	87.68	82.92	78.59	70.52	66.22	74.82	56.86	52.03
U Utility, miscellaneous	71.08	67.13	62.83	59.33	53.24	49.79	56.48	41.64	39.44

(c) New Occupant Permit. Prior to occupying an existing, previously occupied building or site, a certificate of occupancy for a change of use shall be required. The application fee shall be $150.00.

(d) Temporary Certificate of Occupancy. A fee of $250.00 shall be paid to the city, and granted for only minor incompletions of a commercial project, such as irrigation and landscaping, and shall be good for 30 days. For each request for an extension of the temporary certificate of occupancy, a fee of $100.00 shall be paid to the city.

(e) Electrical Fees. The following electrical fees shall be paid with an application for an electrical permit:

Electrical Permit Fee Schedule

Additional circuits $10.00

Additions and/or repairs 25.00

Commercial meter 120 volt, 120/240 single phase meter 60.00

Commercial meter 240 volt, 120/240 three phase meter 80.00

Commercial meter 277 volt, 277/480 single phase meter 90.00

Commercial meter 480 volt, 277/480 three phase meter 135.00

Electric motors first HP 8.00

Electric motors additional HP 3.00

Fee for issuing permit 15.00

Fuel pumps or dispensers, each 22.00

Manufactured home service connection 25.00

Manufactured structure service connection (commercial) 50.00

Mercury vapor—parking pole fixtures 10.00

Meter put backs, (remove and replace same) 17.50

Residential 231 amp to 400 amp meter 65.00

Residential 401 amp and larger 100.00

Residential 55 amp to 230 amp meter 45.00

Residential or commercial panel with 1 to 6 circuits 20.00

Residential or commercial panel with 6 to 24 circuits 40.00

Residential or commercial panel with 25 or more circuits 65.00

Residential—100 amp to 231 amp meter 55.00

Residential-231 amp to 400 amp meter 80.00

Residential-401 amp and larger 110.00

Residential-55 amp to 100 ..... 45.00

Sign circuit 10.00

Swimming pool circuit 12.50

Underground or in-slab, over 100 ft. 7.50

Underground or in-slab, under 100 ft. 5.00

Welder circuit 25.00

X-ray or MRI circuit 40.00

(f) Plumbing fees. The following plumbing permit fees shall be paid with the application for a plumbing permit.

Plumbing Permit Fee Schedule

Bathtub $5.00

Dishwashing machine 5.00

Drinking fountain 5.00

Fee for issuing permit 15.00

Stub out for future fixtures 5.00

General repairs 30.00

Grease trap 5.00

Irrigation outlet 2.00

Hose bib 5.00

Lavatory 5.00

Medical gas 5.00

RPZ valve 5.00

Sampling well 5.00

Service (P traps/drains) 5.00

Sewer lift station 15.00

Sewer line 10.00

Sinks (kitchen/mop/utility/etc.) 5.00

Shower (stall/group) 5.00

Urinal 5.00

Washing machine 5.00

Water closet 5.00

Water heater 5.00

Water line 5.00

Water softener 5.00

(g) Mechanical fees. The following mechanical permit fees shall be paid with an application for a mechanical permit:

Mechanical Permit Fee Schedule

Total Valuation	**Permit Fee**
$0 - $1,000	$25
$1,001 – and above	$25 + $5 per $1,000 or a fraction there of

(h) Fuel gas fees. The following fuel gas permit fees shall be paid with an application for a fuel gas permit:

Fuel Gas Permit Fee Schedule

Gas line $15.00

Gas test 15.00

Fee for issuing permit 15.00

(i) Inspection Fees. Inspection fees shall be as outlined in the fee schedule in Section A. Reinspection fees must be paid by the person or agent to whom the permit was issued prior to any reinspection. Reinspection fees double with each failed inspection.

(j) Refunds. The building official shall authorize the refunding of fees as follows:

(1) The full amount of any fee paid hereunder that was erroneously paid or collected.

(2) Not more than 50 percent of the permit fee paid when no work has been done under a permit issued in accordance with this Code.

(3) Not more than 90 percent of the plan fee paid when an application for a permit for which a fee has been paid is withdrawn or canceled before any plan review effort has been expended.

(4) The building official my refund an amount he/she determines if some, but not all plan review effort has been expended and a permit has not yet been issued.

The building official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

Section 8. Severability

THAT it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 9. Repealer

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 and all Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

Section 10. Effective Date and Publication.

THIS ordinance shall become adopted and effective March 26, 2018. This Ordinance must also be **published** in a newspaper of general circulation at least one time within ten (10) days after its final passage, as required by the City Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this 12th day of March, 2018.

PASSED AND APPROVED: Second reading this 26th day of March, 2018.

CITY OF NEW BRAUNFELS, TEXAS

_____

BARRON CASTEEL, Mayor

ATTEST:

_____

PATRICK D. ATEN, City Secretary

APPROVED AS TO FORM:

_____

VALERIA M. ACEVEDO, City Attorney

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. F)

Presenter/Contact
Stacey Dicke, Parks and Recreation Director
(830) 221-4350 - sdicke@nbtexas.org

SUBJECT:
Discuss and consider approval of the first reading of an ordinance modifying Chapter 86-7 “Operation of Vehicles in Parks”, Subsection (d) (2) “Exceptions” regarding resident tennis pass to include disc golf and basketball.

BACKGROUND / RATIONALE:
City Council voted on January 8, 2017 to extend the dates for paid parking at Prince Solms Park to May 1st - Labor Day. At that time, the Parks and Recreation Advisory Board was asked to look at the resident tennis parking pass for any recommended changes.

This extended parking season will have an impact on park visitors wishing to utilize park amenities such as tennis courts, basketball courts and disc golf course. The Parks and Recreation Advisory Board approved a recommendation for City Council to modify the existing Resident Tennis Pass to allow for basketball and disc golf players to be included in the allowable uses for the Resident Tennis pass.

The Resident Tennis Pass is $20 per person and was approved by City Council in 2014. Staff recommends the pass be renamed to Prince Solms Resident Parking Pass and be allowable for resident parking at Prince Solms Park for the purposes of using tennis courts, disc golf course and the basketball courts.

Park Rangers and Police Officers can monitor the use of the parking pass and report any concerns/issues with the use of the pass at the end of the 2018 summer season.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

FISCAL IMPACT:
N/A

COMMITTEE RECOMMENDATION:
The Parks and Recreation Advisory Board recommended at their meeting on December 19, 2017 to include basketball and disc golf as part of the resident tennis pass for seasonal parking.

STAFF RECOMMENDATION:

Staff recommends approval of the first reading of an ordinance modifying the Resident Tennis Pass to include disc golf and basketball as allowable park uses for the pass. Staff recommends renaming the pass to Prince Solms Resident Parking Pass.

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ORDINANCE NO. 2018 - ____

AN ORDINANCE OF THE CITY OF NEW BRAUNFELS, TEXAS, AMENDING SECTION 86-7 "OPERATION OF VEHICLES IN PARKS," SUBSECTION (d) (2) "EXCEPTIONS" OF THE NEW BRAUNFELS CODE OF ORDINANCES AND TO REPEAL SUBSECTION (d) (2) EFFECTIVE _____; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the Staff has recommended specific parking regulations to be implemented to manage traffic parking within a city owned public park;

WHEREAS, the City Council of the City of New Braunfels has determined that the additional parking regulations will be beneficial to the City of New Braunfels and should be modified as recommended by Staff; and

WHEREAS, the City Council of the City of New Braunfels, Texas has the authority under its Home Rule Charter and under the laws of the State of Texas to adopt regulations aimed to protect the health, safety, and general welfare of its citizens; and

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

SECTION 1: That Section 86-7 "Operation of vehicles in parks," Subsection (d) (2) "*Exceptions*" of the New Braunfels Code of Ordinances shall be amended to hereinafter read as follows:

d) (1) Parking fees in Prince Solms Park.

(2) Exceptions.

a. A resident ~~tennis player~~ **Prince Solms Resident** parking pass shall be made available for users of the Prince Solms Park tennis courts, **basketball courts and disc golf course.**

For the purpose of this section, the term "resident" applies to persons who reside within the city limits. The term of the resident ~~tennis player~~ **Prince Solms Resident** parking pass is ~~Memorial Day weekend~~ **May 1st** through Labor Day in the same year the pass was purchased. The annual fee for the resident ~~tennis player~~ **Prince Solms Resident** parking pass shall be $20.00. All holders of a resident ~~tennis player~~ **Prince Solms Resident** parking pass shall be entitled entry into Prince Solms Park parking area at no additional charge, seven days a week, excluding holidays, from ~~Memorial Day weekend~~ **May 1st** through Labor Day for the purpose of parking their vehicles to utilize the tennis courts, **basketball courts and disc golf course** in the park.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. G)

Presenter/Contact
Stacey Dicke, Parks and Recreation Director
(830) 221-4350 - sdicke@nbtexas.org

SUBJECT:
Discuss and consider approval of the second and final reading of an ordinance amending Chapter 86, Section 86-2 regarding reserved picnic areas and individual picnic table usage fees in city parks, Section 86-94 regarding swimming pool fees at the Landa Park Aquatic Complex and Section 86-98 Landa Haus rental and use fees.

BACKGROUND / RATIONALE:
During the FY2017-2018 Budget preparation, a recommendation was made to adjust fees at the Landa Park Aquatic Complex and certain park rental areas. The City Council approved the first reading of an ordinance to adjust park rental and swimming pool fees at their meeting on February 26, 2018.

It is proposed that the revenues generated from these fee adjustments be used specifically for repairs and replacements needed in the parks and Landa Park Aquatic Complex. Most of these fee adjustments will impact non-residents who traditionally have very high usage rates at these facilities.

Park Rental Fees
Staff originally proposed an increase in the non-resident fee to 100% higher than the resident fee. The Parks and Recreation Board recommends that the fee adjusts to 130% of the resident rate. No change is proposed to resident fees.

Adjusting these rates will help to recover costs associated with repairs and maintenance of the parks. In 2016, non-resident rental rates accounted for 49% of all park rentals and 58% of Landa Park rentals. It is estimated that the new fees will adjust revenues by over $100,000.

FY2016

Non-Resident Reservations (All)	49%
Resident Reservations (All)	51%
Non-Residents Landa Park	58%
Residents Landa Park	42%

The proposed park rental rate options are as follows:

Picnic Area	Current Resident Rate	Current NR Rate (+30%)	Proposed NR Rate (+130%)
Area 1	55.00	71.50	126.50
Area 2	110.00	143.00	253.00
Area 3	55.00	71.50	126.50
Pavilion 4	110.00	143.00	253.00
Pavilion 5	110.00	143.00	253.00
Pavilion 6	110.00	143.00	253.00
Area 7	110.00	143.00	253.00
Pavilion 7A	75.00	97.50	172.50
Area 8	110.00	143.00	253.00
Area 9	110.00	143.00	253.00
Area 10	65.00	84.50	149.50
Area 11	275.00	357.50	632.50
Area 11A	225.00	292.50	517.50
Area 11B	165.00	214.50	379.50
Area 11C	165.00	214.50	379.50
Area 11D	110.00	143.00	253.00
Area 12	110.00	143.00	253.00
Area 13	55.00	71.50	126.50
Area 14A	55.00	71.50	126.50
Area 14B	55.00	71.50	126.50
Area 14C	55.00	71.50	126.50
Pavilion 15	110.00	143.00	253.00
Area 15A	65.00	84.50	149.50
Pavilion 16	225.00	292.50	517.50
Dance Slab	150.00	195.00	345.00
Gazebo (2)	75.00	97.50	172.50
Cypress Bend Pavilion	110.00	143.00	253.00
Cypress Bend Grass Area	150.00	195.00	345.00
Haymarket Pavilion	45.00	58.50	103.50
Solms Pavilion	45.00	58.50	103.50
Kraft Pavilion	45.00	58.50	103.50

Fischer Park Rental Fees

At Fischer Park, staff recommends adjusting resident rates for Pavilions A - G, as well as including a higher non-resident rate for all pavilions in the park. When compared to pavilions in Landa Park, these smaller pavilions are underpriced.

Based on the staff recommended rates, over $26,000 in additional revenue would be generated to put towards maintenance and improvement needs.

Rentals of Pavilions A - G were at over 90% capacity for the 2016 and 2017 summer seasons.

	Current Resident	Proposed Resident	Current NR (+30%)	Proposed NR (+130%)
Pavilions A-G	$50	$75	$65	$172.50
Grand Pavilion	$250	$250	$325	$575.00
Hilltop Pavilion	$300	$300	$390	$690.00
Plaza	$150	$150	$195	$345.00

Landa Haus

Fees for Landa Haus rentals are proposed to adjust for residents and non-residents. The facility is the lowest priced facility in the community of its type and will remain the lowest priced even with the fee adjustment.

It is proposed that the non-resident rate would be 100% higher than the resident rate. If the staff proposed rates are adopted, additional revenue in the amount of $50,000 would be generated.

The Haus was rented 127 times in FY2017. It was rented by Residents 43 times (34%), Non-residents 84 times (66%).

	Current Resident	Proposed Resident	Current NR (+30%)	Proposed NR (+100%)
Weekend (all day)	$350	$500	N/A	1000.00
Weekday (all day)	$300	$400	N/A	800.00
Weekday (2 hours)	$75	$100	N/A	200.00
Damage Deposit	$150	$250	N/A	500.00
Set up Fee	$75	$125	N/A	$125

Picnic Permit Fees

Currently, a picnic fee is charged to all non-residents using a table in Landa Park, Fischer Park and Hinman Island Park on weekends from Easter Weekend through October 1. Residents are not charged for the use of one table, however they are assessed a fee for any additional tables.

Staff recommends adjusting the picnic permit fee from $10 to $25. Most picnic permits issued are to non-residents. However, from the frequency with which the tables are rented by non-residents, the fee does not appear to be a deterrent for out of town guests using the parks (Landa Park in

particular). These fees have not been increased since prior to FY2004.

Permits Issued in FY2017

Non-Resident Picnic Permits ($10 each)	2022	85%
Resident Picnic Permits (no charge)	344	15%

This $10 fee has been in place since prior to 2004 and has not been increased since that time. If this permit fee is adjusted, an additional $28,500 would be generated.

Pool Admissions

As was noted in the budget narrative, operating expenses were increased for FY2017-2018 for various one-time initiatives at the Landa Park Aquatic Complex. These projects include repainting of the Olympic pool, funbrella replacements, and the replacement of pool bleachers. Funding for these enhancements was tied to a proposed adjustment to daily admissions on weekends and holidays.

Pool admission fees have not been adjusted since FY2014. In this time, costs for personnel and pool chemicals have continued to increase. Attendance at the facility is over 90,000 guests during the summer. This high level of use impacts the condition of the facility.

It is proposed to adjust admission fees on weekends by $3 to capture the high rate of non-resident traffic through the facility. It is estimated that 80% of weekend visitors are non-residents.

It is also proposed to adjust all fees Monday - Friday by $1.00. Combined, these fee adjustments are expected to generate $200,000 in additional revenue that can be used for pool repairs and replacements.

Proposed Landa Park Pool Admission Fees

	Current Fee All Days of Week	Proposed Fee Monday - Friday (+$1)	Proposed Fee Weekends/Holidays (+$3)
Adult	$5	$6	$8
Child	$4	$5	$7
Senior	$4	$5	$7
Spectator	$1	$2	$4

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

FISCAL IMPACT:

Adjusted park rental, Fisher Park rental and Landa Haus rental and Landa Park Aquatic Complex fees could generate an additional $400,000 in General Fund revenues. These revenues could be used specifically for repairs and replacements needed at these same facilities.

The full fiscal impact from the fee adjustments would not be realized until FY2019 and FY2020 due to

reservations already in place over the next 18 months.

COMMITTEE RECOMMENDATION:
The Parks and Recreation Advisory Board voted to recommend these fee adjustments, including the +130% non-resident rate for park rentals, at their meeting on February 20, 2018.

STAFF RECOMMENDATION:
Staff recommends approval of the ordinance to amend park rental and pool admission fees.

ORDINANCE NO. 2018 -

AMENDING THE CODE OF ORDINANCES OF THE CITY OF NEW BRAUNFELS, TEXAS, CHAPTER 86, SECTION 86-2 REGARDING RESERVED PICNIC AREAS AND INDIVIDUAL PICNIC TABLES USAGE FEES IN CITY PARKS; SECTION 86-94, REGARDING SWIMMING POOL FEES ; AND SECTION86-98 REGARDING LANDA HAUS RENTAL AND USE; REPEALING ALL ORDINANCE IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the fees for reserving parks and facilities were adjusted in 2012 and the fees for admission to the Landa Park Swimming Pool were adjusted in 2014; and

WHEREAS, the need to amend certain fees has arisen; and

WHEREAS, the Parks and Recreation Department recommends adjusting certain fees as use of these facilities is becoming more popular and requiring additional maintenance needs.

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

I.

SECTION 1: AMENDMENT.

The City of New Braunfels Code of Ordinances is hereby amended in the following sections with deleted language indicated using strikethrough font and new language indicated using underlined font:

Sec. 86-2. - Reserved picnic areas and individual picnic table usage fees in city parks.

(a) The following scheduled fees shall be paid by patrons of any city-owned municipal park in the city. Reserved areas are those designated on the map of the city parks on file in the office of the parks and recreation department:

Area No.	No. of Tables	Usage Fee Resident	Usage Fee Non-Resident
1	5	$ 55.00	126.50
2	10	110.00	253.00

Area No.	No. of Tables	Usage Fee Resident	Usage Fee Non-Resident
3	5	55.00	126.50
4(P)	8	110.00	253.00
5(P)	8	110.00	253.00
6(P)	8	110.00	253.00
7	10	110.00	253.00
7A(P)	7	75.00	172.50
8	10	110.00	253.00
9	10	110.00	253.00
10	5	65.00	149.50
11	25	275.00	632.50
11A	25	225.00	632.50
11B	15	165.00	379.50

Area No.	No. of Tables	Usage Fee Resident	Usage Fee Non-Resident
11C	15	165.00	379.50
11D	10	110.00	253.00
11E	10	110.00	253.00
12	5	55.00	126.50
13	5	55.00	126.50
14A	5	55.00	126.50
14B	5	55.00	126.50
14C	5	55.00	126.50
15(P)	8	110.00	253.00
15A	5	65.00	149.50
16(P)	12	225.00	517.50
Dance slab		150.00	345.00

Area No.	No. of Tables	Usage Fee Resident	Usage Fee Non-Resident
Gazebo, per two hours		75.00	172.50
Cypress Bend pavilion		110.00	253.00
FP Pavilion A - F (4 tables)		~~50.00~~ 75.00	172.50
FP Grand Pavilion 18 (tables)		250.00	575.00
FP Hilltop Pavilion (18 tables)		300.00	690.00
FP Amphitheater (must rent Hilltop Pavilion		150.00	345.00
FP Plaza (must rent Hilltop Pavilion)		100.00	230.00
Faust Street Bridge		75.00 (per 2 hours)	172.50

Area No.	No. of Tables	Usage Fee Resident	Usage Fee Non-Resident
Landa Lake Gazebo		75.00 (per 2 hours)	172.50
Cypress Bend grass area		150.00	345.00
Solms pavilion		45.00	103.50
Haymarket pavilion		45.00	103.50
Kraft pavilion		45.00	103.50
Individual picnic tables		0—20.00	25.00
Live/amplified music permit		25.00	25.00
Inflatable game permit		25.00	25.00
Walk/race/run permit		50.00	50.00

(b) Picnic permit fees will be paid by all non-residents for the use of each picnic area/table used in Landa Park, Hinman Island, Fischer and Prince Solms Parks. Residents of the City

of New Braunfels may use one picnic area/table at no cost. Each additional picnic table/area will be charged the picnic permit fee.

(c) The reservation fee, as set forth in this section, may be refunded under the following conditions:

(1) A $7.00 handling fee will be assessed to any patron requested refund.

(2) Full refund of the reservation fee in those cases where the director of parks and recreation is notified in writing of cancellation of reservation not less than 14 days prior to the date of use of the reserved area less the $7.00 handling fee.

(3) Refund of one-half of the reservation payment may be authorized if cancellation is received by the director of parks and recreation in writing between 14 days and the day prior to the date of use of the reserved area, less the $7.00 handling fee.

(4) The only exception to the refund provisions as set forth in this subsection shall be with the approval of the parks and recreation advisory board.

(d) Persons reserving the city-owned Landa Park gazebo shall be responsible for the control of traffic by employing sufficient law enforcement officers to direct traffic at the entrance of the roadway known as the peninsula circular driveway. Such law enforcement officers may prohibit motor vehicles from crossing the bridge at the entrance of the circular drive only during the period this gazebo is reserved. The director of parks and recreation shall be authorized to install barricades at the entrance to the peninsula circular driveway when traffic controls are paramount and the safety of the participants is jeopardized. Cost of such precautions shall be borne by the persons reserving the gazebo.

~~Sec. 86-9. - Gazebo and dance slab usage fees in Landa Park.~~

~~Persons desiring to use the city-owned Landa Park gazebo or Landa Park dance slab shall be required to reserve these facilities in advance, and furnish a usage fee of $75.00 for each facility prior to utilization for each day or portion of a day.~~

~~(1) Usage fees shall apply every day of the week during January 1 through December 31 each year. All payment of scheduled fees shall be handled through the parks and recreation office.~~

~~(2) The reservation fee, as set forth in this section, may be refunded under the following conditions:~~

~~a. A $7.00 handling fee will be assessed to any patron requested refund.~~

~~b. Full refund of the reservation fee in those cases where the director of parks and recreation is notified in writing of cancellation of reservation not less than 14 days prior to the date of use of the reserved area less the $7.00 handling fee.~~

~~c. Refund of one-half of the reservation payment may be authorized if cancellation is received by the director of parks and recreation in writing between 14 days and the day prior to the date of use of the reserved area, less the $7.00 handling fee.~~

~~d. The only exception to the refund provisions as set forth in this subsection shall be with the approval of the parks and recreation advisory board.~~

~~(3) Persons reserving the city-owned Landa Park gazebo shall be responsible for the control of traffic by employing sufficient law enforcement officers to direct traffic at the entrance of the roadway known as the peninsula circular driveway. Such law enforcement officers may prohibit motor vehicles from crossing the bridge at the entrance of the circular drive only during the period~~

~~this gazebo is reserved. The director of parks and recreation shall be authorized to install barricades at the entrance to the peninsula circular driveway when traffic controls are paramount and the safety of the participants is jeopardized. Cost of such precautions shall be borne by the persons reserving the gazebo.~~

Sec. 86-94. - Landa Park swimming pool fees.

(a) The following scheduled fees shall be paid by patrons of the Landa Park swimming pools within the city. For the purposes of this section, the term "resident" applies to persons who reside within the city limits, and the term "nonresident" refers to all other persons. The terms "resident" and "nonresident" only apply to the schedule of fees for season swim passes.

(1) Daily swimming tickets **(Monday – Friday)** , one day only:

a. Children, ages 3 to 12, each ..... $~~4.00~~ **5.00**

b. Adults, ages 13 to 59, each ..... ~~5.00~~ **6.00**

c. Senior citizens, ages 60 and over, each ..... ~~4.00~~ **5.00**

d. Spectators, each ..... ~~1.00~~ **2.00**

(2) Daily swimming tickets (Saturday – Sunday and holidays) , one day only:

a. Children, ages 3 to 12, each $7.00

b. Adults, ages 13 to 59, each 8.00

c. Senior citizens, ages 60 and over, each 7.00

d. Spectators, each 4.00

(3) Resident season swimming passes:

a. Children, ages 3 to 12, each $30.00

b. Adults, ages 13 to 59, each 55.00

c. Senior citizens, ages 60 and over, each 30.00

d. Family season swim pass, each 105.00

A family season swim pass includes a maximum of four family members, at least one of which shall be the parent or legal guardian of any children on the pass. Family members are defined as children under the age of 18 and their father, mother or legal guardian. Additional children may be added to the pass for $20.00 each.

(4) Nonresident season swimming passes:

a. Children, ages 3 to 12, each $40.00

b. Adults, ages 13 to 59, each $65.00

c. Senior citizens, ages 60 and over, each $40.00

(5) Inner tube rental:

a. Tube rental, per day, per tube ..... $5.00 to 15.00

b. Security rental deposit (refundable) ..... $10.00 to 15.00

(6) Locker ..... $0.25—1.25

(7) Swim team passes:

a. Swim team pass, each $17.00

b. Adult swim team upgrade, ages 13 to 59, each 45.00

c. Child swim team upgrade, ages 12 and under, each 25.00

d. Senior swim team upgrade, ages 60 and over, each 25.00

A swim team upgrade allows a swim team member to use the swim team pass for entry in to the Landa Park Aquatic Complex the same as a season swim pass.

(b) All swimming pool fees shall be payable in advance before service or ticket is rendered.

(c) Season swimming passes will entitle the bearer only to the right to swim during regularly scheduled pool hours during the operating season in the same year the pass was purchased.

(d) Daily swimming tickets will be valid only on the day the bearer purchased such ticket.

(e) All holders of a resident season swimming ticket shall be entitled to entry into the Prince Solms Park tube chute at no additional charge during the term of the season swim pass. This privilege does not extend to holders of nonresident season swimming tickets.

Sec. 86-98. - Landa Haus rental and use fees.

(a) The following schedule of fees shall be paid by users of the Landa Haus facility when reserved:

Day	Hours	**Resident** Fee	**Non-Resident Fee**	Deposit Required
Monday—Thursday	All day	~~$300.00~~ **$400.00**	**$800.00**	~~$150.00~~ **$250.00**
Monday—Thursday	Per two hours	~~75.00~~ **$100.00**	**$200.00**	~~$150.00~~ **$250.00**
Friday, Saturday, Sunday **& Holidays**	All day	~~350.00~~ **$500.00**	**$1,000.00**	~~$150.00~~ **$250.00**
~~Holiday~~	~~All day~~	~~350.00~~		~~150.00~~

Extra fees:

Set-up 75.00

(b)

Landa Haus rental/use fees paid by users of the Landa Haus may be refunded under the following conditions:

Full refund less $25.00 handling fee if cancellation is made two weeks prior to the reservation date. The renter is to notify the parks and recreation department in writing of cancellation of rental/use not less than 14 days prior to the date of use of the facility. Renter is not entitled to a refund if cancellation is made less than 14 days prior to date of use of the facility.

(c)

All rental/use agreements for the use of the facility known as the Landa Haus shall be completed on the parks and recreation department's Landa Haus rental agreement form designed for such use. All such rental/use agreements shall be executed on behalf of the city by and through a designated member of the parks and recreation department. Such designated representative shall represent the city in all rental/use negotiations for the facility.

(d)

All payments and charges pursuant to the rental use agreements shall be due and payable to the city. The city, acting through the parks and recreation department, reserves the right to refuse to rent or allow the use of the Landa Haus facility or any part thereof to any individual, organization, or group when it is deemed by the city that such rental would not be in the best interest of the city.

(Ord. No. 00-04, § I, 2-14-00; Ord. No. 2006-01, § I(1.), 1-9-06)

SECTION 2: All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

SECTION 3: If any provisions of this Ordinance shall be held void, illegal, or unconstitutional, it is hereby provided that all other parts of the same which are not held void, illegal or unconstitutional shall remain in full force and effect.

SECTION 4: This ordinance shall become effective upon its passage by City Council. This Ordinance has been publicly available in the office of the City Secretary prior to its adoption.

PASSED AND APPROVED: First reading this the 12th day of February 22, 2018

PASSED AND APPROVED: Second reading this the 26th day of February, 2018.

CITY OF NEW BRAUNFELS, TEXAS

_____

BARRON CASTEEL, Mayor

ATTEST:

_____

Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

_____

Valeria M. Acevedo, City Attorney

Swimming Pool & Park Rental Fees

City Council
March 12, 2018

Park Rental Fees

- Current non-resident rate is 30% higher than resident rate
  - 49% of all park rentals are non-residents
  - 58% of all Landa Park rentals are non-residents
- Non-resident rate proposed at +130% higher than resident rate
- Estimated to generate +$100,000 in revenue
- New revenue will be earmarked for improvements

Sample Park Rental Fees

Area No.	No. of Tables	Usage Fee Resident	Current Non-Resident (+30%)	Recommended Rate (+130%)
1	5	$ 55.00	$ 71.50	$126.50
2	10	$110.00	$143.00	$253.00
3	5	$55.00	$71.50	$126.50
4(P)	8	$110.00	$143.00	$253.00
5(P)	8	$110.00	$143.00	$253.00
6(P)	8	$110.00	$143.00	$253.00
7	10	$110.00	$143.00	$253.00
7A(P)	7	$75.00	$97.50	$172.50
8	10	$110.00	$143.00	$253.00
9	10	$110.00	$143.00	$253.00
$149.50	5	$65.00	84.50	$149.00

Fischer Park Rental Fees

- Adjust Pavilions A – G (small pavilions) resident rate from $50 to $75 for all day use
- More in line with Landa Park pavilion fees
- Change non-resident rate +130% higher (172.50)
- Estimated to generate $26,000 in General Fund revenue
- 45% of Fischer Park rentals are non-residents
- Pavilions rented at 99% capacity April-October 2017

Landa Haus Rental Fees

Adjust rates for Landa Haus

- Non-residents rented this facility 66% of the time in FY2017
- Landa Haus fees have not increased since prior to 2001
- Estimated to generate $50,000 in General Fund revenue
- New revenue will be earmarked for improvements
- No additional Park Board recommendation

	Current Resident	Proposed Resident	Current NR	Proposed NR (new, +100%)
Weekend (all day)	$350	$500	N/A	$1,000
Weekday (all day)	$300	$400	N/A	$800
Weekday (2 hours)	$75	$100	N/A	$200
Damage Deposit	$150	$250	N/A	$250

Picnic Permit Fees

Adjust from $10 to $25 per table

- Non-residents require paid permit for table use
- Residents get first table at no charge
- 85% of permits issued were to non-residents in FY2017
- Fee has not increased since prior to 2004
- Estimated to generate $28,000 in General Fund revenue

Proposed Landa Park Pool Fees

	Current Fee (all days of week)	Proposed Fee Weekdays (+$1)	Proposed Fee for Weekends/Holidays (+$3)
Adult	$5.00	$6.00	$8.00
Child	$4.00	$5.00	$7.00
Senior	$4.00	$5.00	$7.00
Spectator	$1.00	$2.00	$4.00

- 58,000 total weekend guests
- 80% weekend guests are non-residents
- Anticipated to generate +$200,000 in General Fund revenue

Overview

- Use of park rental areas and the Landa Park Aquatic Complex is extremely high during the summer season
- High visitation causes wear and tear on facilities
- Increase revenue from park fees can help to pay for needed repairs and replacements at the facilities
- Fees proposed to be effective March, 2018
  - Would not realize full revenue until FY19 due to already existing reservations for 2018

Questions?

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. H)

Presenter
Stacy Snell, Planning and Community Development Assistant Director
ssnell@nbtexas.org

SUBJECT:

Public hearing and consideration of the first reading of an ordinance regarding a rezoning of approximately 52 acres out of the A.M. Esnaurizar Survey, Abstract 20, located on the north side of State Highway 46 and approximately 1,100 feet southeast of the intersection of State Highway 46 and Prairie View Lane from “APD” Agricultural / Pre-Development District and “C-1” Local Business District to “Rippen Ranch” Planned Development District, with a Concept Plan.
The applicant has withdrawn this application.

BACKGROUND / RATIONALE:

Case No.: PZ-17-052

Council District: 2

Owner/Applicant: Willard C. Rippen
195 High Country Dr.
Seguin, TX 78155

Engineer/ Representative: Pape-Dawson Engineers, Inc.
Allen Hoover
2000 NW Loop 410
San Antonio, TX 78213
(210) 375-9000

Staff Contact: Matthew Simmont, Planner
(830) 221-4058
msimmont@nbtexas.org

At the February 12, 2018, City Council meeting, at the applicant’s request, this case was postponed to the March 12th City Council meeting. However, since then, the applicant has withdrawn this application and no further action is needed.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. I)

Presenter
Christopher J. Looney, Planning and Community Development Director
clooney@nbtexas.org

SUBJECT:
Discuss and consider a waiver of platting, zoning, and parkland dedication and development fees, requested by Comal County Habitat for Humanity, Inc. for the development of six new single-family residential lots presently addressed at 2420 Katy Street.

BACKGROUND / RATIONALE:
Case No.: CS-18-005

Applicant: Comal County Habitat for Humanity, Inc.
1269 Industrial Drive
New Braunfels, TX 78130
(830) 625-4025

Staff Contact: Holly Mullins, Sr. Planner
(830) 221-4054
hmullins@nbtexas.org

Comal County Habitat for Humanity is proposing to rezone, subdivide and develop six new residential lots on a 0.873-acre tract of land currently addressed as 2420 Katy Street. Habitat for Humanity notes that this project, along with homes they are building at 540 Hidalgo and 2363 Michigan, will act as a catalyst for revitalization in this area of New Braunfels. As a non-profit corporation, Comal County Habitat for Humanity depends upon donations and the assistance of community partners whenever possible.

In 2004, City Council adopted a resolution waiving building permit fees for Habitat for Humanity, and in 2010 City Council authorized the City Manager to enter into a contract waiving Roadway Impact Fees for the organization. These waivers apply generally to all homes that Habitat for Humanity builds within the City of New Braunfels.

In addition to building permits, the subject project will require rezoning, platting, and an extension of Michigan Street including a cul-de-sac, curbs, gutters, and sidewalks. In order to control costs, Comal County Habitat for Humanity is requesting a waiver of all development-related fees associated with the project, including parkland dedication and development, platting and rezoning fees.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

No	**City Plan/Council Priority:**	N/A

FISCAL IMPACT:

Fees waived by previous resolution are:

1. Building permit and inspection fees of approximately $375/house = $2,250
2. Roadway impact fees of $209/house = $1,254

Additional fee waivers requested include:

1. Parkland dedication & development fees of $600/house = $3,600
2. Rezoning = $693.75, consisting of
    - Application fee: $500
    - Newspaper notice: $110
    - Notification signs: $30
    - Notification letters: $53.75
3. Platting = $324 (includes $150 for potential waiver to cul-de-sac radius)
4. Street construction permit = $560

Total waiver with this request approximately **$5,177.75**

Building permit and inspection fees are based on the type of construction and square footage. Roadway impact fees are collected to finance the public infrastructure costs to support new developments. Parkland dedication and development fees are collected to mitigate the impact on the park and recreation system by new development.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff is not opposed to supporting not-for-profit organizations through permit fee relief or discounts. The City includes built-in discounts for such organizations for Environmental Health permits and plan review fees.

Chapter 100, Section 100.23 of the New Braunfels Code of Ordinances provides that City Council may grant a waiver upon finding that a strict application of the requirements would not be in the best interests of the City or would be inconsistent with City policy. Comal County Habitat for Humanity is a not-for-profit entity that provides services to the community and relies on local contributions and assistance for support.

The City Council has also approved similar fee waivers for Hope Hospice (May 2015), The Food Bank (January 2016) and NB Housing Partners (December 2016).

Attachments:

1. Applicant's Letter of Request
2. Location Map
3. 2004 and 2010 Approved Resolutions
4. Resolution

Comal County Habitat for Humanity®

City of New Braunfels
550 Landa St.
New Braunfels, TX 78130

Re: Development fees for 2420 Katy Street

Dear Mayor and Council Members:

Comal County Habitat for Humanity, Inc. is in the process of acquiring a .873 acre tract of land located at 2420 Katy Street. Our intention is to rezone the parcel from M-1 to ZHA in order to plat six residential lots for Habitat homes. We believe that this project, along with homes we are building at 540 Hidalgo and 2363 Michigan, will act as a catalyst for revitalization of this section of New Braunfels.

This project will require rezoning, re-platting, and an extension of Michigan St. including cul de sac, curbs, gutters, and sidewalks. This required infrastructure comes at significant cost which will make our goal of providing affordable homes challenging to attain. Thus we are appealing to all of our community partners to assist wherever possible. Your assistance waiving park and roadway impact fees as well as planning, zoning and building permit fees would assist greatly in keeping the development costs under control.

Thank you for your kind consideration of this request.

Best Regards,

Crystal Moore
Executive Director
Comal County Habitat for Humanity
crystal@comalhabitat.org
Office: 830-625-4025
1269 Industrial Drive, New Braunfels, TX 78130

City of New Braunfels

CS-18-005
Comal County Habitat for Humanity, Inc.
2420 Katy Street

ATTACHMENT 2

RESOLUTION NO. 2004R-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, WAIVING BUILDING PERMIT FEES FOR "HABITAT FOR HUMANITY".

WHEREAS, Habitat for Humanity provides affordable housing through volunteers and "sweat equity" to Citizens of New Braunfels who otherwise might not be able to acquire a home of their own; and

WHEREAS, the City Council of the City of New Braunfels wishes to provide support to Habitat for Humanity because they are working to make New Braunfels a better place to live; **now, therefore**;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT, we hereby waive and suspend building permit fees for Habitat for Humanity and the City Manager is hereby directed to implement this waiver of fees immediately.

PASSED, ADOPTED AND APPROVED this the 26th day of January, 2004.

CITY OF NEW BRAUNFELS, TEXAS

BY: _____
ADAM E. CORK, Mayor

ATTEST:

_____
MICHAEL A. RESENDEZ, City Secretary

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RESOLUTION NO. 2010-R01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WAIVING ROADWAY IMPACT FEES FOR "HABITAT FOR HUMANITY".

WHEREAS, Habitat for Humanity provides affordable housing through volunteers and "sweat equity" to Citizens of New Braunfels who otherwise might not be able to acquire a home of their own; and

WHEREAS, section 100-15(a) of the Code of Ordinances, City of New Braunfels, Texas allows an exemption from the Roadway Impact Fee by providing designated information to the Planning Director and certification from the U.S. Department of Housing and Urban Development that the development and/or housing units qualify as affordable housing under 42 U.S.C. Sec. 12745, but Habitat for Humanity is unable to provide this certification; and

WHEREAS, section 100-15(b) of the Code of Ordinances, City of New Braunfels, Texas allows an exemption from the Roadway Impact Fee by further providing that the City Council may exempt a development from paying a roadway impact fee by contract or development agreement; and

WHEREAS, the City Council of the City of New Braunfels wishes to provide support to Habitat for Humanity because they are working to make New Braunfels a better place to live; **now, therefore**;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT, we hereby authorize the City Manager to enter into a development agreement or contract with Habitat for Humanity specifying terms and conditions for exempting roadway impact fees for all homes Habitat for Humanity builds within the City of New Braunfels and the City Manager, or his designee, is hereby directed to implement this waiver of fees consistent with section 100-15 of the Code of Ordinances, City of New Braunfels, Texas.

PASSED, ADOPTED AND APPROVED this the 11th day of January, 2010.

CITY OF NEW BRAUNFELS, TEXAS

BY: _____
R. BRUCE BOYER, Mayor

RESOLUTION NO. 2018R-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, WAIVING FEES ASSOCIATED WITH PLATTING, ZONING, BUILDING PERMITS, ROADWAY IMPACT, AND PARKLAND DEDICATION AND DEVELOPMENT FOR SIX NEW SINGLE-FAMILY RESIDENTIAL LOTS TO BE DEVELOPED BY COMAL COUNTY HABITAT FOR HUMANITY, INC. AT 2420 KATY STREET.

WHEREAS, Comal County Habitat for Humanity is a non-profit corporation with a commitment to improving the well-being of the citizens of our community; and

WHEREAS, the City Council of the City of New Braunfels wishes to provide support to Comal County Habitat for Humanity, Inc. because they are working to make New Braunfels a better place to live including, but not limited to, provision of housing; **now**, **therefore**;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS:

THAT, we hereby waive and suspend all fees associated with platting, zoning, building permits (including application fees for permits, review and inspection), roadway impact fees, and parkland dedication and development fees, for the proposed development of six new single-family residential lots by Comal County Habitat for Humanity, Inc. presently addressed at 2420 Katy Street, and the City Manager is hereby directed to implement this waiver of fees immediately.

PASSED, ADOPTED AND APPROVED this the 12th day of March, 2018.

CITY OF NEW BRAUNFELS, TEXAS

BY:_____
BARRON CASTEEL, Mayor

ATTEST:

_____
PATRICK ATEN, City Secretary

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City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. J)

Presenter/Contact
Matthew Eckmann, Real Estate Manager
(830) 221-4089 - meckmann@nbtexas.org

SUBJECT:
Discuss and consider approval of a preliminary development agreement between the City of New Braunfels and Chesmar Homes, Ltd for improvements to be made at Goodwin Lane and Alligator Creek.

BACKGROUND / RATIONALE:
Chesmar Homes, Ltd. is the Developer of the Wasser Ranch Subdivision. On June 27, 2016, the Developer submitted a “Master Plan” and “Concept Plan” for the proposed development of the Wasser Ranch Planned Development District which will include a total of 303 residential dwelling units divided into 3 subdivision units.

The developer has proposed to work with the City to improve Goodwin Lane at Alligator Creek. The low water crossing at Alligator Creek is prone to high water and road closures during heavy rains. Furthermore, the crossing typically carries water over the road for long durations after a storm event. Goodwin Lane is in a fast-growing area and serves many residential developments and Oak Creek Elementary School.

The proposed improvements to Goodwin Lane include widening the roadway to 24 feet and adding concrete box culverts for the ultimate four-lane divided minor arterial and to raise the roadway out of the 25-year flood event. It is anticipated that the improvement will allow Goodwin Lane to be open during most storm events. The improvements will be limited to the area adjacent to Alligator Creek. Goodwin Lane is on the Roadway Impact Fee Capital Program and is eligible for capacity improvements utilizing roadway impact fee funds.

The total cost of the project is currently estimated at $3,000,000. It is estimated that the development will provide approximately $750,000 in impact fees and the City will participate with approximately $2,250,000 out of the Service Area 3 roadway impact fee fund which currently has a balance of $2,620,000.

This preliminary development agreement will allow for the Developer to begin obtaining initial survey work and developing 30% design plans for the project which will define the scope of the project and provide a more accurate cost estimate. The developer estimates that the initial design phase will cost no more than $100,000 and shall take no longer than 6 months to complete. Once preliminary design work is complete and accepted by the City Engineer, the developer shall be reimbursed from roadway impact fees that have been previously collected for Unit 1 of Wasser Ranch as well as a credit pool that will be established for fees that have yet to be collected. Upon completion and acceptance of the preliminary design plans, Staff will finalize the second phase of the development

agreement which will establish the terms and conditions for final design and construction of the improvements.

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

2006 New Braunfels Comprehensive Plan

Goal 15: Ensure that the developer provides impact analysis and contributes toward capital improvement programs proportionate to the development's impact.

Goal 21: Provide a system of convenient and safe transportation facilities through comprehensive, cooperative and continuing transportation system planning and development.

FISCAL IMPACT:
Wasser Ranch unit 1 is projected to assess a total of $148,125 in roadway impact fees of which approximately $20,000 has already been assessed and collected. Along with the $2,260,000 available in the Roadway Impact Fee Service Area No. 3 fund, there is sufficient funding for this agreement.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval of this preliminary development agreement.

GOODWIN LANE AT ALLIGATOR CREEK

PRELIMINARY DEVELOPMENT AGREEMENT

This Preliminary Development Agreement (this "***Agreement***") is made and entered into by and between the CITY OF NEW BRAUNFELS, TEXAS, a Texas municipal corporation ("***City***"), and CHESMAR HOMES CT, LTD., a Texas limited partnership ("***Developer***"), effective as of the date City executes this Agreement after Developer first executes Agreement. ("*Effective Date*").

WHEREAS, on June 27, 2016, Developer submitted a "Master Plan" and "Concept Plan" for the proposed development of the Wasser Ranch Planned Development District, such development being more particularly described on the attached **Exhibit A** (the "***Subdivision***"); and

WHEREAS**,** Developer submitted an application for platting the Wasser Ranch PD, Unit 1 ("**Unit 1**") and Wasser Ranch PD, Unit 2 ("**Unit 2**"), for a combined total of 192 single-family residential lots (the "**Plats**"); and

WHEREAS, Developer has recorded Wasser Ranch PD plat for Unit 1 in Document No. 201706044236, Map and Plat Records, Comal County, Texas and Developer has received approval for recording Wasser Ranch PD plat for Unit 2 but has not yet recorded same; and

WHEREAS, Developer desires to work with City to improve flood prone Goodwin Lane at Alligator Creek which is on City's Roadway Impact Fee Capital Program, by widening the roadway to 24 feet and adding box culverts for the ultimate four-lane divided minor arterial and to elevate the roadway out of the 25-year flood event (the **"Project"** depicted in **Exhibit B**); and

WHEREAS, the total cost of the Project for improving Goodwin Lane at Alligator Creek is roughly estimated at $3,000,000.00, (the "**Total Costs**"); and

WHEREAS, City has adopted a roadway impact fees program, which requirements are codified as Chapter 100, City Code of Ordinances, as amended (the "**Ordinance**"); and

WHEREAS, the Ordinance currently requires the payment of roadway impact fees adopted for Service Area No. 3 in the amount of $1,875 per dwelling unit (the "***Roadway Impact Fees***") upon the issuance of a building permit for construction of dwelling units on the lots within a recorded plat; and

WHEREAS, the Ordinance provides that an owner/developer of a tract of land can petition City Council for offsets for the costs of capital improvements that provide additional capacity to City's thoroughfare system against the Roadway Impact Fees to be charged to the Subdivision development; and

WHEREAS, the Ordinance authorizes City to enter into an agreement with an owner/developer of a tract of land for the construction and/or financing of such capital improvements that provide additional capacity for City's thoroughfare system; and

WHEREAS, Developer has petitioned the City Council of City for approval for offsets against Roadway Impact Fees due for the Project Costs; and

DRAFT

WHEREAS, the total amount of roadway impact fees due by Developer for the 192 single-family residential (detached) lots subject to the plat for Unit 1 and plat for Unit 2 is $360,000.00 based on roadway impact fees currently in effect, as shown on the Roadway Impact Fee Calculation Worksheets attached hereto and incorporated herein by reference as **Exhibit C**; and

WHEREAS, Developer desires to participate in the Project and Total Costs; and

WHEREAS, Developer would like to enter into this Agreement in order to begin working on the initial engineering design work of the Project as set forth in **Exhibit D** (the "**Preliminary Survey and Engineering Work**") in anticipation that the subsequent development agreement will encompass the remainder of the design and construction for the Project; and

WHEREAS, it is anticipated that the costs of the Preliminary Survey and Engineering Work for the Project will cost Developer the sum of $111,000 and City desires to offset these specific costs up to a maximum of $125,000 with Roadway Impact Fees from Unit 1 and Unit 2 as collected; and

WHEREAS, it is further anticipated, that after the Preliminary Survey and Engineering Work, the City and Developer will have a more precise cost estimate for the Total Costs which will be used in drafting the future development agreement for the remaining design and construction of the Project and a reimbursement process by City for Developer.

NOW, THEREFORE, City and Developer agree as follows:

1. Preliminary Survey and Engineering Design of Goodwin Lane at Alligator Creek. Developer, at its initial cost, shall immediately commence with the Preliminary Survey and Engineering Work. The Preliminary Survey and Engineering Work will be completed within six (6) months of the Effective Date, subject to the following sentence. In the event Developer will be delayed or hindered or prevented from the performance of any obligation required under this Agreement by reason of strikes, lockouts, inability to procure labor or materials, fire or other casualty, acts of God, riots, insurrection, war or any other reason not within the reasonable control of Developer then the performance of the foregoing obligation will be excused for a period of such delay and the period for the performance act will be extended for a period equivalent to the period of such delay, SAVE AND EXCEPT that no such period of delay shall total more than thirty (30) days, cumulatively, without the express consent of City.

2. Reimbursement of Preliminary Survey and Engineering Costs. After review and approval by the City of New Braunfels Engineer of the Preliminary Survey and Engineering Work, then Developer shall be eligible for reimbursement for costs not to exceed the maximum of sum of $125,000.00. Once approved, Developer shall be reimbursed within 45 days of approval from the collected roadway impact fees for Unit 1. In the event, the total amount of collected Roadway Impact fees for Unit 1 is less than the approved costs for the Preliminary Survey and Engineering Work, then a credit pool shall be established whereby City shall credit Developer the amount of any future collected Roadway Impact Fees from Units 1 and 2 until Developer has received the total amount of approved costs under this Agreement.

3. Subsequent Event. In the event, the Parties do not move forward and enter into a subsequent development agreement to complete the Project, Developer after receiving full

reimbursement for the costs under this Agreement, shall assign each and every right of ownership of the Preliminary Survey and Engineering Work to City.

4. Default. It will be an "Event of Default" if either party fails to comply with any term, provision or covenant of this Agreement. A defaulting party shall have thirty (30) days after receiving written notice of an Event of Default from the non-defaulting party to cure the default, or such longer period as may be reasonably necessary if such default is not subject to cure within thirty (30) days so long as the defaulting party commences activities to cure such default within thirty (30) days and continues to diligently pursue such cure (such period of thirty (30) days or longer as may be applicable, the "*Cure Period*"). If the defaulting entity does not cure the default within the applicable Cure Period, and if a non-defaulting entity has not waived the default in writing, then after the expiration of the applicable Cure Period, the non-defaulting entity may, in its sole discretion, and without prejudice to any other right or remedy allowed under this Agreement, terminate this Agreement by written notice to the defaulting party or seek any other relief available at law or in equity, all of which are cumulative and are in addition to any other right or remedy given under this Agreement which may now or subsequently exist in law or in equity by statute or otherwise, and the exercise of any one remedy does not preclude the exercise of another. Notwithstanding any provision herein to the contrary, if notice of default has been given by one party to the other party, and the other party believes that it is not in default or there is a dispute as to whether the default has been cured, then the parties shall make a good faith effort to resolve the dispute before this Agreement is declared terminated or in default.

5. City Code of Ordinances/Enforcement. This Agreement is made subject to the existing provisions of the Charter of City, its rules and regulations, procedures, and ordinances, present and future, and all applicable laws of the State of Texas and the United States. The parties agree that this Agreement will be performable in New Braunfels, Texas, and that if legal action is necessary to enforce this Agreement, exclusive venue shall lie in Comal County, Texas.

6. Notice. Any notice, communication, request, demand, reply or advice (severally and collectively referred to as "*Notice*") in this Agreement required or permitted to be given, made or accepted must be in writing. Notice may, unless otherwise specifically provided herein, be given or served (a) by depositing the same in a receptacle regularly maintained and serviced by the United States Postal Service, postage pre-paid, registered or certified, and addressed to the party to be notified, with return receipt requested, (b) by delivering the same to such party, or an agent of such party, in person or by commercial courier or (c) by regular mail, facsimile transmission, email or other commercially reasonable means addressed to the party to be notified. Notice sent by registered or certified mail in the manner hereinabove described shall be effective on the date of deposit as evidenced by the mail receipt stamped by the post office. Notice given in any other manner shall be effective only if and when received by the party to be notified. City's and Developer's respective legal counsel may give any notice on its client's behalf. For the purposes of Notice, the addresses of the parties shall, until changed as provided below, be as follows:

City: City Engineer
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

With a copy to: City Attorney
City of New Braunfels
550 Landa Street
New Braunfels, Texas 78130

Developer: Chesmar Homes CT, Ltd.
1846 North Loop 1604, Suite 200
San Antonio, Texas 78248
Attention: Bart Swider

With a copy to: Chesmar Homes Ct, Ltd.
400 Gears Road, Suite 330
Houston, Texas 77067
Attention: Donald Klein

Mr. Ronald W. Hagauer
Attorney at Law
4630 N. Loop 1604, Suite 514
San Antonio TX 78249

The addresses and addressees, for the purpose of this Agreement, may be changed by City and Developer by giving notice of such change to the other party in the manner provided herein for giving notice. For the purpose of changing such addresses or addressees only, unless and until such written notice is received, the last address and addressee stated herein will be deemed to continue in effect for all purposes.

7. Miscellaneous.

a. This Agreement may be amended only by the written agreement of City and Developer.

b. In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof, and this Agreement shall be considered as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

c. The findings and recitals in the recitals of this Agreement are hereby found to be true and correct and are hereby incorporated by reference as if set out in full.

d. This Agreement shall be approved by the City Council of City by formal action and shall be effective upon the signature of all parties hereto. City shall be the last Party to execute this Agreement.

e. Developer and City hereby covenant and agree that this Agreement cannot be assigned, transferred or conveyed, in whole or in part, to a third party without the prior written consent of the other party.

CITY:

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Printed Name: _____
Title: _____

APPROVED AS TO FORM:

_____
Valeria M. Acevedo, City Attorney

STATE OF TEXAS §
COUNTY OF COMAL §

This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, _____ of the City of New Braunfels, Texas, a home-rule city, on behalf of the City.

_____
(seal) Notary Public Signature

STATE OF TEXAS §

COUNTY OF COMAL §

This instrument was acknowledged before me on the _____ day of _____, 2018, by Valeria M. Acevedo, City Attorney of the City of New Braunfels, Texas, a home-rule city, on behalf of the City.

_____

(seal) Notary Public Signature

DEVELOPER:

CHESMAR HOMES CT, LTD.,
a Texas limited partnership

By: Chesmar CT, LLC, a Texas limited liability company, General Partner of the Partnership, by its manager
Donald P. Klein

By: _____
Donald P. Klein, Manager

STATE OF TEXAS §

COUNTY OF _____ §

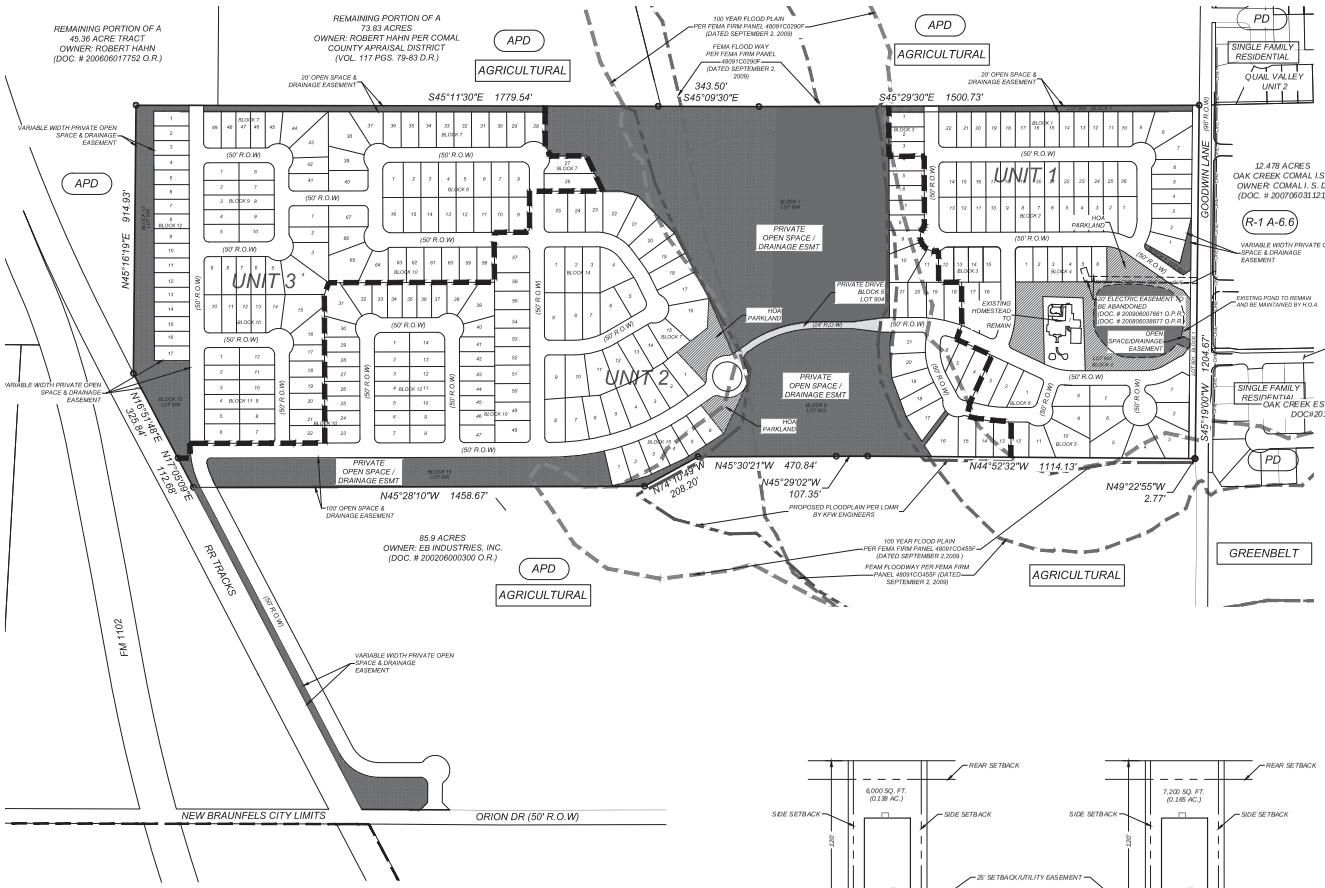
This instrument was acknowledged before me the ____ day of _____, 2018, by Donald P. Klein, Manager of Chesmar CT, LLC, a Texas limited liability company, General Partner of Chesmar Homes CT, Ltd, a Texas limited partnership, on behalf of said limited liability company and limited partnership.

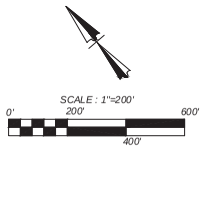
_____

(seal) Notary Public Signature

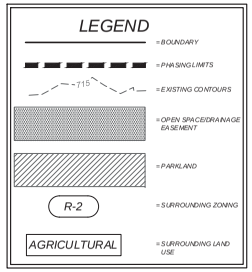
335

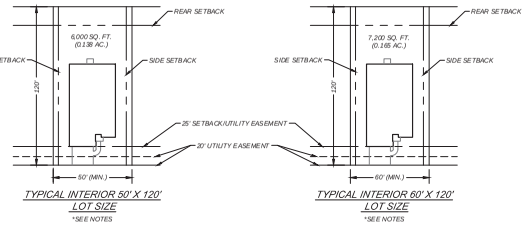
EXHIBIT "A"





LOCATION MAP
NOT-TO-SCALE





LAND USE DENSITY TABLE								
UNITS	AREA (ACRES)	DWELLING UNITS	50' LOTS	60' LOTS	EXISTING HOMESTEAD LOTS	PARKLAND (ACRES)	OPEN SPACE/DRAINAGE EASEMENT (ACRES)	DENSITY (DWELLING UNITS/ACRES)
1	23.44	79	61	17	1	1.92	2.14	3.37
2	55.550	113	47	66	0	0.67	24.76	2.03
3	26.88	111	70	41	0	0.00	2.87	4.13
TOTAL	105.87	303	178	124	1	2.59	29.77	2.86

NEW BRAUNFELS UTILITIES NOTES:

1. MAINTENANCE OF DEDICATED UTILITY EASEMENTS IS THE RESPONSIBILITY OF THE PROPERTY OWNER. ANY USE OF AN EASEMENT, OR PORTION OF IT, INCLUDING LANDSCAPING OR DRAINAGE FEATURES, IS SUBJECT TO AND SHALL NOT CONFLICT WITH THE TERMS AND CONDITIONS IN THE EASEMENT, MUST NOT ENDANGER OR INTERFERE WITH THE RIGHTS GRANTED BY THE EASEMENT TO NEW BRAUNFELS UTILITIES, ITS SUCCESSORS AND ASSIGNS, AND SHALL BE SUBJECT TO APPLICABLE PERMIT REQUIREMENTS OF THE CITY OF NEW BRAUNFELS OR ANY OTHER GOVERNING BODY. THE PROPERTY OWNER MUST OBTAIN, IN ADVANCE, WRITTEN AGREEMENTS WITH THE UTILITIES TO UTILIZE THE EASEMENT, OR ANY PART OF IT.
2. UTILITIES WILL POSSESS A 5-FOOT WIDE SERVICE EASEMENT TO THE BUILDING STRUCTURE ALONG THE SERVICE LINE TO THE SERVICE ENTRANCE. THIS EASEMENT WILL VARY DEPENDING UPON LOCATION OF BUILDING STRUCTURE AND SERVICE.
3. UTILITIES SHALL HAVE ACCESS TO THE METER LOCATIONS FROM THE FRONT YARD AND METER LOCATIONS SHALL NOT BE LOCATED WITHIN A FENCED AREA.
4. EACH LOT MUST HAVE ITS OWN WATER AND SEWER SERVICE AT THE OWNER/DEVELOPERS EXPENSE.
5. EACH TRACT IS SUBJECT TO FLOATING GUY WIRE EASEMENT(S) AND ITS DIMENSIONS SHALL BE DETERMINED BY THE NEED OF THE UTILITIES.
6. DO NOT COMBINE ANY NEW UTILITY EASEMENTS (UE) WITH DRAINAGE EASEMENTS (DE) OR MAKE CHANGES IN GRADE WITHIN THE UTILITY EASEMENTS (UE) WITHOUT WRITTEN APPROVAL FROM NEW BRAUNFELS UTILITIES.

GENERAL NOTES

1. THE PROPOSED LAND USE WITHIN THIS MASTER PLAN IS FOR SINGLE FAMILY RESIDENTIAL. THIS MASTER PLAN IS WITHIN A PLANNED DEVELOPMENT DISTRICT ZONING APPROVED BY THE CITY OF COUNCIL ON JULY 25, 2016 AND IS SUBJECT TO THE DEVELOPMENT STANDARDS AS SPECIFIED IN THE CITY OF NEW BRAUNFELS ORDINANCE NO. 2016-____.
2. A 20' PUBLIC UTILITY EASEMENT (P.U.E.) WILL BE DEDICATED ADJACENT TO ALL STREET RIGHT OF WAYS.
3. PORTION OF THIS SITE IS LOCATED WITHIN THE 100-YR FEMA FLOOD PLAIN AS DESIGNATED ON COMMUNITY PANEL 48091C0290 F, DATED: SEPTEMBER 2, 2009 AND PANEL 48091C0455F DATED: SEPTEMBER 2, 2009
4. A HOMEOWNER'S ASSOCIATION WILL BE CREATED DURING ENGINEERING DESIGN PHASE OF THE PROJECT.
5. THE FOLLOWING LOTS, SHALL BE MAINTAINED BY THE HOMEOWNER'S ASSOCIATION. THE HOMEOWNER'S ASSOCIATION WILL MAINTAIN ALL COMMUNITY FACILITIES, GREEN SPACES, AND DETENTION AREAS:
   UNIT 1, LOT 900/902
   UNIT 1, LOT 903
   UNIT 2, LOT 904/906
   UNIT 3, LOT 907
6. THIS PROPERTY WILL BE SERVED BY THE FOLLOWING:
   NEW BRAUNFELS UTILITIES - WATER, SEWER, AND ELECTRIC
   AT&T PHONE SERVICE
   TIME WARNER CABLE TV
   CENTER POINT ENERGY GAS
7. REFERENCE PROPERTY LIES WITHIN THE COMAL COUNTY INDEPENDENT SCHOOL DISTRICT.
8. ALL STREETS ARE TYPICAL 50' RIGHT-OF-WAY UNLESS OTHERWISE SHOWN.
9. FUTURE DEVELOPMENT IS SUBJECT TO CHAPTER 114 (STREETS, SIDEWALKS, AND OTHER PUBLIC SPACES) OF THE NEW BRAUNFELS CODE OF ORDINANCES.

OWNER/DEVELOPER:
CHESMAR HOMES CT, LTD.
1846 N. LOOP 1604 WEST, STE. 200
SAN ANTONIO, TX 78248
PHONE: (210) 957-3395

ENGINEER:
KFW ENGINEERS
3421 PAESANOS PKWY. STE. 200
SAN ANTONIO, TX 78231
PHONE: (210) 979-8444
FAX: (210) 979-8441

KFW ENGINEERS + SURVEYING
3421 Paesanos Parkway, Suite 200 San Antonio, Texas 78231
Phone #: (210) 979-8444 • Fax #: (210) 979-8441
TBPE Firm # 4513 • TBPLS Firm # 10172300

ISSUE DATE

REVISIONS

MASTER PLAN
WASSER RANCH
NEW BRAUNFELS, TX

JOB NO. 437-03-01
DATE: MARCH, 2016
DRAWN: SJ CHECKED: B.W.

SHEET NUMBER:
MP-1

THIS DOCUMENT HAS BEEN PRODUCED FROM MATERIAL THAT WAS STORED AND/OR TRANSMITTED ELECTRONICALLY AND MAY HAVE BEEN INADVERTENTLY ALTERED. RELY ONLY ON FINAL HARDCOPY MATERIALS BEARING THE CONSULTANT'S ORIGINAL SIGNATURE AND SEAL

Date: May 31, 2016, 10:54am User ID: swee
File: P:\437\03\01\Design\Civil\MDP_PDD\MDP437030I.dwg

EXHIBIT B

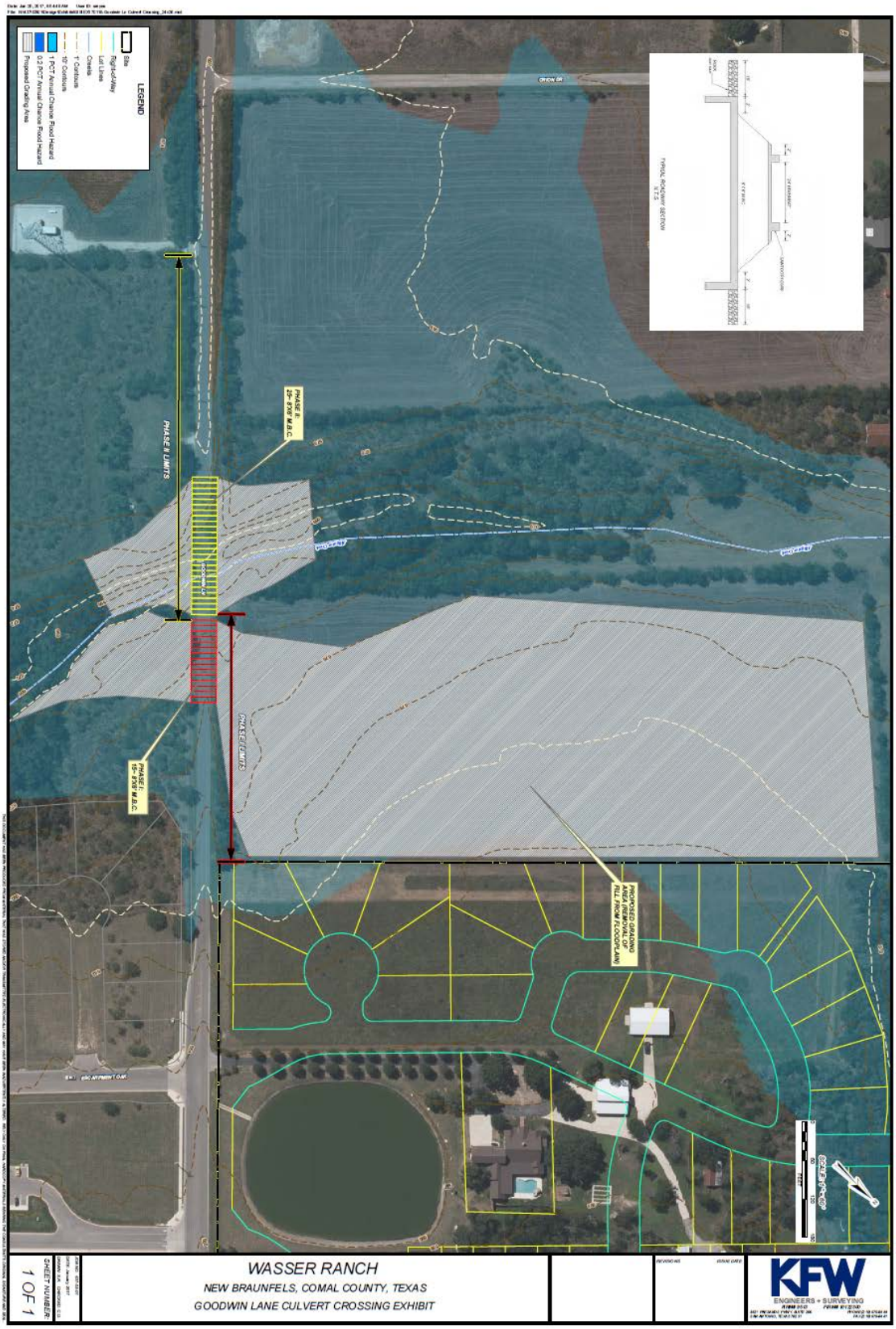

LEGEND
Site
Right-of-Way
Lot Lines
Creeks
1' Contours
10' Contours
1 PCT Annual Chance Flood Hazard
0.2 PCT Annual Chance Flood Hazard
Proposed Grading Area
PHASE II LIMITS
PHASE II: 25- 8'X6' M.B.C.
PHASE I: 15- 8'X6' M.B.C.
PHASE I LIMITS
PROPOSED GRADING AREA (REMOVAL OF FILL FROM FLOODPLAIN)
TYPICAL ROADWAY SECTION
N.T.S.
WASSER RANCH
NEW BRAUNFELS, COMAL COUNTY, TEXAS
GOODWIN LANE CULVERT CROSSING EXHIBIT
SHEET NUMBER:
1 OF 1
KFW
ENGINEERS + SURVEYING

EXHIBIT "C"

ROADWAY IMPACT FEE CALCULATION WORKSHEETS

City of New Braunfels

Roadway Impact Fee Calculation Worksheet
City of New Braunfels, Texas

Development Name: Wasser Ranch Unit 1

Applicant: *Insert Applicant Name*

Legal Description (Lot, Block): Wasser Ranch, Unit-1

Case Number: PL-16-067 **Date:** 7/6/2016

Worksheet Last Updated: 11/19/2013

Was the final plat approved after January 1, 2014?	Yes
Service Area* (select from list):	SA 3

*Service Area 4 does not have a roadway impact fee for properties final platted on or before January 1, 2014

THIS WORKSHEET IS FOR ESTIMATION PURPOSES ONLY - ACTUAL FEES WILL BE DETERMINED AT THE TIME OF BUILDING PERMIT

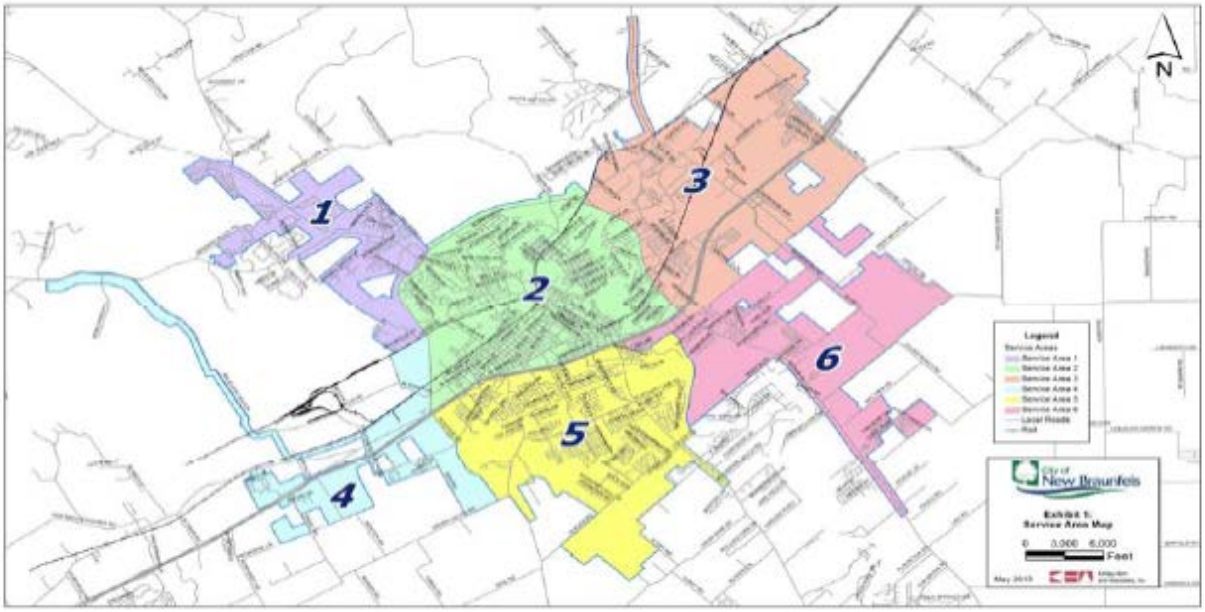
ROADWAY IMPACT FEE CALCULATION:

Land Uses (select from list):	Development Unit:	# of Units:	Maximum Assessable Fee[1] Impact Fee Per Development Unit:	Maximum Assessable Fee[1] Roadway Impact Fee:	Potential Collection Amounts Impact Fee Per Development Unit:	Potential Collection Amounts Roadway Impact Fee:
Single-Family Detached Housing	Dwelling Unit	79	$ 2,280.00	$ 180,120.00	$ 1,875.00	$ 148,125.00

MAXIMUM ASSESSABLE ROADWAY IMPACT FEE: $ 180,120.00

TOTAL POTENTIAL ROADWAY IMPACT FEE COLLECTION AMOUNT: $ 148,125.00

1. Maximum assessable roadway impact fee may be used as a measure of rough proportionality



Roadway Impact Fee Calculation Worksheet
City of New Braunfels, Texas

Development Name: Wasser Ranch Unit 2

Applicant: Insert Applicant Name

Legal Description (Lot, Block): Wasser Ranch, Unit-2

Case Number: PL-17-001 **Date:** 4/4/2017

Worksheet Last Updated: 11/19/2013

Was the final plat approved after January 1, 2014? Yes

Service Area* (select from list): SA 3

*Service Area 4 does not have a roadway impact fee for properties final platted on or before January 1, 2014

THIS WORKSHEET IS FOR ESTIMATION PURPOSES ONLY - ACTUAL FEES WILL BE DETERMINED AT THE TIME OF BUILDING PERMIT

ROADWAY IMPACT FEE CALCULATION:

Land Uses (select from list):	Development Unit:	# of Units:	Maximum Assessable Fee[1] Impact Fee Per Development Unit:	Maximum Assessable Fee[1] Roadway Impact Fee:	Potential Collection Amounts Impact Fee Per Development Unit:	Potential Collection Amounts Roadway Impact Fee:
Single-Family Detached Housing	Dwelling Unit	113	$ 2,280.00	$ 257,640.00	$ 1,875.00	$ 211,875.00

MAXIMUM ASSESSABLE ROADWAY IMPACT FEE: $ 257,640.00

TOTAL POTENTIAL ROADWAY IMPACT FEE COLLECTION AMOUNT: $ 211,875.00

1. Maximum assessable roadway impact fee may be used as a measure of rough proportionality

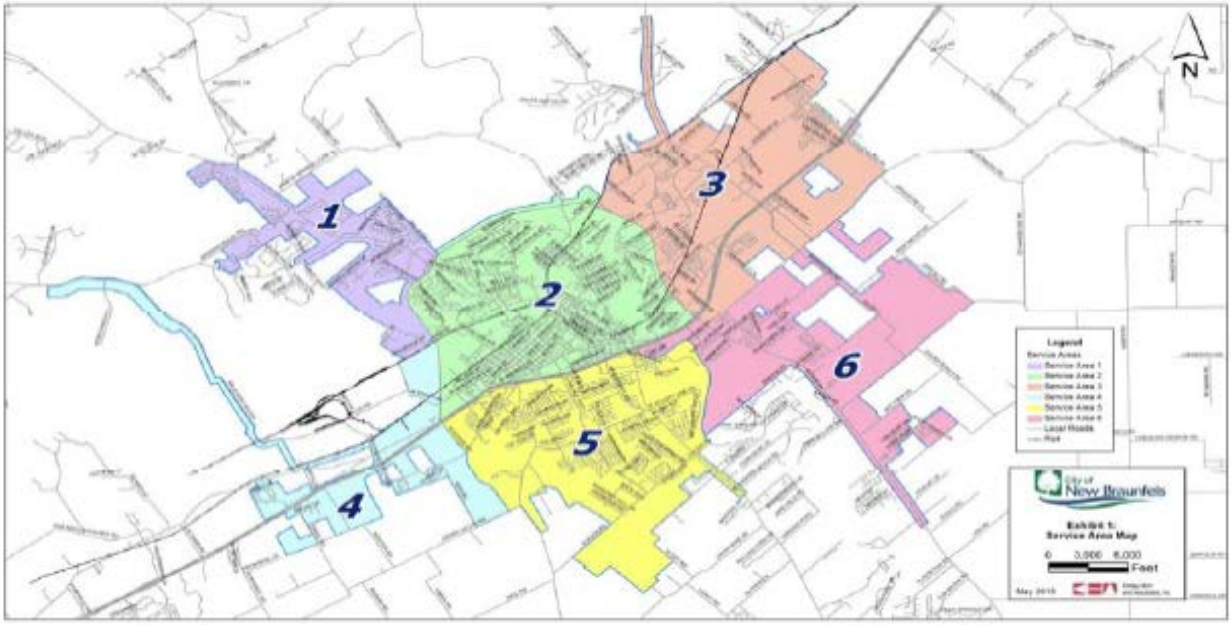


EXHIBIT "D"

PRELIMINARY SURVEY AND ENGINEERING WORK

Project Management (Not to Exceed $5,000 Allowance)
This task includes project planning and project meetings on a limited basis. An Additional Services Request will be required for project meetings should the budget exceed this allocation.

Design Survey ($15,000)
KFW will provide design topography required for HEC-RAS modeling of Alligator Creek. The survey will consist of existing improvements on Goodwin Lane from Orion to Pader.

Hydraulic Analysis ($18,000)
KFW will model the existing and proposed conditions floodplain for the 2, 10, 25, 50, and 100-year flood event.

30% Roadway Plan & Profile ($19,500)
KFW will provide a 30% plan and profile of the proposed roadway.

30% Culvert Plan & Profile ($21,500)
KFW will design the culverts to contain the 25-year flood event allowing the 100-year flood event overtop the road in a safe condition.

Right-of-Way Analysis (Not to Exceed $4,500 Allowance)
KFW will research the existing ROW and determine the required ROW acquisition. Survey documents are not included in this proposal. We will bill this time hourly. If more time is required than the budget allows, we will ask for additional services ahead of time.

Utility Coordination ($2,500)
KFW will meet with the various utility providers to determine potential conflicts and reconstruction of outdated utilities.

Jurisdictional Waters Determination ($6,000)
The Goodwin Lane Improvements will require a Preliminary Jurisdictional Determination to determine the extent of potential jurisdictional waters. This will allow us to adjust the design as needed to minimize impacts.

Mass Grading Plan ($7,500)
This task includes mass grading of the lots as required by the Developer's specification. This does not represent a detailed calculation of each lot, but will include 1-foot proposed contours and spot elevations at lot corners and breakpoints.

Geotechnical Engineering ($6,000)
The proposed investigation of the site will involve one site visit to the subject site and six points of exploration. The six points of exploration will involve four explanatory test borings, advanced to depths of 25 feet or shallow auger refusal with CME-55 drill rig in the area of the proposed building, as well as two test borings advanced to 15 feet in the proposed parking areas.

Sidewalk Plans ($5,500)
Per the city's request provide a Sidewalk plans to connect Oaks creek estates with the elementary school.

EXCLUSIONS
This proposal is specifically limited to the Scope of Services, with any and all other services or matters being expressly excluded. Without limiting the generality of the foregoing sentence, and by way of example only, the following items are assumed and/or excluded from this proposal:

- Endangered Species Study
- Structural design, including retaining walls
- Landscape, Lighting, and Irrigation Plans
- Tree ordinance compliance
- Platting services
- Storm drain detention design
- Construction documents
- Preparation of As-Built Drawings
- Design of a fire sprinkler system, hydraulic calculations, or a fire flow test
- Submittal for a SAWS Utility Service Agreement
- Flood Study
- Construction staking services
- Construction phase services
- Design of public utility
- Fire flow tests and hydraulic calculations will be billed as a direct expense.

- Exact service entrances and sizes for domestic water, fire lines, sanitary sewer, gas, and electric services will be provided by the Architect or MEP Engineer.
- All agency review and impact fees are to be provided by the client.
- Additional services requested by the client will be compensated by a negotiated lump sum fee. Additional services shall include, but are not limited to, any revisions to plans to accommodate site plan revisions after computations are complete.

Fee Summary:

Project Management (Allowance)	**$5,000**
Design Survey	**$15,000**
Hydraulic Analysis	**$18,000**
30% Roadway Plan & Profile	**$19,500**
30% Culvert Plan & Profile	**$21,500**
Right-of-Way Analysis (Allowance)	**$4,500**
Utility Coordination	**$2,500**
Jurisdictional Waters Determination	**$6,000**
Mass Grading Plan	**$7,500**
Geotechnical Engineering	**$6,000**
Sidewalk Plans	**$5,500**
Total Lump Sum Fee:	**$111,000**

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. K)

Presenter/Contact
Jennifer Cain, Capital Programs Manager
(830) 221-4646 - jcain@nbtexas.org

SUBJECT:

Discuss and consider approval of a contract with Capital Excavation Company for roadway and drainage construction services; a onetime cost sharing payment to New Braunfels Utilities for utility construction services with Capital Excavation Company; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba-Kistner Consultants for materials testing services; and approval of additional design services with Moeller & Associates for the Solms Road/Morningside Drive/Rueckle Road & Utility Reconstruction Project as part of the 2013 Bond Program.

BACKGROUND / RATIONALE:

As part of the 2013 Bond Program, Solms Road, Morningside Drive and Rueckle Road were assessed and approved for reconstruction. This project is approximately 4 miles of total reconstruction and widening to include 3 lanes, new curbs, bike lanes, shared use paths and improvements to the underground drainage, sewer and water facilities. A Competitive Sealed Proposal was released by the City on December 12, 2017 and 5 sealed bids were opened publicly and read aloud on January 24, 2018. An internal review was completed on each submission and they were scored based on the cost, relevant experience, schedule, and financial capacity. Based on this criterion, and price negotiations, Capital Excavation Company with the submission of $15,909,870.40 was found to be satisfactory for the joint NBU and City cost.

The City roadway and drainage portion will be $10,901,229.40, and the remaining $5,008,641 utility cost has been computed with the approved formula against all bid submissions that is specified in the MOU signed by NBU and the City of New Braunfels. The formula is intended to balance all utility bids in the event the total bids are unbalanced and weighted more to the utility phases. The computation shows that the City will make a one-time lump sum payment of $875,020 to NBU.

In addition to the base bid and the NBU payment, staff recommends a 7% project contingency of $763,086; a service contract for the third-party materials testing contract with Raba Kistner in the amount of $230,000 for quality control of the reconstruction project; as well as an increase to Moeller and Associates design contract for additional services that includes miscellaneous revisions and an increase of the necessary ROW parcels, construction administration services, revised drainage and street configurations, utility conflict coordination and resolution, underground conduit specification & design layout, and drafting of overall grading plan sheets in the amount of $161,140.

Breakout:

Base Bid	-	$10,901,229.40

NBU MOU	-	$875,020.00
Contingency	-	$763,086.00
Raba Kistner	-	$230,000.00
Moeller & Assoc.	-	$161,140.00

Total $12,930,475.40

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Strategic Priorities: Continue an ongoing program of infrastructure, construction and maintenance

FISCAL IMPACT:
Sufficient funds are available to award the contract and ancillary project costs as described.

COMMITTEE RECOMMENDATION:
N/A

STAFF RECOMMENDATION:
Staff recommends approval of a contract with Capital Excavation for roadway and drainage construction services; a onetime cost sharing payment to NBU for utility construction services with Capital Excavation; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba-Kistner Consultants for materials testing services; and approval of additional design services with Moeller & Assoc. for the Solms Road/Morningside Drive/Rueckle Road & Utility Reconstruction Project as part of the 2013 Bond Program.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. L)

Presenter/Contact
Jennifer Cain, Capital Programs Manager
(830) 221-4646 - jcain@nbtexas.org

SUBJECT:

Discuss and consider approval of a contract with J3 Company, LLC for roadway and drainage construction services; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba Kistner Consultants for materials testing services; and an approval for additional design and ROW services with Trihydro Corporation for the Klein Road Reconstruction Project as part of the 2013 Bond Program.

BACKGROUND / RATIONALE:

As part of the 2013 Bond Program, Klein Road, from FM1044 to Walnut Avenue, was assessed and approved for reconstruction. This project is approximately 2 miles of total reconstruction and widening to include up to 4 travel lanes, dedicated turn lanes, new curbs, shared use paths, and improvements to the existing underground drainage network. A Competitive Sealed Proposal was released by the City on December 20, 2017 and 8 sealed bids were publicly opened and read aloud on February 1, 2018. An internal review was completed on each submission and they were scored based on the cost, relevant experience, schedule, and financial capacity. Based on this criterion, J3 Company, with the submission of $7,162,922 was found to be satisfactory.

In addition to the base bid approval, staff recommends a 7% contingency in the amount of $501,404; a service contract for third-party materials testing with Raba Kistner Consultants in the amount of $124,428; as well as an increase to Trihydro Corporation design contract for additional services that include ROW survey/exhibits, drainage calculations, landscape improvements and underground conduit layout and specifications in the amount of $93,145.

Total: $7,881,899

ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:

X	Yes	City Plan/Council Priority	Strategic Priorities: Continue an ongoing program of infrastructure, construction and mainenance

FISCAL IMPACT:

Sufficient funds are available to award the construction contract and ancillary project costs as described.

COMMITTEE RECOMMENDATION:

N/A

STAFF RECOMMENDATION:

Staff recommends approval of a contract with J3 Company, LLC for roadway and drainage construction services; authority for the City Manager to approve any changes up to seven percent for contingency expenditures; a contract with Raba Kistner Consultants for materials testing services; and an approval for additional design and ROW services with Trihydro Corporation for the Klein Road Reconstruction Project as part of the 2013 Bond Program.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. M)

Presenter/Contact
Victor Garza, Economic Development Manager
(830) 221-4621 - vgarza@nbtexas.org

SUBJECT:

Discuss and consider approval of a resolution recommended by the New Braunfels Industrial Development Corporation authorizing an expenditure of up to $183,000 to TaskUs Inc. for a project to create 450 new jobs.

BACKGROUND / RATIONALE:

TASKUS is a business solutions company targeting innovative start-up companies. They offer customer support and back office operations for some of the leading tech brands. The company is considering a technical operations and customer experience center in New Braunfels. The company will spend $5.4 million for leasehold improvements and $5.0 million for computer and telecommunications equipment. The company expects to create 450 new jobs in New Braunfels with an average wage of $31,000 calculated with benefits, with 225 of these new jobs paying $15.30/hour and 225 paying $14.90/hour. After a public hearing February 9, 2018, the NBIDC approved a $183,000 financial incentive by a vote of 5-0.

Proposed Incentives- State of Texas and Comal County

Comal County will be considering a Chapter 381 to provide property tax credits for an 8-year period at an average of fifty four percent.

Proposed Local Incentives- Chapter 380 Agreement & NBIDC Grant

For the NBIDC and City Council to consider this project, New Braunfels had to compete against multiple sites and municipalities in Texas and other states. The proposed incentive package, coupled with community and site attributes, ultimately influenced TaskUs to select New Braunfels as the finalist site. To finalize negotiations, staff is proposing an incentive package that includes a Chapter 380 Agreement and a grant from the NBIDC. The Chapter 380 would provide an annual grant that is calculated according to percentage of total city property taxes paid on land, improvements and machinery and equipment once certain investment and job creation thresholds are fulfilled and maintained. It is proposed that the Company would be eligible to receive the grant according to a fixed schedule and percentages once thresholds are met. The following table illustrates the period and grant percentage the company would be eligible to receive:

Investment Levels

First Year Taxable	Total Taxable Assessed Value (2018 dollars)	Rebate Year	Rebate Percentage	Taxes Owed	Rebate Amount
2018	$6,321,000	2019	70%	$ 30,859.12	$ 21,601.39
2019	$6,738,000	2020	70%	$ 32,894.92	$ 23,026.44

2020	$7,004,160	2021	70%	$ 34,194.31	$ 23,936.02
2021	$8,037,523	2022	55%	$ 39,239.19	$ 21,581.55
2022	$8,461,134	2023	55%	$ 41,307.26	$ 22,718.99
2023	$8,734,036	2024	55%	$ 42,639.56	$ 23,451.76
2024	$9,774,277	2025	30%	$ 47,718.02	$ 14,315.41
2025	$10,204,903	2026	30%	$ 49,820.34	$ 14,946.10
2026	$10,484,961	2027	0%	$ 51,187.58	$ -
2027	$11,532,500	2028	0%	$ 56,301.67	$ -
Total:				**$ 426,161.96**	**$ 165,577.65**

Required Employment

The Company will add 450 new employees over the lifetime of the agreement. There will be a handful of employees relocating from other facilities but the overwhelming majority will be hired from our local area. In exchange for the $183,000 Grant. Company has agreed to an average wage of $15.30 for 225 of the employees.

Clawbacks

This agreement will be secured by a Letter of Credit in the amount of the grant. Should company fail to maintain the employment numbers we would seek reimbursement.

Addresses a Need/Issue In a City Plan or Council Priority:

NBIDC Funding Guidelines Section IV:

Grants from NBIDC have typically been in a range of $2,000 to $7,000 per new job created. NBIDC has provided greater incentives in circumstances when companies move or increase headquarter operations in or to New Braunfels, offer highly paid positions for skilled employees, or introduce a new skill-set opportunity with high pay/benefits to our labor market. As a general rule, the amount of incentive dollars should not exceed 50% of the total project cost. An economic impact analysis and financial analysis is required of any request for funding, and the NBIDC Board of Directors maintains the discretion to adjust the level of incentive accordingly

And Section V:

Projects that meet the NAICS codes and provide “primary” jobs, should also meet the minimum job creation and investment thresholds established by NBIDC. They are the creation of at least 5 new fulltime jobs at or above the average county wage and new infrastructure investment of at least $125,000. NBIDC members may waive one or both of these thresholds when designing a performance-based incentive that is expected to be paid out at some future date when the thresholds are met. NBIDC may also waive these thresholds in the case of job retention projects, or when the assistance of NBIDC would help fund a new equipment purchase for a company that would increase their productivity and their competitiveness in the marketplace.

Fiscal Impact:

See Attached EIA One Page Summary

Board/Commission Recommendation:
NBIDC Approved the Grant 5-0.

Staff Recommendation:
Staff believes the Agreement is consistent with the NBIDC Funding Guidelines and recommends approval.

Attachment:
One Page EIA
Draft Resolution
Proposed Term Sheet

RESOLUTION NO. 2018-R _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, APPROVING A RECOMMENDATION OF THE NEW BRAUNFELS INDUSTRIAL DEVELOPMENT CORPORATION TO PROVIDE UP TO $183,000 IN FINANCIAL INCENTIVES TO TASKUS INC. FOR THE CREATION AND RETENTION OF UP TO 450 NEW JOBS; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of New Braunfels Industrial Development Corporation ("IDC") Board of Directors met on February 9, 2018 to consider financial incentives to TaskUs Inc. ("Company") for the creation and retention of up to 450 new job in New Braunfels of which 225 will pay an average wage of $15.30/hour and the other 225 at a rate of $14.90/hour; and

WHEREAS, the IDC Board of Directors held a public hearing on February 9, 2018, to solicit public comment with regard to the request; and

WHEREAS, the IDC Board of Directors, after discussing the request, voted to approve a project expenditure of up to $183,000 if the Company meets certain performance conditions during the compliance period; and

WHEREAS, the Performance Agreement between the NBIDC and the Company shall encourage the Company to hire employees from the Comal, Guadalupe and Hays counties area; and

WHEREAS, the IDC Board of Directors will enter into an economic development agreement as authorized by the Texas Local Government Code Sections 501.101 and 505.155 with TaskUs Inc. to create up to 450 new jobs by December 31, 2018.

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

SECTION 1: That the recommendation of the New Braunfels Industrial Development Corporation to provide financial incentives to Taskus Inc. for the creation and retention of up to 450 new jobs in New Braunfels with 225 employees paid an average wage of $15.30/hour and 225 at $14.90/hour, is hereby approved.

SECTION 2: That this Resolution shall become effective from and after the date of its passage.

PASSED, ADOPTED AND APPROVED this 26th day of February, 2018.

CITY OF NEW BRAUNFELS, TEXAS

By: _____
Barron Casteel, Mayor

ATTEST:

_____

Patrick D. Aten, City Secretary

Proposed Terms Sheet Draft
TASKUS Inc.

This term sheet sets forth the principal terms for the proposed agreement between TaskUs ("the Company") and the City of New Braunfels ("City") and the New Braunfels Industrial Development Corporation ("NBIDC"). No legally binding obligations will be created by this Term Sheet until written definitive agreements are executed and delivered by all parties. This Term Sheet is not inclusive of all possible provisions, conditions, and requirements of any party to the agreement, and does not represent binding final commitments of any party. This is not a commitment to invest any public funds and is conditioned on the final approvals of New Braunfels Industrial Development Corporation ("NBIDC) and the City Council of the City of New Braunfels ("City").

Overview

Proposed Project:

TASKUS ("the Company") is considering a technical operations and customer experience center in New Braunfels. The company will spend $5.4 million for leasehold improvements and $5.0 million for computer and telecommunications equipment. The facility expects to create 450 jobs with an average wage of $31,000 calculated with benefits.

Required Investment:

TASKUS will make expenditures for its project in certain phases and at certain points in time as set forth below. These capital investments in its facility, furniture, fixtures and equipment are completed for the purposes of beginning operations as part of the proposed project. It is proposed that for the purpose of qualifying for tax rebates, the Company shall meet or exceed these established minimums for Total Taxable Assessed Value. Company will receive a rebate for the difference between the value of the property acquired in the year prior to purchase by Company (2017 or 2018) and the tax year following Company's investment. (2018 or 2019)

Total Taxable Assessed Value shall mean the Comal Appraisal District's assessed value on any ad valorem improvements or business personal property. Business Personal Property shall mean to include machinery, furniture, fixtures and equipment. For the purposes of commencing a new Rebate Phase, the Total Taxable Assessed Value shall not include the capital investment necessary for the replacement of machinery and equipment on already established real property. Nor shall the

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replacement of machinery and equipment restart the rebate period for that particular Rebate Phase.

TASKUS intends to commence operation in New Braunfels according to the following schedule:

First Year Taxable	Total Taxable Assessed Value (2018 dollars)	Rebate Year	Rebate Percentage	Taxes Owed	Rebate Amount
2018	$6,321,000	2019	70%	$ 30,859.12	$ 21,601.39
2019	$6,738,000	2020	70%	$ 32,894.92	$ 23,026.44
2020	$7,004,160	2021	70%	$ 34,194.31	$ 23,936.02
2021	$8,037,523	2022	55%	$ 39,239.19	$ 21,581.55
2022	$8,461,134	2023	55%	$ 41,307.26	$ 22,718.99
2023	$8,734,036	2024	55%	$ 42,639.56	$ 23,451.76
2024	$9,774,277	2025	30%	$ 47,718.02	$ 14,315.41
2025	$10,204,903	2026	30%	$ 49,820.34	$ 14,946.10
2026	$10,484,961	2027	0%	$ 51,187.58	$ -
2027	$11,532,500	2028	0%	$ 56,301.67	$ -
Total:				**$ 426,161.96**	**$ 165,577.65**

TASKUS shall submit to the City a written certification along with supporting documentation by an authorized officer of TASKUS confirming that the investment required to satisfy the Total Taxable Assessed Value has occurred.

TASKUS's Total Taxable Assessed Value shall meet the amounts detailed above.

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City of New Braunfels

Proposed Incentives

Summary of Incentives:

Entity	Form of Incentive	Value of Incentive
New Braunfels Industrial Development Cash Grant	Capital Investment Grant	$183,000
City of New Braunfels	Annual Performance Based Real Property Tax Rebate	$175,928
	Total:	$358,928

Property Tax Rebates from City: The City agrees to rebate a percentage of the City's share of property taxes collected on year to the project according to the following schedule through a Chapter 380 Agreement:

Property Tax Rebate Schedule and Percentages	
Year 1	70%
Year 2	70%
Year 3	70%
Year 4	55%
Year 5	55%
Year 6	55%
Year 7	30%
Year 8	30%
Year 9	0%
Year 10	0%

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Per Job Grant From NBIDC:

NBIDC, through its own separate agreement, will consider delivering up to an additional $183,000 in per job grants for the leasehold improvements on the Taskus New Braunfels facility. The grant will be performance based, meaning Company will have to show the minimum Total Taxable Assessed Value outlined above at an agreed upon time in order to receive the grant. The numbers will need to be maintained throughout the lifetime of the agreement.

Security:

The purpose of the NBIDC incentive is to facilitate the opening of Company's New Braunfels location that will ultimately create up to 450 full-time primary jobs of which 225 have an average wage of $15.30. The breakdown of per job grants will be in the amount of $666 per job for the 225 higher pay jobs and $146 per job for the remaining 450 jobs at the lower salary. The NBIDC will deliver up to $183,000 to Company to reduce Company's leasehold improvement and equipment acquisition costs. Company can receive these funds upon a showing of having met its Total Taxable Assessed Value and Employment Numbers. The numbers must be maintained for the life of the agreement. To insure compliance an appropriate security instrument will be provided to the NBIDC in the form of a letter of credit equal to the value of the grant ($183,000). The lien will be released upon fulfillment of the performance condition detailed above (Total Taxable Assessed Value).

Indemnification:

TASKUS will indemnify the City and NBIDC.

Undocumented Workers:

Chapter 2264 of the Texas Government Code requires TASKUS to certify that TASKUS will agree not to knowingly employ any undocumented workers during the term of the Agreement. If TASKUS is convicted of a violation under 8 U.S.C. Section 1324a(f), the business shall repay the amount of the property tax rebate with six percent (6%) interest, at the rate and according to the other terms provided by an agreement under Section 2264.053, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation. If convicted, TASKUS shall repay the amount of all property tax rebates for the year(s) in which the violation occurred.

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Reporting: The Company will be required to annually certify that the conditions above are being fulfilled. TASKUS shall provide a certified copy of property taxes paid to the Comal Appraisal District

Assignment: This Terms Sheet and any subsequent written agreements are non-assignable without the written consent of all parties.

Place of Contract: New Braunfels, Comal County, Texas

Governing Law: This Terms Sheet and any subsequent written agreements shall be governed by and subject to the laws of the State of Texas.

No Third Party Rights: No Third Party Rights are created or arise under this Terms Sheet or any subsequent written agreements.

Authorizing Statute The City is authorized to undertake this project under Chapter 380 of Texas Local Government Code. The NBIDC is permitted to undertake this project under Texas Local Government Code Chapter 501.101.

Agreed and Accepted:

By: **TASKUS**

By: _____

_____, _____

Date: February ____, 2018

CONFIDENTIAL DRAFT

TASKUS - IMPACT SUMMARY FOR THE CITY OF NEW BRAUNFELS

JOBS

480.7

225.0 Direct

AVERAGE SALARY

$23,400

$31,824 Direct

CAPITAL INVESTMENT

$10.5m

Buildings & Equipment

RESIDENTIAL DEV.

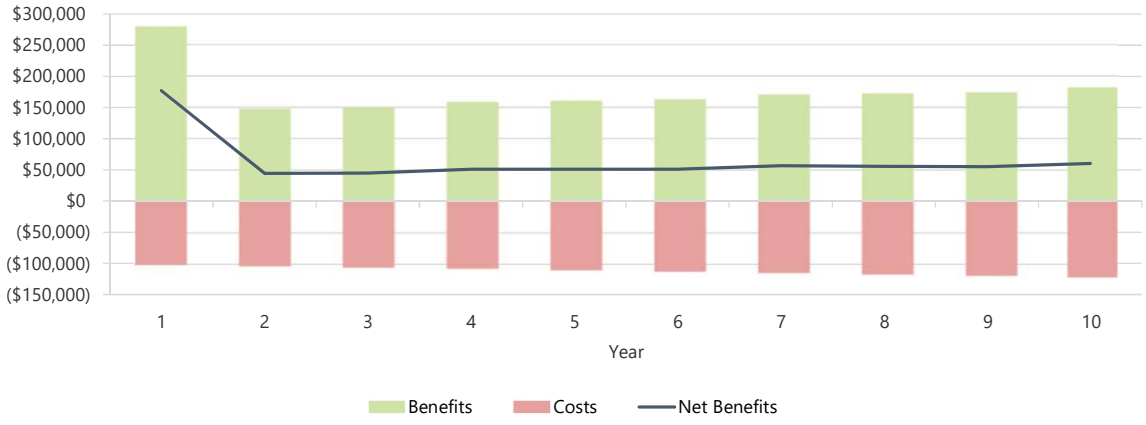
10.8 Homes

72.2 Workers Relocating

City of New Braunfels - Net Benefits Over 10 Years

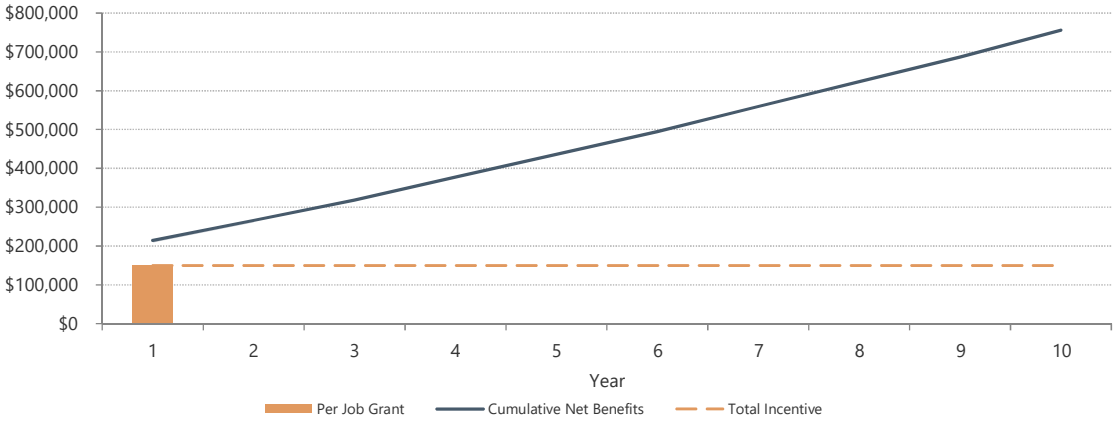
	Amount
Sales Taxes	$328,602
Property Taxes - Project, after abatement	$383,137
Property Taxes - New Residential	$97,824
Utility Revenue	$0
Utility Franchise Fees	$347,044
Building Permits and Fees	$43,200
Hotel Occupancy Taxes	$0
Airport Building Lease Revenue	$0
Airport Commercial Activity Fee	$0
Miscellaneous Taxes & User Fees	$558,001
Subtotal Benefits	$1,757,809
Cost of Providing Municipal Services	($1,111,319)
Cost of Providing Utility Services	$0
Subtotal Costs	($1,111,319)
Net Benefits	$646,490
Present Value (5% discount rate)	*$517,621*

Net Benefits over 10 Years



Incentive Analysis over 10 Years*

$150,000	$667	50.4%	0.7
Non-Tax Incentive	Incentive Per Job	Rate of Return	Payback Period (years)



*The graph depicts the total incentives currently under consi
versus the cumulative net benefits to the City and NBDIC.

City of New Braunfels

City Council Agenda Item Report

550 Landa Street
New Braunfels, TX

3/12/2018

Agenda Item No. N)

Presenter/Contact
Victor Garza, Economic Development Manager
(830) 221-4621 - vgarza@nbtexas.org

SUBJECT:
Discuss and consider approval of a Chapter 380 Agreement with TaskUs Inc. a for-profit corporation.

BACKGROUND / RATIONALE:
TaskUs is a business solutions company targeting innovative start-up companies. They offer customer support and back office operations for some of the leading tech brands. The company is considering a technical operations and customer experience center in New Braunfels. The company will spend $5.4 million for leasehold improvements and $5.0 million for computer and telecommunications equipment. The company expects to create 450 new jobs in New Braunfels with an average wage of $31,000 calculated with benefits, with 225 of these new jobs paying $15.30/hour and 225 paying $14.90/hour. After a public hearing February 9, 2018, the NBIDC approved a $183,000 financial incentive by a vote of 5-0.

Proposed Incentives- State of Texas and Comal County
Comal County approved a Chapter 381 to provide property tax credits for an 8 year period at an average of fifty four percent (54%) on March1, 2018.

Proposed Local Incentives- Chapter 380 Agreement & NBIDC Grant
For the NBIDC and City Council to consider this project, New Braunfels had to compete against multiple sites and municipalities in Texas and other states. The proposed incentive package, coupled with community and site attributes, ultimately influenced TaskUs to select New Braunfels as the finalist site. To finalize negotiations, staff is proposing an incentive package that includes a Chapter 380 Agreement and a grant from the NBIDC. The Chapter 380 would provide an annual grant that is calculated according to percentage of total city property taxes paid on land, improvements and machinery and equipment once certain investment and job creation thresholds are fulfilled and maintained. It is proposed that the Company would be eligible to receive the grant according to a fixed schedule and percentages once thresholds are met. The following table illustrates the period and grant percentage the company would be eligible to receive:

Investment Levels

First Year Taxable	Total Taxable Assessed Value (2018 dollars)	Rebate Year	Rebate Percentage	Taxes Owed	Rebate Amount
2018	$6,321,000	2019	70%	$ 30,859.12	$ 21,601.39
2019	$6,738,000	2020	70%	$ 32,894.92	$ 23,026.44
2020	$7,004,160	2021	70%	$ 34,194.31	$ 23,936.02
2021	$8,037,523	2022	55%	$ 39,239.19	$ 21,581.55
2022	$8,461,134	2023	55%	$ 41,307.26	$ 22,718.99
2023	$8,734,036	2024	55%	$ 42,639.56	$ 23,451.76
2024	$9,774,277	2025	30%	$ 47,718.02	$ 14,315.41
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2027	$11,532,500	2028	0%	$ 56,301.67	$ -
Total:				**$ 426,161.96**	**$ 165,577.65**

Required Employment

The Company will add 450 new employees over the lifetime of the agreement. There will be a handful of employees relocating from other facilities but the overwhelming majority will be hired from our local area. In exchange for the $183,000 Grant. Company has agreed to an average wage of $15.30 for 225 of the employees.

Clawbacks

This agreement will be secured by a Letter of Credit in the amount of the grant. Should company fail to maintain the employment numbers we would seek reimbursement. The per job grant will be reimbursable to the city should employment fall below the outlined numbers. The rate for the higher wage jobs will be $666 and the lower wage jobs reimbursement rate will be $146.

Addresses a Need/Issue In a City Plan or Council Priority:

NBIDC Funding Guidelines Sections IV and V:

Grants from NBIDC have typically been in a range of $2,000 to $7,000 per new job created. NBIDC has provided greater incentives in circumstances when companies move or increase headquarter operations in or to New Braunfels, offer highly paid positions for skilled employees, or introduce a new skill-set opportunity with high pay/benefits to our labor market. As a general rule, the amount of incentive dollars should not exceed 50% of the total project cost. An economic impact analysis and financial analysis is required of any request for funding, and the NBIDC Board of Directors maintains the discretion to adjust the level of incentive accordingly

Projects that meet the NAICS codes and provide “primary” jobs, should also meet the minimum job creation and investment thresholds established by NBIDC. They are the creation of at least 5 new fulltime jobs at or above the average county wage and new infrastructure investment of at least $125,000. NBIDC members may waive one or both of these thresholds when designing a performance-based incentive that is expected to be paid out at some future date when the thresholds

are met. NBIDC may also waive these thresholds in the case of job retention projects, or when the assistance of NBIDC would help fund a new equipment purchase for a company that would increase their productivity and their competitiveness in the marketplace.

Fiscal Impact:
See Attached EIA One Page Summary

Board/Commission Recommendation:
NBIDC Approved the Grant 5-0.

Staff Recommendation:
Staff believes the Agreement is consistent with the NBIDC Funding Guidelines and recommends approval.

Attachment:
One Page EIA
Proposed Term Sheet

Proposed Terms Sheet Draft
TASKUS Inc.

This term sheet sets forth the principal terms for the proposed agreement between TaskUs ("the Company") and the City of New Braunfels ("City") and the New Braunfels Industrial Development Corporation ("NBIDC"). No legally binding obligations will be created by this Term Sheet until written definitive agreements are executed and delivered by all parties. This Term Sheet is not inclusive of all possible provisions, conditions, and requirements of any party to the agreement, and does not represent binding final commitments of any party. This is not a commitment to invest any public funds and is conditioned on the final approvals of New Braunfels Industrial Development Corporation ("NBIDC) and the City Council of the City of New Braunfels ("City").

Overview

Proposed Project:

TASKUS ("the Company") is considering a technical operations and customer experience center in New Braunfels. The company will spend $5.4 million for leasehold improvements and $5.0 million for computer and telecommunications equipment. The facility expects to create 450 jobs with an average wage of $31,000 calculated with benefits.

Required Investment:

TASKUS will make expenditures for its project in certain phases and at certain points in time as set forth below. These capital investments in its facility, furniture, fixtures and equipment are completed for the purposes of beginning operations as part of the proposed project. It is proposed that for the purpose of qualifying for tax rebates, the Company shall meet or exceed these established minimums for Total Taxable Assessed Value. Company will receive a rebate for the difference between the value of the property acquired in the year prior to purchase by Company (2017 or 2018) and the tax year following Company's investment. (2018 or 2019)

Total Taxable Assessed Value shall mean the Comal Appraisal District's assessed value on any ad valorem improvements or business personal property. Business Personal Property shall mean to include machinery, furniture, fixtures and equipment. For the purposes of commencing a new Rebate Phase, the Total Taxable Assessed Value shall not include the capital investment necessary for the replacement of machinery and equipment on already established real property. Nor shall the

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replacement of machinery and equipment restart the rebate period for that particular Rebate Phase.

TASKUS intends to commence operation in New Braunfels according to the following schedule:

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2022	$8,461,134	2023	55%	$ 41,307.26	$ 22,718.99
2023	$8,734,036	2024	55%	$ 42,639.56	$ 23,451.76
2024	$9,774,277	2025	30%	$ 47,718.02	$ 14,315.41
2025	$10,204,903	2026	30%	$ 49,820.34	$ 14,946.10
2026	$10,484,961	2027	0%	$ 51,187.58	$ -
2027	$11,532,500	2028	0%	$ 56,301.67	$ -
Total:				**$ 426,161.96**	**$ 165,577.65**

TASKUS shall submit to the City a written certification along with supporting documentation by an authorized officer of TASKUS confirming that the investment required to satisfy the Total Taxable Assessed Value has occurred.

TASKUS's Total Taxable Assessed Value shall meet the amounts detailed above.

CONFIDENTIAL DRAFT

City of New Braunfels

Proposed Incentives

Summary of Incentives:

Entity	Form of Incentive	Value of Incentive
New Braunfels Industrial Development Cash Grant	Capital Investment Grant	$183,000
City of New Braunfels	Annual Performance Based Real Property Tax Rebate	$175,928
	Total:	$358,928

Property Tax Rebates from City: The City agrees to rebate a percentage of the City's share of property taxes collected on year to the project according to the following schedule through a Chapter 380 Agreement:

Property Tax Rebate Schedule and Percentages	
Year 1	70%
Year 2	70%
Year 3	70%
Year 4	55%
Year 5	55%
Year 6	55%
Year 7	30%
Year 8	30%
Year 9	0%
Year 10	0%

CONFIDENTIAL DRAFT

Per Job Grant From NBIDC:

NBIDC, through its own separate agreement, will consider delivering up to an additional $183,000 in per job grants for the leasehold improvements on the Taskus New Braunfels facility. The grant will be performance based, meaning Company will have to show the minimum Total Taxable Assessed Value outlined above at an agreed upon time in order to receive the grant. The numbers will need to be maintained throughout the lifetime of the agreement.

Security:

The purpose of the NBIDC incentive is to facilitate the opening of Company's New Braunfels location that will ultimately create up to 450 full-time primary jobs of which 225 have an average wage of $15.30. The breakdown of per job grants will be in the amount of $666 per job for the 225 higher pay jobs and $146 per job for the remaining 450 jobs at the lower salary. The NBIDC will deliver up to $183,000 to Company to reduce Company's leasehold improvement and equipment acquisition costs. Company can receive these funds upon a showing of having met its Total Taxable Assessed Value and Employment Numbers. The numbers must be maintained for the life of the agreement. To insure compliance an appropriate security instrument will be provided to the NBIDC in the form of a letter of credit equal to the value of the grant ($183,000). The lien will be released upon fulfillment of the performance condition detailed above (Total Taxable Assessed Value).

Indemnification:

TASKUS will indemnify the City and NBIDC.

Undocumented Workers:

Chapter 2264 of the Texas Government Code requires TASKUS to certify that TASKUS will agree not to knowingly employ any undocumented workers during the term of the Agreement. If TASKUS is convicted of a violation under 8 U.S.C. Section 1324a(f), the business shall repay the amount of the property tax rebate with six percent (6%) interest, at the rate and according to the other terms provided by an agreement under Section 2264.053, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation. If convicted, TASKUS shall repay the amount of all property tax rebates for the year(s) in which the violation occurred.

CONFIDENTIAL DRAFT

Reporting: The Company will be required to annually certify that the conditions above are being fulfilled. TASKUS shall provide a certified copy of property taxes paid to the Comal Appraisal District

Assignment: This Terms Sheet and any subsequent written agreements are non-assignable without the written consent of all parties.

Place of Contract: New Braunfels, Comal County, Texas

Governing Law: This Terms Sheet and any subsequent written agreements shall be governed by and subject to the laws of the State of Texas.

No Third Party Rights: No Third Party Rights are created or arise under this Terms Sheet or any subsequent written agreements.

Authorizing Statute The City is authorized to undertake this project under Chapter 380 of Texas Local Government Code. The NBIDC is permitted to undertake this project under Texas Local Government Code Chapter 501.101.

Agreed and Accepted:

By: **TASKUS**

By: _____

_____, _____

Date: February ____, 2018

CONFIDENTIAL DRAFT

TASKUS - IMPACT SUMMARY FOR THE CITY OF NEW BRAUNFELS

JOBS

480.7

225.0 Direct

AVERAGE SALARY

$23,400

$31,824 Direct

CAPITAL INVESTMENT

$10.5m

Buildings & Equipment

RESIDENTIAL DEV.

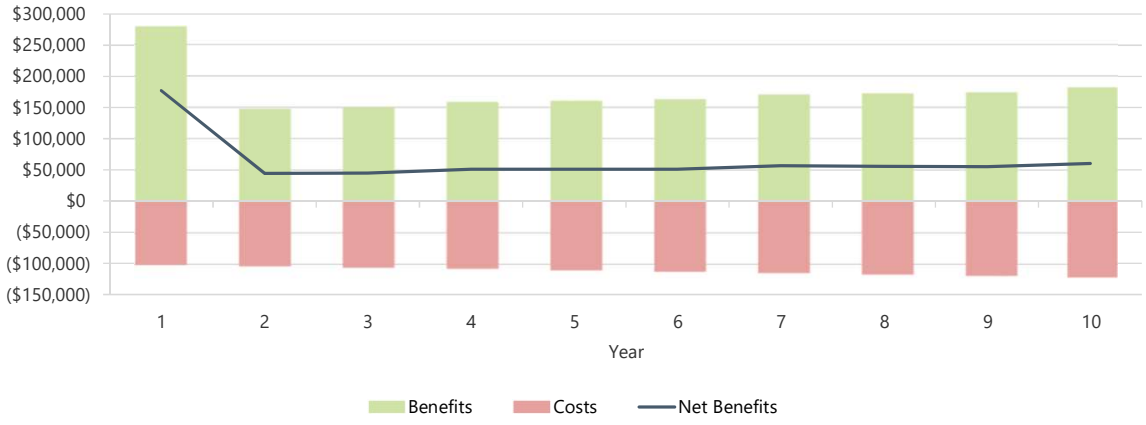
10.8 Homes

72.2 Workers Relocating

City of New Braunfels - Net Benefits Over 10 Years

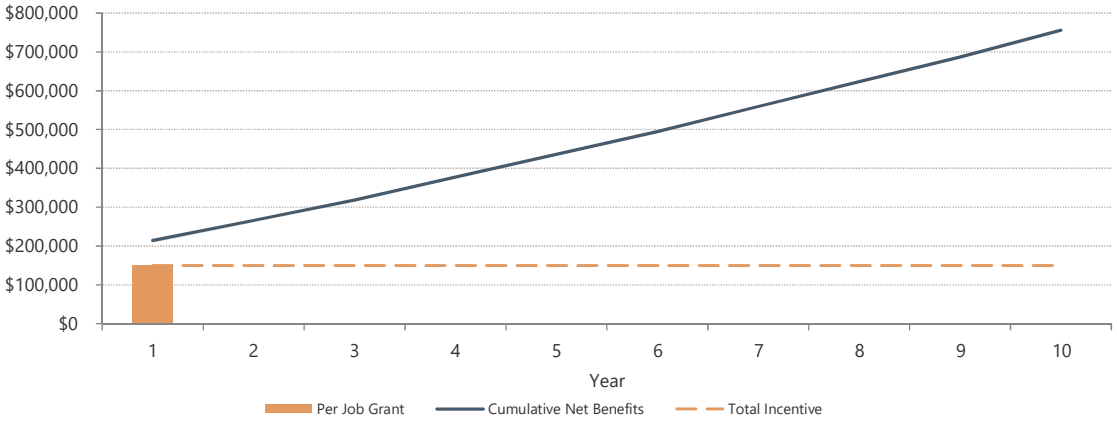
	Amount
Sales Taxes	$328,602
Property Taxes - Project, after abatement	$383,137
Property Taxes - New Residential	$97,824
Utility Revenue	$0
Utility Franchise Fees	$347,044
Building Permits and Fees	$43,200
Hotel Occupancy Taxes	$0
Airport Building Lease Revenue	$0
Airport Commercial Activity Fee	$0
Miscellaneous Taxes & User Fees	$558,001
Subtotal Benefits	$1,757,809
Cost of Providing Municipal Services	($1,111,319)
Cost of Providing Utility Services	$0
Subtotal Costs	($1,111,319)
Net Benefits	$646,490
Present Value (5% discount rate)	*$517,621*

Net Benefits over 10 Years



Incentive Analysis over 10 Years*

$150,000	$667	50.4%	0.7
Non-Tax Incentive	Incentive Per Job	Rate of Return	Payback Period (years)



*The graph depicts the total incentives currently under consi
versus the cumulative net benefits to the City and NBDIC.