



**CITY OF NEW BRAUNFELS, TEXAS  
CITY COUNCIL MEETING**



**CITY HALL - COUNCIL CHAMBERS  
550 LANDA STREET**

**MONDAY, SEPTEMBER 9, 2019 at 6:00 PM**

Barron Casteel, Mayor	Matthew E. Hoyt, Councilmember (District 4)
Shane Hines, Councilmember (District 1)	Wayne Peters, Mayor Pro Tem (District 5)
Justin Meadows, Councilmember (District 2)	Leah A. García, Councilmember (District 6)
Harry Bowers, Councilmember (District 3)	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 Casteel**

**PLEDGE OF ALLEGIANCE & SALUTE TO THE TEXAS FLAG**

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

**PROCLAMATIONS:**

- A) Hispanic Heritage Month
- B) Hunger Action Month
- C) National Preparedness Month
- D) Sons of the American Legion Day

**PRESENTATIONS:**

- A) Presentation, discussion, and approval of a resolution requesting financial assistance from the State of Texas by and through the Governor and the legislature to the Guadalupe-Blanco River Authority for the costs of repair, reconstruction, and maintenance of critical infrastructure located at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood.  
*Barron Casteel, Mayor*
- B) Presentation regarding the Solms Landing Public Improvement District

and associated financing plan.

*Jared Werner, Chief Financial Officer*

**1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of August 26, 2019, and the special meetings of August 22 and September 3, 2019.

*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 the appointment of two individuals to the Building Standards Commission for terms ending October 26, 2021.  
*Patrick Aten, City Secretary*
- B) Approval of an annual contract with Landscape Commander LLC to provide landscape maintenance services at designated City facilities, parks and roadway medians, on an as-needed basis.  
*Stacey Dicke, Parks and Recreation Director*
- C) Approval for the City Manager to enter into an Agreement for Release of Liability for Fire Department training activities with BHGE Oil and Gas Company for the use of their property at 1150 Schwab Road.  
*Patrick O'Connell, Interim Fire Chief*
- D) Approval of the grant contract for the Routine Airport Maintenance Program through the Texas Department of Transportation in the amount of up to \$50,000 for eligible maintenance expenses; and authorizing the City Manager to accept funds and to execute all contract documents associated with grant.  
*Robert Lee, Airport Director*

*Ordinances*

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

- E) Approval of the second and final reading of an ordinance creating a temporary San Antonio Street Bridge Safety Zone that will prohibit river and pedestrian traffic upstream, under, and downstream of the bridge, during TxDOT construction; authorizing the City Manager to determine date such activities are safe to resume; establishing up to a \$500.00 fine; and repealing Section 86-17 of the Code of Ordinances, entitled Gruene Road River Bridge Water Safety Zone; and providing an effective date.

*Val Acevedo, City Attorney, and Kristi Aday, Assistant City Manager*

- F) Approval of the second and final reading of an ordinance regarding the proposed rezoning of 39.241 acres, consisting of Lot 2, AD2 Subdivision and approximately 34 acres out of the A-485 O Russell Survey 1, located in the 3900 and 4000 blocks of IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

*Christopher J. Looney, Planning and Community Development Director*

- G) Approval of the second and final reading of an ordinance regarding the proposed rezoning of Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

*Christopher J. Looney, Planning and Community Development Director*

#### **4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Discuss and consider a request for a conditional sign permit for QuikTrip 4040 to allow a pole sign to exceed the adopted height and sign face area standards, addressed at 2017 FM 1102.

*Christopher Looney, Planning and Community Development Director*

- B) Discuss and consider approval of the second and final reading of an ordinance adopting the FY 2019-20 Operating Budget and Plan of Municipal Services.

*Jared Werner, Chief Financial Officer*

- C) Discuss and consider approval of the second and final reading of an ordinance adopting the 2019 ad valorem tax rates.

*Jared Werner, Chief Financial Officer*

- D) Discuss and consider approval of a resolution of the City of New Braunfels ratifying the increase in revenue generated by the 2019 property tax rate included in the FY 2019-20 Annual Budget.

*Jared Werner, Chief Financial Officer*

- E) Discuss and consider approval of the first reading of an ordinance establishing the number of positions in each classification in the New Braunfels Fire Department and Police Department pursuant to Local Government code, Chapter 143.  
*Nokihomis Willis, Director of Human Resources*
- F) Discuss and consider approval of the first reading of an ordinance increasing certification and education pay for Fire Officers possessing certain Texas Commission on Fire Protection and Police Officers possessing certain Texas Commission on Law Enforcement Standards and Education pursuant to Local Government Code, Chapter 143.  
*Nokihomis Willis, Human Resources Director*
- G) Discuss and consider approval of an ordinance authorizing the issuance of the City of New Braunfels, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019; levying an ad valorem tax and pledging certain surplus revenues in support of the certificates; approving an official statement, a paying agent/registrar agreement and other agreements relating to the sale and issuance of the certificates; and ordaining other matters relating to the issuance of the certificates.  
*Jared Werner, Chief Financial Officer*
- H) Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas General Obligation Bonds, Series 2019; authorizing the levy of an ad valorem tax in support of the bonds; approving an official statement, a paying agent/registrar agreement, and other documents related to the issuance of the bonds.  
*Jared Werner, Chief Financial Officer*
- I) Discuss and consider approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2022.  
*Patrick Aten, City Secretary*
- J) Discuss and consider approval of the appointment of three individuals to the Library Advisory Board for two terms ending September 26, 2022, and one term ending September 26, 2021.  
*Patrick Aten, City Secretary*

## 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.

- A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code,



including but not limited to:

- Project Rethread
- Project Nautilus
- Project 2x4
- Project Maintenance

- B) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
- Meet and Confer negotiations with New Braunfels Professional Fire Fighters Association
- C) Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Attorney in accordance with Section 551.074 of the Texas Government Code.

*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.**

**7. ADJOURNMENT**

**CERTIFICATION**

I hereby certify the above Notice of Meeting was posted on the bulletin board at the New Braunfels City Hall on September 4, 2019, at 4:00 p.m.

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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 of New Braunfels



# Proclamation

THE STATE OF TEXAS §

COUNTY OF COMAL §

CITY OF NEW BRAUNFELS §

**WHEREAS**, the story of Hispanics in America is the story of America itself, and the Hispanic community's values – love of family, a deep and abiding faith, and a strong work ethic – are America's values; and

**WHEREAS**, Hispanics bring together the rich traditions of communities with centuries-old roots in America and the energy and drive of recent immigrants; and

**WHEREAS**, Hispanics have played a vital role in the moments and movements that have shaped our country, enriching our culture with creativity and innovation in everything from sports to the sciences and the arts to our economy; and

**WHEREAS**, Hispanics have served with honor and distinction in every American military conflict and have made invaluable contributions through service to our country by leading corporations, not-for-profits, social movements, and government service at every level from school boards to statehouses and from city councils to Congress; and

**WHEREAS**, as Hispanics continue to enrich America's character and shape our common future, they strengthen America's promise and affirm the narrative of American unity and progress; and

**NOW, THEREFORE, I, BARRON CASTEEL**, Mayor of the City of New Braunfels, Texas, do hereby proclaim September 15 through October 15, 2019 as

### HISPANIC HERITAGE MONTH

in New Braunfels, Texas, and I do thereby call upon public officials, educators, and all the people of New Braunfels to observe this month with appropriate ceremonies, activities and programs.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 9<sup>th</sup> day of September 2019.

**CITY OF NEW BRAUNFELS**

**BARRON CASTEEL, Mayor**



## City of New Braunfels



# Proclamation

THE STATE OF TEXAS       §  
 COUNTY OF COMAL       §  
 CITY OF NEW BRAUNFELS   §

**WHEREAS**, Feeding America is the nation's leading domestic hunger-relief organization with a mission to feed and advocate for America's hungry through a nationwide network of a little over 200-member food banks; and

**WHEREAS**, the San Antonio Food Bank (SAFB) & New Braunfels Food Bank (NBFB) are members of Feeding America and Feeding Texas, and provide food and grocery products to nearly 550 partner agencies in 16 counties throughout Southwest Texas where 1 in 5 adults and 1 in 4 kids struggle with hunger; and

**WHEREAS**, the SAFB & NBFB, Feeding America, and Feeding Texas seek to engage citizens locally, statewide, and nationally in the fight to end hunger; and

**WHEREAS**, the SAFB & NBFB, through their distribution partners in the City of New Braunfels, serve the food insecure families and individuals of this community, including vulnerable populations like seniors and kids; and

**WHEREAS**, food banks across the country and state, including the SAFB & NBFB, will promote numerous events throughout the month of September to bring awareness and attention to encourage involvement in efforts to end hunger in their local communities by way of collaborative efforts, in this case with the City of New Braunfels.

**NOW, THEREFORE, I, BARRON CASTEEL**, Mayor of the City of New Braunfels, Texas, do hereby proclaim the month of September 2019 as

### **HUNGER ACTION MONTH**

in New Braunfels, and hereby encourage the citizens of New Braunfels to make a difference through participating in efforts to end hunger.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 9<sup>th</sup> day of September 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL, Mayor**



## City of New Braunfels



# Proclamation

THE STATE OF TEXAS           §  
 COUNTY OF COMAL           §  
 CITY OF NEW BRAUNFELS   §

**WHEREAS**, emergencies and disasters can come in all degrees, be man-made or natural, minor to major, can disrupt or devastate homes, businesses and families, and can occur at any time, and we recognize that by educating the community on how to prepare we can help save lives; and

**WHEREAS**, emergency preparedness should include businesses, schools, communities, all cultures, individuals, families, pets, at-risk persons, and individuals with disabilities and special needs; and

**WHEREAS**, the City of New Braunfels, through print and electronic media, special events, public meetings and television programs encourages all residents, visitors and tourists to be prepared at all times for emergencies and disasters, to take the time to learn lifesaving skills such as CPR and first aid, to check insurance policies and coverage for the hazards you may face, such as flood, earthquakes, and tornados, to consider the costs associated with disasters and save for an emergency, and to know how to take practical safety steps like shutting off water and gas; and

**WHEREAS**, during National Preparedness Month we bring attention to the importance of readying ourselves and our communities for emergencies and disasters, and we take a moment to thank our first responders, both professional and volunteer; and

**WHEREAS**, the Department of Homeland Security and the State of Texas annually recognize September as National Preparedness Month.

**NOW, THEREFORE**, be it resolved that I, Barron Casteel, Mayor of the City of New Braunfels, Texas, proclaim September 2019 as

### **PREPAREDNESS MONTH**

in New Braunfels, Texas and urge every person, parent, student, business owner, employee, retiree, visitor, and tourist to be prepared at all times for emergencies and disasters.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the City of New Braunfels to be affixed this 9<sup>th</sup> day of September 2019.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**





## City of New Braunfels



# Proclamation

THE STATE OF TEXAS       §  
 COUNTY OF COMAL       §  
 CITY OF NEW BRAUNFELS   §

**WHEREAS**, since its inception September 15, 1932, The Sons of The American Legion exists to honor the service and sacrifice of their parents and grandparents who served in the U.S. military and were eligible for American Legion membership; and

**WHEREAS**, The Sons of The American Legion works every day on behalf of U.S. servicemen and women by their support of veterans' affairs and rehabilitation with volunteer hours and donations to VA hospitals, Fisher Houses, and the Family Support Network; and

**WHEREAS**, The Sons of The American Legion promotes the values of patriotism and Americanism to the community, state and nation through programs that promote public appreciation for the U.S. Flag, the Constitution, law enforcement, faith, civic responsibility and community service; and

**WHEREAS**, The Sons of The American Legion's fundraising programs support our children and youth through The American Legion Child Welfare Foundation, the Special Olympics, the Children's Miracle Network and provide scholarships for children of military members who died since 9/11; and

**WHEREAS**, The Sons of The American Legion has been devoted to providing services to those in need in New Braunfels and the surrounding area through programs that include community building, the welfare of children, patriotism, education, peace and goodwill for the past 87 years.

**NOW, THEREFORE, I, BARRON CASTEEL**, Mayor of the City of New Braunfels, do hereby proclaim the 15<sup>th</sup> day of September 2019 as

### **SONS OF THE AMERICAN LEGION DAY**

in New Braunfels and encourage all citizens to join me in this special observance.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Seal of the City of New Braunfels to be affixed on this the 9<sup>th</sup> day of September 2019.

**CITY OF NEW BRAUNFELS**

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**BARRON CASTEEL, Mayor**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. A)

### Presenter/Contact

*Barron Casteel, Mayor*

*(830) 221-4280 - bcasteel@nbtexas.org*

### **SUBJECT:**

Presentation, discussion, and approval of a resolution requesting financial assistance from the State of Texas by and through the Governor and the legislature to the Guadalupe-Blanco River Authority for the costs of repair, reconstruction, and maintenance of critical infrastructure located at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood.

### **BACKGROUND / RATIONALE:**

The Guadalupe-Blanco River Authority is a water conservation and reclamation district created by the State of Texas in 1933, that acquired six dams in 1963, that were constructed in the 1920's and 1930's, including the hydroelectric dams at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood. There have been two spillgate failures with the most recent occurring at Lake Dunlap on May 14, 2019, and the other at Lake Wood in 2016. These failures have resulted in ongoing catastrophic economic impacts to these communities and have impacted local taxing entities.

The residents and surrounding communities are justifiably concerned that without the necessary funding from the State, the negative impacts from the dam failures will be realized with the decline in property values and the decimation of the quality of life for these lake front communities and taxpayers. The State of Texas must provide funds to GBRA so that the severe economic impact on lake related businesses is minimized and these businesses remain in operation and continue to contribute to the regional economy

In order to assist these communities, the City of New Braunfels City Council respectfully requests the State of Texas, the Governor, and the state legislature to provide significant and necessary financial assistance to the Guadalupe-Blanco River Authority for the repair, reconstruction, and maintenance of critical infrastructure including dams, located on State of Texas waterways, and specifically at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood.

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

N/A

### **FISCAL IMPACT:**

None

### **COMMITTEE RECOMMENDATION:**

N/A

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**STAFF RECOMMENDATION:**

N/A

**RESOLUTION NO. 2019-R\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, SEEKING FINANCIAL ASSISTANCE FROM THE STATE OF TEXAS BY AND THROUGH THE GOVERNOR AND THE LEGISLATURE TO THE GUADALUPE-BLANCO RIVER AUTHORITY FOR THE COSTS OF REPAIR, RECONSTRUCTION, AND MAINTENANCE OF CRITICAL INFRASTRUCTURE LOCATED AT LAKE DUNLAP, LAKE MCQUEENEY, LAKE PLACID, MEADOW LAKE, LAKE GONZALES, AND LAKE WOOD.**

**WHEREAS**, the Guadalupe-Blanco River Authority (GBRA) is a water conservation and reclamation district created by the State of Texas in 1933, that acquired six dams in 1963, that were constructed in the 1920's and 1930's, including the hydroelectric dams at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood; and

**WHEREAS**, two spillgate failures occurred at Lake Dunlap on May 14, 2019, and Lake Wood in 2016, have resulted in ongoing catastrophic economic impacts to these communities and impacted local taxing entities; and

**WHEREAS**, GBRA has completed the preliminary design and engineering for the repair of the Lake Dunlap dam with a cost estimate of approximately \$30,000,000.00 (thirty million dollars); and

**WHEREAS**, the GBRA is actively partnering with these lake front communities to ensure the long-term sustainability of these dams and to explore possible funding mechanisms that will support the repair, replacement, and maintenance of the dams; and

**WHEREAS**, the Preserve Lake Dunlap Association is diligently working on the feasibility of the creation of a water district as a possible funding mechanism towards the repair and maintenance of the dam; and

**WHEREAS**, the residents and surrounding communities are justifiably concerned that without the necessary funding from the State, the negative impacts from the dam failures will be realized with the decline in property values and the decimation of the quality of life for these lake front communities and taxpayers; and

**WHEREAS**, the State of Texas must provide funds to GBRA so that the projected severe economic impacts on lake related businesses is minimized and these businesses remain in operation and continue to contribute to the regional economy; and

**WHEREAS**, it is wholly fitting that this body support its residents and neighbors by formally entreating the State of Texas, the Governor, and the state legislature to immediately fund the GBRA so that it can repair, reconstruct, and maintain its aged critical infrastructure located along State of Texas waterways.

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

That the City of New Braunfels asks the State of Texas, the Governor, and the state legislature to provide significant and necessary financial assistance to the Guadalupe-Blanco River Authority for the repair, reconstruction, and maintenance of critical infrastructure including dams, located on State of Texas waterways, and specifically at Lake Dunlap, Lake McQueeney, Lake Placid, Meadow Lake, Lake Gonzales, and Lake Wood.

Passed and approved this the 9<sup>th</sup> day of September, 2019.

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Barron Casteel, Mayor

ATTEST:

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Patrick Aten, City Secretary



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. B)

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Presenter/Contact

*Jared Werner, Chief Financial Officer*  
*jwerner@nbtexas.org*

**SUBJECT:**

Presentation regarding the Solms Landing Public Improvement District and associated financing plan.







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. A)

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Presenter/Contact

*Patrick Aten, City Secretary*  
*(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)*

**SUBJECT:**

Discuss and consider approval of the minutes of the regular City Council meeting of August 26, 2019, and the special meetings of August 22 and September 3, 2019.

**SPECIAL MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
SPECIAL MEETING OF THURSDAY, AUGUST 22, 2019**

The City Council of the City of New Braunfels, Texas, met in a special session on August 22, 2019, at 6:00 p.m.

City Councilmembers present were:

**Present**     6 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

**Absent**     1 - Councilmember Shane Hines

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:05 p.m. Councilmember Bowers gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

**1.     WORKSHOP**

A)     Public hearing on the proposed tax rate for the City of New Braunfels for tax year 2019, and announce the meeting date and time of adoption.

**Mayor Casteel read the aforementioned caption.**

**Jared Werner presented the item.**

**No one spoke during the public hearing.**

B)     Public hearing on the FY 2019-20 Operating Budget and Plan of Municipal Services.

**Mayor Casteel read the aforementioned caption.**

**Jared Werner presented the item.**

**No one spoke during the public hearing.**

**Mayor Casteel announced that the FY2019-20 Proposed Budget along with the 2019 tax rate will be adopted on September 9, 2019, at a**

**meeting beginning at 6:00 p.m. in Council Chambers at 550 Landa Street.**

The meeting adjourned at 6:20 p.m.

Date Approved: September 9, 2019

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Barron Casteel, Mayor

Attest:

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Patrick Aten, City Secretary

**SPECIAL MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
SPECIAL MEETING OF THURSDAY, AUGUST 22, 2019**

The City Council of the City of New Braunfels, Texas, met in a special session with the Planning Commission on August 22, 2019, at 6:30 p.m.

City Councilmembers present were:

**Present**     6 - Mayor Barron Casteel, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

**Absent**     1 - Councilmember Shane Hines

Planning Commission members present were: Ron Reaves, Lee Edwards, Tom Meyer, Stanley Laskowski, Shaun Gibson, Chad Nolte, and Creighton Tubb

Absent were: John Mathis and Jerry Sonier

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Tejas Room at 6:30 p.m. Councilmember Garcia gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

**1.     WORKSHOP**

A)     Presentation and discussion regarding updates to the Thoroughfare Plan and Roadway Impact Fee Program.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford and Jeff Whitaker presented the item.**

**No action was taken.**

The meeting adjourned at 7:39 p.m.

Date Approved: September 9, 2019

\_\_\_\_\_  
Barron Casteel, Mayor

Attest:

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Patrick Aten, City Secretary

**MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
REGULAR MEETING OF MONDAY, AUGUST 26, 2019**

The City Council of the City of New Braunfels, Texas, met in a Regular Session on August 26, 2019, at 6:00 p.m.

City Councilmembers present were:

**Present:** 7 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Councilmember Matthew E. Hoyt, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:04 p.m. Mayor Pro Tem Peters gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

**PROCLAMATIONS:**

A) Payroll Week

**Mayor Casteel proclaimed September 1-7, 2019, as Payroll Week.**

B) Steven Johnsons Syndrome Awareness Month

**Mayor Casteel proclaimed August 2019 as Stevens Johnson Syndrome Awareness Month.**

**PRESENTATIONS:**

A) Retiree Recognition - Diane Watson

**Diane Watson was recognized for her contributions to the City.**

B) Presentation and possible direction on proposed amendments to the Zoning Ordinance regarding parking or storage of oversized vehicles within residential zoning districts.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**Fred Hanz spoke on the item.**

**No action was taken.**

- C) Presentation and briefing to City Council on HB 3167, state-mandated changes to the platting process.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**No action was taken.**

## **1. MINUTES**

- A) Discuss and consider approval of the minutes of the regular City Council meeting of August 12, 2019, and the special meetings of August 12, 13, 14, and 19, 2019.

**Mayor Casteel read the aforementioned caption.**

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

## **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.

**Mayor Casteel read the aforementioned caption.**

**No one spoke.**

## **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 the Airport Master Plan Update.
- B) Approval of a contract modification to KSA Engineers, Inc. for the Airport Taxilane Extension project.

- C) Approval of a contract expenditure with BB Inspection Services for \$35,000 for on-call support for city inspections.
- D) Approval of a temporary road closure for the Comal County Fair Parade to be held on September 27, 2019.
- E) Approval of a resolution in support of the Comal County Historical Commission to obtain National Register of Historic Places designation for the property located at 500 Main Plaza, a local historic landmark known as the New Braunfels Main Plaza.
- F) Approval of annual routine recurring expenditures for FY 2018-19 in accordance with City Charter Section 9.17.

#### *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 second and final reading of an ordinance amending Section 126-346 (f) of the City of New Braunfels Code of Ordinances to restrict parking in front of the NBU access gate on Hunter Road.
- H) Approval of the second and final reading of an ordinance amending Section 126-146 (a) and adding Section 126-147 of the City of New Braunfels Code of Ordinances to revise the school speed zones on FM 1101.
- I) Approval of the second and final reading of an ordinance regarding amendments to Chapter 144, Zoning, Section 3.3-11, M-1 Light Industrial, Section 3.3-12, M-2 Heavy Industrial, Section 3.4-18, M-1A Light Industrial, Section 3.4-19, M-2A Heavy Industrial, and Section 4.2, Land Use Matrix.
- J) Approval of the first reading of an ordinance creating a temporary San Antonio Street Bridge Safety Zone that will prohibit river and pedestrian traffic upstream, under, and downstream of the bridge, during TxDOT construction; authorizing the City Manager to determine date such activities are safe to resume; establishing up to a \$500.00 fine; and repealing Section 86-17 of the Code of Ordinances, entitled Gruene Road River Bridge Water Safety Zone; and providing an effective date.

**Mayor Casteel read the aforementioned captions.**



**Councilmember Garcia moved to approve the item. Councilmember Bowers seconded the motion which passed unanimously via roll call vote.**

**4. INDIVIDUAL ITEMS FOR CONSIDERATION**

- A) Discuss and consider approval of the installation of speed humps or other traffic calming measures on Hanz Drive within the Cotton Crossing subdivision.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford presented the item.**

**Glen Hendricks, Fred Hanz, Melinda Parkinson, and Ann Hunter spoke on the item.**

**No action was taken. City Council gave direction to staff to work with the neighborhood about the situation and bring the item back to City Council at a later date.**

- B) 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 B.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford presented the item.**

**Tony Hale spoke during the public hearing.**

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

- C) Discuss and consider approval of the first reading of an ordinance to raise the speed limit on Walnut Avenue between Landa Street and Business IH-35 to 35 mph.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford presented the item.**

**Sasha Velarde spoke on the item.**

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

- D) Discuss and consider approval to authorize the City Manager to enter into a professional services contract with Pape-Dawson Engineers to complete the Preliminary Engineering Report for the FM 1863 Extension between State Highway 46 and the Veramendi Development.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford presented the item.**

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

**<City Council took a break.>**

- E) Discuss and consider approval to authorize the City Manager to enter into a preliminary development agreement with Casina Creek Homes, LLC for the construction of Hanz Drive between River Terrace and Loop 337/State Highway 46.

**Mayor Casteel read the aforementioned caption.**

**Garry Ford presented the item.**

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

- F) Public hearing and first reading of an ordinance regarding the proposed rezoning of 39.241 acres, consisting of Lot 2, AD2 Subdivision and approximately 34 acres out of the A-485 O Russell Survey 1, located in the 3900 and 4000 blocks of IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**No one spoke during the public hearing.**

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

- G) Public hearing and first reading of an ordinance regarding the proposed rezoning of Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**No one spoke during the public hearing.**

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

- H) Public hearing and first reading of an ordinance regarding the proposed rezoning of 3.92 acres out of the William H. Pate Survey No. 22, addressed at 2188 F.M. 1044, from "APD" Agricultural/Pre-Development District to "MU-B" High Intensity Mixed Use District.

**Mayor Casteel read the aforementioned caption.**

**Chris Looney presented the item.**

**Debbie Williams spoke during the public hearing.**

**Councilmember Hoyt moved to approve the item. Councilmember Garcia seconded the motion which failed 5-2 due to lack of a super majority.**

- I) Public hearing and first reading of an ordinance regarding the proposed rezoning of a 0.25 acre tract out of the J Noyes Survey 259, Abstract 430, addressed at 471 Engel Road and a 2.0 acre tract out of the J Noyes Survey 259, Abstract 430 and a 3.0 acre tract out of the J Thompson Survey 21, Abstract 608, addressed at 491 Engel Road, from "APD" Agricultural/Pre-Development District to "C-1B" General

Business District.

**This item was withdrawn by the applicant.**

- J) Discussion and possible direction to staff regarding Chapter 90 of the Code of Ordinances concerning solicitation regulations.

**Mayor Casteel read the aforementioned caption.**

**Councilmember Bowers presented the item.**

**City Council gave direction to staff to research the issue further into limiting commercial solicitation and come back to City Council at a later date.**

## **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.

- A) Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:
  - Project Nautilus
  - Project 2x4
- B) Deliberate the purchase, exchange, lease or value of real estate in accordance with Section 551.072 of the Texas Government Code
  - Property for city facilities
- C) Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:
  - Korczyk vs. CONB, et al.
- D) Deliberate the appointment, evaluation, duties, discipline, or removal of the Municipal Court Judge in accordance with Section 551.074 of the Texas Government Code.

**Mayor Casteel read the aforementioned captions.**

City Council convened in Executive Session from 8:21 p.m. - 9:20 p.m.

No vote or action was taken.

*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.**

The City Council reconvened into Open Session at 9:20 p.m.

Councilmember Hoyt moved to approve the mediated settlement agreement in Cause No. C2018-1338A Richard Korczyk v. City of New Braunfels, and other defendants in accordance with the terms and conditions discussed in executive session with the City Attorney. Councilmember Meadows seconded the motion which passed unanimously.

7. **ADJOURNMENT**

The meeting adjourned at 9:21 p.m.

Date Approved: September 9, 2019

\_\_\_\_\_  
Barron Casteel, Mayor

Attest:

\_\_\_\_\_  
Patrick Aten, City Secretary

**SPECIAL MINUTES  
OF THE NEW BRAUNFELS CITY COUNCIL  
SPECIAL MEETING OF TUESDAY, SEPTEMBER 3, 2019**

The City Council of the City of New Braunfels, Texas, met in a special session on September 3, 2019, at 6:00 p.m.

City Councilmembers present were:

**Present**     6 - Mayor Barron Casteel, Councilmember Shane Hines, Councilmember Justin Meadows, Councilmember Harry Bowers, Mayor Pro Tem Wayne Peters, and Councilmember Leah García

**Absent**     1 - Councilmember Matthew E. Hoyt

The meeting was called to order by Mayor Casteel in the New Braunfels City Hall Council Chambers at 6:01 p.m. Councilmember Garcia gave the invocation and Mayor Casteel led the Pledge of Allegiance and Salute to the Texas Flag.

**1.     WORKSHOP**

- A)     Second public hearing on the proposed tax rate for the City of New Braunfels for the 2019 tax year and announce the meeting date and time of adoption.

**Mayor Casteel read the aforementioned caption.**

**Jared Werner presented the item.**

**Bob Wolf spoke during the public hearing.**

**Mayor Casteel announced that the FY2019-20 Proposed Budget along with the 2019 tax rate will be adopted on September 9, 2019, at a New Braunfels City Council Special Meeting beginning at 6:00 p.m. in Council Chambers at 550 Landa Street.**

- B)     Discuss and consider approval of the first reading of an ordinance adopting the FY 2019-20 Operating Budget and Plan of Municipal Services.

**Mayor Casteel read the aforementioned caption.**

**Jared Werner presented the item.**

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

- C) Discuss and consider approval of the first reading of an ordinance adopting the 2019 ad valorem tax rates.

**Mayor Casteel read the aforementioned caption.**

**Jared Werner presented the item.**

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

## **2. EXECUTIVE SESSION**

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 the appointment, evaluation, duties, discipline, or removal of the Municipal Court Judge in accordance with Section 551.074 of the Texas Government Code.

**Mayor Casteel read the aforementioned caption.**

**City Council recessed into Executive Session from 6:17 p.m. - 6:41 p.m.**

**No vote or action was taken.**

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

**The City Council reconvened into Open Session at 6:41 p.m.**

**Councilmember Meadows moved to give a vote of confidence to Municipal Court Judge Rose Zamora, extend her contract in compliance with Section 2 of the employment agreement dated September 13, 2013, and increase her salary to \$111,165 effective**

**October 1, 2019. Councilmember Garcia seconded the motion which passed unanimously.**

The meeting adjourned at 6:42 p.m.

Date Approved: September 9, 2019

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Barron Casteel, Mayor

Attest:

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Patrick Aten, City Secretary





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. A)

### Presenter/Contact

*Patrick Aten, City Secretary*  
(830) 221-4006 - [paten@nbtexas.org](mailto:paten@nbtexas.org)

### **SUBJECT:**

Approval of the appointment of two individuals to the Building Standards Commission for terms ending October 26, 2021.

### **BACKGROUND / RATIONALE:**

The Building Standards Commission has five regular members serving two-year staggered terms. Notice of vacancies were advertised from July 16 to August 15, 2019.

Two qualified applications were submitted for the two vacancies:

- David Lerch (at-large)
- Neal Linnartz (incumbent) (legal position)

### **Applicants' current & prior service on Boards and Commissions**

David Lerch has no previous experience on City boards.

Neal Linnartz currently serves on the Building Standards Commission. He is also a member of the New Braunfels Economic Development Corporation.

### **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 two individuals to the Building Standards Commission for terms ending October 26, 2021.





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. B)

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### Presenter/Contact

*Stacey Dicke, Parks and Recreation Director  
(830) 221-4355 - SDicke@nbtexas.org*

### **SUBJECT:**

Approval of an annual contract with Landscape Commander LLC to provide landscape maintenance services at designated City facilities, parks and roadway medians, on an as-needed basis.

### **BACKGROUND / RATIONALE:**

The City solicits landscape maintenance services under two (2) separate bids. The first is for designated city facilities, parks and roadway medians, for which we are requesting approval today as the current contract expires on September 30, 2019. It should be noted this contract does not service all City parks and facilities, as the services at some City locations are supported by City employees. The second landscape maintenance services bid is for designated flood and ROW properties. This contract does not expire until September 30, 2020 and will be rebid next year. As the services provided through these separate services are structured differently, the City bids them separately.

The City of New Braunfels issued a Competitive Sealed Proposal in July 2019 for landscape maintenance services at designated City facilities, parks and roadway medians. Proposals were opened on August 12, 2019, and three (3) responses were received. These services consist of mowing, trimming, edging, shredding, herbicide and fertilizer application, mulch and flower bed maintenance and weed control.

City staff evaluated the proposals received to determine best value for the City. Award criteria factors considered were: overall cost, bidder demonstrated competence and qualifications and experience to perform the services.

Based on review and evaluation, staff is recommending a contract be awarded to Landscape Commander LLC to provide landscape maintenance services. Landscape Commander LLC is our current contractor and has been performing these services satisfactorily for the City since 2014. Additionally, the pricing offered by Landscape Commander LLC on this bid was lowest overall in comparison to the other two proposals.

The estimated annual cost will be \$164,000. The initial contract term will be October 1, 2019 through September 30, 2020. The bid allows for four (4), one-year options to renew this contract, for a combined total of five (5) years.

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

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<b>Yes</b>	<b>Strategic Priorities 2:</b> Continue an ongoing program of infrastructure construction and maintenance.
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**FISCAL IMPACT:**

Funding has been incorporated into the FY 2019-20 budget for continued support of these services.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of an annual contract with Landscape Commander LLC to provide landscape maintenance services at designated City facilities, parks and roadway medians, on an as-needed basis.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. C)

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Presenter/Contact

*Patrick O'Connell, Interim Fire Chief  
(830) 221-4267 - poconnell@nbtexas.org*

**SUBJECT:**

Approval for the City Manager to enter into an Agreement for Release of Liability for Fire Department training activities with BHGE Oil and Gas Company for the use of their property at 1150 Schwab Road.

**BACKGROUND / RATIONALE:**

The Fire Department must conduct annual and new driver training using various pieces of fire apparatus, including fire engines and fire trucks. This training requires paved areas large enough to set up a NFPA-approved driving course. The paved area must be able to support the weight of these apparatus, which is as much as 80,000 pounds, which makes a concrete parking lot ideal. BHGE Oil and Gas Incorporated, which is located just outside of the city limits of New Braunfels at 1150 Schwab Road, has offered to allow the City to use their large parking lot for driver training. The company's only request is the execution of the attached release of liability.

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

N/A

**FISCAL IMPACT:**

There will be no cost associated with the use of the parking lot.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval for the City Manager to enter into an Agreement for Release of Liability for fire department training with BHGE Oil and Gas Company for the use of their property at 1150 Schwab Road.

# City of New Braunfels Agreement for Release of Liability

State of Texas

County of Comal

In consideration of the City of New Braunfels ("City") being allowed to use of the parking lot of the property owned by BHGE Oil and Gas Incorporated ("Owner") located at 1150 Schwab Road, New Braunfels, Texas, for the months of September through December 2019 to perform driver training in various city owned vehicles including but not limited to fire engines, the City hereby executes this release of liability agreement in favor of Owner. This Agreement which is binding upon the City and its employees while on the property of Owner. The City does hereby release, waive and discharge and will not hold liable Owner, its officers, agents and employees from any and all actions, causes of action, expressly including negligence, claims, demands, costs or damages arising from or resulting from property damage, personal injuries, or death sustained by the City or its employees while present on the property of Owner, regardless of the sole, joint, or concurrent negligence, negligence per se, gross negligence, strict liability, regulatory or statutory liability, tort theory, act, omission, fault or failure to act by Owner, its officers, agents and employees during the term of this Agreement.

This Agreement does not constitute a waiver by the City, its employees, agents of any immunity or any other defenses provided by applicable law.

City of New Braunfels, Texas

\_\_\_\_\_

Robert Camareno, City Manager

ACCEPTED:

BHGE Oil and Gas Incorporated

\_\_\_\_\_

Its \_\_\_\_\_



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. D)

### Presenter/Contact

*Robert Lee, Airport Director*  
(830) 221-4295 - [rlee@nbtexas.org](mailto:rlee@nbtexas.org)

### **SUBJECT:**

Approval of the grant contract for the Routine Airport Maintenance Program through the Texas Department of Transportation in the amount of up to \$50,000 for eligible maintenance expenses; and authorizing the City Manager to accept funds and to execute all contract documents associated with grant.

### **BACKGROUND / RATIONALE:**

The City Council's strategic priorities include using a variety of funding sources for operational and capital needs.

The Texas Department of Transportation (TxDOT) administers the Routine Airport Maintenance Program (RAMP), which matches local government grants up to \$50,000 for maintenance expenditures incurred for parking lots, fencing, and other airside and landside needs.

The Routine Airport Maintenance Program (RAMP) through TxDOT will reimburse the City up to fifty percent of the eligible project costs for this project or \$50,000.00, whichever is less, per fiscal year and subject to availability of state appropriations.

In accordance with the contract, all work must be accomplished by August 31, 2020.

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

<b>X</b>	Yes	<b>City Plan/Council Priority</b>	<b>Strategic Priorities:</b> Infrastructure Objective 1a - Use a variety of funding sources for operational and capital needs.
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### **FISCAL IMPACT:**

There is a fifty percent match requirement under this grant program for up to \$100,000 in routine airport maintenance expenses. Funding to support this grant has been incorporated into the FY 2019-20 Airport Fund Budget.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the grant contract for the Routine Airport Maintenance Program through the Texas Department of Transportation in the amount of up to \$50,000 for eligible

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maintenance expenses and authorizing the City Manager to accept funds and to execute all contract documents associated with grant.



**TEXAS DEPARTMENT OF TRANSPORTATION  
GRANT FOR ROUTINE AIRPORT MAINTENANCE PROGRAM  
(State Assisted Airport Routine Maintenance)**

**TxDOT Project ID.: M2015NBRN**

**Part I - Identification of the Project**

TO: The City of New Braunfels, Texas

FROM: The State of Texas, acting through the Texas Department of Transportation

This Grant is made between the Texas Department of Transportation, (hereinafter referred to as the "State"), on behalf of the State of Texas, and the City of New Braunfels, Texas, (hereinafter referred to as the "Sponsor").

This Grant Agreement is entered into between the State and the Sponsor shown above, under the authority granted and in compliance with the provisions of the Transportation Code Chapter 21.

The project is for **airport maintenance** at the NEW BRAUNFELS - NEW BRAUNFELS RGNL Airport.

**Part II - Offer of Financial Assistance**

1. For the purposes of this Grant, the annual routine maintenance project cost, Amount A, is estimated as found on Attachment A, Scope of Services, attached hereto and made a part of this grant agreement.

State financial assistance granted will be used solely and exclusively for airport maintenance and other incidental items as approved by the State. Actual work to be performed under this agreement is found on Attachment A, Scope of Services. State financial assistance, Amount B, will be for fifty percent (50%) of the eligible project costs for this project or \$50,000.00, whichever is less, per fiscal year and subject to availability of state appropriations.

Scope of Services, Attachment A, of this Grant, may be amended, subject to availability of state funds, to include additional approved airport maintenance work. Scope amendments require submittal of an Amended Scope of Services, Attachment A.

Services will not be accomplished by the State until receipt of Sponsor's share of project costs.

**Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.**

Work shall be accomplished by August 31, 2020, unless otherwise approved by the State.

2. The State shall determine fair and eligible project costs for work scope. Sponsor's share of estimated project costs, Amount C, shall be as found on Attachment A and any amendments.

It is mutually understood and agreed that if, during the term of this agreement, the State determines that there is an overrun in the estimated annual routine maintenance costs, the State may increase the grant to cover the amount of the overrun within the above stated percentages and subject to the maximum amount of state funding.

The State will not authorize expenditures in excess of the dollar amounts identified in this Agreement and any amendments, without the consent of the Sponsor.

3. Sponsor, by accepting this Grant certifies and, upon request, shall furnish proof to the State that it has sufficient funds to meet its share of the costs. The Sponsor grants to the State the right to audit any books and records of the Sponsor to verify expended funds.

Upon execution of this Agreement and written demand by the State, the Sponsor's financial obligation (Amount C) shall be due in cash and payable in full to the State. State may request the Sponsor's financial obligation in partial payments. Should the Sponsor fail to pay their obligation, either in whole or in part, within 30 days of written demand, the State may exercise its rights under Paragraph V-3. Likewise, should the State be unwilling or unable to pay its obligation in a timely manner, the failure to pay shall be considered a breach and the Sponsor may exercise any rights and remedies it has at law or equity.

The State shall reimburse or credit the Sponsor, at the financial closure of the project, any excess funds provided by the Sponsor which exceed Sponsor's share (Amount C).

4. The Sponsor specifically agrees that it shall pay any project costs which exceed the amount of financial participation agreed to by the State. It is further agreed that the Sponsor will reimburse the State for any payment or payments made by the State which are in excess of the percentage of financial assistance (Amount B) as stated in Paragraph II-1.

5. Scope of Services may be accomplished by State contracts or through local contracts of the Sponsor as determined appropriate by the State. All locally contracted work must be approved by the State for scope and reasonable cost. Reimbursement requests for locally contracted work shall be submitted on forms provided by the State and shall include copies of the invoices for materials or services. Payment shall be made for no more than 50% of allowable charges.

The State will not participate in funding for force account work conducted by the Sponsor.

6. This Grant shall terminate upon completion of the scope of services.

### **Part III - Sponsor Responsibilities**

1. In accepting this Grant, if applicable, the Sponsor guarantees that:
  - a. it will, in the operation of the facility, comply with all applicable state and federal laws, rules, regulations, procedures, covenants and assurances required by the State in connection with this Grant; and
  - b. the Airport or navigational facility which is the subject of this Grant shall be controlled by the Sponsor for a period of at least 20 years; and
  - c. consistent with safety and security requirements, it shall make the airport or air navigational facility available to all types, kinds and classes of aeronautical use without discrimination between such types, kinds and classes and shall provide adequate public access during the period of this Grant; and
  - d. it shall not grant or permit anyone to exercise an exclusive right for the conduct of aeronautical activity on or about an airport landing area. Aeronautical activities include, but are not limited to scheduled airline flights, charter flights, flight instruction, aircraft sales, rental and repair, sale of aviation petroleum products and aerial applications. The landing area consists of runways or landing strips, taxiways, parking aprons, roads, airport lighting and navigational aids; and
  - e. through the fence access shall be reviewed and approved by the State; and
  - f. it shall not permit non-aeronautical use of airport facilities without prior approval of the State; and

- g. the Sponsor shall submit to the State annual statements of airport revenues and expenses when requested; and
- h. all fees collected for the use of the airport shall be reasonable and nondiscriminatory. The proceeds from such fees shall be used solely for the development, operation and maintenance of the airport or navigational facility; and
- i. an Airport Fund shall be established by resolution, order or ordinance in the treasury of the Sponsor, or evidence of the prior creation of an existing airport fund or properly executed copy of the resolution, order, or ordinance creating such a fund, shall be submitted to the State. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole. All fees, charges, rents, and money from any source derived from airport operations must be deposited in the Airport Fund and shall not be diverted to the general revenue fund or another revenue fund of the Sponsor. All expenditures from the Airport Fund shall be solely for airport purposes. Sponsor shall be ineligible for a subsequent grant or loan by the State unless, prior to such subsequent grant or loan, Sponsor has complied with the requirements of this subparagraph; and
- j. the Sponsor shall operate runway lighting at least at low intensity from sunset to sunrise; and
- k. insofar as it is reasonable and within its power, Sponsor shall adopt and enforce zoning regulations to restrict the height of structures and use of land adjacent to or in the immediate vicinity of the airport to heights and activities compatible with normal airport operations as provided in Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Sponsor shall also acquire and retain aviation easements or other property interests in or rights to use of land or airspace, unless sponsor can show that acquisition and retention of such interest will be impractical or will result in undue hardship to Sponsor. Sponsor shall be ineligible for a subsequent grant or loan by the State unless Sponsor has, prior to subsequent approval of a grant or loan, adopted and passed an airport hazard zoning ordinance or order approved by the State.
- l. mowing services will not be eligible for state financial assistance. Sponsor will be responsible for 100% of any mowing services.

2. The Sponsor, to the extent of its legal authority to do so, shall save harmless the State, the State's agents, employees or contractors from all claims and liability due to activities of the Sponsor, the Sponsor's agents or employees performed under this agreement. The Sponsor, to the extent of its legal authority to do so, shall also save harmless the State, the State's agents, employees or contractors from any and all expenses, including attorney fees which might be incurred by the State in litigation or otherwise resisting claim or liabilities which might be imposed on the State as the result of those activities by the Sponsor, the Sponsor's agents or employees.
3. The Sponsor's acceptance of this Offer and ratification and adoption of this Grant shall be evidenced by execution of this Grant by the Sponsor. The Grant shall comprise a contract, constituting the obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the project and the operation and maintenance of the airport.

If it becomes unreasonable or impractical to complete the project, the State may void this agreement and release the Sponsor from any further obligation of project costs.

4. Upon entering into this Grant, Sponsor agrees to name an individual, as the Sponsor's Authorized Representative, who shall be the State's contact with regard to this project. The Representative shall receive all correspondence and documents associated with this grant and shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor, and coordinate schedule for work items as required.
5. By the acceptance of grant funds for the maintenance of eligible airport buildings, the Sponsor certifies that the buildings are owned by the Sponsor. The buildings may be leased but if the lease agreement specifies that the lessee is responsible for the upkeep and repairs of the building no state funds shall be used for that purpose.
6. Sponsor shall request reimbursement of eligible project costs on forms provided by the State. All reimbursement requests are required to include a copy of the invoices for the materials or services. The reimbursement request will be submitted no more than once a month.
7. The Sponsor's acceptance of this Agreement shall comprise a Grant Agreement, as provided by the Transportation Code, Chapter 21, constituting the contractual obligations and rights of the State of Texas and the Sponsor with respect to the accomplishment of the airport maintenance and compliance with the assurances and conditions as provided. Such Grant Agreement shall become effective upon the State's written Notice to Proceed issued following execution of this agreement.

#### **Part IV - Nomination of the Agent**

1. The Sponsor designates the State as the party to receive and disburse all funds used, or to be used, in payment of the costs of the project, or in reimbursement to either of the parties for costs incurred.
2. The State shall, for all purposes in connection with the project identified above, be the Agent of the Sponsor. The Sponsor grants the State a power of attorney to act as its agent to perform the following services:
  - a. accept, receive, and deposit with the State any and all project funds granted, allowed, and paid or made available by the Sponsor, the State of Texas, or any other entity;
  - b. enter into contracts as necessary for execution of scope of services;
  - c. if State enters into a contract as Agent: exercise supervision and direction of the project work as the State reasonably finds appropriate. Where there is an irreconcilable conflict or difference of opinion, judgment, order or direction between the State and the Sponsor or any service provider, the State shall issue a written order which shall prevail and be controlling;
  - d. receive, review, approve and pay invoices and payment requests for services and materials supplied in accordance with the State approved contracts;
  - e. obtain an audit as may be required by state regulations; the State Auditor may conduct an audit or investigation of any entity receiving funds from TxDOT directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
  - f. reimburse sponsor for approved contract maintenance costs no more than once a month.

#### **Part V - Recitals**

1. This Grant is executed for the sole benefit of the contracting parties and is not intended or executed for the direct or incidental benefit of any third party.
2. It is the intent of this grant to not supplant local funds normally utilized for airport maintenance, and that any state financial assistance offered under this grant be in addition to those local funds normally dedicated for airport maintenance.

3. This Grant is subject to the applicable provisions of the Transportation Code, Chapters 21 and 22, and the Airport Zoning Act, Tex. Loc. Govt. Code Ann. Sections 241.001 et seq. (Vernon and Vernon Supp.). Failure to comply with the terms of this Grant or with the rules and statutes shall be considered a breach of this contract and will allow the State to pursue the remedies for breach as stated below.
  - a. Of primary importance to the State is compliance with the terms and conditions of this Grant. If, however, after all reasonable attempts to require compliance have failed, the State finds that the Sponsor is unwilling and/or unable to comply with any of the terms of this Grant, the State, may pursue any of the following remedies: (1) require a refund of any financial assistance money expended pursuant to this Grant, (2) deny Sponsor's future requests for aid, (3) request the Attorney General to bring suit seeking reimbursement of any financial assistance money expended on the project pursuant to this Grant, provided however, these remedies shall not limit the State's authority to enforce its rules, regulations or orders as otherwise provided by law, (4) declare this Grant null and void, or (5) any other remedy available at law or in equity.
  - b. Venue for resolution by a court of competent jurisdiction of any dispute arising under the terms of this Grant, or for enforcement of any of the provisions of this Grant, is specifically set by Grant of the parties in Travis County, Texas.
4. The State reserves the right to amend or withdraw this Grant at any time prior to acceptance by the Sponsor. The acceptance period cannot be greater than 30 days after issuance unless extended by the State.
5. This Grant constitutes the full and total understanding of the parties concerning their rights and responsibilities in regard to this project and shall not be modified, amended, rescinded or revoked unless such modification, amendment, rescission or revocation is agreed to by both parties in writing and executed by both parties.
6. All commitments by the Sponsor and the State are subject to constitutional and statutory limitations and restrictions binding upon the Sponsor and the State (including Sections 5 and 7 of Article 11 of the Texas Constitution, if applicable) and to the availability of funds which lawfully may be applied.

## Part VI - Acceptances

### Sponsor

The City of New Braunfels, Texas, does ratify and adopt all statements, representations, warranties, covenants, agreements, and all terms and conditions of this Grant.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
The City of New Braunfels, Texas

Sponsor

\_\_\_\_\_  
Sponsor Signature

\_\_\_\_\_  
Sponsor Title

### Certificate of Attorney

I, \_\_\_\_\_, acting as attorney for the City of New Braunfels, Texas, do certify that I have fully examined the Grant and the proceedings taken by the Sponsor relating to the acceptance of the Grant, and find that the manner of acceptance and execution of the Grant by the Sponsor, is in accordance with the laws of the State of Texas.

Dated at \_\_\_\_\_, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Attorney's Signature



**Acceptance of the State**

Executed by and approved for the Texas Transportation Commission for the purpose and effect of activating and/or carrying out the orders, established policies or work programs and grants heretofore approved and authorized by the Texas Transportation Commission.

STATE OF TEXAS

TEXAS DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A

**Scope of Services**  
**TxDOT Project ID: M2015NBRN**

<b>Eligible Scope Item</b>	<b>Estimated Costs Amount A</b>	<b>State Share Amount B</b>	<b>Sponsor Share Amount C</b>
<b>GENERAL MAINTENANCE</b>	\$100,000.00	\$50,000.00	\$50,000.00
<b>TOTAL</b>	\$100,000.00	\$50,000.00	\$50,000.00

Accepted By: The City of New Braunfels, Texas

\_\_\_\_\_  
 Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_

GENERAL MAINTENANCE: As needed, Sponsor may contract for services / purchase materials for routine maintenance / improvement of airport pavements, signage, drainage, AWOS systems, approach aids, lighting systems, utility infrastructure, fencing, herbicide / application, sponsor owned and operated fuel systems, hangars, terminal buildings and security systems; professional services for environmental compliance, approved project design. Special projects to be determined and added by amendment.

**Only work items as described in Attachment A, Scope of Services of this Grant are reimbursable under this grant.**

### CERTIFICATION OF AIRPORT FUND

TxDOT Project ID: M2015NBRN

The City of New Braunfels does certify that an Airport Fund has been established for the Sponsor, and that all fees, charges, rents, and money from any source derived from airport operations will be deposited for the benefit of the Airport Fund and will not be diverted for other general revenue fund expenditures or any other special fund of the Sponsor and that all expenditures from the Fund will be solely for airport purposes. The fund may be an account as part of another fund, but must be accounted for in such a manner that all revenues, expenses, retained earnings, and balances in the account are discernible from other types of moneys identified in the fund as a whole.

Sponsor: The City of New Braunfels, Texas

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

#### Certification of State Single Audit Requirements

I, \_\_\_\_\_, do certify that the City of New Braunfels, Texas,

(Designated Representative)

will comply with all requirements of the State of Texas Single Audit Act if the City of New Braunfels, Texas, spends or receives more than the threshold amount in any grant funding sources during the most recently audited fiscal year. And in following those requirements, the City of New Braunfels, Texas, will submit the report to the audit division of the Texas Department of Transportation. If your entity did not meet the threshold in grant receivables or expenditures, please submit a letter indicating that your entity is not required to have a State Single Audit performed for the most recent audited fiscal year.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## DESIGNATION OF SPONSOR'S AUTHORIZED REPRESENTATIVE

TxDOT Project ID: M2015NBRN

The City of New Braunfels, Texas, designates, \_\_\_\_\_  
(Name, Title)

as the Sponsor's authorized representative, who shall receive all correspondence and documents associated with this grant and who shall make or shall acquire approvals and disapprovals for this grant as required on behalf of the Sponsor.

Sponsor: The City of New Braunfels, Texas

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

### DESIGNATED REPRESENTATIVE

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Overnight Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. E)

### Presenter/Contact

*Val Acevedo, City Attorney, and Kristi Aday, Assistant City Manager  
(830) 221-4285 - kaday@nbtexas.org*

### **SUBJECT:**

Approval of the second and final reading of an ordinance creating a temporary San Antonio Street Bridge Safety Zone that will prohibit river and pedestrian traffic upstream, under, and downstream of the bridge, during TxDOT construction; authorizing the City Manager to determine date such activities are safe to resume; establishing up to a \$500.00 fine; and repealing Section 86-17 of the Code of Ordinances, entitled Gruene Road River Bridge Water Safety Zone; and providing an effective date.

### **BACKGROUND / RATIONALE:**

(The first reading of this ordinance occurred on August 26, 2019.)

Construction on the San Antonio Street Bridge commences on September 3, 2019, when the bridge will be closed to vehicular and pedestrian traffic. River recreation on the Comal River will continue throughout the construction period; however, the contractor has identified a limited time period during which river and pedestrian traffic near and underneath the bridge should be temporarily halted for the safety and protection of the public. The contractor will be demolishing the upper deck of the bridge, and while the appropriate safety measures will be in place, it is advisable to restrict passage underneath during this time.

This ordinance designates the area underneath, upstream and downstream of the bridge as a “safety zone” and gives the New Braunfels Police Department the legal authority to prohibit the public from entering this zone beginning September 23, 2019, until a time period designated by the City Manager. This ordinance is similar to another temporary ordinance that was passed during the reconstruction of the Gruene Road River Bridge in 2008, but it was never repealed, so that is also being accomplished with this agenda item.

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

N/A

### **FISCAL IMPACT:**

There is no fiscal impact to this action by the City Council.

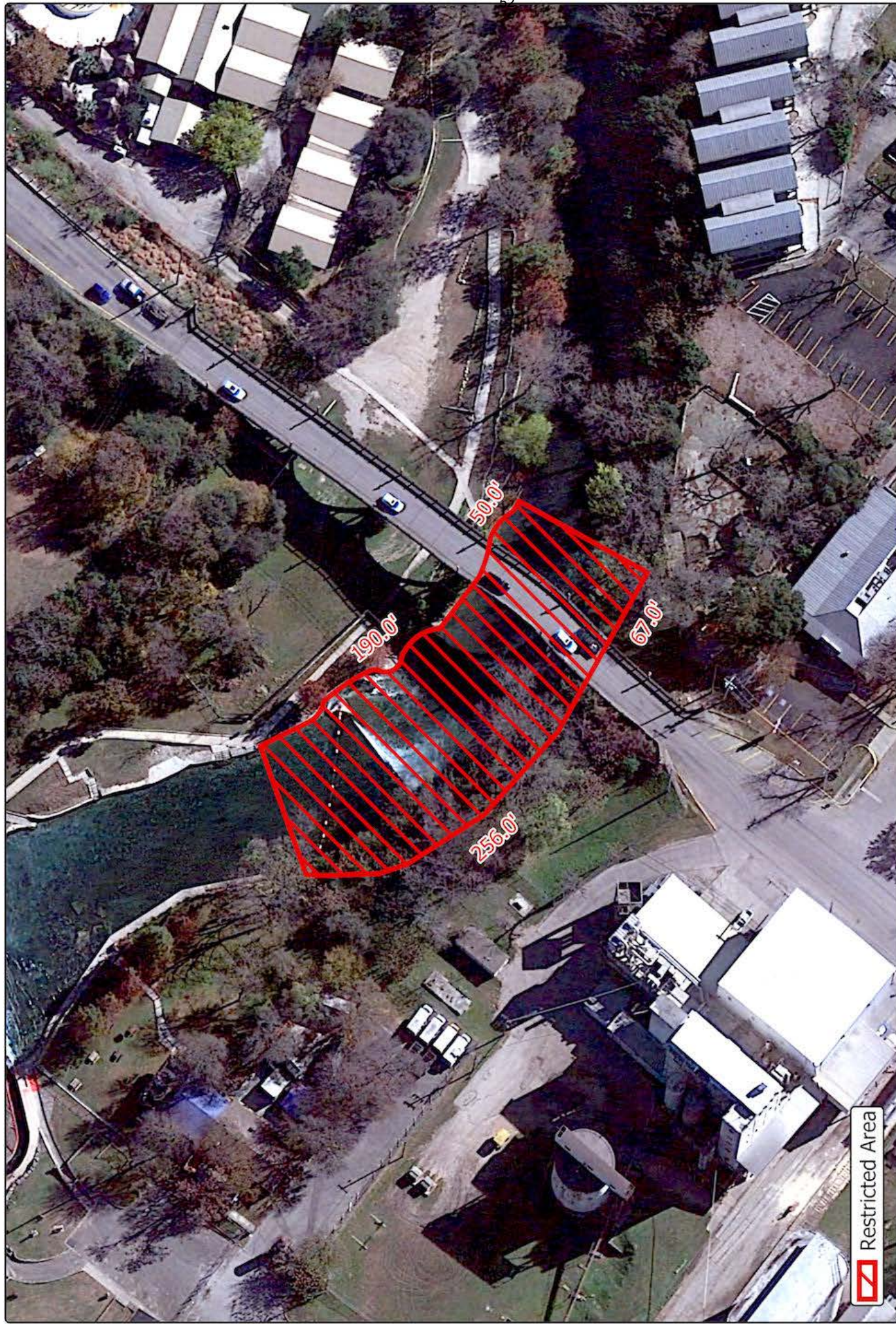
### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.





## Exhibit A - as it relates to the Ordinance



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REPEALING SECTION 86-17, GRUENE ROAD RIVER BRIDGE WATER SAFETY ZONE, OF THE NEW BRAUNFELS CODE OF ORDINANCES; ADOPTING A TEMPORARY SAN ANTONIO STREET BRIDGE SAFETY ZONE DURING TXDOT CONSTRUCTION; PROVIDING FOR SEVERABILITY; PROVIDING A FINE NOT TO EXCEED \$500.00 FOR AN OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Texas Department of Transportation is proceeding with reconstruction of the San Antonio Street Bridge; and

**WHEREAS**, the public use of the Comal River beneath and within Comal River may result in rafters, tubers, swimmers, or other users of the Comal River to unknowingly entering the unsafe construction area in and around the bridge; and

**WHEREAS**, entering the construction area would be detrimental to the public health, safety, and welfare, of the public; and

**WHEREAS**, the Texas Water Safety Act, Texas Parks and Wildlife Code §31.092, provides for local regulation with respect to public water within a city's corporate limits and all the lakes owned by it, and allows a city to designate by ordinance certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety; and

**WHEREAS**, the City Council has determined, in the best interest of the residents and visitors of the City of New Braunfels, that the construction site and area surrounding the San Antonio Street Bridge should be declared a restricted area for a limited time during construction.

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

**SECTION 1.** The findings and recitations set out in the preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes.

**SECTION 2.** That the Code of Ordinances, City of New Braunfels, Texas is hereby amended by repealing Section 86-17, and the City Council adopts an ordinance that establishes the San Antonio Street Bridge Safety Zone and related provisions is hereby adopted and shall read as follows:

**~~86-17. Gruene Road River Bridge Safety Zone.~~**

~~(a) It shall be unlawful for any person on the Guadalupe River to enter the Gruene Road Guadalupe River Bridge restricted area. The restricted area shall be marked upstream, of the bridge by buoys directing the public to exit the Guadalupe River to the West Bank. The restricted area is generally described as the following: an area generally described as the Right of Way of the Gruene River Bridge over the Guadalupe River and extending 100 feet downstream of the bridge Right of Way within the banks of the Guadalupe River and extending 250 feet upstream of the bridge Right of Way along the east bank and 60 feet upstream of the bridge Right of Way along the west bank within the banks of the Guadalupe River. This ordinance shall terminate upon the reopening of the Gruene Road River Bridge to vehicular and pedestrian traffic.~~

~~(b) Exceptions to the prohibition within this ordinance includes bridge construction workers, maintenance crews, on duty governmental personnel, and other similarly authorized personnel.~~

~~(c) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Guadalupe River, which float commences upstream of the Gruene Road River Bridge, shall be responsible for providing sufficient personnel to assure the safe and expeditious exit of persons and removal of flotation devices from the Guadalupe River at the restricted area.~~

~~(d) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Guadalupe River, which float commences upstream of the Gruene Road River Bridge, shall be responsible for posting and providing adequate notice of the restricted area similar to the following: "Gruene Road Bridge Construction, you must exit the Guadalupe River and stay out of restricted area marked by buoys and other markers".~~

~~(e) Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor offense punishable by a fine not to exceed \$500.00 for each offense.~~

**Establishment of San Antonio Street Bridge Safety Zone**

(a) Beginning September 23, 2019, and for a limited duration to be determined by the city manager, it shall be unlawful for any person on the Comal River to enter the restricted area referred to as the San Antonio Street Bridge Safety Zone and depicted in Exhibit A attached to this ordinance. The restricted area shall be marked up stream of the bridge by buoys directing the public to exit the Comal River to the north bank of the Comal River. The restricted area is depicted in Exhibit A and generally described as the right-of-way of the San Antonio Street Bridge over the Comal River and extending 256 feet upstream of the bridge right-of-way along the south bank within the banks of the Comal



River and extending 190 feet upstream of the bridge right-of-way along the north bank and extending 50 feet downstream of the bridge right-of-way along the north bank within the banks of the Comal River, and 67 feet downstream of the bridge right-of-way along the south bank within the banks of the Comal River.

(b) Exceptions to the prohibition within this ordinance includes bridge construction workers, maintenance crews, on-duty governmental personnel, and other similarly authorized personnel.

(c) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Comal River, which float commences up stream of the San Antonio Street Bridge and shall be responsible for providing sufficient personnel to assure the safe and expeditious exit of persons and removal of flotation devices from the Comal River at the restricted area.

(d) Any person, business, or other entity that provides, for a fee, flotation devices or other equipment necessary to float the Comal River, which float commences up stream of the San Antonio Street Bridge, shall be responsible for posting and providing adequate notice of the restricted area similar to the following: **“San Antonio Street Bridge Safety Zone, You Must Exit the Comal River and stay out of the restricted area marked by buoys and other markers.”**

(e) This ordinance shall terminate upon the announcement by the City Manager that Comal River activities can safely and lawfully resume in the San Antonio Street Bridge Safety Zone. The announcement shall be published one time in the local newspaper.

(f) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor offense punishable by a fine not to exceed \$500.00 for each offense.

**SECTION 3.** 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.** 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 5.** All Ordinances or parts thereof in conflict herewith are repealed to the extent of such conflict only.

**SECTION 6.** In accordance with the provisions of the City Charter, this Ordinance may be read and published by descriptive caption only.

**SECTION 7.** This Ordinance shall become adopted and effective ten (10) days after the date of publication in a newspaper pursuant to the Charter of the City of New Braunfels.

PASSED AND APPROVED: First reading this \_\_\_\_\_day of August, 2019.

PASSED AND APPROVED: Second reading this \_\_\_\_\_day of September, 2019.

CITY OF NEW BRAUNFELS, TEXAS

\_\_\_\_\_  
BARRON CASTEEL, Mayor

ATTEST:

\_\_\_\_\_  
PATRICK ATEN, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
VALERIA M. ACEVEDO, City Attorney



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. F)

### Presenter

*Christopher J. Looney, Planning and Community Development Director  
clooney@nbtexas.org*

### **SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed rezoning of 39.241 acres, consisting of Lot 2, AD2 Subdivision and approximately 34 acres out of the A-485 O Russell Survey 1, located in the 3900 and 4000 blocks of IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

### **BACKGROUND / RATIONALE:**

**Case No.:** PZ19-0207

**Council District:** 4

**Applicant/Owner:** Michael Scott Turner  
940 Eikel Street  
New Braunfels, TX 78130  
(830) 708-5070  
mike@grandeice.com

**Staff Contact:** Holly Mullins  
(830) 221-4054  
hmullins@nbtexas.org

**City Council held a public hearing on August 26, 2019 and unanimously approved the first reading of the applicant's requested rezoning ordinance.**

The subject property is currently vacant and is located along the IH-35 frontage road between Oak Creek Subdivision and Camping World. It surrounds the 5-acre Faulkner tract that is the subject of PZ19-0206, also on this agenda.

The front 300 feet of the property, annexed in 1984, is currently zoned M-1 Light Industrial (a cumulative zoning district that allows residential, commercial and industrial uses). The remainder was annexed in 2003 and is still zoned the interim APD Agricultural/Pre-Development District.

The owner/applicant indicated no immediate plans for development, but is requesting M-1A Light Industrial District zoning on the entire 39 acres for development continuity and to facilitate the future sale of the property. M-1A is intended for light manufacturing and fabrication, warehousing, distribution, wholesaling and service operations that do not typically depend on frequent customer visits.

### **General Information:**

#### *Surrounding Zoning and Land Use:*

North - Oak Creek PD/ Drainage  
South -  
East -  
West -

Across IH-35, M-1/ Light industrial (distribution center)  
M-1, APD/ Undeveloped  
M-1, APD/ Undeveloped

**Floodplain:**

A portion of the property is located in the Alligator Creek floodway, and over half is within the 1% annual chance flood zone. The City's floodplain development standards will apply to any future development.

**Regional Transportation Plan:**

The subject property has frontage on the IH-35 access road. The need for any right-of-way dedication will be evaluated at the time of platting.

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan City Council Priority	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.8:</b> Concentrate future industrial and employment centers along existing high capacity transportation networks, such as Interstate 35. City Council and Planning Commission direction to protect viable industrially zoned tracts from incompatible land use encroachment, and increase industrial greenfield.
---	--

**FISCAL IMPACT:**

N/A

**Determination Factors:**

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*M-1A zoning is appropriate along this segment of the Interstate Highway and is consistent with existing zoning in the area. The subject property is located between the IH-35 southbound exit and entrance ramps, potentially reducing the quantity of truck traffic within the City's internal roadway network.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed zoning should not conflict with existing and proposed schools, streets, or utilities in the area.*);
- How other areas designated for similar development will be affected (*The proposed zoning should not impact other areas designated for similar development. M-1A on this tract will increase inventory of industrially zoned land that does not allow single-family or two-family residential.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will negatively affect the public health, safety, morals, or general welfare. The Oak Creek Subdivision has a platted drainage lot immediately adjacent to the subject property which will increase separation/buffer between uses.*); and
- Whether the request is consistent with the Comprehensive Plan (*The subject property lies within the Oak Creek Sub Area and a Transitional Mixed-Use Corridor (IH-35), and is near existing Market and Employment Centers.*)

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on August 6, 2019 and voted unanimously to recommend approval of the applicant's rezoning request (8-0-0).

**STAFF RECOMMENDATION:**

The requested M-1A zoning would be consistent with existing surrounding zoning along IH-35 in this area, including its location between the IH-35 southbound exit and entrance ramps facilitating truck traffic, and with City Council's priority to increase the inventory of industrial greenfield. Therefore, staff recommends approval.

**Notification:**

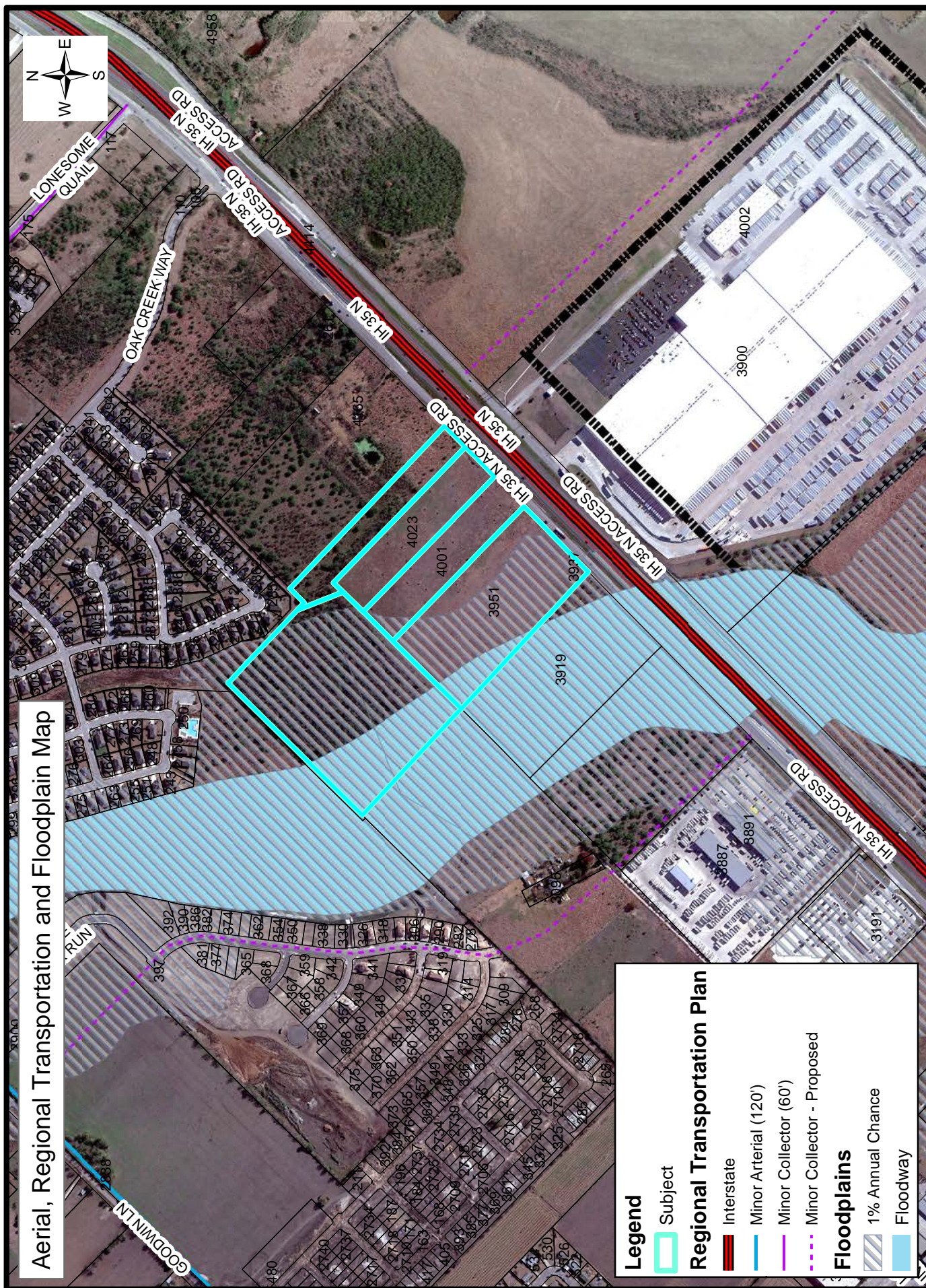
Public hearing notices were sent to 18 owners of property within 200 feet. The City has received no responses to date.

**Attachments:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Notification Map
4. Sec. 3.4-18 M-1A

- 
5. Planning Commission Minutes
  6. Ordinance





**PZ19-0207**  
**3900 & 4000 IH-35 North**  
**M-1 and APD to M-1A**





**PZ19-0207**  
**3900 - 4000 IH-35 North**  
**M-1 and APD to M-1A**



**EXISTING CENTERS**

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

**EMPLOYMENT CENTER**

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

**MARKET CENTER**

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

**MEDICAL CENTER**

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

**CIVIC CENTER**

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

**OUTDOOR RECREATION CENTER**

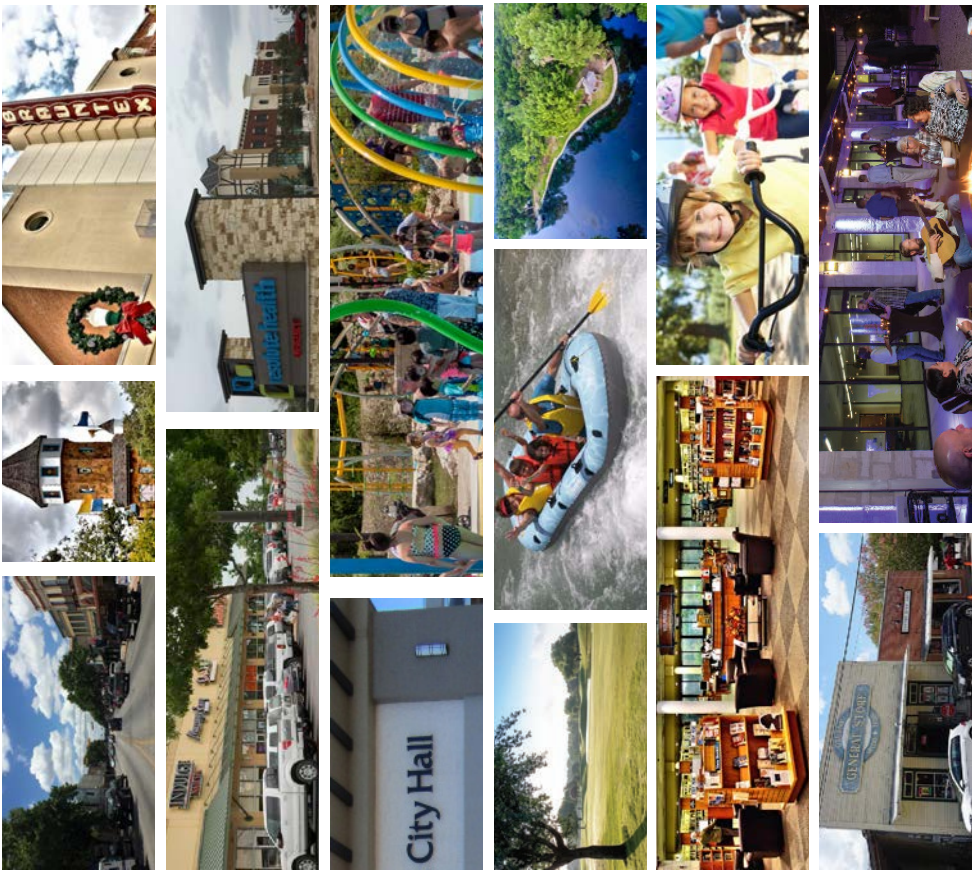
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

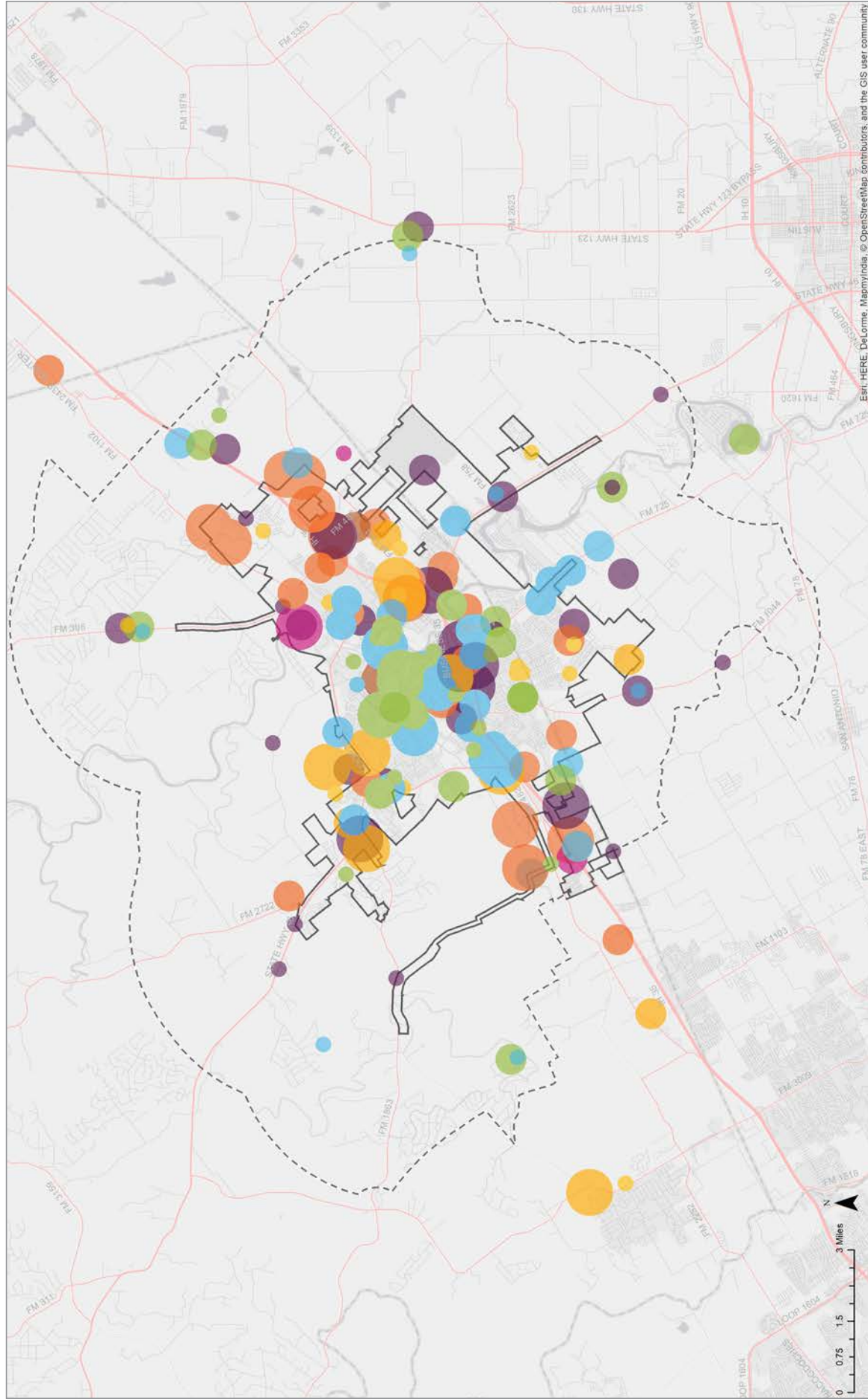
**EDUCATION CENTER**

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

**TOURIST/ENTERTAINMENT CENTER**

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, windshield surveys, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.





**PLANNING COMMISSION – August 6, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Michael Scott Turner

**Address/Location:** Approximately 40 acres out of the O. Russell 2 Survey, located in the 3900 and 4000 block of IH-35 North (see map)

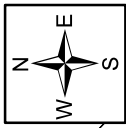
**PROPOSED SPECIAL USE PERMIT – CASE #SUP19-0207**

The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

- |                                 |                                  |
|---------------------------------|----------------------------------|
| 1. M A ANDERSON REAL ESTATE LLC | 10. FRAPRIE MARK RAYMOND         |
| 2. LEHMANN GERALD K             | 11. SADLER CATHERINE M & JACOB R |
| 3. FAULKNER DATHAN              | 12. BARAJAS CRYSTAL & ANTHONY    |
| 4. HOOVER RONALD C              | 13. MURPHY RYAN & ASHLEY         |
| 5. CONTINENTAL HOMES OF TEXAS   | 14. SILVA MONICA MENJARES        |
| 6. OAK CREEK ESTATES MASTER     | 15. WIGINTON JAMES D & BEATRICE  |
| 7. MONTOYA OSCAR HUMBERTO       | 16. RECK STANLEY & DEBBIE        |
| 8. JOHNSON PATRICIA A           | 17. MCCLEARY DAVID M TRUST &     |
| 9. LINGMANN MICHAEL & REBECCA   | 18. HALUZAN JANICE S & RON       |

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**SEE MAP**



**PZ19-0207**  
**3900 & 4000 IH-35 North**  
**M-1 and APD to M1-A**

### 3.4-18 "M-1A" light industrial district.

*Purpose.* The M-1A light industrial district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, distribution, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation. The following regulations shall apply in all "M-1A" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

**Residential uses:**

Accessory building/structure  
 Bed and breakfast inn (see Sec. 5.6)  
 Boardinghouse/lodging house  
 Community home (see definition)  
 Dormitory (in which individual rooms are for rental)  
 Multifamily (apartments/condominiums – at least five units)  
 Residential use in buildings with the following non-residential uses

**Non-residential uses:**

Accounting, auditing, bookkeeping, and tax preparations  
 Adult day care (no overnight stay)  
 Adult day care (with overnight stay)  
 Aircraft support and related services  
 Airport  
 All terrain vehicle (ATV) Dealer / Sales  
 Ambulance service (private)  
 Amphitheater  
 Amusement devices/arcade (four or more devices)  
 Amusement services or venues (indoors) (see Sec. 5.13)  
 Amusement services or venues (outdoors)  
 Animal grooming shop  
 Answering and message services  
 Antique shop  
 Appliance repair  
 Archery range  
 Armed services recruiting center  
 Art dealer / gallery  
 Artist or artisan's studio  
 Assembly/exhibition hall or areas  
 Athletic fields  
 Auction sales (non-vehicle)  
 Auto body repair, garages (see Sec. 5.11)  
 Auto glass repair/tinting (see Sec. 5.11)  
 Auto interior shop / upholstery (see Sec. 5.11)  
 Auto leasing  
 Auto muffler shop (see Sec. 5.11)  
 Auto or trailer sales rooms or yards (see Sec. 5.12)  
 Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)  
 Auto paint shop  
 Auto repair as an accessory use to retail sales  
 Auto repair garage (general) (see Sec. 5.11)

Auto supply store for new and factory rebuilt parts  
 Auto tire repair /sales (indoor)  
 Automobile driving school (including defensive driving)  
 Bakery (retail)  
 Bank, savings and loan, or credit union  
 Bar/Tavern  
 Barber/beauty college (barber or cosmetology school or college)  
 Barber/beauty shop, haircutting (non-college)  
 Barns and farm equipment storage (related to agricultural uses)  
 Battery charging station  
 Bicycle sales and/or repair  
 Billiard / pool facility  
 Bio-medical facilities  
 Blacksmith or wagon shops  
 Book binding  
 Book store  
 Bottling or distribution plants (milk)  
 Bottling works  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 Cafeteria / café / delicatessen  
 Campers' supplies  
 Car wash (self-service; automated)  
 Car wash, full service (detail shop)  
 Carpenter, cabinet, or pattern shops  
 Carpet cleaning establishments  
 Caterer  
 Cemetery and/or mausoleum  
 Check cashing service  
 Chemical laboratories (not producing noxious fumes or odors)  
 Church/place of religious assembly  
 Civic/conference center and facilities  
 Cleaning, pressing and dyeing (non-explosive fluids used)  
 Clinic (dental)  
 Clinic (emergency care)  
 Clinic (medical)  
 Club (private)  
 Coffee shop  
 Cold storage plant  
 Commercial amusement concessions and facilities  
 Communication equipment - installation and/or repair  
 Community building (associated with residential use)  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's office/sales, with outside storage including vehicles  
 Contractor's temporary on-site construction office (with permit from Building Official; Sec. 5.10)  
 Convenience store with or without fuel sales  
 Credit agency  
 Crematorium  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)



Day camp  
 Department store  
 Drapery shop / blind shop  
 Driving range  
 Drug sales/pharmacy  
 Electrical repair shop  
 Electrical substation  
 Electronic assembly/high tech manufacturing  
 Electroplating works  
 Engine repair/motor manufacturing re-manufacturing and/or repair  
 Exterminator service  
 Fair ground  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Feed and grain store  
 Filling station (fuel tanks must be below the ground)  
 Florist  
 Food or grocery store with or without fuel sales  
 Food processing (no outside public consumption)  
 Forge (hand)  
 Forge (power)  
 Fraternal organization/civic club (private club)  
 Freight terminal, rail/truck (when any storage of freight is outside an enclosed building)  
 Freight terminal, truck (all storage of freight in an enclosed building)  
 Frozen food storage for individual or family use  
 Funeral home/mortuary  
 Furniture manufacture  
 Furniture sales (indoor)  
 Galvanizing works  
 Garden shops and greenhouses  
 Golf course (public or private)  
 Golf course (miniature)  
 Governmental building or use  
 Greenhouse (commercial)  
 Handicraft shop  
 Hardware store  
 Health club (physical fitness; indoors only)  
 Heating and air-conditioning sales / services  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Heliport  
 Home repair and yard equipment retail and rental outlets  
 Hospital, general (acute care/chronic care)  
 Hospital, rehabilitation  
 Hotel/motel  
 Hotels/motels - extended stay (residence hotels)  
 Ice delivery stations (for storage and sale of ice at retail only)  
 Ice plants  
 Industrial laundries  
 Kiosk (providing a retail service)  
 Laboratory equipment manufacturing  
 Laundromat and laundry pickup stations  
 Laundry, commercial (w/o self-serve)  
 Laundry/dry cleaning (drop off/pick up)  
 Laundry/washateria (self-serve)  
 Lawnmower sales and/or repair

Leather products manufacturing  
 Light manufacturing  
 Limousine / taxi service  
 Locksmith  
 Lumberyard (see Sec. 5.15)  
 Lumberyard or building material sales (see Sec. 5.15)  
 Machine shop  
 Maintenance/janitorial service  
 Major appliance sales (indoor)  
 Manufactured home sales  
 Manufacturing and processes  
 Market (public, flea)  
 Martial arts school  
 Medical supplies and equipment  
 Metal fabrication shop  
 Microbrewery (onsite manufacturing and/or sales)  
 Mini-warehouse/self-storage units (with or without outside boat and RV storage)  
 Motion picture studio, commercial film  
 Motion picture theater (indoors)  
 Motion picture theater (outdoors, drive-in)  
 Motorcycle dealer (primarily new / repair)  
 Moving storage company  
 Moving, transfer, or storage plant  
 Museum  
 Needlework shop  
 Non-bulk storage of fuel, petroleum products and liquefied petroleum  
 Nursing/convalescent home/sanitarium  
 Offices, brokerage services  
 Offices, business or professional  
 Offices, computer programming and data processing  
 Offices, consulting  
 Offices, engineering, architecture, surveying or similar  
 Offices, health services  
 Offices, insurance agency  
 Offices, legal services - including court reporting  
 Offices, medical offices  
 Offices, real estate  
 Offices, security/commodity brokers, dealers, exchanges and financial services  
 Outside storage (as primary use)  
 Park and/or playground (private)  
 Park and/or playground (public)  
 Parking lots (for passenger car only) (not as incidental to the main use)  
 Parking structure / public garage  
 Pawn shop  
 Personal watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 Photo engraving plant  
 Photographic printing/duplicating/copy shop or printing shop  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply  
 Plant nursery  
 Plant nursery (growing for commercial purposes with retail sales on site)  
 Plastic products molding/reshaping  
 Plumbing shop  
 Portable building sales

Propane sales (retail)  
 Public recreation/services building for public park/playground areas  
 Publishing/printing company (e.g., newspaper)  
 Quick lube/oil change/minor inspection  
 Radio/television shop, electronics, computer repair  
 Rappelling facilities  
 Recreation buildings (private)  
 Recreation buildings (public)  
 Recycling kiosk  
 Refreshment/beverage stand  
 Research lab (non-hazardous)  
 Restaurant  
 Restaurant/prepared food sales  
 Retail store and shopping center  
 Rodeo grounds  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company  
 Sheet metal shop  
 Shoe repair shops  
 Shooting gallery - indoor (see Sec. 5.13)  
 Shopping center  
 Sign manufacturing/painting plant  
 Specialty shops in support of project guests and tourists  
 Storage - exterior storage for boats and recreational vehicles  
 Storage in bulk  
 Studio for radio or television (with tower) (see Sec. 5.7)  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Tattoo or body piercing studio  
 Taxidermist  
 Telemarketing agency  
 Telephone exchange (office and other structures)  
 Tennis court (commercial)  
 Theater (non-motion picture; live drama)  
 Tire sales (outdoor)  
 Tool rental  
 Transfer station (refuse/pick-up)  
 Travel agency  
 Truck or transit terminal (with outside storage)  
 Truck Stop  
 University or college (public or private)  
 Upholstery shop (non-auto)  
 Used or second-hand merchandise/furniture store  
 Vacuum cleaner sales and repair  
 Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential  
 Video rental / sales  
 Warehouse / office and storage / distribution center  
 Waterfront amusement facilities - berthing facilities sales and rentals  
 Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers/launching ramps

Waterfront amusement facilities – swimming / wading pools / bathhouses

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

Welding shop

Wholesale sales offices and sample rooms

Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

- (2) Only the following manufacturing and processes are permitted when they meet the following requirements:

No use is permitted that would emit or cause radiation, dust, odor, smoke, gas or fumes objectionable to persons of ordinary sensitivity or reasonably hazardous to health, beyond the boundary property lines of the lot or tract upon which the use is located, and which do not generate noise or vibration at the boundary of the M-1A district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

Assaying works

Cooperage works

Foundries (iron, brass, bronze, aluminum).

Hides and skins (storage and curing).

Manufacture of adding machines, cash registers, typewriters, basket material, boxes, electric lamps, clay, shale and glass products, cutlery tools, bicycles, electrical machinery, tools, fiberglass products, and piping subassemblies

Metal stamping, shearing, punching, forming, cutting, cleaning, heat treating, etc.

Sheet metal shops

Welding

- (3) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

- (1) Non-residential uses.

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

- (vi) *Residential setback.* Where a non-residential building abuts a one or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Rear building setback.* 20 feet.
  - (viii) *Width of lot.* 60 feet.
  - (ix) *Lot depth.* 100 feet.
  - (x) *Parking.* See Sec. 5.1 for permitted uses' parking.
- (2) Multifamily dwellings.
- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Side building setback.* A side building setback of five feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (v) *Rear building setback.* 25 feet.
  - (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two-family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.
  - (viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.
  - (ix) *Density.* 24 units per acre.
  - (x) *Lot area.* 20,000 square feet.
  - (xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.
  - (xii) *Distance between structures.* There shall be a minimum of 10 feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1)
  - (xiii) *Minimum number of units.* Five.

(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit . . . 1 1/2 spaces
2. Two-bedroom apartment or unit . . . 2 spaces
3. Each Additional bedroom . . . 1/2 space
4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING 39.241 ACRES, CONSISTING OF LOT 2, AD2 SUBDIVISION AND APPROXIMATELY 34 ACRES OUT OF THE O. RUSSELL SURVEY NO. 1, LOCATED IN THE 3900 AND 4000 BLOCKS OF IH-35 NORTH, FROM “M-1” LIGHT INDUSTRIAL AND “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICTS TO “M1-A” LIGHT INDUSTRIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, in keeping with the spirit and objectives of the “M1-A” Light Industrial District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by rezoning Lot 2, AD2 Subdivision and approximately 34 acres out of the O. Russell Survey No. 1, located in the 3900 and 4000 blocks of IH-35 North from “M-1” and “APD” to “M1-A” Light Industrial District; **now, therefore;**

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

**SECTION 1**

**THAT** pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by rezoning the following described tract of land from “M-1” and “APD” to “M1-A” Light Industrial District:

39.241 acres consisting of Lot 2, AD2 Subdivision and approximately 34 acres out of the O. Russell Survey No. 1, located in the 3900 and 4000 blocks of IH-35 North as described in Exhibit “A” and delineated on Exhibit “B” attached.

**SECTION 2**

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

### **SECTION 3**

**THAT** all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

### **SECTION 4**

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

### **SECTION 5**

**THIS** ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this 26th day of August, 2019.

**PASSED AND APPROVED:** Second reading this 9th day of September, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney





METES AND BOUNDS DESCRIPTION  
FOR A  
39.241 ACRE TRACT OF LAND  
"ZONING"

BEING a 39.241 acre tract of land situated in the City of New Braunfels, Comal County, Texas, being out of the Orilla Russell League Survey No. 2, Abstract No. 485, and being comprised of the following tracts of land: All of a called 10.00 acre tract of land, as conveyed to Michael Scott Turner, and recorded in Document No. 200606033124, of the Official Public Records of Comal County, Texas; All of a called 18.282 acre tract of land, as conveyed to Michael S. Turner, and recorded in Document No. 200806036952, of the Official Public Records of Comal County, Texas; The remaining portion of a called 27.45 acre tract of land, as conveyed to MST-35 #6, LLC, and recorded in Document No. 201406026505, of the Official Public Records of Comal County, Texas; and all of Lot 2, Block 1, A-D Subdivision, Unit 2, as recorded in Volume 11, Page 292, of the Map and Plat Records of Comal County, Texas, as conveyed to MST-35 #6, LLC, and recorded in Document No. 201406026506, of the Official Public Records of Comal County, Texas; and said 39.241 acre tract of land being more particularly described by metes and bounds as follows:

BEGINNING at a point in the Northwestern Right-of-Way (R.O.W.) line of Interstate Highway 35 (I.H. 35) (a variable width R.O.W.), being the most Easterly corner of Tract 2, Hansmann Estates, as recorded in Volume 5, Page 331, of the Map and Plat Records of Comal County, Texas, being the most Southerly corner of said 10.00 acre tract of land, and being the most Southerly corner of this herein described tract of land;

THENCE departing the Northwestern R.O.W. line of said I.H. 35, and with the common line between said Tract 2 and said 10.00 acre tract of land, N 45° 31' 14" W, a distance of 975.84 feet to a point for the most Northerly corner of said Tract 2, being the most Easterly corner of a called 69.92 acre tract of land, as conveyed to M.A. Anderson Real Estate, L.L.C., and recorded in Document No. 201006017581, of the Official Public Records of Comal County, Texas, being the most Southerly corner of said 18.282 acre tract of land, being the most Westerly corner of said 10.00 acre tract of land, and being a Southwesterly corner of this herein described tract of land;

THENCE with the common line between said 69.92 acre tract of land and said 18.282 acre tract of land, N 45° 41' 16" W, a distance of 71.43 feet to a point in the common line between said 69.92 acre tract of land and said 18.282 acre tract of land, and being a Southwesterly corner of this herein described tract of land;

THENCE continuing with the common line between said 69.92 acre tract of land and said 18.282 acre tract of land, N 45° 20' 34" W, a distance of 723.56 feet to a point for the most Northerly Northeast corner of said 69.92 acre tract of land, being in the Southeasterly line of a called 46.000 acre tract of land, as conveyed to Continental Homes of Texas, L.P., and recorded in Document No. 201706004722, of the Official Public Records of Comal County, Texas, and being the most Westerly corner of said 18.282 acre tract of land and this herein described tract of land;

**EXHIBIT "A"**

THENCE with the Northwestern line of said 18.282 acre tract of land, the Southeasterly line of said 46.000 acre tract of land, and with a Southerly line of Lot 25A (Variable Width Public Utility Easement and Drainage Easement), Block "A", Oak Creek Estates, Phase 1B, as recorded in Document No. 200706004819, of the Map and Plat Records of Coma County, Texas, N 44° 57' 27" E, a distance of 1,001.74 feet to a point for a Southerly interior corner of said Lot 25A, and being the most Northerly corner of said 18.282 acre tract of land and this herein described tract of land;

THENCE continuing with the common line between said Lot 25A and said 18.282 acre tract of land, S 46° 16' 03" E, a distance of 590.96 feet to a point for a Southerly corner of said Lot 25A, being a Northwestern corner of the remaining portion of aforementioned 27.45 acre tract of land, being an Easterly corner of said 18.282 acre tract of land, and being a Northeasterly corner of this herein described tract of land;

THENCE departing the Easterly line of said 18.282 acre tract of land, and with the common line between said Lot 25A and the remaining portion of said 27.45 acre tract of land, N 46° 05' 22" E, a distance of 103.42 feet to a point in the Southeasterly line of said Lot 25A, being the most Northerly Northwest corner of the remaining portion of said 27.45 acre tract of land, being the most Westerly corner of a called 16.47 acre tract of land, as conveyed to Ronald C. Hoover, and recorded in Document No. 201606018532, of the Official Public Records of Comal County, Texas, and being a Northeasterly corner of this herein described tract of land;

THENCE departing the Southeasterly line of said Lot 25A, and with the common line between the remaining portion of said 27.45 acre tract of land and said 16.47 acre tract of land, S 46° 03' 59" E, a distance of 1,196.77 feet to a point in the Northwestern R.O.W. line of said I.H. 35, being the most Southerly corner of said 16.47 acre tract of land, and being the most Easterly corner of the remaining portion of said 27.45 acre tract of land and this herein described tract of land;

THENCE with the Northwestern R.O.W. line of said I.H. 35, with the Southeasterly line of the remaining portion of said 27.45 acre tract of land, and with the Southeasterly line of aforementioned Lot 2, A-D Subdivision, S 45° 55' 01" W, a distance of 456.80 feet to a point in the Northwestern R.O.W. line of said I.H. 35, being the most Southerly corner of said Lot 2, same being the most Easterly corner of Lot 1, of said A-D Subdivision, and being a Southeasterly corner of this herein described tract of land;

THENCE departing the Northwestern R.O.W. line of said I.H. 35, and with the common line between said Lots 1 and 2, N 45° 31' 14" W, a distance of 975.84 feet to a point for the most Westerly corner of said Lot 2, being the most Northerly corner of said Lot 1, being in the Southeasterly line of aforementioned 18.282 acre tract of land, and being a Northwestern interior corner of this herein described tract of land;

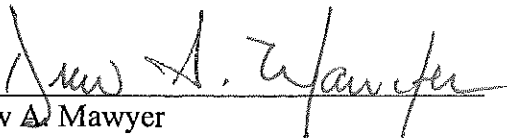
THENCE with the common line between said Lot 1 and said 18.282 acre tract of land, S 45° 54' 00" W, a distance of 223.26 feet to a point for the most Westerly corner of said Lot 1, being the most Northerly corner of aforementioned 10.00 acre tract of land, being in the Southeasterly line of said 18.282 acre tract of land, and being a Northwestern interior corner of this herein described tract of land;

THENCE departing the Southeasterly line of said 18.282 acre tract of land, and with the common line between said Lot 1 and said 10.00 acre tract of land, S 45° 31' 14" E, a distance of 975.84 feet to a point in the Northwestern R.O.W. line of said I.H. 35, being the most Southerly corner of said Lot 1, the most Easterly corner of said 10.00 acre tract of land, and being a Southeasterly corner of this herein described tract of land;

THENCE with the Northwesterly R.O.W. line of said I.H. 35, and with the Southeasterly line of said 10.00 acre tract of land, S 45° 54' 00" W, a distance of 446.52 feet to the POINT OF BEGINNING, and containing 39.241 acres of land, more or less.

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

Bearings based on Document No. 200606033124, of the Official Public Records of Comal County, Texas.

  
Drew A. Mawyer  
Registered Professional Land Surveyor No. 5348  
TBPLS Firm Registration #10191500  
5151 W. SH 46, NEW BRAUNFELS, TX 78132  
COR003- 4023 I.H. 35- 39.241 AC- 061319







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. G)

### Presenter

*Christopher J. Looney, Planning and Community Development Director  
clooney@nbtexas.org*

### **SUBJECT:**

Approval of the second and final reading of an ordinance regarding the proposed rezoning of Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH-35 North, from "M-1" Light Industrial and "APD" Agricultural/Pre-Development Districts to "M-1A" Light Industrial District.

### **BACKGROUND / RATIONALE:**

**Case No.:** PZ19-0206

**Council District:** 4

**Applicant/Owner:** Dathan Faulkner  
2310 Roosevelt Ave.  
San Antonio, TX 78210  
(210) 922-7901  
david@allstategear.com

**Staff Contact:** Matt Greene  
(830) 221-4053  
mgreene@nbtexas.org

**City Council held a public hearing on August 26, 2019, and approved the first reading of the applicant's requested rezoning ordinance (7-0).**

The subject 5-acre tract is currently vacant and is located along the IH-35 frontage road between Oak Creek Subdivision and Camping World. It is surrounded by the 39 acres owned by Mr. Turner that is the subject of PZ19-0207, also on this agenda.

The front 300 feet of the property, annexed in 1984, is currently zoned M-1 Light Industrial (a cumulative zoning district that allows residential, commercial and industrial uses). The remainder was annexed in 2003 and is still zoned the interim APD Agricultural/Pre-Development District. The property has been in agriculture production.

The owner/applicant indicated no immediate plans for development, but is requesting M-1A Light Industrial District zoning for development continuity and to facilitate the future sale of the property. M-1A is intended for light manufacturing and fabrication, warehousing, distribution, wholesaling and service operations that do not typically depend on frequent customer visits.

**General Information:*****Surrounding Zoning and Land Use:***

North - Oak Creek PD/ Drainage

South -

East -

West -

Across IH-35, M-1/ Light industrial (distribution center)

M-1, APD/ Undeveloped

M-1, APD/ Undeveloped

***Floodplain:***

A portion of the property is located in the Alligator Creek floodway with over half within the 1% annual chance flood zone. The City's floodplain development standards will apply to any future development.

***Regional Transportation Plan:***

The subject property has frontage on the IH-35 access road. The need for any right-of-way dedication will be evaluated at the time of platting.

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan City Council Priority	<b>Action 1.3:</b> Encourage balanced and fiscally responsible land use patterns. <b>Action 1.8:</b> Concentrate future industrial and employment centers along existing high capacity transportation networks, such as Interstate 35. City Council and Planning Commission direction to protect viable industrially zoned tracts from incompatible land use encroachment, and increase industrial greenfield.
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**FISCAL IMPACT:**

N/A

**Determination Factors:**

In making a decision on zoning, the following factors are to be considered:

- Whether the permitted uses will be appropriate in the immediate area, and their relationship to the area and to the City as a whole (*M-1A zoning is appropriate along this segment of the Interstate Highway and is consistent with existing zoning in the area. The subject property is located between the IH 35 southbound exit and entrance ramps, potentially reducing the quantity of truck traffic within the City's internal roadway network.*);
- Whether the change is in accord with any existing or proposed public schools, streets, water supply, sanitary sewers, and other utilities to the area (*The proposed zoning should not conflict with existing and proposed schools, streets, or utilities in the area.*);
- How other areas designated for similar development will be affected (*The proposed zoning should not impact other areas designated for similar development. M-1A on this tract will increase inventory of industrially zoned land that does not allow single-family or two-family residential.*);
- Any other factors that will substantially affect the public health, safety, morals, or general welfare (*There should be no other factors that will negatively affect the public health, safety, morals, or general welfare.*); and
- Whether the request is consistent with the Comprehensive Plan (*The subject property lies within the Oak Creek Sub Area and a Transitional Mixed-Use Corridor (IH-35), and near*

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*existing Market and Employment Centers.)*

**COMMITTEE RECOMMENDATION:**

The Planning Commission held a public hearing on August 6, 2019 and unanimously recommended approval of the applicant's rezoning request. (8-0-0)

**STAFF RECOMMENDATION:**

The requested M-1A zoning would be consistent with existing surrounding zoning along IH-35 in this area, including its location between the IH-35 southbound exit and entrance ramps facilitating truck traffic, and with City Council's priority to increase the inventory of industrial greenfield. Therefore, staff recommends approval.

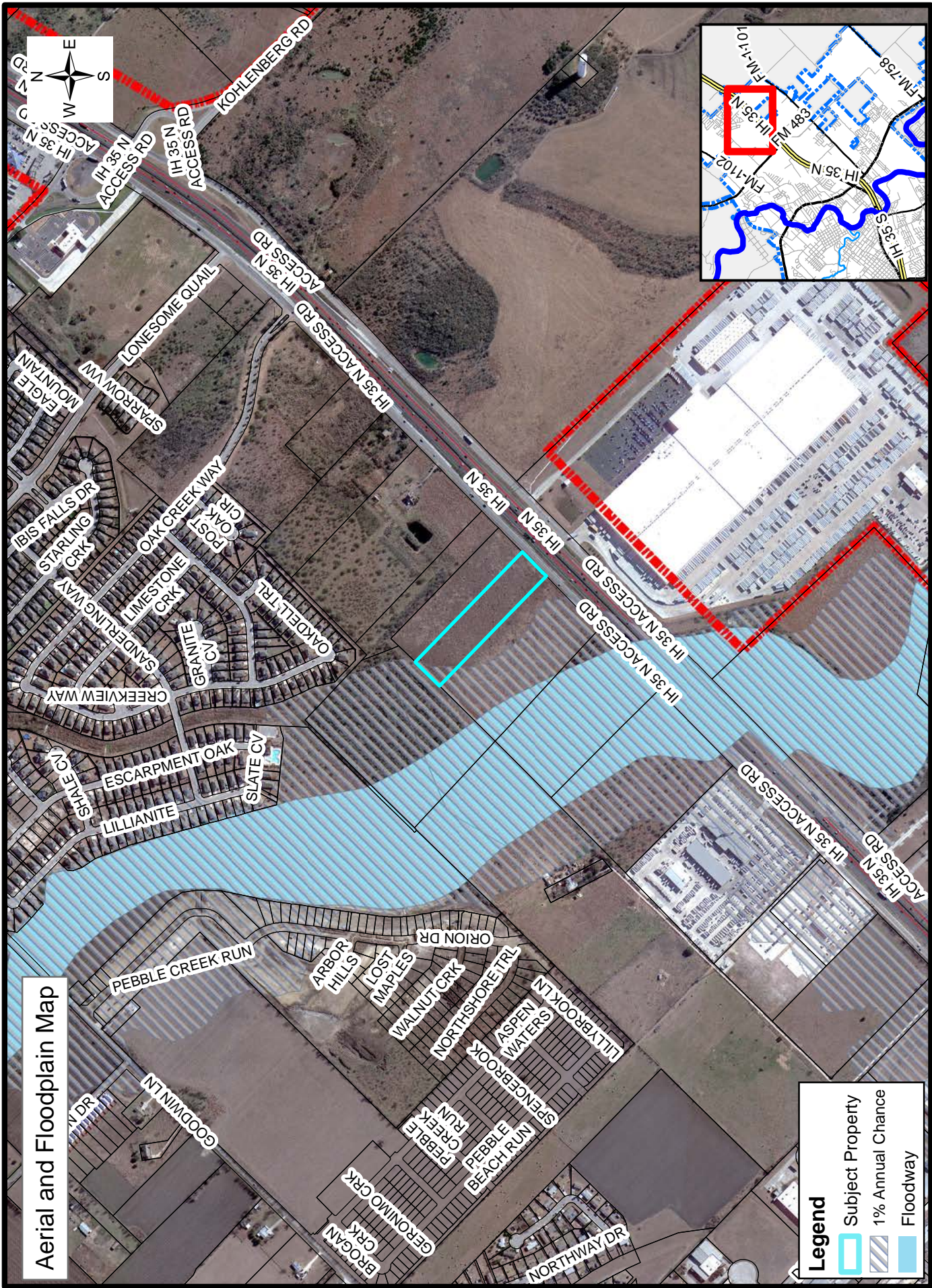
**Notification:**

Public hearing notices were sent to 1 owner of property within 200 feet (the applicant for Case# PZ19-0207). The City has received no response to date.

**Attachments:**

1. Aerial Map
2. Land Use Maps (Zoning, Existing Land Use, Future Land Use Plan)
3. Notification List and Map
4. Sec. 3.4-18 M-1A
5. Excerpt of Minutes from August 6, 2019 Planning Commission Regular Meeting
6. Ordinance



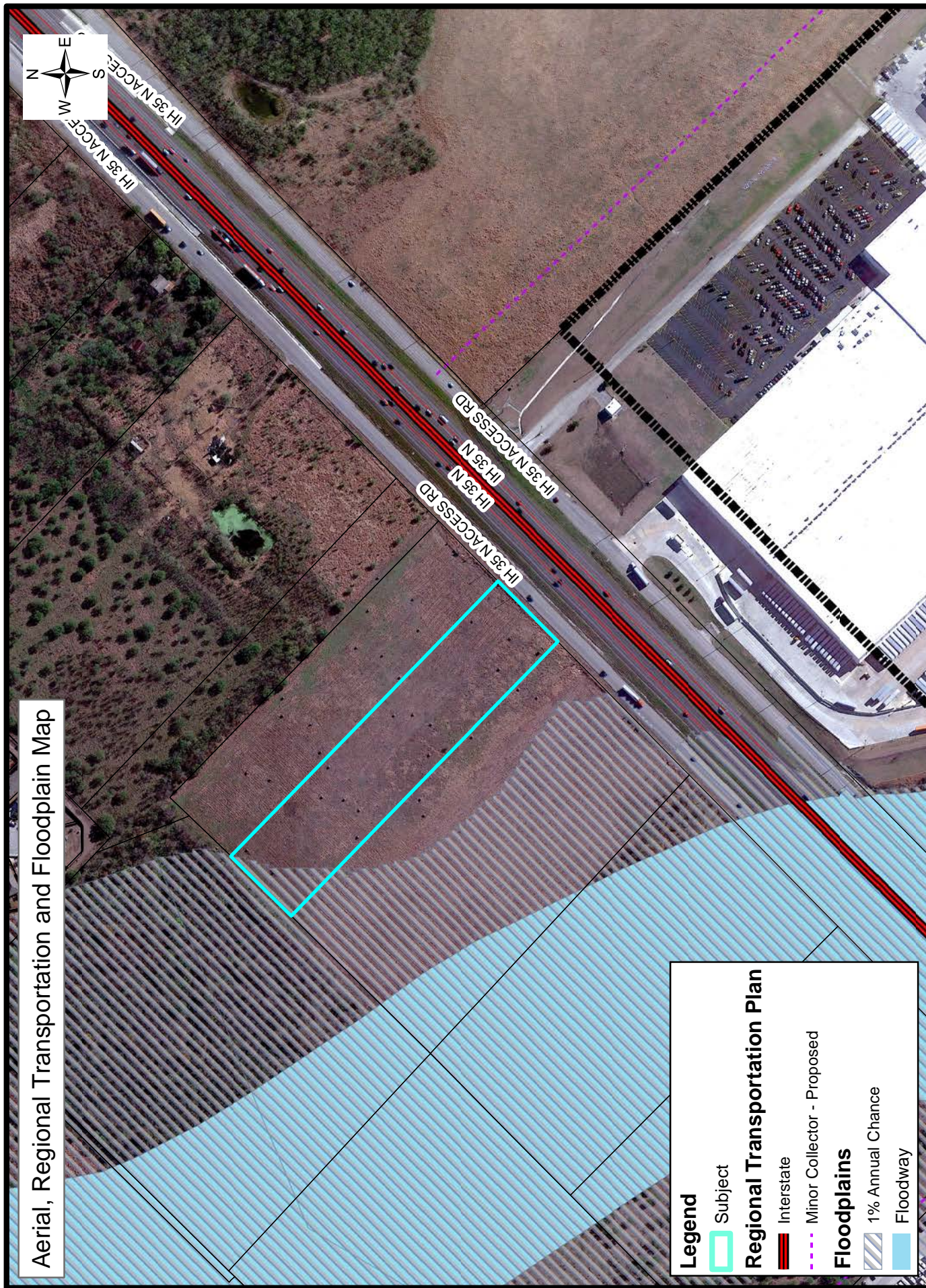


PZ19-0206  
4001 IH 35  
Zone Change from M-1 and APD to M-1A





Aerial, Regional Transportation and Floodplain Map



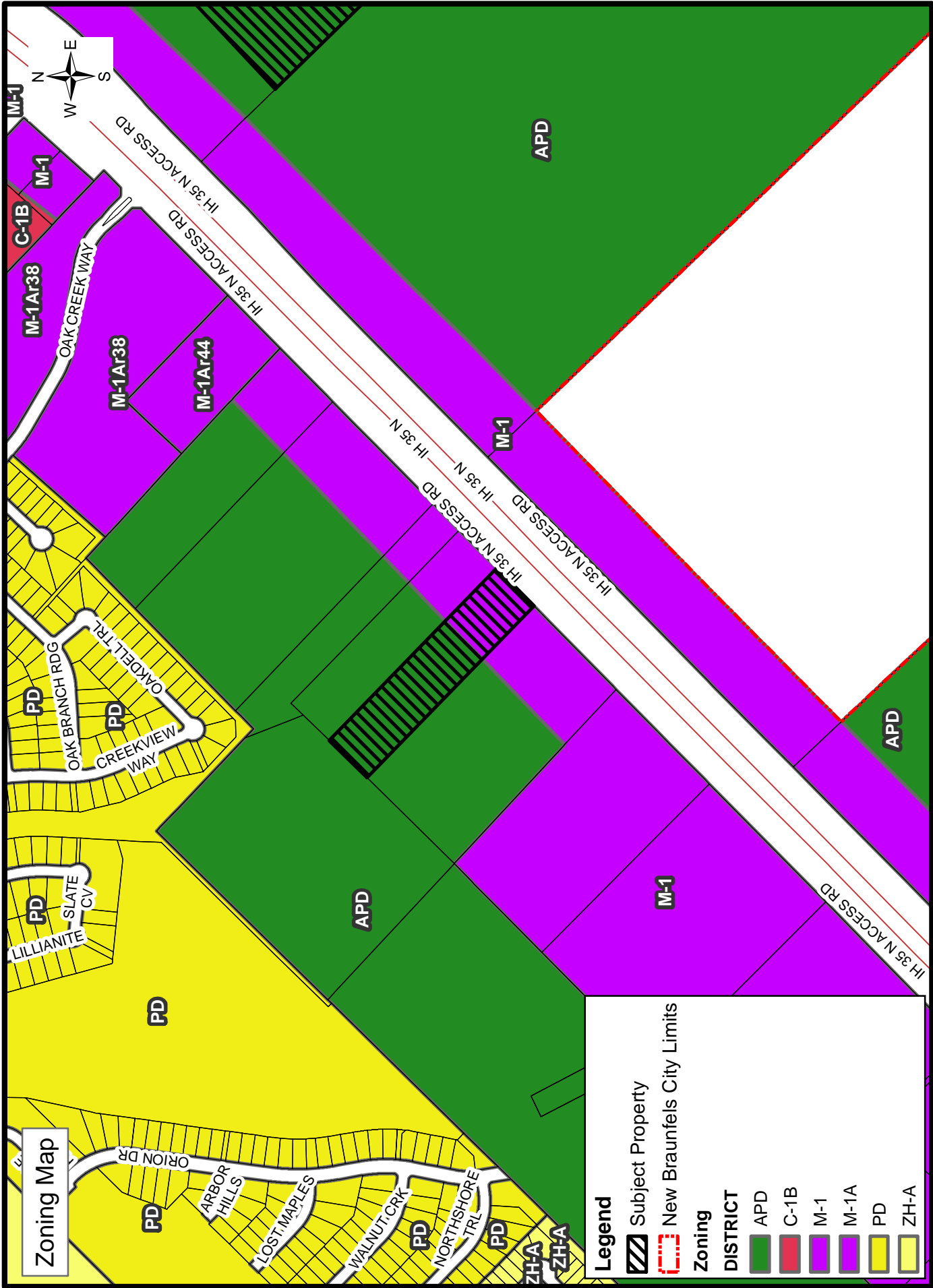
**Legend**

- Subject
- Regional Transportation Plan
  - Interstate
  - Minor Collector - Proposed
- Floodplains
  - 1% Annual Chance
  - Floodway

PZ19-0206  
4001 IH-35 North  
M-1 and APD to M-1A

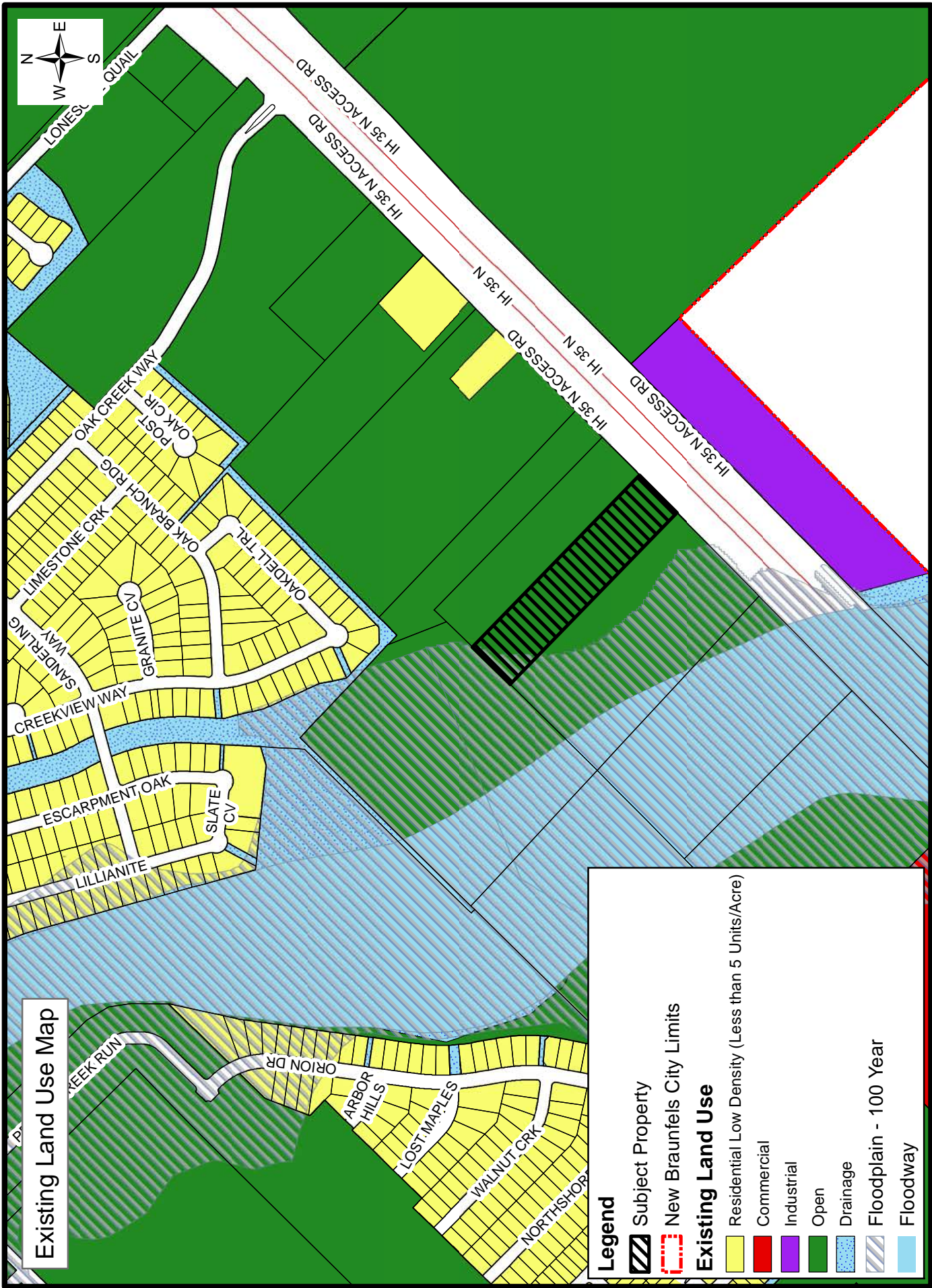






**PZ19-0206**  
**4001 IH-35 North**  
**Zone Change from M-1 and APD to M-1A**





**PZ19-0206**  
**4001 IH-35 North**  
**Zone Change from M-1 and APD to M-1A**





**EXISTING CENTERS**

Centers are the middle, core or heart of an area. It is a point of activity and vitality. Centers come in many sizes and have different purposes or activities within. They may have endangered species habitat or aquifer recharge areas that require additional standards and consideration relating to future growth. It is envisioned that all centers be walkable, connected, and have a mix of uses. These centers must provide adequate infrastructure to support the commercial development present especially mobility and access for pedestrians, bicycles, vehicles and transit. Given the mixed-use nature of these centers, parking should be shared and not detract from the aesthetic of the area.

**EMPLOYMENT CENTER**

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

**MARKET CENTER**

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

**MEDICAL CENTER**

Medical Centers are mixed-use areas centered around a medical destination such as a hospital or clinic.

**CIVIC CENTER**

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

**OUTDOOR RECREATION CENTER**

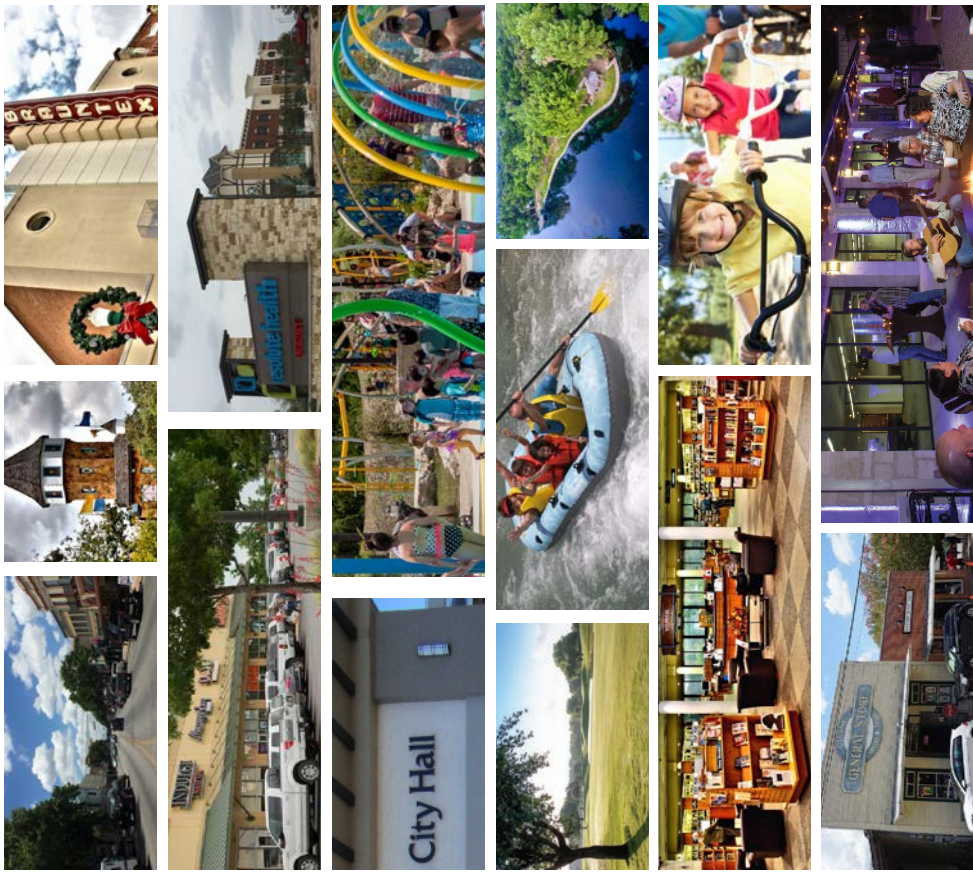
Outdoor Recreation Centers center around a public or private outdoor destination such as Landa Lake.

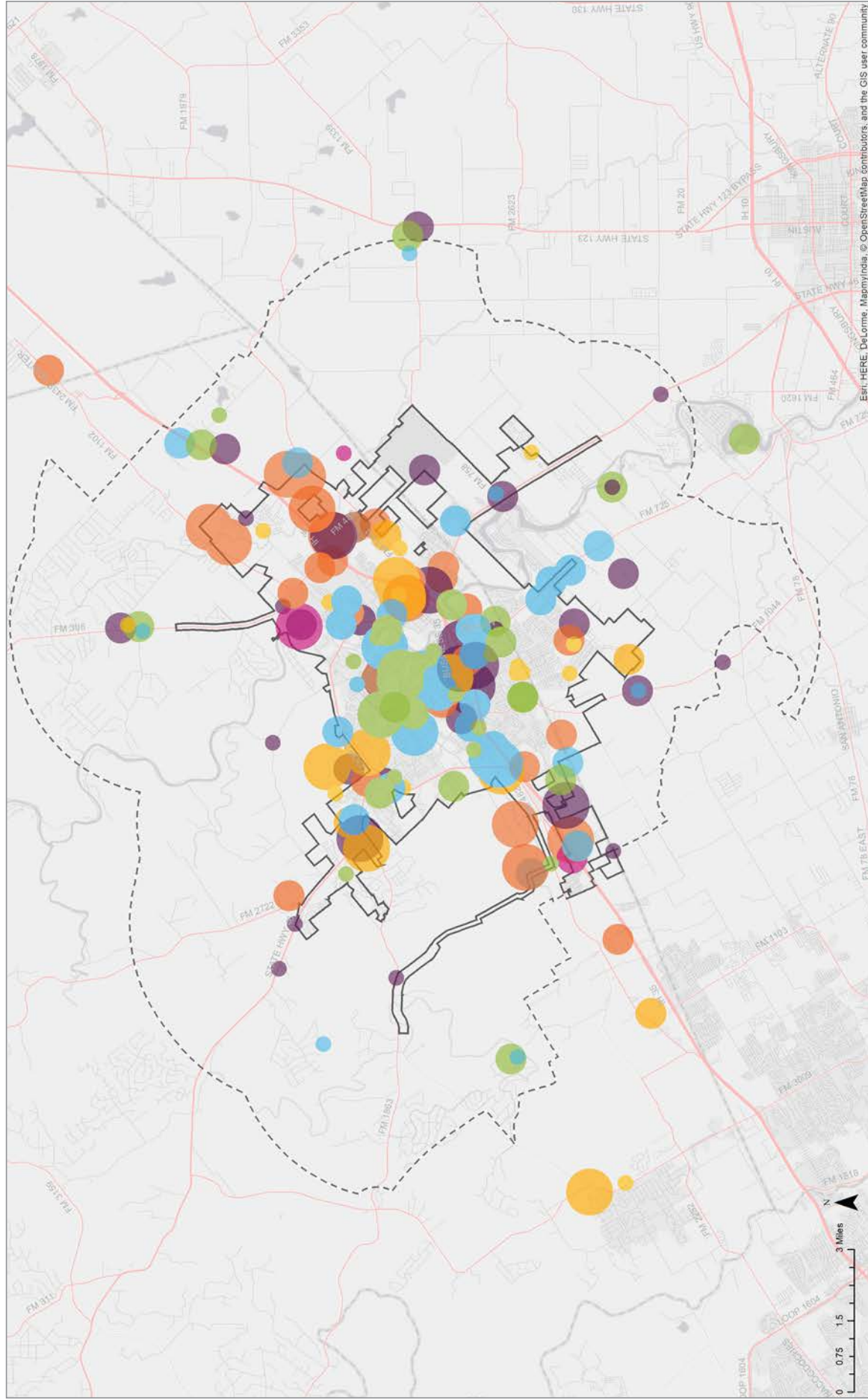
**EDUCATION CENTER**

Education Centers are mixed-use areas centered around an educational destination such as a K-12 school or university/college.

**TOURIST/ENTERTAINMENT CENTER**

Tourist/Entertainment Centers are mixed-use areas around an entertainment venue such as Gruene Hall or a tourist destination such as the Tube Chute.





The location of existing centers was determined through the analysis of previous studies and background documents, and reviewed by City staff, Steering Committee members, and Plan Element Advisory Group members during a public workshop.

# FUTURE LAND USE PLAN

A future land use plan is how land is envisioned to be. It establishes priorities for more detailed plans (sub area plans) and for detailed topical plans (such as parks and open spaces, trails and roads). It cannot be interpreted without the goals and actions of Envision New Braunfels.

## TRANSITIONAL MIXED-USE CORRIDOR

Transitional Mixed-Use Corridors express an aspiration to retrofit existing auto-dominated retail corridors with a mix of uses and a variety of travel modes over time.

## OUTDOOR RECREATION CENTER

Outdoor Recreation Centers are centered around a public or private outdoor destination like Fischer Park.

## EMPLOYMENT CENTER

Employment Centers are mixed-use areas centered around office or industrial uses that can support significant employment.

## MARKET CENTER

Market Centers are mixed-use areas anchored by a retail destination where surrounding residents go to get daily goods and services.

## CIVIC CENTER

Civic Centers are mixed-use areas centered around a civic destination such as City Hall, a library or a recreation center.

## SUB AREA 1

Sub Area 1 includes the Downtown, Gruene and the Mid-Century or older neighborhoods that surround them. It is home to the natural springs and headwaters of flowing rivers that have attracted New Braunfelsers to the town for centuries.

## SUB AREA 2

Sub Area 2 refers to the neighborhoods and residential enclaves that have grown alongside the Hill Country landscape.

## SUB AREA 3

Sub Area 3 includes a planned community offering a diversity of housing, distinct community centers and preserved Hill Country landscape features.

## SUB AREA 4

At the heart of Sub Area 4 is Fischer Park. Proximity to IH-35, downtown and neighboring communities like McQueeney makes this area highly desirable and accessible.

## SUB AREA 5

Sub Area 5 bridges together many communities east of IH-35. It includes the scenic landscape along both banks of the Guadalupe River between Highway 46 and FM 725.

## SUB AREA 6

Sub Area 6 expresses an aspiration for conservation communities focused around maintaining and enhancing ecological integrity while allowing some level of development to occur.

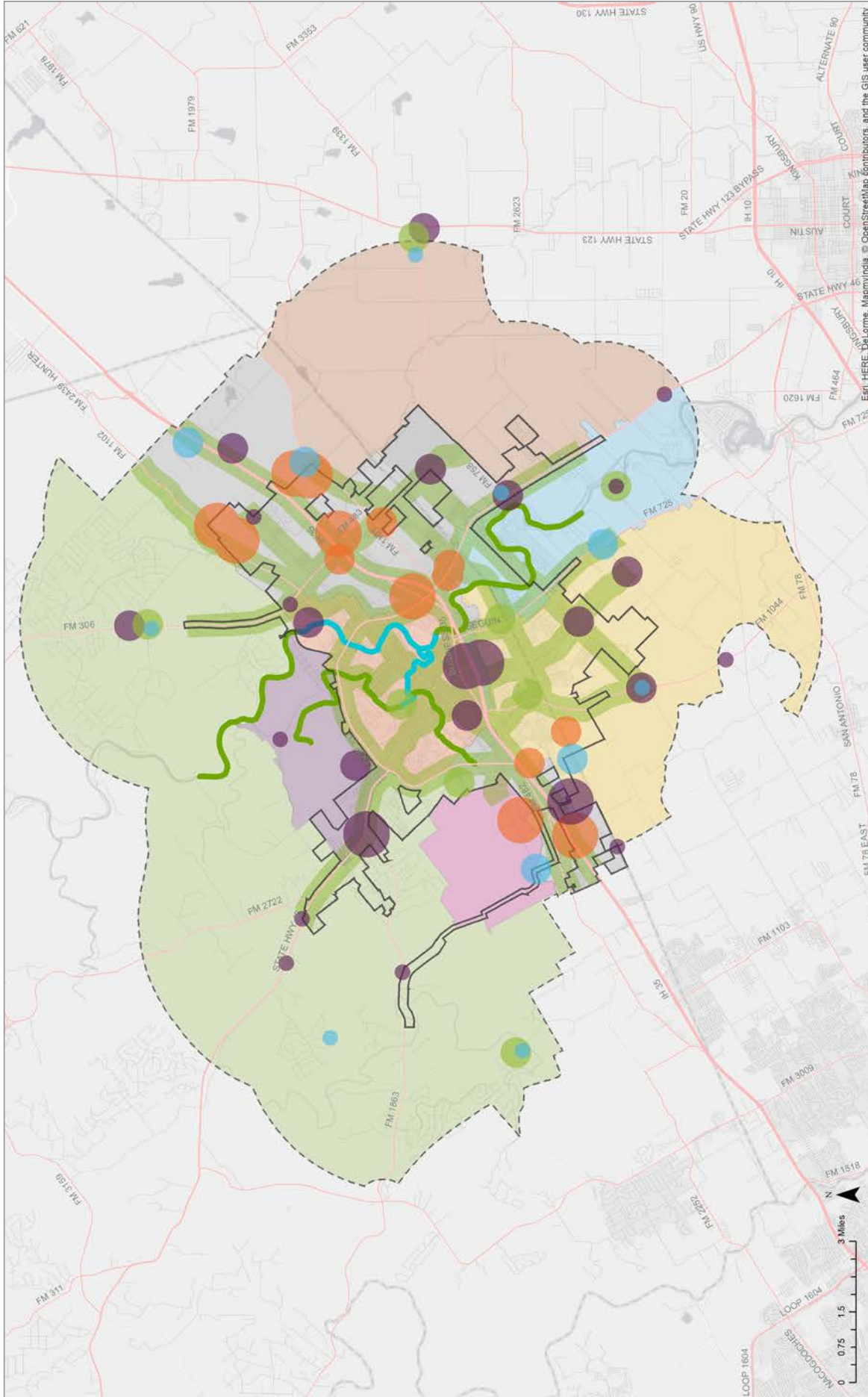
## SUB AREA 7

Sub Area 7 includes parts of the city currently being mined for natural resources. These sites may become parks and open space, mixed-use communities or new commercial or entertainment areas in the future.

## SUB AREA 8

This fast-growing Sub Area includes many neighborhoods offering affordable places for young families to live.





A Comprehensive Plan shall not constitute zoning regulations or establish zoning district boundaries. Preferred future growth scenario combines Scenarios A and C per recommendations of the Envision New Braunfels Steering Committee (February 2018). Exact boundaries of sub areas, centers, and corridors may be [zoomed and viewed online](#).

**PLANNING COMMISSION – August 6, 2019 – 6:00PM**

New Braunfels City Hall Council Chambers

**Applicant/Owner:** Dathan Faulkner

**Address/Location:** Lot 1, Block 1, A-D Subdivision, Unit 2, addressed at 4001 IH 35 N.

**PROPOSED SPECIAL USE PERMIT – CASE #SUP19-0206**

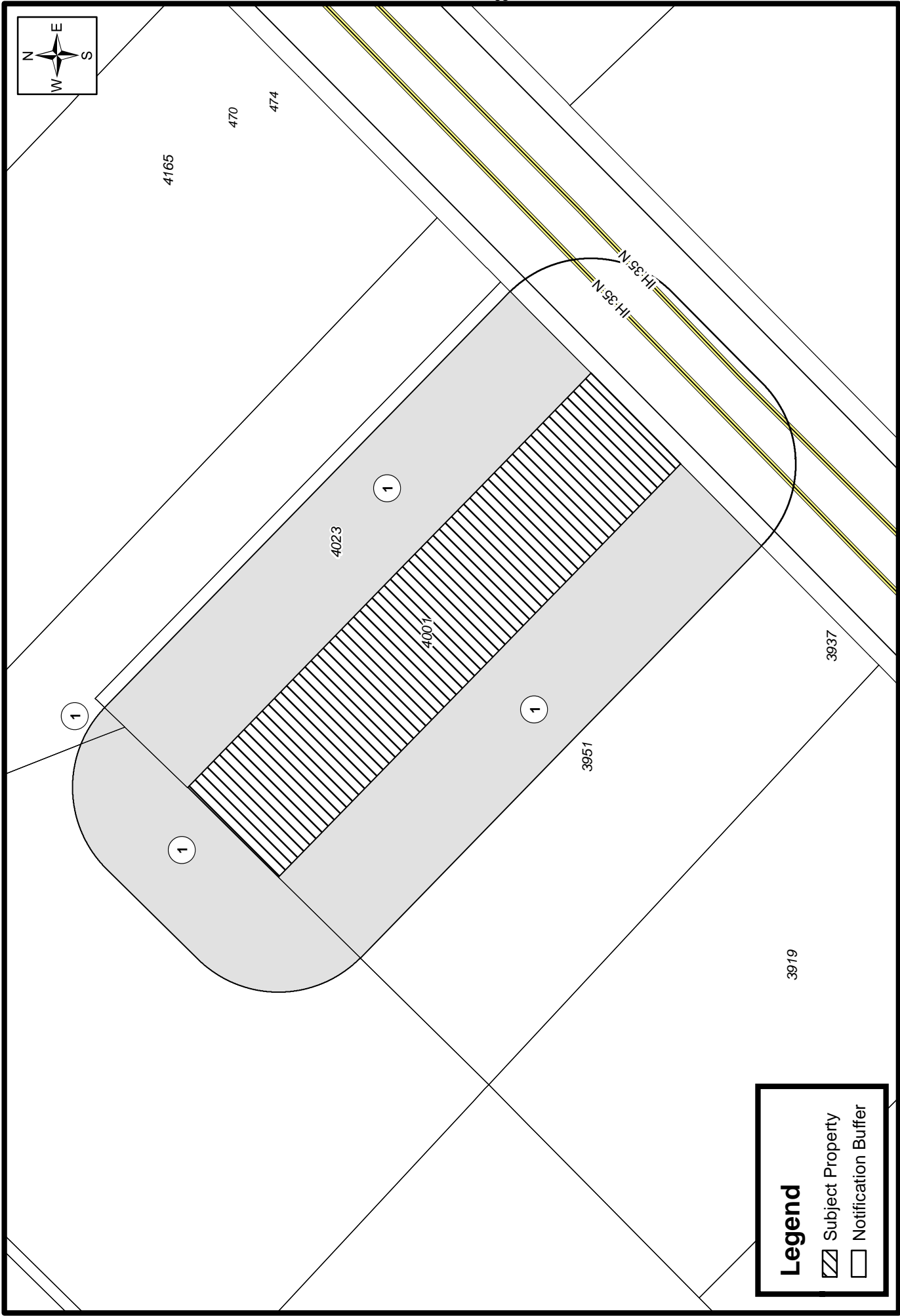
The circled numbers on the map correspond to the property owners listed below. All information is from the Appraisal District Records. The property under consideration is marked as “Subject Property”.

1. TURNER MICHAEL SCOTT

**SEE MAP**

---





**PZ19-0206**  
**4001 IH-35 North**  
**M-1 and APD to M1-A**

Map Created: 7/18/2019



### 3.4-18 "M-1A" light industrial district.

*Purpose.* The M-1A light industrial district is intended primarily for the conduct of light manufacturing, assembling and fabrication activities, distribution, and for warehousing, research and development, wholesaling and service operations that do not typically depend upon frequent customer or client visits. Such uses generally require accessibility to major thoroughfares, major highways, and/or other means of transportation. The following regulations shall apply in all "M-1A" districts:

- (a) *Authorized uses.* Uses permitted by right shall be those set forth in the Land Use Matrix in Section 4 of this Chapter. The allowed uses in the district, which are intended to be identical with those listed in the Land Use Matrix, are as follows

(1) *Uses permitted by right:*

**Residential uses:**

Accessory building/structure  
 Bed and breakfast inn (see Sec. 5.6)  
 Boardinghouse/lodging house  
 Community home (see definition)  
 Dormitory (in which individual rooms are for rental)  
 Multifamily (apartments/condominiums – at least five units)  
 Residential use in buildings with the following non-residential uses

**Non-residential uses:**

Accounting, auditing, bookkeeping, and tax preparations  
 Adult day care (no overnight stay)  
 Adult day care (with overnight stay)  
 Aircraft support and related services  
 Airport  
 All terrain vehicle (ATV) Dealer / Sales  
 Ambulance service (private)  
 Amphitheater  
 Amusement devices/arcade (four or more devices)  
 Amusement services or venues (indoors) (see Sec. 5.13)  
 Amusement services or venues (outdoors)  
 Animal grooming shop  
 Answering and message services  
 Antique shop  
 Appliance repair  
 Archery range  
 Armed services recruiting center  
 Art dealer / gallery  
 Artist or artisan's studio  
 Assembly/exhibition hall or areas  
 Athletic fields  
 Auction sales (non-vehicle)  
 Auto body repair, garages (see Sec. 5.11)  
 Auto glass repair/tinting (see Sec. 5.11)  
 Auto interior shop / upholstery (see Sec. 5.11)  
 Auto leasing  
 Auto muffler shop (see Sec. 5.11)  
 Auto or trailer sales rooms or yards (see Sec. 5.12)  
 Auto or truck sales rooms or yards - primarily new (see Sec. 5.12)  
 Auto paint shop  
 Auto repair as an accessory use to retail sales  
 Auto repair garage (general) (see Sec. 5.11)

Auto supply store for new and factory rebuilt parts  
 Auto tire repair /sales (indoor)  
 Automobile driving school (including defensive driving)  
 Bakery (retail)  
 Bank, savings and loan, or credit union  
 Bar/Tavern  
 Barber/beauty college (barber or cosmetology school or college)  
 Barber/beauty shop, haircutting (non-college)  
 Barns and farm equipment storage (related to agricultural uses)  
 Battery charging station  
 Bicycle sales and/or repair  
 Billiard / pool facility  
 Bio-medical facilities  
 Blacksmith or wagon shops  
 Book binding  
 Book store  
 Bottling or distribution plants (milk)  
 Bottling works  
 Bowling alley/center (see Sec. 5.13)  
 Broadcast station (with tower) (see Sec. 5.7)  
 Bus barns or lots  
 Bus passenger stations  
 Cafeteria / café / delicatessen  
 Campers' supplies  
 Car wash (self-service; automated)  
 Car wash, full service (detail shop)  
 Carpenter, cabinet, or pattern shops  
 Carpet cleaning establishments  
 Caterer  
 Cemetery and/or mausoleum  
 Check cashing service  
 Chemical laboratories (not producing noxious fumes or odors)  
 Church/place of religious assembly  
 Civic/conference center and facilities  
 Cleaning, pressing and dyeing (non-explosive fluids used)  
 Clinic (dental)  
 Clinic (emergency care)  
 Clinic (medical)  
 Club (private)  
 Coffee shop  
 Cold storage plant  
 Commercial amusement concessions and facilities  
 Communication equipment - installation and/or repair  
 Community building (associated with residential use)  
 Computer and electronic sales  
 Computer repair  
 Confectionery store (retail)  
 Consignment shop  
 Contractor's office/sales, with outside storage including vehicles  
 Contractor's temporary on-site construction office (with permit from Building Official; Sec. 5.10)  
 Convenience store with or without fuel sales  
 Credit agency  
 Crematorium  
 Curio shops  
 Custom work shops  
 Dance hall / dancing facility (see Sec. 5.13)

Day camp  
 Department store  
 Drapery shop / blind shop  
 Driving range  
 Drug sales/pharmacy  
 Electrical repair shop  
 Electrical substation  
 Electronic assembly/high tech manufacturing  
 Electroplating works  
 Engine repair/motor manufacturing re-manufacturing and/or repair  
 Exterminator service  
 Fair ground  
 Farmers market (produce market - wholesale)  
 Farms, general (crops) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Farms, general (livestock/ranch) (see Chapter 6, Municipal Code and Sec. 5.9)  
 Feed and grain store  
 Filling station (fuel tanks must be below the ground)  
 Florist  
 Food or grocery store with or without fuel sales  
 Food processing (no outside public consumption)  
 Forge (hand)  
 Forge (power)  
 Fraternal organization/civic club (private club)  
 Freight terminal, rail/truck (when any storage of freight is outside an enclosed building)  
 Freight terminal, truck (all storage of freight in an enclosed building)  
 Frozen food storage for individual or family use  
 Funeral home/mortuary  
 Furniture manufacture  
 Furniture sales (indoor)  
 Galvanizing works  
 Garden shops and greenhouses  
 Golf course (public or private)  
 Golf course (miniature)  
 Governmental building or use  
 Greenhouse (commercial)  
 Handicraft shop  
 Hardware store  
 Health club (physical fitness; indoors only)  
 Heating and air-conditioning sales / services  
 Heavy load (farm) vehicle sales/repair (see Sec. 5.14)  
 Heliport  
 Home repair and yard equipment retail and rental outlets  
 Hospital, general (acute care/chronic care)  
 Hospital, rehabilitation  
 Hotel/motel  
 Hotels/motels - extended stay (residence hotels)  
 Ice delivery stations (for storage and sale of ice at retail only)  
 Ice plants  
 Industrial laundries  
 Kiosk (providing a retail service)  
 Laboratory equipment manufacturing  
 Laundromat and laundry pickup stations  
 Laundry, commercial (w/o self-serve)  
 Laundry/dry cleaning (drop off/pick up)  
 Laundry/washateria (self-serve)  
 Lawnmower sales and/or repair

Leather products manufacturing  
 Light manufacturing  
 Limousine / taxi service  
 Locksmith  
 Lumberyard (see Sec. 5.15)  
 Lumberyard or building material sales (see Sec. 5.15)  
 Machine shop  
 Maintenance/janitorial service  
 Major appliance sales (indoor)  
 Manufactured home sales  
 Manufacturing and processes  
 Market (public, flea)  
 Martial arts school  
 Medical supplies and equipment  
 Metal fabrication shop  
 Microbrewery (onsite manufacturing and/or sales)  
 Mini-warehouse/self-storage units (with or without outside boat and RV storage)  
 Motion picture studio, commercial film  
 Motion picture theater (indoors)  
 Motion picture theater (outdoors, drive-in)  
 Motorcycle dealer (primarily new / repair)  
 Moving storage company  
 Moving, transfer, or storage plant  
 Museum  
 Needlework shop  
 Non-bulk storage of fuel, petroleum products and liquefied petroleum  
 Nursing/convalescent home/sanitarium  
 Offices, brokerage services  
 Offices, business or professional  
 Offices, computer programming and data processing  
 Offices, consulting  
 Offices, engineering, architecture, surveying or similar  
 Offices, health services  
 Offices, insurance agency  
 Offices, legal services - including court reporting  
 Offices, medical offices  
 Offices, real estate  
 Offices, security/commodity brokers, dealers, exchanges and financial services  
 Outside storage (as primary use)  
 Park and/or playground (private)  
 Park and/or playground (public)  
 Parking lots (for passenger car only) (not as incidental to the main use)  
 Parking structure / public garage  
 Pawn shop  
 Personal watercraft sales (primarily new / repair)  
 Pet shop / supplies (10,000 sq. ft. or less)  
 Pet store (more than 10,000 sq. ft.)  
 Photo engraving plant  
 Photographic printing/duplicating/copy shop or printing shop  
 Photographic studio (no sale of cameras or supplies)  
 Photographic supply  
 Plant nursery  
 Plant nursery (growing for commercial purposes with retail sales on site)  
 Plastic products molding/reshaping  
 Plumbing shop  
 Portable building sales

Propane sales (retail)  
 Public recreation/services building for public park/playground areas  
 Publishing/printing company (e.g., newspaper)  
 Quick lube/oil change/minor inspection  
 Radio/television shop, electronics, computer repair  
 Rappelling facilities  
 Recreation buildings (private)  
 Recreation buildings (public)  
 Recycling kiosk  
 Refreshment/beverage stand  
 Research lab (non-hazardous)  
 Restaurant  
 Restaurant/prepared food sales  
 Retail store and shopping center  
 Rodeo grounds  
 RV park  
 RV/travel trailer sales  
 School, K-12 (public or private)  
 School, vocational (business/commercial trade)  
 Security monitoring company  
 Security systems installation company  
 Sheet metal shop  
 Shoe repair shops  
 Shooting gallery - indoor (see Sec. 5.13)  
 Shopping center  
 Sign manufacturing/painting plant  
 Specialty shops in support of project guests and tourists  
 Storage - exterior storage for boats and recreational vehicles  
 Storage in bulk  
 Studio for radio or television (with tower) (see Sec. 5.7)  
 Studios (art, dance, music, drama, reducing, photo, interior decorating, etc.)  
 Tailor shop  
 Tattoo or body piercing studio  
 Taxidermist  
 Telemarketing agency  
 Telephone exchange (office and other structures)  
 Tennis court (commercial)  
 Theater (non-motion picture; live drama)  
 Tire sales (outdoor)  
 Tool rental  
 Transfer station (refuse/pick-up)  
 Travel agency  
 Truck or transit terminal (with outside storage)  
 Truck Stop  
 University or college (public or private)  
 Upholstery shop (non-auto)  
 Used or second-hand merchandise/furniture store  
 Vacuum cleaner sales and repair  
 Veterinary hospital (with or without outside animal runs or kennels) with the exception that outdoor kennels may not be used between the hours of 9:00 p.m. and 7:00 a.m. and are prohibited adjacent to residential  
 Video rental / sales  
 Warehouse / office and storage / distribution center  
 Waterfront amusement facilities - berthing facilities sales and rentals  
 Waterfront amusement facilities - boat fuel storage / dispensing facilities  
 Waterfront amusement facilities - boat landing piers/launching ramps

Waterfront amusement facilities – swimming / wading pools / bathhouses

Water storage (surface, underground or overhead), water wells and pumping stations that are part of a public or municipal system

Welding shop

Wholesale sales offices and sample rooms

Woodworking shop (ornamental)

Any comparable business or use not included in or excluded from any other district described herein, provided that such use is not noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

- (2) Only the following manufacturing and processes are permitted when they meet the following requirements:

No use is permitted that would emit or cause radiation, dust, odor, smoke, gas or fumes objectionable to persons of ordinary sensitivity or reasonably hazardous to health, beyond the boundary property lines of the lot or tract upon which the use is located, and which do not generate noise or vibration at the boundary of the M-1A district which is generally perceptible in frequency or pressure above the ambient level of noise in the adjacent areas.

Assaying works

Cooperage works

Foundries (iron, brass, bronze, aluminum).

Hides and skins (storage and curing).

Manufacture of adding machines, cash registers, typewriters, basket material, boxes, electric lamps, clay, shale and glass products, cutlery tools, bicycles, electrical machinery, tools, fiberglass products, and piping subassemblies

Metal stamping, shearing, punching, forming, cutting, cleaning, heat treating, etc.

Sheet metal shops

Welding

- (3) *Conflict.* In the event of conflict between the uses listed in the Land Use Matrix and those listed in Subsection (1), the uses listed in this subsection shall be deemed those authorized in the district.

(b) *Maximum height, minimum area and setback requirements:*

- (1) Non-residential uses.

(i) *Height.* 120 feet.

(ii) *Front building setback.* 25 feet.

(iii) *Side building setback.* No side building setback is required.

(iv) *Corner lots.* Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots. Where a minimum 25-foot setback is required, a canopy at least eight feet in height, attached to the main building, may be built within 15 feet of the property line so long as such construction will not obstruct the vision of vehicular or pedestrian traffic.

(v) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)

- (vi) *Residential setback.* Where a non-residential building abuts a one or two-family use or zoning district, the setback from the residential property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Rear building setback.* 20 feet.
  - (viii) *Width of lot.* 60 feet.
  - (ix) *Lot depth.* 100 feet.
  - (x) *Parking.* See Sec. 5.1 for permitted uses' parking.
- (2) Multifamily dwellings.
- (i) *Height.* 45 feet; 60 feet when a pitched roof is used (minimum 4:12 slope).
  - (ii) *Front building setback.* 25 feet.
  - (iii) *Side building setback.* A side building setback of five feet shall be provided. Buildings on corner lots shall have 15-foot side building setbacks adjacent to the street where the rear lot lines of the corner lots coincide with the rear lot lines of the adjacent lots. Buildings on corner lots shall have 25-foot side building setbacks adjacent to the street where the rear lines of the corner lots coincide with the side lot lines of the adjacent lots.
  - (iv) *Garage setback.* Where a driveway is located in front of a garage, the garage shall be setback 20 feet from the right-of-way or the driveway to the garage shall be at least 20 feet long to provide enough space for a vehicle to park without overhanging into the right-of-way, if the garage door is closed. (See Illustration 8 in Sec. 5.1-1)
  - (v) *Rear building setback.* 25 feet.
  - (vi) *Residential setback.* Effective November 8, 2006, where a multifamily dwelling abuts a one or two-family use or zoning district, the setback from the one or two family property line shall be at least 20 feet plus one foot for each foot of building height over 20 feet.
  - (vii) *Accessory uses.* Accessory uses such as swimming pools, tennis courts and playgrounds will not be permitted within any required yard.
  - (viii) *Width of lot.* The minimum width of an interior lot shall be 60 feet and the minimum width of a corner lot shall be 72 feet.
  - (ix) *Density.* 24 units per acre.
  - (x) *Lot area.* 20,000 square feet.
  - (xi) *Lot coverage.* The combined area of all yards shall be at least 50 percent of the total lot or tract; provided however, that in the event enclosed or covered parking is provided, the minimum total yard area requirement shall be 40 percent of the total lot or tract.
  - (xii) *Distance between structures.* There shall be a minimum of 10 feet between structures side by side; a minimum of 20 feet between structures side by front or rear; a minimum of 40 feet between structures front to front; and a minimum of 20 feet between structures backing rear to rear, and a minimum of 20 feet between structures front to rear. (See Illustration 1)
  - (xiii) *Minimum number of units.* Five.



(xiv) *Parking.* For apartments, apartment hotel units and other multifamily dwellings, off-street parking spaces shall be provided in accord with the following schedule:

1. One-bedroom apartment or unit . . . 1 1/2 spaces
2. Two-bedroom apartment or unit . . . 2 spaces
3. Each Additional bedroom . . . 1/2 space
4. Each dwelling unit provided exclusively for low income elderly occupancy . . . 3/4 space ("Low income elderly" is defined as any person 55 years of age or older with low or moderate income, according to HUD standards.)

See Section 5.1 for other permitted uses' parking.

**ORDINANCE NO. 2019-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS REZONING LOT 1, BLOCK 1, AD2 SUBDIVISION, ADDRESSED AT 4001 IH 35 NORTH, FROM “M-1” LIGHT INDUSTRIAL DISTRICT AND “APD” AGRICULTURAL/PRE-DEVELOPMENT DISTRICT TO “M-1A” LIGHT INDUSTRIAL DISTRICT; REPEALING ALL ORDINANCES IN CONFLICT; CONTAINING A SAVINGS CLAUSE; AND DECLARING AN EFFECTIVE DATE.**

---

**WHEREAS**, the City Council of the City of New Braunfels has complied with all requirements of notice of public hearing as required by the Zoning Ordinance of the City of New Braunfels; and

**WHEREAS**, in keeping with the spirit and objectives of the “M-1A” Light Industrial District, the City Council has given due consideration to all components of said district; and

**WHEREAS**, it is the intent of the City Council to provide harmony between existing zoning districts and proposed land uses; and

**WHEREAS**, the City Council desires to amend the Zoning Map by rezoning Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH 35 North, from “M-1” Light Industrial District and “APD” Agricultural/Pre-Development District to “M-1A” Light Industrial District; **now, therefore;**

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

**SECTION 1**

**THAT** pursuant to Section 1.2-3, Chapter 144 of the New Braunfels Code of Ordinances, the Zoning Map of the City of New Braunfels is revised by rezoning the following described tract of land from “M-1” Light Industrial District and “APD” Agricultural/Pre-Development District to “M-1A” Light Industrial District:

Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH 35 North, as delineated on Exhibit “A” attached.

**SECTION 2**

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

### **SECTION 3**

**THAT** all other ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent that they are in conflict.

### **SECTION 4**

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

### **SECTION 5**

**THIS** ordinance will take effect upon the second and final reading in accordance with the provisions of the Charter of the City of New Braunfels.

**PASSED AND APPROVED:** First reading this 26<sup>th</sup> day of August, 2019.

**PASSED AND APPROVED:** Second reading this 9<sup>th</sup> day of September, 2019.

**CITY OF NEW BRAUNFELS**

\_\_\_\_\_  
**BARRON CASTEEL**, Mayor

**ATTEST:**

\_\_\_\_\_  
**PATRICK D. ATEN**, City Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA M. ACEVEDO**, City Attorney

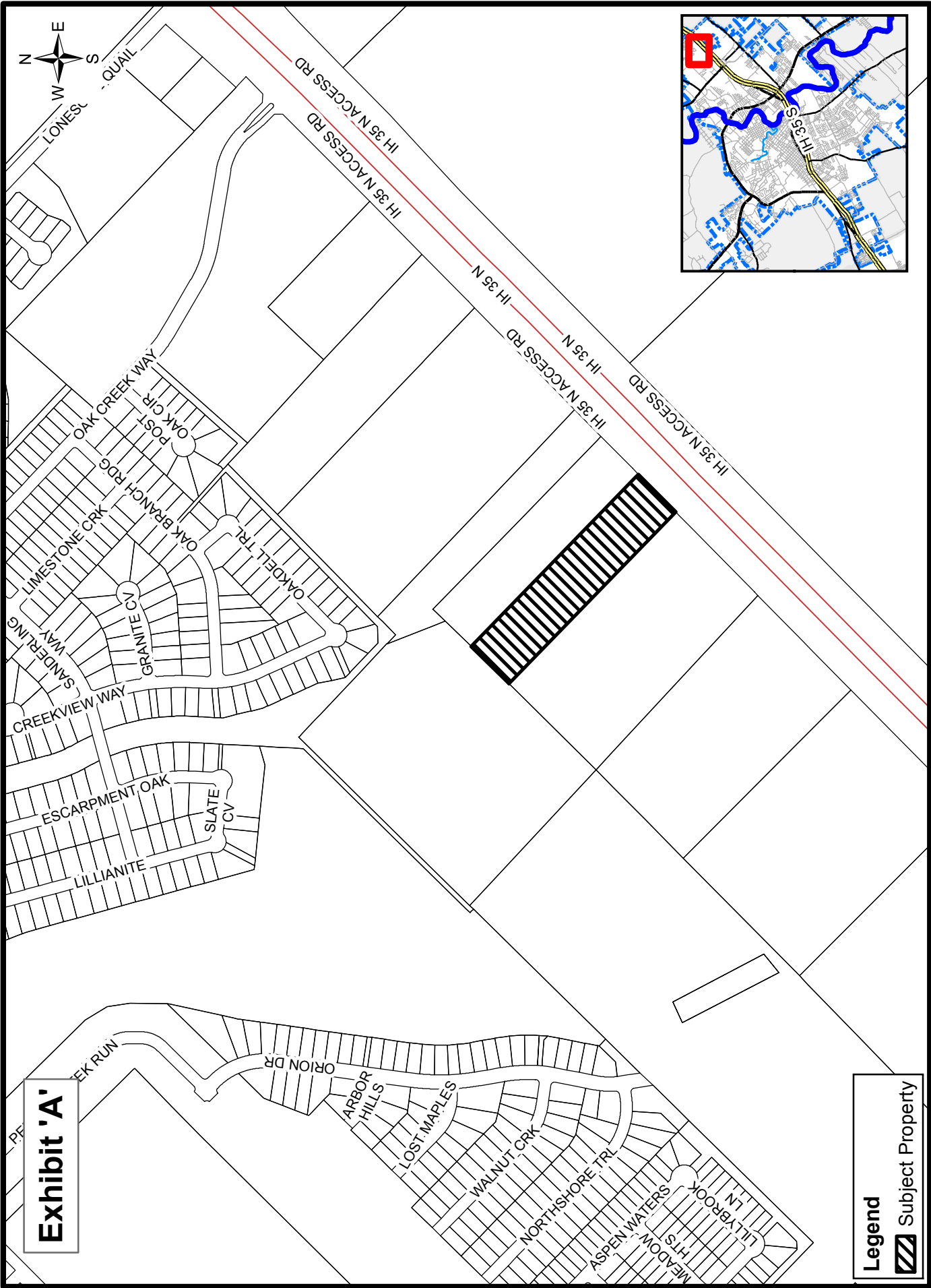


Exhibit 'A'

**Legend**  
[Hatched Box] Subject Property

**PZ19-0206**  
**4001 IH-35 North**  
**Zone Change from M-1 and APD to M-1A**



**EXCERPT OF MINUTES FROM AUGUST 6, 2019 PLANNING COMMISSION REGULAR MEETING**

Public hearing and recommendation to City Council regarding the proposed rezoning of Lot 1, Block 1, AD2 Subdivision, addressed at 4001 IH-35 North, from 'M-1' Light Industrial and 'APD' Agricultural/Pre-Development Districts to 'M-1A' Light Industrial District.

(Applicant: Dathan Faulkner; Case Manager, Matt Greene)

Mr. Greene summarized the request and stated Staff recommended approval.

Howard Guidry, 27014 Rockwall Parkway, stated he was the applicant. Mr. Guidry explained the intent for his request and stated the Commission may ask him any questions they have.

Applicant and owner David Faulkner, 2310 Roosevelt Ave, San Antonio, voiced support for the rezoning

Motion by Commissioner Meyer, seconded by Commission Tubbs, to close the public hearing. Motion carried (8-0-0).

Motion by Commissioner Laskowski, seconded by Commissioner Sonier, to recommend approval to City Council regarding the proposed rezoning of Lot 1, Block 1 addressed 4001 Ih-35 North, from 'M-1' Light Industrial and 'APD' Agricultural/Pre-Development Districts to 'M-1A' Light Industrial District. Motion carried (8-0-0).





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. A)

### Presenter

*Christopher Looney, Planning and Community Development Director  
clooney@nbtexas.org*

### **SUBJECT:**

Discuss and consider a request for a conditional sign permit for QuikTrip 4040 to allow a pole sign to exceed the adopted height and sign face area standards, addressed at 2017 FM 1102.

### **BACKGROUND / RATIONALE:**

**Case No.:** CS19-0223

**Council District:** 4

**Applicant/Owner:** David Wanders  
QuikTrip  
742 NW Loop 410, Suite 102  
San Antonio, TX 78216  
(210) 332-4037  
dwanders@quiktrip.com

**Staff Contact:** Holly Mullins, Planner  
(830) 221-4054  
hmullins@nbtexas.org

The subject property is currently a vacant 1.77-acre lot located at the northeast corner of FM 306 and FM 1102 (Common Street) and is zoned M-1 Light Industrial District.

New Braunfels' Sign Ordinance allows sign types and sizes based upon the zoning district and specific street frontage. The subject property is allowed the following signage:

- The M-1 zoning district allows either:
  - One monument sign up to 10 feet in height and 48 square feet in area (including monument structure), with a 10-foot minimum setback; **or**
  - One low-profile pole sign up to 10 feet in height and 20 square feet in area, with a 10-foot minimum setback.
- With 170 feet of FM 306 frontage, the property is also allowed:
  - An additional monument sign up to 10 feet in height and 60 square feet in area (including the monument structure), with a 5-foot minimum setback.
- **Alternatively**, properties on FM 306 may have a 28-foot tall, 200 square-foot sign containing an electronic message face (digital sign) up to 100 square feet in area; **however, no other free-standing signs are allowed on a property if an electronic message sign is**

## constructed.

- **Note:** If the subject property had 300 feet of frontage along FM 306, it would have qualified for a high-profile monument sign up to 25 feet in height and 225 square feet in area, per the adopted Sign Ordinance.

The conditional sign permit process is intended to:

1. allow an applicant flexibility in creating alternative signage designs to complement a development's unique characteristics;
2. increase sign area and/or height in lieu of multiple signs they would otherwise be allowed; and/or
3. allow additional signage due to unusual constraints associated with the property.

Through this process, City Council can consider such requests within the context of a specific location.

### Proposal

The applicant's proposed pole sign is requested to be:

- 25 feet tall, exceeding the maximum pole sign height limitation by 15 feet; **and**
- 134 square feet (a 17.6-foot by 7.5-foot sign face), exceeding the maximum sign area for a pole sign by 114 square feet.

The proposed pole sign would be internally illuminated with the QuikTrip corporate logo and gas prices. No electronic messaging is proposed. The pole sign would be set back approximately 23 feet from the property line (at least 30 feet from the drive lanes) due to the location of a utility easement on the lot.

If the request is approved, the applicant has agreed no other free-standing signs will be placed on the property.

### Nearby Sign Heights

Below is a table of nearby signs and their respective approximate heights. Most of these signs were erected before New Braunfels had rules or permitting requirements for signs. Therefore, the sign face area is not known, but staff conducted field measurements to obtain the approximate heights.

Sign Location	Sign Type	Approx. Height
Valero (across the street)	Pole	24 feet
Mahindra (reface of former gas/convenience store)	Pole	25 feet
Shell	Monument	6 feet
Shell	Pole	11 feet
El Nopalito	Pole	30 feet
Gruene Self Storage	Pole	20 feet
Brooks Stone Ranch (FM 1102)	Pole	27 feet

**Note:** Existing off-premise signs (billboards) on FM 306 were subject to different height and size standards when constructed. New off-premise signs are no longer permitted, per the adopted Sign Ordinance.

### Surrounding Zoning and Land Use:

North - M-1/ Undeveloped

South - Across FM 1102, M-1/ Commercial-Industrial (Coleman Company)



East - M-1A/ Commercial-Industrial (stone and gravel sales)  
 West - Across FM 306, C-1/ Undeveloped

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

<b>City Plan/Council Priority:</b> Envision New Braunfels Comprehensive Plan	<b>Action 2.8:</b> Establish or expand architectural standards for quality of design across the city. <b>Action 3.6:</b> Pro-actively provide a regulatory environment that remains business and resident friendly. <b>Action 7.8:</b> Enhance pedestrian quality of the City by limiting the realm of the automobile.
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**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

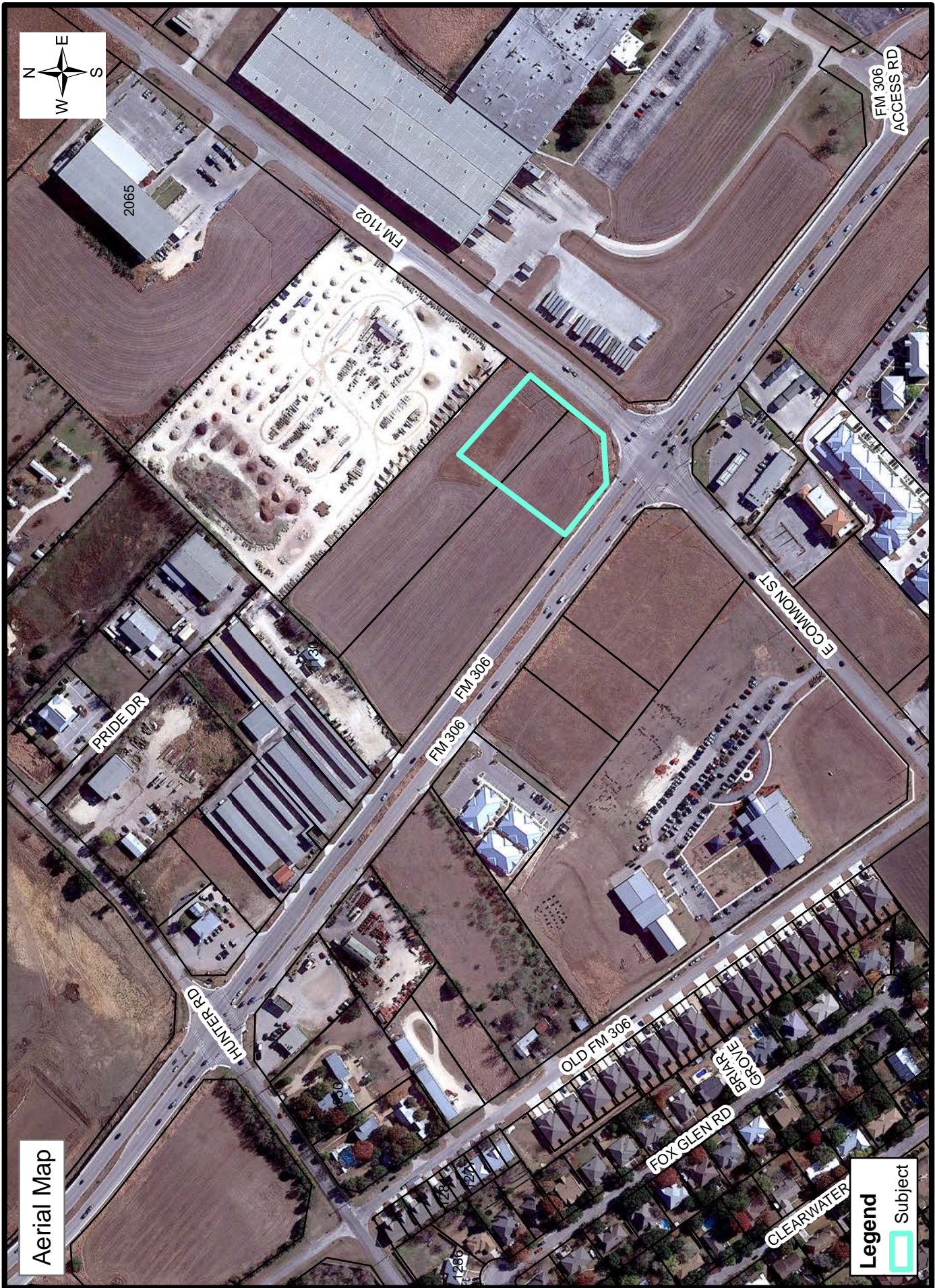
N/A

**STAFF RECOMMENDATION:**

Sign visibility is not an issue at this location due to the elevated railroad crossings and location at a signalized intersection where traffic naturally slows. Additionally, the adjacent property presently exceeds 300 feet of FM 306 frontage and therefore would qualify for a high profile monument sign up to 25 feet in height, but could be obscured by the proposed sign. However, staff recognizes the need for consistency of the development pattern at this intersection, balanced with opportunities to reduce overall signage numbers and limit electronic message signs that distract motorists. Therefore, staff recommends approval with the following conditions:

1. That the proposed sign be the only freestanding sign (pole or monument) on site;
2. That, the allowed height be comparable or no taller than the Valero sign across the street;
3. That the sign face be designed primarily with a dark background, as proposed in the applicant's submitted illustration, and
4. That an electronic message/digital sign may not be erected on site, either separately or within the cabinet of the proposed sign.

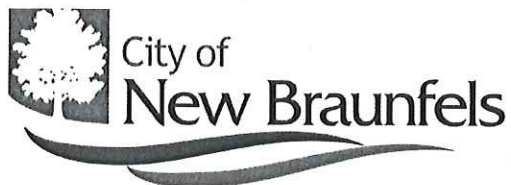




**CS19-0223**  
**Conditional Sign Permit**  
**QuikTrip 4040**







# APPLICATION FOR CONDITIONAL SIGN PERMIT

Planning and Community Development

550 Landa Street, New Braunfels, TX 78130

Phone: (830) 221-4050

Case No. CS19-0223



PLANNING

1. Applicant - If business owner or coordinator of special event, so state. If agent or other relationship, a letter of authorization must be furnished from owner when application is submitted.

Name: David Wanders

Mailing Address: 742 NW Loop 410, Ste 102, San Antonio TX 78216

Email Address: dwanders@quiktrip.com

Telephone: 210-332-4037 Mobile: 602-317-0174

2. Property Address/Location: Northwest corner of FM306 and FM1102

3. Existing signs on property: None

4. Number of requested signs: 1

5. Dimension & height of sign(s): 25' -0" tall. 134 square feet of sign area. Double sided sign. 7'6" wide, and 2'2" in overall depth

6. Business or event to be advertised: QuikTrip

7. Reason for request (please explain in detail and attach additional pages if needed):  
Please see attached letter for explanation.

8. ATTACHMENTS: (The following items must be submitted with the application)

- ☒ A \$772 fee. (\$750 application fee + \$22 technology fee (3%))
- ☒ A scaled site plan showing the proposed location of the sign(s) on the property.
- ☒ A map showing the distance from sign(s) to business or event if signs are off-premise.
- ☒ A sketch showing the contents, dimensions and construction materials of the sign(s).
- ☒ Photographs of the property where the sign(s) will be located.
- ☒ Agent letter (if applicable).

*The undersigned hereby requests a conditional sign permit for the location(s) described above.*

Signature of Owner(s)/Agent

Date

For Office Use Only

Fee Received By: M. OKELLEY Amount: \$772.00 Receipt No.: 3866

Date Received: 7-18-19 Cash/Check Number: CC# 1702

Council Meeting Date: 9-9-19



742 NW Loop 410, Ste 102 San Antonio, TX 78216

July 17, 2019

Conditional Sign Permit Review  
c/o Planning and Community Development  
City of New Braunfels  
550 Landa Street  
New Braunfels, Texas 78130

**Re: QuikTrip 4040 – Request for Conditional Sign Permit Due to Unique Conditions**

Dear Planning and Community Development,

QuikTrip Corporation formally requests an exception to the New Braunfels Code of Ordinances Section 106-14(a) which, in a M-1 zoned district, allows for a low-profile pole sign no larger 10' tall and 20 square feet in sign face area.

Specifically, QT requests to allow for a sign of 25' in height and 134 square feet of sign area. Although QT is not requesting a high-profile monument sign, note that code 106-14(b)(5) allows for monument signs of up to 28' in height and 225 square feet in area.

The proposed 1.77-acre development is located on the northwest corner of FM 306 and FM 1102. QT received plat approval on 5/7/19 and is working toward final construction plan approval.

In proposed conditions, the site is to be developed as a full-service gas station. In addition to the gas pumps, the development will also include a convenience store, overhead canopy cover, and underground storage equipment. As part of the design of the site QuikTrip is proposing a sign that would qualify as a pole sign along FM 306. The proposed sign would be a total height of 25', width of 7.5' and depth of 2'2". The total sign area is 134 square feet.

This request is made in accordance with Code of Ordinances Section 106-8(d) and QuikTrip offers the following reasons in support of the request

**1) The property location meets the intent and spirit of the code**

The property is located at the corner of FM 306 and FM 1102. The code allows for high-profile signs along certain primary roads including Loop 337, SH 46, FM 725, Business 35 frontage, and FM 306. These are areas with high use of commercial/industrial businesses which have a greater need for visibility to traffic. Although FM 1102 is not on the list, it is a high-traffic road. This location and business use meet that intent. QuikTrip and gas stations in general are dependent on existing traffic and must be able to show gas prices and station logos.

**2) Competitive disadvantage**

There are other gas stations along this stretch of FM 306 and especially across the street that have high-profile signs. QuikTrip desires to have an equal competitive advantage to those businesses in terms of advertising their location and products to pass by traffic.

**3) Does not harm nearby property**



742 NW Loop 410, Ste 102 San Antonio, TX 78216

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As mentioned earlier, the QuikTrip location was part of a larger track of land. That remaining portion would be unaffected by the granting of this variance as this code does nothing to further restrict or in any way change their ability to obtain signage of their own.

**4) Strict adherence to the code would not allow for the highest and best use of the property**

As stated in reason #1, the location of the property is at a major intersection and in a high visibility area of which commercial is the primary use. If the exception is not granted, QuikTrip will be restricted to small monument sign which would display limited information and very limited visibility.

**5) The granting of the exception/variance will not be injurious to other property and will not prevent the orderly subdivision of other property in the area in accordance with these regulations.**

The sign as proposed is under the maximum total height and square footage allowed for a high-profile monument sign. Proper permits would be acquired prior to construction. The sign would not interfere with visibility, or safety of traffic or pedestrians and would not be too close to overhead electrical wires.

In summary, QuikTrip is proposing that it meets the intent of the sign code and our request for signage is not extraordinary in relation to the location and competition. It is in our opinion that the granting of this variance would maintain the overall intent and spirit of the ordinance and would not be injurious to other properties or to the general public. Your consideration of this variance is greatly appreciated.

Sincerely,

David Wanders, QuikTrip Corporation

Real Estate Project Manager





Looking south down FM 1102 towards the intersection.



Looking west down FM 306



Looking at corner of property from the intersection.



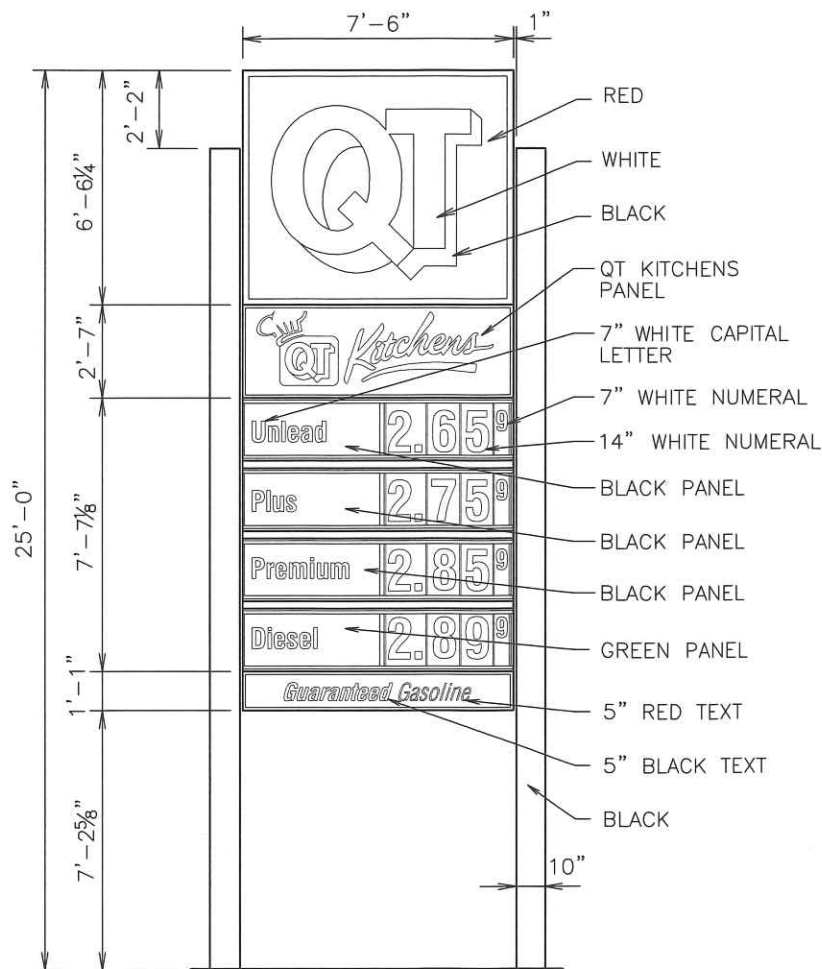
**QuikTrip®**

4000 S. I-75, E. Ave. - Tulsa, OK 74124-7108  
P.O. Box 7 - Tulsa, OK 74115-0007



**Vertical  
Custom Pole Sign  
PV14-E4PGQ @ 25ft**

2'-11 $\frac{1}{16}$ "  
5" 5"  
1'-3 $\frac{1}{16}$ "



NOTES	
DRAWN BY	XXX
ISSUE DATE	07.06.19

SQUARE FOOTAGE	
TYPEFACE	
INSIDE CAN	
ENTIRE SIGN	134

**SPECIFICATIONS:**

- Logo:** Flat Solar grade, Clear Cyro Face, .177 thickness, painted on 2nd surface to match 3M Cardinal Red Translucent #3632-53, Akzo Nobel, no embossment.
- QT Kitchens Panel:** Sign panel
- Unleaded, Plus & Prem Panels:** .177" thickness Cyro Acrylic with 1/4" Radius Corners. Panels are painted 2nd Surface with Akzo Noble Opaque Black Background with Translucent White Text
- Diesel Panel:** .177" thickness Cyro Acrylic with 1/4" Radius Corners. Panels are painted 2nd Surface with Akzo Noble Translucent Green Matching PMS #347C Green with Translucent White Text
- Logo Cabinet/Pricer Cabinet/Base:** Aluminum Construction, Internally illuminated with GE Tetra PowerStrip DS65/GE PS24 Power Supplies. LOGO Cabinet painted Akzo Noble, QT Red SIGN9141 Low Gloss. Pricer Cabinet and Base painted Akzo Noble Black Low Gloss. Accent Trim section painted 1st surface Akzo Noble Silver-Low Gloss. Column supports painted Akzo Noble Black Low Gloss.
- Guaranteed Gasoline Panel:** Sign panel

**SCALE:**

3/16" = 1'-0"

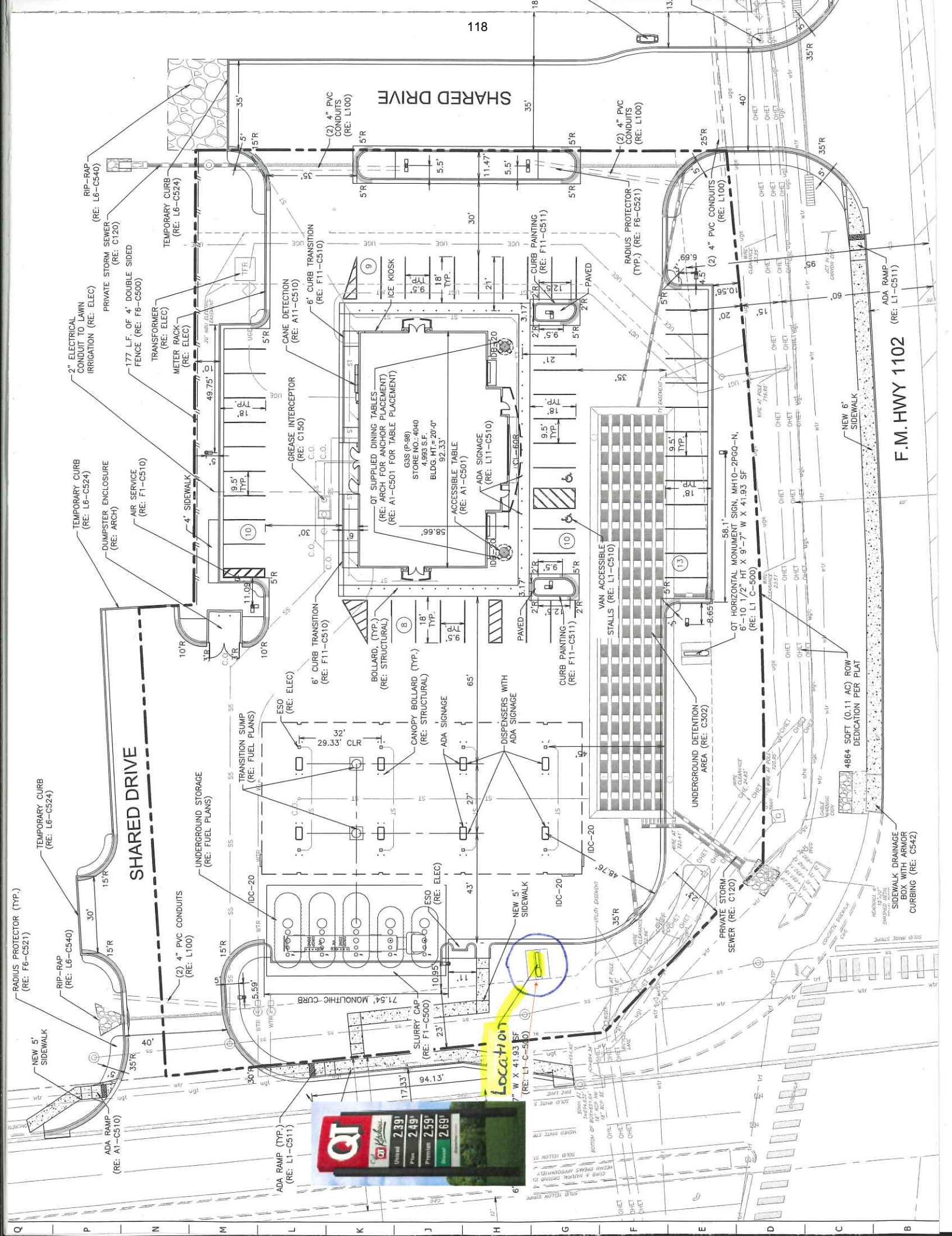
**SERIAL NUMBER:**

PV14-E4PGQ

**STORE NUMBER:**

4040







**COMPARISON CHART OF ALLOWED AND PROPOSED SIGNAGE**

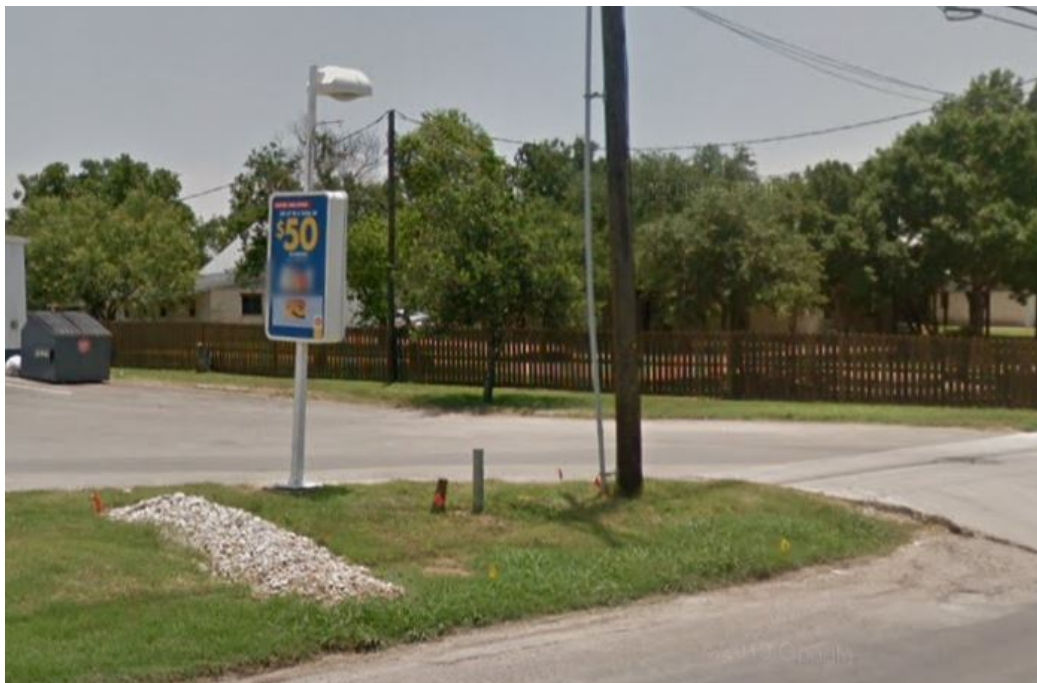
	Allowed per Sign Ordinance (Total of 3)			Allowed per Sign Ordinance (Total of 1)	Conditional Sign Permit (Total of 1)
SIGN TYPE	Monument	Low Profile Pole	Monument	Electronic Message	Proposed Pole Sign
DISTRICT	M-1				
AREA	48 sf	20 sf	60 sf	100 sf (50 sf sign face)	134 sf
HEIGHT	10 ft	10 ft	10 ft	10 ft	25 ft
SETBACK	10 ft	10 ft	5 ft	15 ft	At least 20 ft
NUMBER	1 monument <u>or</u> low-profile pole sign per street frontage	1 per lot along FM 306	1 per lot in lieu of all other freestanding signs		1



Valero



Mahindra



Shell





El Nopalito



A Gruene Self Storage



Brooks Stone Ranch



FM 306 at Common/FM 1102 facing southeast (toward IH-35)



FM 306 at FM 1102 facing northwest (toward Canyon Lake)



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. B)

### Presenter/Contact

*Jared Werner, Chief Financial Officer*  
(830) 221-4385 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance adopting the FY 2019-20 Operating Budget and Plan of Municipal Services.

### **BACKGROUND / RATIONALE:**

City Council held work sessions on the FY 2019-20 Budget and tax rates on August 12, 13, 14, and 19, 2019. As required by Texas Local Government Code, a public hearing on the budget was also held on August 22, 2019.

The attached ordinance includes the budget order as well. The budget order document describes how the budget will be controlled and managed throughout the fiscal year. At last, the budget order also includes a memo which describes any changes recommended to the proposed budget prior to adoption. The FY 2019-20 Proposed Operating Budget and Plan of Municipal Services document is adopted with the ordinance, budget order as well as the memo which covers any changes recommended by staff.

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

<b>X</b>	Yes	<b>City Plan/Council Priority</b>	Strategic Priorities: Maintain fiscal stability of City operations
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### **FISCAL IMPACT:**

The FY 2019-20 Operating Budget and Plan of Municipal Services will provide funding for all programs and projects for the new fiscal year.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the first reading of the budget ordinance for the FY 2019-20 Budget.



## ORDINANCE NO. 2019-

**AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR THE CITY OF NEW BRAUNFELS FOR THE FISCAL YEAR 2019-20; MAKING APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; AND REGULATING THE PAYMENT OF MONEY OUT OF THE CITY TREASURY.**

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

SECTION 1. The annual budget as more detailed in the attached document – City of New Braunfels FY 2019-20 Proposed Budget and Plan of Municipal Services - by reference and made a part hereof; and the attached Budget Order (including attachments) are hereby ratified and adopted as the budget for Fiscal Year 2019-20.

SECTION 2. The amounts documented in the City of New Braunfels FY 2019-20 Proposed Budget and Plan of Municipal Services are hereby appropriated subject as hereinafter set forth in this ordinance for use in maintenance and support of the departments and divisions of the City's government and for the purposes hereinafter mentioned for the fiscal year beginning October 1, 2019 and ending September 30, 2020.

SECTION 3. That revenues included in the City of New Braunfels FY 2019-20 Proposed Budget and Plan of Municipal Services shall be used to fund the City's required expenditures for FY 2019-20. The amount of revenue raised by taxation shall constitute a determination of the amount of levy for the City's purposes in the corresponding tax year.

SECTION 4. That expenditures of funds for the City of New Braunfels shall hereafter be made in conformance with this budget as adopted; and as set forth in the Charter and ordinances of the City of New Braunfels, Texas.

SECTION 5. This ordinance shall become effective immediately upon its passage as provided by the Charter.

**PASSED AND APPROVED: First reading this the 3<sup>rd</sup> day of September, 2019.**

**PASSED AND APPROVED: Second reading this the 9<sup>th</sup> day of September, 2019.**



**CITY OF NEW BRAUNFELS, TEXAS**

**BY:** \_\_\_\_\_  
**Barron Casteel, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK ATEN, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA ACEVEDO, City Attorney**

## Budget Order

### City of New Braunfels FY 2019-20 Budget

For the period October 1, 2019 through September 30, 2020

#### Approval of the FY 2019-20 Budget

City Council approves the FY 2019-20 Budget as filed with the City Secretary.

#### Authorized Positions and Salaries

The positions listed in the FY 2019-20 Budget document under each department or division are the authorized positions for FY 2019-20. These lists include seasonal, part time regular and part time positions but not temporary positions. Temporary positions are approved during the year at the City Manager's discretion and depend on available budgeted funds. Any increase in the authorized number of positions requires City Council approval.

Salary increases authorized for FY 2019-20 include market adjustments (Uniform Employees), increases to certification and education pay (Uniform employees) and a combination of merit based and cost of living adjustment for non-uniform employees. Uniform employees are also eligible for step pay plan adjustments. Step pay plan increases are effective on the employee's anniversary in their current position. Unless otherwise directed by the City Manager, these pay raises will be effective on October 5<sup>th</sup>, 2019.

Final non-uniform and uniform employee step/pay plans will be incorporated in the FY 2019-20 Adopted Budget Document.

The FY 2019-20 Budget, as adopted by City Council, controls expenditures by fund, department and at the group level for all funds in these categories. These groups are:

- Employee Expenses
- Operations Expenses
- Capital Expenses
- Interfund Transfers
- Debt Service
- Contingencies

This means that, although funds are allocated into individual line items in each budget and those line item allocations are adopted as part of the FY 2019-20 Budget, departments have flexibility in expensing these

funds within the group. As long as the total appropriation for a group (for example employee expenses) is not exceeded, one or more line items in the group (for example certification pay) may exceed its budget allocation. Operating (recurring) and Equipment and Initiatives (one-time), shown separately in the budget appropriations, are considered part of one appropriation - Operations Expenses - for budget control purposes. In the proposed budget document, funding for resource requests are separated from the other expenditure categories. This funding will be incorporated into the adopted budget document in the appropriate expenditure category i.e. employee, operating, capital expenditures.

In the CDBG, Special Revenue, Grants Funds, EARIP/HCP Fund and New Braunfels Economic Development Corporation (NBEDC) Budget, appropriations are controlled at the project level. As the Council accepts federal entitlements and grants, as donations are received from outside sources, and as projects are approved, those proceeds are appropriated and available to departments and to NBEDC to expend for identified City purposes and needs. As projects are completed, appropriations are reconciled to match the actual expenditure, to ensure that funds aren't expended up and above the intent of the specific allocation.

Capital Improvement Funds (as listed in the designated section of the FY 2019-20 Budget document)

Capital improvement funds are controlled at the project level. Expenditures within the individual projects may span fiscal years. However, budgetary control is not exercised by fiscal year; it is by the total project cost and total project expenditures. This provides a more realistic approach to budgetary control for these types of activities.

#### Budget Amendment Process

The budget may be changed through a budget transfer or a budget amendment only through an action of the City Manager (transfers) or City Council (amendments). Transfers move appropriations within a fund from one of the appropriation groups listed above to another of those groups, for example from operations expenses to capital expenses. These transfers most often occur within one department but can occur between departments within the same fund. The City Manager has the discretion to approve budget transfers. Budget amendments generally reflect changes in revenues and may allocate additional funds into a budget expenditure appropriation. Staff prepares an agenda item for Council consideration that describes the proposed budget amendment. A vote by the majority of the Council is required for approval of a budget amendment.

#### Authority of the City Manager

The City Manager and his authorized and designated employees, at his direction, are authorized to sign or release easements, airport leases, permits, and licenses; to authorize change orders of less than \$25,000; to sign interlocal agreements as authorized by state law; to sign documents authorizing the payment of funds, and to expend public funds as authorized by state law unless

otherwise authorized by the City Council; to settle paving assessment, weed mowing, demolition, and other disputes based on legal questions of whether the assessments are enforceable or other extenuating factual circumstances. The City Manager is authorized to adjust compensation, within Council policy direction, of any City employee when in his discretion an adjustment needs to be made to hire or retain qualified personnel. The City Manager is authorized to hire temporary employees when needed and if sufficient funds are available within the adopted budget. The intent of this section is to provide the ability to conduct daily affairs of the City, which involves numerous decisions of a routine nature, and to hire and retain qualified personnel

#### City Council Approval

The City Council hereby approves grants and contracts that are set out by this budget and authorizes the City Manager and his authorized and designated employees, at his discretion, to sign said federal, state, and other such grant and contract documents, including interlocal agreements, on behalf of the City. The funds for said contracts, agreements, and purchases are hereby approved and appropriated. The intent of this section is to approve and simplify the grant process and approve expenditures that are exempt from the Purchasing and Contracting Authority of Municipalities, Chapter 252 of the Local Government Code.

## ATTACHMENT 1

TO: City Council

From: Jared Werner, Chief Financial Officer

Date: September 3<sup>rd</sup>, 2019

Subject: Recommended Changes to FY 2019-20 Proposed Budget

After Council direction and further staff review of the FY 2019-20 Proposed Budget document submitted to City Council for their consideration, the following changes are recommended.

- I. Increased Fitness Instructor positions for the Das Rec facility. Parks and Recreation requested additional Fitness Instructor positions to provide a “deeper bench” of talent to ensure classes can be held on a consistent schedule. Das Rec is not planning on increasing the amount of group exercise classes per say. However, the additional authorized positions will ensure that there are multiple backups available, again to ensure that we can consistently maintain our class schedule(s). Therefore, the additional eleven positions (5.5 FTE) are not projected to have a direct fiscal impact. Upon further discussion, City Management supports the additional authorized positions for inclusion in the FY 2019-20 Budget. The table below references the corrected number of Fitness Instructor positions.

	FY 2017-18 Actual	FY 2018-19 Actuals	FY 2019-20 Adopted Budget
Fitness Instructors (32 @ 19 hours)	10.5	10.5	16.0





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. C)

### Presenter/Contact

*Jared Werner, Chief Financial Officer*  
(830) 221-4385 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of the second and final reading of an ordinance adopting the 2019 ad valorem tax rates.

### **BACKGROUND / RATIONALE:**

City Council held work sessions on the FY 2019-20 Budget and tax rates on August 12, 13, 14, and 19.

The proposed tax rate is equal to the current tax rate of .48822 cents. While the total tax rate remains unchanged, the two components that make up the rate have been modified. The Interest & Sinking (I&S - debt service) portion of the rate totals .214498 cents while the Operations & Maintenance (O&M - General Fund) portion of the rate totals .273722 cents. The total rate of .48822 cents is equal to the rollback rate for this year as well. As a result of the rollback calculation, the O&M (General Fund) portion of the rate decreases slightly. The I&S Rate increases to the level needed to support our debt service and maintain the current tax rate. By increasing the I&S rate to the point that our rollback rate and current rate are aligned, it allowed for an increase to our first issuance for the 2019 bond program to approximately \$18.5 million. As discussed during the debt issuance strategy presentation at the July 22<sup>nd</sup> City Council meeting, these additional funds will be added to the allocation for the Police Department and Veterans Memorial project. Following is a summary of the tax rate calculations completed by the Comal County Tax Office.

<b>PROPOSED TAX RATE</b>	<b>\$0.48822 PER \$100</b>
<b>PRECEDING YEAR'S TAX RATE</b>	<b>\$0.48822 PER \$100</b>
<b>EFFECTIVE TAX RATE</b>	<b>\$0.45292 PER \$100</b>
<b>ROLLBACK TAX RATE</b>	<b>\$0.48822 PER \$100</b>

State law requires that two public hearings be held by the governing body before adopting the final tax rate. The first hearing was held on August 22. The second public hearing will be held on September 3.

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

<b>X</b>	<b>Yes</b>	<b>City Plan/Council Priority</b>	Strategic Priorities: Maintain fiscal stability of City operations
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### **FISCAL IMPACT:**

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The ad valorem tax revenues provide funding for the FY 2019-20 Budget in the General Fund and Debt Service Fund.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the first reading of the tax ordinance for the 2019 ad valorem tax rates.



**ORDINANCE NO. 2019-*****TAX LEVY ORDINANCE*****AN ORDINANCE LEVYING TAXES FOR THE USE AND SUPPORT OF  
THE MUNICIPAL GOVERNMENT OF THE CITY OF NEW BRAUNFELS  
AND FOR THE TAX DEBT SERVICE FUND FOR PAYMENT OF  
INTEREST AND PRINCIPAL REQUIREMENTS FOR THE FISCAL YEAR  
OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020**

---

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

**SECTION 1.** That there is hereby levied and there shall be collected for the use and benefit of the City's General Operating Fund during the Fiscal Year 2019-20, the sum of \$0.273722 on each One Hundred Dollars (\$100.00) of the assessed valuation of taxable property, real, personal and mixed, of said City of New Braunfels, which taxes, when collected, shall be paid into the City's General Operating Fund in the City Treasury. In accordance with the provisions and requirements of Section 26.05 (b) (1) of the Texas Property Tax Code, as amended, the City Council hereby states that **THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE.**

**SECTION 2.** That there is hereby levied and there shall be collected for the use and benefit of the City's Tax Debt Service Fund during the Fiscal Year 2019-20, the sum of \$0.214498 on each One Hundred Dollars (\$100.00) of the assessed valuation of taxable property, real, personal and mixed, of said City of New Braunfels, which taxes, when collected, shall be paid into the City's Debt Service Fund.

**SECTION 3.** That the governing body of the City of New Braunfels proposes to use the revenue attributable to the tax rate increase for the purpose of funding increases to support increased General Fund service demands, meet the city's debt service commitments as well as other increased expenses related to the growth of the community.

**SECTION 4.** That for the use and support of the Fiscal Year 2019-20 Budget, the total tax levy of \$0.48822 on every One Hundred Dollars (\$100.00) assessed valuation of taxable property in the City of New Braunfels as listed and rated above, shall become due and payable on/about October 1<sup>st</sup>, 2019, and become and be considered delinquent if not paid by January 31<sup>st</sup>, 2020. In

accordance with the provisions and requirements of Section 26.05 (b) (1) of the Texas Property Tax Code, as amended, the City Council hereby states that **THE TAX RATE WILL EFFECTIVELY BE RAISED BY 7.8 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$35.30**

After January 31, 2020, such taxes shall become delinquent and the penalty and interest designated herein shall be collected for each month or portion of month that the delinquent taxes remain unpaid:

	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan
Penalty	6	7	8	9	10	12	12	12	12	12	12	12
Interest	1	2	3	4	5	6	7	8	9	10	11	12
Total	7%	9%	11%	13%	15%	18%	19%	20%	21%	22%	23%	24%

The rate of interest to be collected on delinquent taxes shall be one percent (1%) per month for each month they remain unpaid. On July 1, the total penalty incurred on delinquent taxes shall be twelve percent (12%) without regard to the number of months the tax is delinquent. Accrual of interest at one percent (1%) per month for each month taxes remain unpaid shall continue to accrue until taxes are paid.

Further, after July 1, 2020, an additional Tax Attorney Fee in the amount of fifteen percent (15%) shall be added to penalty and interest as set forth herein on all delinquent taxes forwarded to the designated Delinquent Tax Attorney for collection of said delinquent taxes.

**SECTION 5.** All monies collected under this Ordinance for the specific items herein named, be and the same are hereby appropriated and set apart for the specific purposes indicated in such items and that the Assessor-Collector of Taxes, the City Secretary and the City Treasurer shall keep these accounts so as to readily and distinctly show the amount collected, the amounts expended and the amount on hand at any time, belonging to such funds, it is hereby made the duty of the Tax Assessor-Collector of Taxes and every person collecting money for the City of New Braunfels, Texas, for delivery to the City Treasurer and the City Secretary at the time of depositing monies, a statement showing to what funds such deposit shall be made and from what sources received. All receipts for the City not specifically apportioned by this Ordinance are hereby made payable to the General Operating Fund of the City.

**SECTION 6.** The recorded vote on this Ordinance was as follows:

1<sup>st</sup> Reading    2<sup>nd</sup> Reading

District One	Councilmember Shane Hines
District Two	Councilmember Justin Meadows
District Three	Councilmember Harry Bowers
District Four	Council Member Matthew Hoyt
District Five	Mayor Pro Tom Wayne Peters
District Six	Councilmember Leah Garcia
	Mayor Barron Casteel

**SECTION 7.** That all ordinances and parts of ordinances in conflict be and same are hereby repealed.

**SECTION 8.** This ordinance shall become effective immediately upon its passage as provided by the Charter.

**PASSED AND APPROVED:** First reading this the 3<sup>rd</sup> day of September, 2019.

**PASSED AND APPROVED:** Second reading this the 9<sup>th</sup> day of September, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

**BY:** \_\_\_\_\_  
**Barron Casteel, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK ATEN, City Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**VALERIA ACEVEDO, City Attorney**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. D)

### Presenter/Contact

Jared Werner, Chief Financial Officer  
(830) 221-4385 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of a resolution of the City of New Braunfels ratifying the increase in revenue generated by the 2019 property tax rate included in the FY 2019-20 Annual Budget.

### **BACKGROUND / RATIONALE:**

The Local Government Code Section 102.007 requires the City Council take a vote to ratify the increase in revenue generated by the 2019 property tax rate. This vote is in addition to and separate from the vote to adopt the budget or to set the tax rate as required by Chapter 26 of the Tax Code.

This resolution ratifies and acknowledges that the adoption of the 2019-20 Annual Budget will require raising more revenue from property tax revenue than in the previous year. This budget will raise more total property taxes than last year's budget by \$3,880,880 or 11.62%, and of that amount \$1,737,418 is tax revenue to be raised from new property added to the tax roll this year.

The increase in revenue is required to fund the programs and services as outlined in the Proposed Budget. The tax rate is 7.8% more than the effective tax rate, or the rate required to collect the same amount of revenue on the same properties that were on the rolls last year.

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

<input checked="" type="checkbox"/>	Yes	City Plan/Council Priority	Strategic Priorities: Maintain fiscal stability of City Operations
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### **FISCAL IMPACT:**

The ad valorem tax revenues provide funding for the FY 2019-20 Budget in the General Fund and Debt Service Fund.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the resolution ratifying the increase in revenue generated by the 2019 property tax rate included in the FY 2019-20 Annual Budget.

## **RESOLUTION NO. 2019-**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, RATIFYING THAT THE ADOPTION OF THE 2019/20 ANNUAL BUDGET WILL REQUIRE RAISING MORE REVENUE FROM PROPERTY TAXES THAN IN THE PREVIOUS YEAR.**

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WHEREAS, the Legislature of the State of Texas has amended Section 102.007 of the Local Government Code: and

WHEREAS, a separate vote of the City Council is required to ratify that the adoption of the 2019-20 Annual Budget will require raising more revenue from property taxes than the previous year; and

WHEREAS, this resolution represents such action;

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

SECTION 1. The facts and recitations contained in the preamble of this resolution are hereby found and declared to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

SECTION 2. The Tax Year 2019 notification statement that states, "This Budget will raise more total property taxes than last year's budget by \$3,880,880 or 11.62%, and of that amount \$1,737,418 is tax revenue to be raised from new property added to the tax roll this year" has been made."

SECTION 3. The Mayor is hereby authorized to sign this resolution and the City Secretary to attest. This resolution shall be effective immediately upon adoption.



**SECTION 4.** The recorded vote on this resolution was as follows:

District One	Councilmember Shane Hines
District Two	Councilmember Justin Meadows
District Three	Councilmember Harry Bowers
District Four	Councilmember Matthew Hoyt
District Five	Mayor Pro Tem Wayne Peters
District Six	Councilmember Leah Garcia
	Mayor Barron Casteel

**PASSED AND APPROVED:** This the 9<sup>th</sup> day of September, 2019.

**CITY OF NEW BRAUNFELS, TEXAS**

**BY:** \_\_\_\_\_  
**Barron Casteel, Mayor**

**ATTEST:**

\_\_\_\_\_  
**PATRICK ATEN, City Secretary**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. E)

### Presenter/Contact

*Nokihomis Willis, Director of Human Resources  
(830) 221-4295 - nwillis@nbtexas.org*

### **SUBJECT:**

Discuss and consider approval of the first reading of an ordinance establishing the number of positions in each classification in the New Braunfels Fire Department and Police Department pursuant to Local Government code, Chapter 143.

### **BACKGROUND / RATIONALE:**

#### ***Fire Department***

There were no additional positions included in the proposed budget for the Fire Department. (For FY2018-19 there was a temporary increase due to implementation of reclassifications. On 2/12/2019, after the completion of the reclassification, we reverted back to the original numbers.) The total number of authorized positions in the Fire Department in the attached ordinance is in accordance with the positions and funding included in the proposed FY2019-20 budget.

#### ***Police Department***

The total number of authorized positions in the Police Department in the attached ordinance is in accordance with the positions and funding included in the proposed FY2019-20 budget and include 7 additional positions.

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

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### **FISCAL IMPACT:**

Funding for all new positions have been incorporated into the FY 2019-20 Proposed Budget. Therefore, sufficient funds are available.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.

## ORDINANCE 2019-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEW BRAUNFELS, TEXAS, ESTABLISHING THE CLASSIFICATION OF EMPLOYEES WITHIN THE NEW BRAUNFELS FIRE AND POLICE DEPARTMENTS AND AUTHORIZING THE NUMBER OF EMPLOYEES IN EACH CLASSIFICATION; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES AND PROVISIONS IN CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Braunfels has adopted Civil Service, Chapter 143 of the Texas Local Government Code for its Police and Fire Department employees; and

**WHEREAS**, pursuant to Chapter 143, the City Council shall establish the classifications of employees and prescribe the number of positions in each classification pursuant to Section 143.021(a) of the Texas Local Government Code; and

**WHEREAS**, the City Council has approved the number of employees listed below in the appropriate classifications in the Police and Fire Department as a part of the annual budget process; and

**WHEREAS**, this ordinance modifies the authorized number of positions in each rank consistent with the FY 2019-20 Adopted Budget, including new positions and reclassifications.

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

I.

The Civil Service classifications and number of positions in each classification in the Fire Department shall be approved and effective as indicated below:

<b><u>Classification</u></b>	<b><u>Effective 09/30/2019</u></b>	<b><u>Effective 10/01/2019</u></b>
<b>1. Assistant Fire Chief</b>	<b>1</b>	<b>1</b>
<b>2. Battalion Chief</b>	<b>5</b>	<b>5</b>
<b>3. Captain</b>	<b>9</b>	<b>9</b>
<b>4. Lieutenant</b>	<b>25</b>	<b>22</b>
<b>5. Engineer</b>	<b>41</b>	<b>41</b>
<b>6. Firefighter</b>	<b>57</b>	<b>57</b>
<b><i>Totals</i></b>	<b><i>138</i></b>	<b><i>135</i></b>

The classification of Assistant Fire Chief is the rank/classification immediately below the Fire Chief/Department Head. As such, that position is established by the City Council and will remain a position to which the Department Head may appoint the occupant, in accordance with §143.014 of the Texas Local Government Code. The Fire Chief/Department Head position is not included in the positions listed above.

**II.**

The civil service classifications and number of positions in each classification in the Police Department shall be approved as follows:

<b><u>Classification</u></b>	<b><u>Effective</u> <u>9/30/19</u></b>	<b><u>Effective</u> <u>10/1/19</u></b>
<b>1. Assistant Police Chief</b>	<b>1</b>	<b>1</b>
<b>2. Captain</b>	<b>3</b>	<b>3</b>
<b>3. Lieutenant</b>	<b>5</b>	<b>5</b>
<b>4. Sergeant</b>	<b>18</b>	<b>18</b>
<b>5. Detective</b>	<b>16</b>	<b>16</b>
<b>6. Police Officer</b>	<b>89</b>	<b>96</b>
<b><i>Totals</i></b>	<b><i>132</i></b>	<b><i>139</i></b>

The classification of Assistant Police Chief is the rank/classification immediately below the Police Chief/Department Head. As such, that position is established by the City Council and will remain a position to which the Department Head may appoint the occupant, in accordance with §143.014 of the Texas Local Government Code. The Police Chief/Department Head position is not included in the positions listed above.

**III.**

**Severability:** If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity of any other portion, provision, or regulation.

**IV.**

**Repealer:** All ordinances and 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 ordained herein.

**V.**

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

**VI.**

This ordinance shall take effect upon the second and final reading, signatures required by City Charter, and filing with the City Secretary's Office.

PASSED AND APPROVED: First reading this 9<sup>th</sup> day of September, 2019.

PASSED AND APPROVED: Second reading this 23<sup>rd</sup> day of September, 2019.

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Barron Casteel, Mayor

ATTEST:

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Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

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Valeria M. Acevedo, City Attorney



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. F)

### Presenter/Contact

*Nokihomis Willis, Human Resources Director  
(830) 221-4395 - nwillis@nbtexas.org*

### **SUBJECT:**

Discuss and consider approval of the first reading of an ordinance increasing certification and education pay for Fire Officers possessing certain Texas Commission on Fire Protection and Police Officers possessing certain Texas Commission on Law Enforcement Standards and Education pursuant to Local Government Code, Chapter 143.

### **BACKGROUND / RATIONALE:**

#### ***Fire Department***

The City seeks to increase the Texas Commission on Fire Protection certification pay for possession of Intermediate, Advanced and Master level Firefighter certifications as listed in the attached ordinance.

#### ***Police Department***

The City seeks to also increase the Texas Commission on Law Enforcement Standards and Education certification pay for possession of Intermediate, Advanced and Master level Peace Officer certifications as listed in the attached ordinance.

#### ***Fire and Police Department***

Finally, the City wishes to increase the certification pay for possession of Associates, Bachelors, and Masters educational degrees for both Firefighters and Peace Officers as listed in the attached ordinance.

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

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### **FISCAL IMPACT:**

Funding for the new certification and education pay amounts has been incorporated into the FY 2019 -20 Proposed Budget. Therefore, sufficient funds are available.

### **COMMITTEE RECOMMENDATION:**

N/A

### **STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.



**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE INCREASING CERTIFICATION AND EDUCATION PAY FOR FIRE OFFICERS POSSESSING CERTAIN TEXAS COMMISSION ON FIRE PROTECTION ("TCFP") AND POLICE OFFICERS POSSESSING CERTAIN TEXAS COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION ("TCLEOSE") CERTIFICATIONS; PROVIDING FOR SEVERABILITY; REPEALING ORDINANCES AND PROVISIONS IN CONFLICT; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of New Braunfels adopted Chapter 143 of the Texas Local Government Code for its police and fire departments; and

**WHEREAS**, there are certain certifications established by the Texas Commission on Fire Protection ("TCFP") and the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) that the City Council wishes to recognize;

**WHEREAS**, § 143.044(b) of the Texas Local Government Code states that the governing body of a municipality may authorize certification and education pay to those fire officers who meet the requirements for certification that are established by TCFP and those police officers who meet the requirements for certification that are established by TCLEOSE; and

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

**I.**

That the matters and facts set forth in the preamble are hereby found to be true.

**II.**

That the TCFP certification pay for possession of the following levels of Firefighter Certification should be recognized as follows:

Intermediate	\$600
Advanced	\$1200
Master	\$1800

Each officer may earn only one (1) form of the above-stated Firefighter Certification Pay. Stated another way, no officer may earn more than one of the Firefighter Certification Pay.

**III.**

That the TCLEOSE certification pay for possession of the following levels of Peace Officer Certification should be recognized as follows:

Intermediate Peace Officer Certification	\$600
Advanced Peace Officer Certification	\$1200
Master Peace Officer Certification	\$1800

Each officer may earn only one (1) form of the above-stated Peace Officer Certification Pay. Stated another way, no officer may earn more than one of the Peace Officer Certification Pay.

#### IV.

That the TCFP and TCLEOSE certification pay for possession of the following levels of educational degrees should be recognized as follows:

Associates	\$600
Bachelors	\$1200
Masters	\$1800

#### V.

Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or un-enforced, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by way of reasons of any unconstitutionality or invalidity of any other portion, provision, or regulation.

#### VI.

Repealer: All ordinances and 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 ordained herein.

#### VII.

It is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law.

#### VIII.

This ordinance shall take effect upon the second and final reading, signatures required by City Charter, and filing with the City Secretary's Office.

PASSED AND APPROVED: First reading this 9<sup>th</sup> day of September, 2019.

PASSED AND APPROVED: Second reading this 23<sup>rd</sup> day of September, 2019.

CITY OF NEW BRAUNFELS, TEXAS

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Barron Casteel, Mayor

ATTEST:

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Patrick D. Aten, City Secretary

APPROVED AS TO FORM:

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Valeria M. Acevedo, City Attorney



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. G)

### Presenter/Contact

*Jared Werner, Chief Financial Officer*  
(830) 221-4395 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of an ordinance authorizing the issuance of the City of New Braunfels, Texas Combination Tax and Revenue Certificates of Obligation, Series 2019; levying an ad valorem tax and pledging certain surplus revenues in support of the certificates; approving an official statement, a paying agent/registrar agreement and other agreements relating to the sale and issuance of the certificates; and ordaining other matters relating to the issuance of the certificates.

### **BACKGROUND / RATIONALE:**

As part of the total 2019 Bond Program investment, the New Braunfels Economic Development Corporation (NBEDC) approved up to \$15 million to support the first phase of the development of the sports complex. The NBEDC is considering utilizing a portion of cash reserves and debt issuances to support their full contribution. However, the first \$5 million will come from the proposed certificate of obligation. Annual debt service will be fully paid by the NBEDC (sales taxes). While the debt service will be supported by the NBEDC, the Certificates of Obligation will be issued on behalf of the City's credit rating. Doing so, the EDC can take advantage of better interest rates.

Attached for City Council consideration is the ordinance related to the issuance of \$5.0 million in certificates of obligation for the purpose of paying contractual obligations incurred or to be incurred for (i) design, construction, improvement, organization, and equipping of a sports complex to include multipurpose fields and playing surfaces for softball, baseball and soccer, as well as other sports, and possible facilities, infrastructure or other expenditures connected therewith, and (ii) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation.

The Certificates of Obligation will be wired to the City's depository bank on September 25, 2019. On the date of the sale (September 9, 2019) the final details of the transaction including the actual interest rate will be presented by the City's financial advisor - SAMCO Capital Markets.

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

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### **FISCAL IMPACT:**

The \$5 million in issuance proceeds represent first portion of the NBEDC pledge to the sports complex project. Annual debt service will be supported completely by the NBEDC.

### **COMMITTEE RECOMMENDATION:**

N/A

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**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.

**ORDINANCE NO. 2019-\_\_\_\_**

**ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF NEW BRAUNFELS, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019; LEVYING AN AD VALOREM TAX AND PLEDGING CERTAIN SURPLUS REVENUES IN SUPPORT OF THE CERTIFICATES; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR AGREEMENT AND OTHER AGREEMENTS RELATING TO THE SALE AND ISSUANCE OF THE CERTIFICATES; AND ORDAINING OTHER MATTERS RELATING TO THE ISSUANCE OF THE CERTIFICATES**

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<b>THE STATE OF TEXAS</b>	<b>§</b>
<b>COUNTIES OF COMAL AND GUADALUPE</b>	<b>§</b>
<b>CITY OF NEW BRAUNFELS</b>	<b>§</b>

**WHEREAS**, the City Council of the City of New Braunfels, Texas (the "City") deems it advisable to issue certificates of obligation in the amount of \$5,000,000 (the "Certificates") for the purpose of paying contractual obligations incurred or to be incurred for (i) design, construction, improvement, organization, and equipping of a sports complex to include multi-purpose fields and playing surfaces for softball, baseball and soccer, as well as other sports, and possible facilities, infrastructure or other expenditures connected therewith, and (ii) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation; and

**WHEREAS**, the Certificates hereinafter authorized and designated are to be issued and delivered for cash pursuant to Subchapter C of Chapter 271, Local Government Code and Chapter 1502, Texas Government Code, as amended; and

**WHEREAS**, on July 22, 2019 the City Council passed a resolution authorizing and directing the City Secretary to give notice of intention to issue the Certificates; and

**WHEREAS**, the notice was published on July 31, 2019 and August 7, 2019 in *New Braunfels Herald-Zeitung*, a newspaper of general circulation in the City and a "newspaper" as defined in Section 2051.044, Government Code; and

**WHEREAS**, the City has not received a valid petition from the qualified voters of the City protesting the issuance of the Certificates; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Texas Government Code; and

**WHEREAS**, it is considered to be in the best interest of the City that the interest bearing Certificates be issued; therefor,

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

**Section 1. RECITALS, AMOUNT AND PURPOSE OF THE CERTIFICATES.** The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this Section. The Certificates of the City of New Braunfels, Texas (the "City") are hereby authorized to be issued and delivered in the aggregate principal amount of \$5,000,000 for the purpose of paying contractual obligations incurred or to be incurred for (i) design, construction, improvement, organization, and equipping of a sports complex to include multi-purpose fields and playing surfaces for softball, baseball and soccer, as well as other sports, and possible facilities, infrastructure or other expenditures connected therewith, and (ii) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation.

**Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS, AND MATURITIES OF CERTIFICATES.** Each certificate issued pursuant to this Ordinance shall be designated: "CITY OF NEW BRAUNFELS, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2019", and initially there shall be issued, sold, and delivered hereunder fully registered certificates, without interest coupons, dated September 1, 2019, in the denomination and principal amount hereinafter stated, numbered consecutively from R-1 upward (except the initial Certificate delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the respective initial registered owners thereof (as designated in Section 12 hereof), or to the registered assignee or assignees of said Certificates or any portion or portions thereof (in each case, the "Registered Owner"), and the outstanding principal amount of the Certificates shall mature and be payable on February 1 in each of the years and in the principal amount, respectively, as set forth in the following schedule:

<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>	<u>YEAR</u>	<u>PRINCIPAL AMOUNT</u>
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029			

The term "Certificate" as used in this Ordinance shall mean and include collectively the Certificates initially issued and delivered pursuant to this Ordinance and all substitute Certificates exchanged



therefor, as well as all other substitute Certificates and replacement Certificates issued pursuant hereto.

**SECTION 3. INTEREST.** The Certificates scheduled to mature during the years, respectively, set forth below shall bear interest from the dates specified in the FORM OF CERTIFICATE set forth in this Ordinance to their respective dates of maturity at the following rates per annum:

<u>YEAR</u>	<u>RATE</u>	<u>YEAR</u>	<u>RATE</u>
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2,038.000	
2029			

Interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE set forth in this Ordinance.

**Section 4. CHARACTERISTICS OF THE CERTIFICATES.** (a) Registration, Transfer, Conversion and Exchange; Authentication. The City shall keep or cause to be kept at UMB Bank, N.A., Austin, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer, conversion and exchange of the Certificates (the "Registration Books"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers, conversions and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers, conversions and exchanges as herein provided. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of each Certificate to which payments with respect to the Certificates shall be mailed, as herein provided; but it shall be the duty of each Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar shall make the Registration Books available within the State of Texas. The City shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, conversion, exchange and delivery of a substitute Certificate or Certificates. Registration of assignments, transfers, conversions and exchanges of Certificates shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE set forth in this Ordinance. Each substitute Certificate shall bear a letter and/or number to distinguish it from each other Certificate.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate, date and manually sign said Certificate, and no such Certificate shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates and Certificates surrendered for conversion and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing conversion and exchange of any Certificate or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates in the manner prescribed herein, and said Certificates shall be printed or typed on paper of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, as amended, and particularly Subchapter D thereof, the duty of conversion and exchange of Certificates as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the converted and exchanged Certificate shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificate which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

(b) Payment of Certificates and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates, and of all conversions and exchanges of Certificates, and all replacements of Certificates, as provided in this Ordinance. However, 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 past due interest 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 Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Certificate (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificate to be payable only to the Registered Owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 45 days prior to any such redemption date which shall indicate to which principal installments the redemption shall be applied), (iii) may be converted and exchanged for other Certificates, (iv) may be transferred and assigned in whole, but not in part, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) the principal of and interest on the Certificates shall be payable, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE set forth in this Ordinance. The Certificate initially issued and delivered pursuant to this Ordinance is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate issued in conversion of and exchange or substitute for any Certificate or Certificates issued under this Ordinance the Paying Agent/Registrar

shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE.

(d) Substitute Paying Agent/Registrar. The City covenants with the Registered Owners of the Certificates that at all times while the Certificates are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Certificates under this Ordinance, and that the Paying Agent/Registrar will be one entity. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective at such time which will not disrupt or delay payment on the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each Registered Owner of the Certificates, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Certificates issued in exchange for the Certificates initially issued as provided in Section 4(i) shall be issued in the form of a separate single fully registered Certificate for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Certificates shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Certificates, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any

amount with respect to principal of or interest on the Certificates. Notwithstanding any other provision of this Ordinance to the contrary, but to the extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate is registered in the Registration Books as the absolute owner of such Certificate for the purpose of payment of principal of and interest, with respect to such Certificate, for the purposes of registering transfers with respect to such Certificate, and for all other purposes of registering transfers with respect to such Certificates, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Certificates to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Certificate evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Certificate, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates and transfer one or more separate Certificates to DTC Participants having Certificates credited to their DTC accounts. In such event, the Certificates shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Certificate shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Certificate and all notices with respect to such Certificate shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Certificates.

(i) Cancellation of Initial Certificate. On the closing date, one Initial Certificate representing the entire principal amount of the Certificates, payable in stated installments to the order of the purchaser of the Certificates or its designee set forth in Section 12 of this Ordinance, executed by manual or facsimile signature of the Mayor or Mayor Pro-tem and City Secretary, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such Underwriters set forth in Section 12 of this Ordinance or its designee. Upon payment for the Initial Certificate, the Paying Agent/Registrar shall cancel the Initial Certificate and deliver to DTC on behalf of such Underwriters one registered definitive Certificate for each year of maturity of the Certificates, in the aggregate principal amount of all the Certificates for such maturity.

**Section 5. FORM OF CERTIFICATE.** The form of the Certificate, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Certificate initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions or insertions as are permitted or required by this Ordinance.

**FORM OF CERTIFICATE**

<b>NO. R-</b>	<b>UNITED STATES OF AMERICA</b> <b>STATE OF TEXAS</b> <b>COUNTIES OF COMAL AND GUADALUPE</b> <b>CITY OF NEW BRAUNFELS, TEXAS</b>	<b>PRINCIPAL</b> <b>AMOUNT</b> <b>\$_____</b>
<b>COMBINATION TAX AND REVENUE CERTIFICATE OF OBLIGATION</b> <b>SERIES 2019</b>		

<b><u>INTEREST</u></b> <b><u>RATE</u></b>	<b><u>DATE OF</u></b> <b><u>CERTIFICATE</u></b>	<b><u>MATURITY</u></b> <b><u>DATE</u></b>	<b><u>CUSIP NO.</u></b>
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September 1, 2019

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:** **DOLLARS**

**ON THE MATURITY DATE** specified above, the CITY OF NEW BRAUNFELS, in the Counties of Comal and Guadalupe, State of Texas (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest

thereon from the Date of Certificate, on February 1, 2020 and semiannually on each August 1 and February 1 thereafter to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above; except that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged or converted from is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full.

**THE PRINCIPAL OF AND INTEREST ON** this Certificate are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate at maturity, or upon the date fixed for its redemption prior to maturity, at UMB Bank, N.A. which is the "Paying Agent/Registrar" for this Certificate at its designated office for payment currently, Austin, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Certificate shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Certificate (the "Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared at the close of business on the 15<sup>th</sup> day of the preceding month each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 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 business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Certificate appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. Notwithstanding the foregoing, during any period in which ownership of the Certificate is determined only by a book entry at a securities depository for the Certificate, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

**ANY ACCRUED INTEREST** due at maturity or upon the redemption of this Certificate prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate for redemption and payment at the Designated Payment/Transfer Office

of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Certificate that on or before each principal payment date, interest payment date, and accrued interest payment date for this Certificate it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates, when due.

**IF THE DATE** for the payment of the principal of or interest on this Certificate shall be a Saturday, Sunday, a legal holiday or a day on which banking institutions in the city where the principal corporate trust 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 CERTIFICATE** is dated September 1, 2019, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$5,000,000, for the purpose of paying contractual obligations incurred or to be incurred by the City for: (i) design, construction, improvement, organization, and equipping of a sports complex to include multi-purpose fields and playing surfaces for softball, baseball and soccer, as well as other sports, and possible facilities, infrastructure or other expenditures connected therewith, and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates.

**ON FEBRUARY 1, 2028**, or on any date thereafter, the Certificates of this Series maturing on and after February 1, 2029 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Certificates, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Certificate may be redeemed only in an integral multiple of \$5,000).

**WITH RESPECT TO** any optional redemption of the Certificates, unless certain prerequisites to such redemption required by the Ordinance have been met and moneys sufficient to pay the principal of and premium, if any, and interest on the Certificates to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice shall state that said redemption may, at the option of the City, be conditional upon the satisfaction of such prerequisites and receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon any prerequisite set forth in such notice of redemption. If a conditional notice of redemption is given and such prerequisites to the redemption and sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Certificates and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Certificates have not been redeemed.



**NO LESS THAN** 30 days prior to the date fixed for any such redemption, unless the Purchaser (as defined in the Ordinance) is the sole Registered Owner of all of the outstanding principal amount of the Certificates, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Certificate to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the business day next preceding the date of mailing such notice and to major securities depositories, national bond rating agencies and bond information services; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of the Certificates. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates. If due provision for such payment is made, all as provided above, the Certificates thereby automatically shall be treated as redeemed prior to its scheduled maturity, and it shall not bear interest after the date fixed for redemption, and it shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment.

**ALL CERTIFICATES OF THIS SERIES** are issuable solely as fully registered certificates, without interest coupons, in the denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof. As provided in the Ordinance, this Certificate may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered certificate, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations of \$5,000 and in any integral multiple of \$5,000 in excess thereof as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate or any portion or portions hereof in any denomination of \$5,000 and any integral multiple of \$5,000 in excess thereof to the assignee or assignees in whose name or names this Certificate or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Certificate or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange (i) during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date, or (ii) with respect to any Certificate or any portion thereof called for redemption prior to maturity, within

45 days prior to its redemption date; provided, however, such limitation of transfer shall not be applicable to an exchange by the Registered Owner of the unredeemed balance of the Certificates.

**WHENEVER** the beneficial ownership of this Certificate is determined by a book entry at a securities depository for the Certificate, the foregoing requirements of holding, delivering or transferring this Certificate shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

**IN THE EVENT** any Paying Agent/Registrar for the Certificates is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owner of the Certificates.

**IT IS HEREBY** certified, recited and covenanted that this Certificate has been duly and validly authorized, issued and delivered; that all acts, conditions and things required or proper to be performed, exist and be done precedent to or in the authorization, issuance and delivery of this Certificate have been performed, existed and been done in accordance with law; and that annual ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate, as such interest comes due and such principal matures, have been levied and ordered to be levied against all taxable property in said City, and have been pledged for such payment, within the limit prescribed by law, and that this Certificate, together with other obligations of the City, is additionally secured by and payable from the surplus revenues of the City's solid waste system, remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve and other requirements in connection with all of the City's revenue bonds or other obligations (now or hereafter outstanding), which are payable from all or part of the Net Revenues of the City's solid waste system, which amount shall not exceed \$1,000 all as provided in the Ordinance.

**BY BECOMING** the Registered Owner of this Certificate, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate and the Ordinance constitute a contract between each Registered Owner hereof and the City.

**IN WITNESS WHEREOF**, the City has caused this Certificate to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary of said City, and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Certificate.

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City Secretary

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Mayor

(CITY SEAL)

**FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

**PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

(To be executed if this Certificate is not accompanied by an  
executed Registration Certificate of the Comptroller  
of Public Accounts of the State of Texas)

It is hereby certified that this Certificate has been issued under the provisions of the Ordinance described in the text of this Certificate; and that this Certificate has been issued in conversion or replacement of, or in exchange for, a certificate, certificates, or a portion of a certificate or certificates of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

**UMB BANK, N.A.**  
Paying Agent/Registrar

By: \_\_\_\_\_  
Authorized Representative

**FORM OF ASSIGNMENT:**

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Please insert Social Security or Taxpayer  
Identification Number of Transferee

\_\_\_\_\_  
(Please print or typewrite name and address,  
including zip code, of Transferee)

the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

\_\_\_\_\_  
NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Certificate in every particular, without alteration or enlargement or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF  
THE COMPTROLLER OF PUBLIC ACCOUNTS:**

**COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO.**

I hereby certify that this Certificate has been examined, certified as to validity and approved by the Attorney General of the State of Texas, and that this Certificate has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(COMPTROLLER'S SEAL)

**INSERTIONS FOR THE INITIAL CERTIFICATE**

The Initial Certificate shall be in the form set forth in this Section, except that:

A. immediately under the name of the Certificates, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As Shown Below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

**"ON THE DATE SPECIFIED BELOW,** the City of NEW BRAUNFELS, Texas (the "City"), being a political subdivision, hereby promises to pay the annual installments set forth below to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on February 1 in each of the years, in the principal installments in the following schedule and bearing interest at the per annum rate stated above:

Year

Principal Amount

Interest Rates

(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from the Date of Certificate at the respective Interest Rate per annum specified above. Interest is payable on February 1, 2019 and semiannually on each February 1 and August 1 thereafter to the date of payment of the principal installment specified above; except, that if this Certificate is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate or Certificates, if any, for which this Certificate is being exchanged is due but has not been paid, then this Certificate shall bear interest from the date to which such interest has been paid in full."

C. The Initial Certificate shall be numbered "T-1."

**Section 6. INTEREST AND SINKING FUND.** A special "Interest and Sinking Fund" is hereby created and shall be established and maintained by the City at an official depository bank of said City. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of said City, and shall be used only for paying the interest on and principal of said Certificates. All ad valorem taxes levied and collected for and on account of said Certificates shall be deposited, as collected, to the credit of said Interest and Sinking Fund. During each year while any of said Certificates are outstanding and unpaid, the governing body of said City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on said Certificates as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of said Certificates as such principal matures (but never less than 2% of the original amount of said Certificates as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of said City, with full allowances being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in said City, for each year while any of said Certificates are outstanding and unpaid, and said tax shall be assessed and collected each such year and deposited to the credit of the aforesaid Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of said Certificates, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest and any premium on the Certificates shall be deposited in the Interest and Sinking Fund and used to pay interest on the Certificates.

**Section 7. REVENUES.** The Certificates together with other obligations of the City, are additionally secured by and shall be payable from a limited pledge of the surplus revenues of the City's solid waste system remaining after payment of all operation and maintenance expenses thereof, and all debt service, reserve, and other requirements in connection with all of the City's revenue bonds or other obligation (now or hereafter outstanding) which are payable from all or any

part of the net revenues of the City's solid waste system, with such amount not to exceed \$1,000 constituting "Surplus Revenues." The City shall deposit such Surplus Revenues to the credit of the Interest and Sinking Fund created pursuant to Section 6, to the extent necessary to pay the principal and interest on the Certificates. Notwithstanding the requirements of Section 6, if Surplus Revenues are actually on deposit or budgeted for deposit in the Interest and Sinking Fund in advance of the time when ad valorem taxes are scheduled to be levied for any year, then the amount of taxes which otherwise would have been required to be levied pursuant to Section 6 may be reduced to the extent and by the amount of the Surplus Revenues then on deposit in the Interest and Sinking Fund or budgeted for deposit therein.

The Mayor of the City Council of the City and the City Secretary of the City are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

**Section 8. DEFEASANCE OF CERTIFICATES.** (a) Any Certificate and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Certificate") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section 8, when payment of the principal of such Certificate, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Certificates shall have become due and payable or (3) any combination of (1) and (2). At such time as a Certificate shall be deemed to be a Defeased Certificate hereunder, as aforesaid, such Certificate and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Certificate as aforesaid when proper notice of redemption of such Certificates shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City Council of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Certificate and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City Council of the City.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Certificates and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Certificates and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Certificates shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Certificates and such Certificates shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Certificate affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Certificate to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Certificate for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Certificate for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Certificate as though it was being defeased at the time of the exercise of the option to redeem the Defeased Certificate and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Certificate.

As used in this Section, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the governing body of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates 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 that, on the date the governing body of the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Certificates, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent and (iv) any other then authorized securities or obligations under applicable state law in existence at the time of such defeasance that may be used to defease obligations such as the Certificates.

**Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES.** (a) Replacement Certificates. In the event any outstanding Certificate is damaged, mutilated, lost, stolen or destroyed, the Paying Agent/Registrar shall cause to be printed,



executed and delivered, a new certificate of the same principal amount, maturity and interest rate, as the damaged, mutilated, lost, stolen or destroyed Certificate, in replacement for such Certificate in the manner hereinafter provided.

(b) Application for Replacement Certificates. Application for replacement of damaged, mutilated, lost, stolen or destroyed Certificates shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft or destruction of a Certificate, the Registered Owner applying for a replacement certificate shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft or destruction of a Certificate, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft or destruction of such Certificate, as the case may be. In every case of damage or mutilation of a Certificate, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificates shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificates, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate) instead of issuing a replacement Certificate, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates. Prior to the issuance of any replacement certificate, the Paying Agent/Registrar shall charge the Registered Owner of such Certificate with all legal, printing, and other expenses in connection therewith. Every replacement Certificate issued pursuant to the provisions of this Section by virtue of the fact that any Certificate is lost, stolen or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen or destroyed Certificate shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates. In accordance with Subchapter B of Chapter 1206, Texas Government Code, this Section 9 of this Ordinance shall constitute authority for the issuance of any such replacement Certificate without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Certificate is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificate in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for the Certificates issued in conversion and exchange for other Certificates.

**Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF THE CERTIFICATE; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED.** The Mayor of the City Council of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all

necessary records and proceedings pertaining to the Certificate pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers, if any, may, at the option of the City, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

**Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE CERTIFICATES.** (a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Certificates or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Certificates being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificates being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificates, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates, other than investment property acquired with --

(A) proceeds of the Certificates invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the Certificates are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates;

(7) to otherwise restrict the use of the proceeds of the Certificates or amounts treated as proceeds of the Certificates, as may be necessary, so that the Certificates do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Certificates or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Certificates in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Certificates. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates, the City will not

be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the City Manager or Director of Finance to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates. This Ordinance is intended to satisfy the official intent requirements set forth in Section 1.150-2 of the Treasury Regulations.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates, or (2) the date the Certificates are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The City covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificates. For purpose of the foregoing, the City may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificates. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

**Section 12. SALE OF CERTIFICATES.** The Certificates are hereby sold to the bidder whose bid produced the lowest net effective interest rate, pursuant to the taking of public bids therefor, on this date, and shall be delivered to \_\_\_\_\_ (the "Purchaser") at a price of \$\_\_\_\_\_, representing the par amount of the Certificates, plus a net reoffering premium of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, plus accrued interest on the Certificates. The Certificates shall initially be registered in the name of CEDE & Co. Of the \$\_\_\_\_\_ premium on the sale of the Certificates, \$\_\_\_\_\_ is allocated towards costs of issuance, \$\_\_\_\_\_ is allocated towards purchaser's discount and \$\_\_\_\_\_ is counted against the not to exceed amount in the notice of the sale of the Certificates, of \$\_\_\_\_\_, which together with the principal amount of the Certificates \$\_\_\_\_\_, uses the full \$\_\_\_\_\_ stated in such notice.

**Section 13. DEFAULT AND REMEDIES.**

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default: (i) the failure to make payment of the principal of or interest on any of the Certificates when the same becomes due and payable; or (ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Certificates, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default. (i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies; (ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Certificates then outstanding.

(c) Remedies Not Exclusive. (i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Certificates or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Certificates shall not be available as a remedy under this Ordinance. (ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy. (iii) By accepting the delivery of a Certificate authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council. (iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered

Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

**Section 14. ESTABLISHMENT OF CONSTRUCTION FUND AND INTEREST EARNINGS.** (a) Construction Fund. A special fund or account, to be designated the City of New Braunfels Series 2019 Certificate of Obligation Construction Fund (the "2019 Construction Fund") is hereby created and shall be established and maintained by the City at a depository bank of the City. The 2019 Construction Fund shall be kept separate and apart from all other funds and accounts of the City. The Construction Fund and the Interest and Sinking Fund shall be invested in accordance with the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, and the City's Investment Policy.

(b) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Certificates shall be used along with the Certificate proceeds for the purpose for which the Certificates are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Certificates; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Certificates from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

**Section 15. APPROVAL OF OFFICIAL STATEMENT.** The City hereby approves the form and content of the Official Statement relating to the Certificates and any addenda, supplement or amendment thereto, and approves the distribution of such Official Statement in the reoffering of the Certificates by the Purchaser in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement dated September 2, 2019 prior to the date hereof is confirmed, approved and ratified. The City Council hereby finds and determines that the Preliminary Official Statement and final Official Statement were "deemed final" (as that term is defined in 17 CFR Section 240.15c(2)-12) as of their respective dates.

**Section 16. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT.** Attached hereto as Exhibit "A" is a substantially final form of the Paying Agent/Registrar Agreement with an attached Blanket Issuer Letter of Representation. The Mayor of the City Council of the City is hereby authorized to amend, complete or modify such agreement as necessary and is further authorized to execute such agreement and the City Secretary is hereby authorized to attest such agreement.

**Section 17. CONTINUING DISCLOSURE UNDERTAKING.** (a) Annual Reports. (i) The City shall provide annually to the MSRB, (i) within six months after the end of each fiscal year of the City ending in or after 2019, financial information and operating data with respect to the City of the general type included in this Official Statement being the information of the type included in Table 1 of the Official Statement and Tables 1 through 10 of Appendix A to the Official Statement and the financial statements included in Appendix D to the Official Statement if audited financial

statements are then available, and (ii) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Appendix D to the Official Statement and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statement is not complete within 12 months after any such fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Such information shall be transmitted electronically to the MSRB, in such format and accompanied by such identifying information as prescribed by the MSRB.

(ii) 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 (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(b) Material Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Certificates:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. 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 Certificates, or other events affecting the tax status of the Certificates
- G. Modifications to rights of holders of the Certificates, if material within the meaning of the federal securities laws;
- H. Certificate calls, if material within the meaning of the federal securities laws;
- I. Defeasances;



- J. Release, substitution, or sale of property securing repayment of the Certificates, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into 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 within the meaning of the federal securities laws; and
- N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.
- O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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 (a) of this Section by the time required by such subsection.

(c) Limitations, Disclaimers, and Amendments. (i) The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates within the meaning of the Rule, except that the City in any event will give notice required by Subsection (b) hereof of any Certificate calls and defeasance that cause the City to no longer be such an "obligated person".

(ii) The provisions of this Section are for the sole benefit of the registered owners and beneficial owners of the Certificates, 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 Certificates at any future date.

(iii) UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE REGISTERED OWNER OR BENEFICIAL OWNER OF ANY CERTIFICATE 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.

(iv) No default by the City in observing or performing its obligations under this Section shall comprise 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.

(v) The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise 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 Certificates in the primary offering of the Certificates in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering 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 Certificates consents to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Certificates. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates in the primary offering of the Certificates.

(d) 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.

"SEC" means the United States Securities and Exchange Commission.

**Section 19. NO RECOURSE AGAINST CITY OFFICIALS.** No recourse shall be had for the payment of principal of or interest on the Certificates or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Certificates.

**Section 20. FURTHER ACTIONS.** The officers and employees of the City are hereby 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 under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates, the initial sale and delivery of the Certificates, the Paying Agent/Registrar Agreement, and any insurance commitment letter or insurance policy. In addition, prior to the initial delivery of the Certificates, the Mayor, the City Secretary, the City Manager or Assistant City Manager, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy requirements of any bond insurer, or (iii) obtain the approval of the Certificates by the Attorney General's office.

In case any officer of the City whose signature shall appear on any Certificate shall cease to be such officer before the delivery of such Certificate, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

**Section 21. INTERPRETATIONS.** All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Certificates and the validity of the lien on and pledge to secure the payment of the Certificates.

**Section 22. INCONSISTENT PROVISIONS.** All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions 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 23. INTERESTED PARTIES.** Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the Registered Owners of the Certificates, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Certificates.

**Section 24. INCORPORATION OF RECITALS.** The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

**Section 25. REPEALER.** All orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 26. SEVERABILITY.** The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

**Section 27. PERFECTION.** Chapter 1208, Government Code, applies to the issuance of the Certificates and the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance, and such pledge is therefore valid, effective and perfected. If Texas law is amended at any time while the Certificates are outstanding and unpaid such that the pledge of ad valorem taxes and revenues granted by the City under Sections 6 and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the registered owners of the Certificates 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 Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

**Section 28. EFFECTIVE DATE.** This Ordinance shall become effect immediately from and after its passage on first and final reading in accordance with Section 1201.028, Texas Government Code, as amended.

**Section 29. NO PERSONAL LIABILITY.** No covenant or agreement contained in the Certificates, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council or any officer, agent, employee or representative of the City Council in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council nor any person executing the Certificates shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Certificates.

**Section 30. CUSTODY, APPROVAL, AND REGISTRATION OF CERTIFICATE; BOND COUNSEL'S OPINION; AND CONTINGENT INSURANCE PROVISION, IF OBTAINED.** The Mayor of the City is hereby authorized to have control of the Certificate initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificate pending its delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the

State of Texas. Upon registration of the Certificate said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificate, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel, at the option of the City, be printed on the Certificate issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owner of the Certificate. In addition, if bond insurance is obtained, the Certificate may bear an appropriate legend as provided by the insurer.

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**IN ACCORDANCE WITH SECTION 1201.028**, Texas Government Code, passed and approved on the final reading on the 9<sup>th</sup> day of September, 2019.

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Mayor, City of New Braunfels, Texas

ATTEST:

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City Secretary, City of New Braunfels, Texas

APPROVED AS TO LEGALITY:

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City Attorney, City of New Braunfels, Texas





**EXHIBIT "A"**  
**PAYING AGENT/REGISTRAR AGREEMENT**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. H)

### Presenter/Contact

*Jared Werner, Chief Financial Officer*  
(830) 221-4395 - [jwerner@nbtexas.org](mailto:jwerner@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of an ordinance authorizing the issuance of City of New Braunfels, Texas General Obligation Bonds, Series 2019; authorizing the levy of an ad valorem tax in support of the bonds; approving an official statement, a paying agent/registrar agreement, and other documents related to the issuance of the bonds.

### **BACKGROUND / RATIONALE:**

The General Obligation Bond Issuance referenced in the caption above totals \$21,000,000 and will be utilized to support projects from the 2013 and 2019 bond programs. Additional detail on the issuance is provided below.

*2013 Bond Program* - Staff recommends issuing \$2,515,225 for proposition 1 (streets). After the issuance, there will only be \$2,550,500 authorized, but unissued proceeds stemming from the 2013 bond program - all of which are earmarked for proposition 2 (drainage).

*2019 Bond Program* - The 2019 bond program requires growth in new and existing values over the next five years to be delivered with no impact to the total tax rate. At the June 3<sup>rd</sup> City Council retreat, staff presented the projected bond issuance schedule associated with the 2019 bond program (\$117 million). In addition, project schedules were presented that aligned to the issuance capacity as well as taking advantage of the other funding sources available to those projects (roadway impact fees, contribution from the new Braunfels Economic Development Corporation). Council ultimately approved one of the presented schedules and gave staff direction to look for opportunities to expedite the issuance(s) and projects. As discussed during the FY 2019-20 Budget presentation and workshops, the rollback rate calculation and continued decline in borrowing rates ultimately allowed for the 2019 issuance to increase to \$18,484,775. The breakdown by proposition is provided below.

2019 BOND PROPOSITION	FIRST YEAR ISSUANCE
PROPOSITION 1 - STREETS	\$7,084,775
PROPOSITION 2 - PARKS	\$4,805,000
PROPOSITION 3 - PUBLIC SAFETY	\$6,095,000
PROPOSITION 4 - LIBRARY	\$ 500,000
<b>TOTAL</b>	<b>\$18,484,775</b>

The general obligation bonds are scheduled to be wired to the City's depository bank on September 25<sup>th</sup>. On the date of the sale (September 9, 2019) the final details of the transaction including the

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actual interest rate will be presented by the City's financial advisor - SAMCO capital markets.

When the 2019 certified values were provided to the City, the Finance team calculated the annual debt service that could be supported by the I&S rate of \$21.4498 cents. SAMCO will structure the first year debt service payment for the GO bonds so that it can be supported (along with all other property tax supported payments) by the I&S levy in FY 2019-20 (Tax Year 2019).

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

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**FISCAL IMPACT:**

The proceeds for the GO bonds will go directly to support the 2013 and 2019 bond program projects. As described above, the annual debt service payment has been structured to align with the I&S rate for FY 2019-20.

**COMMITTEE RECOMMENDATION:**

N/A

**STAFF RECOMMENDATION:**

Staff recommends approval of the ordinance.

**ORDINANCE NO. 2019-\_\_**

**ORDINANCE AUTHORIZING THE ISSUANCE OF  
CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION BONDS, SERIES  
2019; AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF THE  
BONDS; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR  
AGREEMENT, AND OTHER MATTERS RELATING TO THE ISSUANCE OF THE  
BONDS**

**Adopted September 9, 2019**

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#### EXHIBIT A PAYING AGENT/REGISTRAR AGREEMENT

**ORDINANCE NO. 2019-\_\_**

**ORDINANCE AUTHORIZING THE ISSUANCE OF  
CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION BONDS, SERIES 2019;  
AUTHORIZING THE LEVY OF AN AD VALOREM TAX IN SUPPORT OF THE  
BONDS; APPROVING AN OFFICIAL STATEMENT, A PAYING AGENT/REGISTRAR  
AGREEMENT, AND OTHER DOCUMENTS RELATED TO THE ISSUANCE OF THE  
BONDS**

<b>THE STATE OF TEXAS</b>	<b>§</b>
<b>COUNTIES OF COMAL AND GUADALUPE</b>	<b>§</b>
<b>CITY OF NEW BRAUNFELS</b>	<b>§</b>

**WHEREAS**, at an election held within the City of New Braunfels, Texas (the "City") on May 11, 2013 the voters of the City authorized the City Council of the City to issue in one or more series the bonds set forth in proposition numbers 1, 2, 3 and 4, which aggregate \$21,620,000 in aggregate principal amount; and

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the remaining \$2,515,225 in aggregate principal amount of the bonds authorized by Proposition Number 1 for the purpose of designing, acquiring, constructing, renovating, improving and equipping City Street, curb, gutter, and sidewalk improvements, demolition, repair, and rebuilding of existing streets, completing necessary or incidental utility relocation and drainage in connection with the foregoing and the purchase of land, easements, rights-of-way, and other real property interests necessary there and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 1, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the remaining \$2,544,775 in aggregate principal amount of the bonds authorized by Proposition Number 2 for the purpose of designing, acquiring, constructing, renovating, improving and equipping drainage and flood control improvements and facilities at various locations within the City, and the purchase of land easements, rights-of-way, and other real property interests necessary therefor or incidental thereto, and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 2, the City reserves



the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, at an election held within the City of New Braunfels, Texas (the "City") on May 4, 2019 the voters of the City authorized the City Council of the City to issue in one or more series the bonds set forth in proposition numbers 1, 2, 3 and 4, which aggregate \$117,000,000 in aggregate principal amount; and

**WHEREAS**, on April 4, 2019 and April 11, 2019, a Notice of Election was published in the *New Braunfels Herald-Zeitung*, a newspaper, as defined in Section 2051.044, Government Code, as amended, of general circulation in the City which date is not earlier than the 30th day nor later than the 10th day prior to the Election in accordance with Section 4.003 of the Texas Election Code; and

**WHEREAS**, on February 28, 2019, a Notice of Election was duly posted on the bulletin board of the City used to post notice of meetings of the City Council; and

**WHEREAS**, on May 4, 2019, the voters of the City authorized the City Council of the City to issue a total of \$117,000,000 in principal amount of bonds for the propositions:

#### NEW BRAUNFELS PROPOSITION 1

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$44,512,490 for the purpose of constructing, acquiring, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections including, utility relocation, sidewalks, traffic safety and operational improvements, the purchase of any necessary land, rights-of-way, drainage and other related costs, to include Klein Road, Goodwin Lane, Conrads Lane, the extensions of FM 306 and Business 81, and a Citywide Streets Improvement Program, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

#### NEW BRAUNFELS PROPOSITION 2

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$16,547,420 for the purpose of constructing, acquiring, improving, renovating, developing and equipping, land and buildings for park and recreational purposes, parkland, scenic easement and trail acquisition, development and improvement and related infrastructure and other

costs to include the Sport Field Complex, Comal Cemetery wall stabilization and improvements, and all abilities park amenities, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

### NEW BRAUNFELS PROPOSITION 3

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$50,414,750 for the purpose of constructing, acquiring, improving, renovating and equipping City public safety facilities for police and fire protection, including the acquisition of any necessary sites and related infrastructure, demolition and other costs to include two new Fire Stations and a new Police Department, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

### NEW BRAUNFELS PROPOSITION 4

Shall the City Council of the City of New Braunfels, Texas be authorized to issue the bonds of the City, in one or more series, with the bonds of each such series or issue, respectively, to mature serially within not to exceed 40 years from their date, and to be sold at such prices and bear interest at such rates as shall be determined within the discretion of the City Council, in the aggregate principal amount of \$5,525,340 for the purpose of constructing, renovating, improving, and equipping existing and/or additional City library facilities including acquisition of any necessary sites and related water, wastewater, drainage, streets, sidewalks, parking infrastructure and other related costs to include the New Braunfels Public Library – Westside Community Center Branch, with the bonds to mature, bear interest, and be issued and sold in accordance with law at the time of issuance; and shall the City Council be authorized to levy and pledge, and cause to be assessed and collected, annual ad valorem taxes, on all taxable property in the City, sufficient to pay the principal of and interest on the bonds and the cost of any credit agreements executed in connection with the bonds?

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the \$44,512,490 in aggregate principal amount of the bonds authorized by Proposition Number 1 for the construction, acquisition, improvement, and upgrading of streets to include the extensions of FM 306 and Business 81 and a citywide streets improvement program, and other real property interests necessary there and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 1, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the \$16,547,420 in aggregate principal amount of the bonds authorized by Proposition Number 2 for the purpose of designing, acquiring, constructing, renovating, improving and equipping park and recreational facilities and projects to include the sports field complex, Comal Cemetery wall stabilization and improvements, and all abilities park amenities, and other real property interests necessary therefor or incidental thereto, and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 2, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the \$50,414,750 in aggregate principal amount of bonds authorized by Proposition Number 3 for the purpose of designing, acquiring, constructing, renovating, improving and equipping public safety facilities and projects to include two new fire stations and a new police department, and other real property interests necessary therefor or incidental thereto, and other costs and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 3, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, the City Council deems it to be in the best interest of the City to issue an aggregate amount of \$\_\_\_\_\_ (which includes allocable premium of \$\_\_\_\_\_) of the \$5,525,340 in aggregate principal amount of bonds authorized by Proposition Number 4 for the purpose of designing, acquiring, constructing, renovating, improving and equipping city library facilities and projects to include the New Braunfels Public Library – Westside Community Center Branch, and other real property interests necessary therefor or incidental thereto, and other costs and reserves the right to issue the remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, following issuance of the Bonds, there will be voted authorization of \$\_\_\_\_\_ remaining from the above referenced Proposition Number 4, the City reserves the right to issue any remaining authorized but unissued bonds at such time as determined by the City Council; and

**WHEREAS**, the Bonds (hereinafter defined) authorized by this Ordinance are being issued and delivered pursuant to the City Charter and to Chapters 1251, 1331 and 1371, Texas Government Code, as amended, including 1371.001(4)(A), of the Texas Government Code and other applicable laws; and

**WHEREAS**, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

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

**Section 1. RECITALS, AMOUNT AND PURPOSE OF THE BONDS.** The recitals set forth in the preamble hereof are incorporated herein and shall have the same force and effect as if set forth in this section. The Bonds of the City are hereby authorized to be issued and delivered in an aggregate principal amount of \$21,000,000, to provide funds for the following projects: (i) constructing, acquiring, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections including, utility relocation, sidewalks, traffic safety and operational improvements, the purchase of any necessary land, rights-of-way, drainage and other related costs; (ii) constructing, acquiring, improving, renovating, developing and equipping, land and buildings for park and recreational purposes, parkland, scenic easement and trail acquisition, development and improvement and related infrastructure and other costs; (iii) constructing, acquiring, improving, renovating and equipping City public safety facilities for police and fire protection, including the acquisition of any necessary sites and related infrastructure, demolition and other costs; (iv) constructing, renovating, improving, and equipping existing and/or additional City library facilities including acquisition of any necessary sites and related water, wastewater, drainage, streets, sidewalks, parking infrastructure and other related costs and (v) paying costs associated with the issuance of the Bonds.

**Section 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS.** The Bonds issued pursuant to this Ordinance shall be designated: "**CITY OF NEW BRAUNFELS, TEXAS GENERAL OBLIGATION BONDS, SERIES 2019**" and initially there shall be issued, sold, and delivered hereunder fully registered bonds, without interest coupons, dated September 1, 2019, in the maturity amounts stated in the table below and in denominations of \$5,000 or any multiple thereof, numbered consecutively from R-1 upward (except the initial Bond delivered to the Attorney General of the State of Texas which shall be numbered T-1), payable to the registered owner thereof, or to the registered assignee or assignees of the Bonds or any portion or portions thereof (in each case, the "Registered Owner"), and the Bonds shall mature and be payable as set forth in the table below. The term "Bond" as used in this Ordinance shall mean and include collectively the bonds initially issued and delivered pursuant to this Ordinance and all substitute bonds exchanged therefor, as well as all other substitute bonds and replacement bonds issued pursuant hereto.

**February 1  
Year**

**Maturity  
Amount**

**February 1  
Year**

**Maturity  
Amount**

2020	2030
2021	2031
2022	2032
2023	2033
2024	2034
2025	2035
2026	2036
2027	2037
2028	2038
2029	

**Section 3. INTEREST.** The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BOND set forth in this Order to their respective dates of maturity at the following rates per annum:

<u>Year</u>	<u>Interest Rates</u>	<u>Year</u>	<u>Interest Rates</u>
2020		2030	
2021		2031	
2022		2032	
2023		2033	
2024		2034	
2025		2035	
2026		2036	
2027		2037	
2028		2038	
2029			

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BOND set forth in this Order.

**Section 4. CHARACTERISTICS OF THE BONDS.** (a) Registration, Transfer; Authentication. The Issuer shall keep or cause to be kept at the principal corporate trust or other office of UMB Bank, Dallas, Texas (the "Paying Agent/Registrar") books or records for the registration of the transfer and exchange of the Bonds (the "Registration Books"), and the Issuer hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the Issuer and the Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided within three days of presentation in due and proper form. The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the Registered Owner of the Bonds to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of the Registered Owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. The Issuer shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration

Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Issuer shall pay the Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Bonds. Registration of assignments, transfers and exchanges of the Bonds shall be made in the manner provided and with the effect stated in the FORM OF BOND set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in Section 4(c) of this Ordinance, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign said Bond, and no such Bond shall be deemed to be issued or outstanding unless such Bond is so executed. The Paying Agent/Registrar promptly shall cancel the paid Bond or any Bond surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the Issuer or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bond in the manner prescribed herein. Pursuant to Subchapter D, Chapter 1201, Texas Government Code, as amended, the duty of transfer and exchange of the Bond as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Bond, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bond which initially was issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Bond and Interest. The Issuer hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Bonds, all as provided in this Ordinance. The Paying Agent/Registrar shall keep proper records of all payments made by the Issuer and the Paying Agent/Registrar with respect to the Bonds and shall properly and accurately record all payments on the Bond on the Registration Books, and shall keep proper records of all transfers of the Bonds, and all replacements of the Bond, as provided in this Ordinance. However, 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 Issuer. 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 the Registered Owner appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

(c) In General. The Bonds (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Bond to be payable only to the Registered Owner thereof, (ii) may be redeemed in whole or in part prior to its scheduled maturity, (iii) may be transferred and assigned, (iv) shall have the characteristics, (v) shall be signed, sealed, executed and authenticated, (vi) the principal of and interest on the Bonds shall be payable, and (vii) shall be administered and the Paying Agent/Registrar and the Issuer shall have certain duties and responsibilities with respect to the Bonds, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF BOND set forth in this Ordinance. The Bonds initially

issued and delivered pursuant to this Ordinance (to which Bonds are attached the Registration Bond of the Comptroller of Public Accounts) is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Bond issued in exchange for any Bond issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF BOND.

(d) Substitute Paying Agent/Registrar. The Issuer covenants with the Registered Owner of the Bond that at all times while the Bonds are outstanding the Issuer will provide a competent and legally qualified bank, trust company, financial institution, or other agency to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity. The Issuer reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 30 days written notice to the Paying Agent/Registrar, to be effective not later than 20 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the Issuer covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bond, to the new Paying Agent/Registrar designated and appointed by the Issuer. Upon any change in the Paying Agent/Registrar, the Issuer promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to the Registered Owner of the Bond, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry-Only System. The Bonds issued in exchange for the Bonds initially issued as provided in Section 4(h) shall be issued in the form of a separate single fully registered Bond for each of the maturities thereof registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("DTC") and except as provided in subsection (f) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created to hold securities to facilitate the clearance and settlement of securities transactions among DTC participants (the "DTC Participant") or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any DTC Participant or any other person, other than a Registered Owner, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any person, other than a Registered Owner, as shown on the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, but to the

extent permitted by law, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal of and interest, with respect to such Bond, for the purposes of registering transfers with respect to such Bond, and for all other purposes of registering transfers with respect to such Bonds, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the order of the respective Registered Owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a Registered Owner, as shown in the Registration Books, shall receive a Bond evidencing the obligation of the City to make payments of principal, and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository; Transfer Outside Book-Entry-Only System. In the event that the City determines to discontinue the book-entry system through DTC or a successor or DTC determines to discontinue providing its services with respect to the Bond, the City shall either (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Bonds to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Bonds and transfer one or more separate Bonds to DTC Participants having Bonds credited to their DTC accounts. In such event, the Bonds shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names the Registered Owner transferring or exchanging Bond shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to principal of, and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, in the manner provided in the Letter of Representations of the City to DTC.

(h) DTC Blanket Letter of Representations. The City confirms execution of a Blanket Issuer Letter of Representations with DTC establishing the Book-Entry-Only System which will be utilized with respect to the Bonds.

(i) Cancellation of Initial Bond. On the closing date, one Initial Bond representing the entire principal amount of the Bonds, payable in stated installments to the order of the Purchaser of the Bonds or its designee set forth in Section 13 of this Ordinance, executed by manual or facsimile signature of the Mayor or Mayor Pro-tem and City Secretary, approved by the Attorney General of



Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to such Purchaser set forth in Section 13 of this Ordinance or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to DTC on behalf of such Purchaser one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all the Bonds for such maturity.

**Section 5. FORM OF BOND.** The form of the Bond, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment, the form of initial Bond and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas to be attached to the Bonds initially issued and delivered pursuant to this Ordinance, shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance including any reproduction of an opinion of counsel and information regarding the issuance of any bond insurance policy.

### FORM OF BOND

<b>NO. R-</b>	<b>UNITED STATES OF AMERICA</b> <b>STATE OF TEXAS</b> <b>COMAL AND GUADALUPE COUNTIES</b>	<b>PRINCIPAL</b> <b>AMOUNT</b> <b>\$_____</b>
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**CITY OF NEW BRAUNFELS, TEXAS**  
**GENERAL OBLIGATION BOND,**  
**SERIES 2019**

<b>INTEREST RATE</b>	<b><u>DATE OF BOND</u></b>	<b><u>MATURITY DATE</u></b>	<b><u>CUSIP NO.</u></b>
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September 1, 2019

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:** **DOLLARS**

**ON THE MATURITY DATE** specified above, **NEW BRAUNFELS, TEXAS** (the "City"), being a political subdivision of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "Registered Owner") the principal amount set forth above, and to pay interest thereon from date of delivery, on February 1, 2020 and semiannually thereafter on each August 1 and February 1 to the maturity date specified above, or the date of redemption prior to maturity, at the interest rate per annum specified above calculated on the basis of a 360-day year of twelve 30-day months; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being

exchanged or converted from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full. Notwithstanding the foregoing, during any period in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, any payment to the securities depository, or its nominee or registered assigns, shall be made in accordance with existing arrangements between the City and the securities depository.

**THE PRINCIPAL OF AND INTEREST ON** this Bond are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity or upon the date fixed for its redemption prior to maturity, at UMB Bank, (the "Paying Agent/Registrar") at their office for payment in Dallas, Texas (the "Designated Payment/Transfer Office"). The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the ordinance authorizing the issuance of this Bond (the "Bond Ordinance") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the close of business on the 15th day of the month next preceding each such date (the "Record Date") on the registration books kept by the Paying Agent/Registrar (the "Registration Books"). In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 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 business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice.

**DURING ANY PERIOD** in which ownership of the Bonds is determined only by a book entry at a securities depository for the Bonds, if fewer than all of the Bonds of the same maturity and bearing the same interest rate are to be redeemed, the particular Bonds of such maturity and bearing such interest rate shall be selected in accordance with the arrangements between the City and the securities depository.

**ANY ACCRUED INTEREST** due at maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Bond for payment at the Designated Payment/Transfer Office of the Paying Agent/Registrar. The City covenants with the Registered Owner of this Bond that on or before each payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

**IF THE DATE** for the payment of the principal of or interest on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the City where the principal corporate trust 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 a series of Bonds dated September 1, 2019, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$\_\_\_\_\_, to provide funds for the following projects: (i) constructing, acquiring, improving, extending, expanding, upgrading and/or developing streets, roads, bridges and intersections including, utility relocation, sidewalks, traffic safety and operational improvements, the purchase of any necessary land, rights-of-way, drainage and other related costs; (ii) constructing, acquiring, improving, renovating, developing and equipping, land and buildings for park and recreational purposes, parkland, scenic easement and trail acquisition, development and improvement and related infrastructure and other costs; (iii) constructing, acquiring, improving, renovating and equipping City public safety facilities for police and fire protection, including the acquisition of any necessary sites and related infrastructure, demolition and other costs; (iv) constructing, renovating, improving, and equipping existing and/or additional City library facilities including acquisition of any necessary sites and related water, wastewater, drainage, streets, sidewalks, parking infrastructure and other related costs and (v) paying costs associated with the issuance of the Bonds as further set forth in the preamble to this Ordinance.

**ON FEBRUARY 1, 2028**, or on any date thereafter, the Bonds of this Series maturing on and after February 1, 2029 may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, at par plus accrued interest to the date fixed for redemption as a whole, or from time to time in part, and, if in part, the particular maturities to be redeemed shall be selected and designated by the City and if less than all of a maturity is to be redeemed, the Paying Agent/Registrar shall determine by lot the Bonds, or a portion thereof, within such maturity to be redeemed (provided that a portion of a Bond may be redeemed only in an integral multiple of \$5,000).

**NO LESS THAN** 30 days prior to the date fixed for any such redemption, the City shall cause the Paying Agent/Registrar to send notice by United States mail, first-class postage prepaid to the Registered Owner of each Bond to be redeemed at its address as it appeared on the Registration Books of the Paying Agent/Registrar at the close of business on the 45th day prior to the redemption date and to major securities depositories, national bond rating agencies and bond information services; provided, however, that the failure to send, mail or receive such notice, or any defect therein or in the sending or mailing thereof, shall not affect the validity or effectiveness of the proceedings for the redemption of any Bonds. By the date fixed for any such redemption due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Bonds or portions thereof which are to be so redeemed. If due provision for such payment is made, all as provided above, the Bonds or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being

outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Bonds shall be redeemed a substitute Bonds or Bonds having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

**ALL BONDS OF THIS SERIES** are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond, or any unredeemed portion hereof, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate principal amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer, conversion, or exchange during the period commencing on the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date.

**WHENEVER** the beneficial ownership of this Bond is determined by a book entry at a securities depository for the Bonds, the foregoing requirements of holding, delivering or transferring this Bond shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

**IN THE EVENT** any Paying Agent/Registrar for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Bonds.

**IT IS HEREBY** certified, recited, and covenanted that this Bond has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Bond have been performed, existed, and been done in accordance with law; and that ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Bond, as such interest comes due, and as such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged for such payment, within the limit prescribed by law.

**BY BECOMING** the Registered Owner of this Bond, the Registered Owner thereby acknowledges all of the terms and provisions of the Bond Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Bond Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Bond and the Bond Ordinance constitute a contract between each Registered Owner hereof and the City.

**IN WITNESS WHEREOF**, the City has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the City and countersigned with the manual or facsimile signature of the City Secretary and has caused the official seal of the City to be duly impressed, or placed in facsimile, on this Bond.

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
Mayor

[CITY SEAL]

**FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

**PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

(To be executed if this Bond is not accompanied by an  
executed Registration Certificate of the Comptroller  
of Public Accounts of the State of Texas)

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a Bond, Bonds, or a portion of a Bond or Bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

UMB Bank, Dallas, Texas  
Paying Agent/Registrar

By \_\_\_\_\_  
Authorized Representative

**FORM OF ASSIGNMENT****ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
 Please insert Social Security or Taxpayer  
 Identification Number of Transferee

\_\_\_\_\_  
 (Please print or typewrite name and address,  
 including zip code, of Transferee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney, to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed:

\_\_\_\_\_  
 NOTICE: Signature(s) must be  
 guaranteed by a member firm of  
 the New York Stock Exchange or  
 a commercial bank or trust company.

\_\_\_\_\_  
 NOTICE: The signature above  
 must correspond with the name  
 of the Registered Owner as it  
 appears upon the front of this  
 Bond in every particular, with-  
 out alteration or enlargement  
 or any change whatsoever.

**FORM OF REGISTRATION CERTIFICATE OF**  
**THE COMPTROLLER OF PUBLIC ACCOUNTS FOR THE INITIAL BOND ONLY:**

**COMPTROLLER'S REGISTRATION CERTIFICATE:      REGISTER NO.**

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 that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this \_\_\_\_\_.

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

[COMPTROLLER'S SEAL]

**INSERTIONS FOR THE INITIAL BOND**

The Initial Bond shall be in the form set forth in this Section, except that:

A. immediately under the name of the Bond, the headings "INTEREST RATE" and "MATURITY DATE" shall both be completed with the words "As shown below" and "CUSIP NO." shall be deleted.

B. the first paragraph shall be deleted and the following will be inserted:

**"ON THE MATURITY DATE SPECIFIED BELOW**, the City of New Braunfels, Texas (the "City"), being a political subdivision, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), on February 1 in each of the years, in the principal installments and bearing interest at the per annum rates set forth in the following schedule:

<u>Years</u>	<u>Maturity Amounts</u>	<u>Interest Rates</u>
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(Information from Sections 2 and 3 to be inserted)

The City promises to pay interest on the unpaid principal amount hereof (calculated on the basis of a 360-day year of twelve 30-day months) from Date of Delivery at the respective Interest Rate per annum specified above. Interest is payable on February 1, 2020 and semiannually on each August 1 and February 1 thereafter to the date of payment of the principal installment specified above; except, that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such principal amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full."

C. The initial Bond shall be numbered "T-1."

**Section 6. TAX LEVY.** A special Interest and Sinking Fund (the "Interest and Sinking Fund") is hereby created solely for the benefit of the Bonds, and the Interest and Sinking Fund shall

be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Bonds. All ad valorem taxes levied and collected for and on account of the Bonds shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and the tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. The rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and the tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund. The ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law. Accrued interest on the Bonds shall be deposited in the Interest and Sinking Fund.

Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under this Section, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under this Section is to be subject to the filing requirements of Chapter 9, Business & Commerce Code, then in order to preserve to the 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 Chapter 9, Business & Commerce Code and enable a filing to perfect the security interest in said pledge to occur.

**Section 7. ESTABLISHMENT OF PROJECT FUND.** (a) Project Fund. The Series 2019 Project Fund is hereby created and shall be established and maintained by the City at an official depository bank of the City. Proceeds from the sale of the Bonds and accrued interest, shall be deposited in the Project Fund.

(b) Investment of Funds. The City hereby covenants that the proceeds of the sale of the Bonds will be used as soon as practicable for the purposes for which the Bonds are issued. Obligations purchased as an investment of money in any fund shall be deemed to be a part of such fund. Any money in any fund created by this Ordinance may be invested as permitted by the Public Funds Investment Act, as amended and the City's Investment Policy.

(c) Security for Funds. All funds created by this Ordinance shall be secured in the manner and to the fullest extent required by law for the security of funds of the City.

(d) Maintenance of Funds. Any funds created pursuant to this Ordinance may be created as separate funds or accounts or as subaccounts of the City's General Fund held by the City's depository, and, as such, not held in separate bank accounts, such treatment shall not constitute a



commingling of the monies in such funds or of such funds and the City shall keep full and complete records indicating the monies and investments credited to each such fund.

(e) Interest Earnings. Interest earnings derived from the investment of proceeds from the sale of the Bonds shall be used along with the Bond proceeds for the purpose for which the Bonds are issued as set forth in Section 1 hereof or to pay principal or interest payments on the Bonds; provided that after completion of such purpose, if any of such interest earnings remain on hand, such interest earnings shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on bond proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

**Section 8. DEFEASANCE OF BONDS.** (a) Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "Defeased Bond") within the meaning of this Ordinance, except to the extent provided in subsections (c) and (e) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date or dates (whether such due date or dates be by reason of maturity, upon redemption, or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof (including the giving of any required notice of redemption or the establishment of irrevocable provisions for the giving of such notice) or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar or an eligible trust company or commercial bank for such payment (1) lawful money of the United States of America sufficient to make such payment, (2) Defeasance Securities, certified by an independent public accounting firm of national reputation to mature as to principal and interest in such amounts and at such times as will ensure the availability, without reinvestment, of sufficient money to provide for such payment and when proper arrangements have been made by the City with the Paying Agent/Registrar or an eligible trust company or commercial bank for the payment of its services until all Defeased Bonds shall have become due and payable or (3) any combination of (1) and (2). At such time as a Bond shall be deemed to be a Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

(b) The deposit under clause (ii) of subsection (a) shall be deemed a payment of a Bond as aforesaid when proper notice of redemption of such Bonds shall have been given or upon the establishment of irrevocable provisions for the giving of such notice, in accordance with this Ordinance. Any money so deposited with the Paying Agent/Registrar or an eligible trust company or commercial bank as provided in this Section may at the discretion of the City also be invested in Defeasance Securities, maturing in the amounts and at the times as hereinbefore set forth, and all income from all Defeasance Securities in possession of the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section which is not required for the payment of such Bond and premium, if any, and interest thereon with respect to which such money has been so deposited, shall be remitted to the City.

(c) Notwithstanding any provision of any other Section of this Ordinance which may be contrary to the provisions of this Section, all money or Defeasance Securities set aside and held in trust pursuant to the provisions of this Section for the payment of principal of the Bonds and premium, if any, and interest thereon, shall be applied to and used solely for the payment of the particular Bonds and premium, if any, and interest thereon, with respect to which such money or Defeasance Securities have been so set aside in trust. Until all Defeased Bonds shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Bonds the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(d) Notwithstanding anything elsewhere in this Ordinance, if money or Defeasance Securities have been deposited or set aside with the Paying Agent/Registrar or an eligible trust company or commercial bank pursuant to this Section for the payment of Bonds and such Bonds shall not have in fact been actually paid in full, no amendment of the provisions of this Section shall be made without the consent of the registered owner of each Bond affected thereby.

(e) Notwithstanding the provisions of subsection (a) immediately above, to the extent that, upon the defeasance of any Defeased Bond to be paid at its maturity, the City retains the right under Texas law to later call that Defeased Bond for redemption in accordance with the provisions of this Ordinance, the City may call such Defeased Bond for redemption upon complying with the provisions of Texas law and upon the satisfaction of the provisions of subsection (a) immediately above with respect to such Defeased Bond as though it was being defeased at the time of the exercise of the option to redeem the Defeased Bond and the effect of the redemption is taken into account in determining the sufficiency of the provisions made for the payment of the Defeased Bond.

As used herein, "Defeasance Securities" means (i) Federal Securities, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds 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 that, on the date the City adopts or approves proceedings authorizing the issuance of refunding bonds or otherwise provide for the funding of an escrow to effect the defeasance of the Bonds, are rated as to investment quality by a nationally recognized investment rating firm no less than "AAA" or its equivalent, and (iv) any obligations hereafter authorized by law to be eligible to effect the defeasance of the Bonds.

"Federal Securities" as used herein means direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America (including Interest Strips of the Resolution Funding Corporation).

**Section 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS.** (a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new Bond of the same principal amount, maturity, and interest rate, as the damaged,

mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

(b) Application for Replacement Bonds. Application for replacement of damaged, mutilated, lost, stolen, or destroyed Bonds shall be made by the Registered Owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Bond, the Registered Owner applying for a replacement bond shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Bond, the Registered Owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Bond, as the case may be. In every case of damage or mutilation of a Bond, the Registered Owner shall surrender to the Paying Agent/Registrar for cancellation the Bond so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Bond shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Bond, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Bond) instead of issuing a replacement Bond, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Bonds. Prior to the issuance of any replacement Bond, the Paying Agent/Registrar shall charge the Registered Owner of such Bond with all legal, printing, and other expenses in connection therewith. Every replacement Bond issued pursuant to the provisions of this Section by virtue of the fact that any Bond is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Bond shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Bonds duly issued under this Ordinance.

(e) Authority for Issuing Replacement Bonds. In accordance with Subchapter B of Texas Government Code, Chapter 1206, this Section of this Ordinance shall constitute authority for the issuance of any such replacement Bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such Bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

**Section 10. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS AND CONTINGENT INSURANCE PROVISION, IF OBTAINED.** The Mayor of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds the Comptroller of Public Accounts (or a deputy designated in writing to act for the Comptroller) shall manually sign the

Comptroller's Registration Certificate attached to such Bonds, and the seal of the Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the Registered Owners of the Bonds. In addition, if bond insurance or other credit enhancement is obtained, the Bonds may bear an appropriate legend.

**Section 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS.** (a) Covenants. The Issuer covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the Issuer covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds or the projects financed therewith are so used, such amounts, whether or not received by the Issuer, with respect to such private business use, do not, under the terms of this Order or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Bonds, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Bonds (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Bonds being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Bonds being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Bonds, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a

materially higher yield over the term of the Bonds, other than investment property acquired with --

(A) proceeds of the Bonds invested for a reasonable temporary period of 3 years or less or, in the case of a refunding bond, for a period of 90 days or less until such proceeds are needed for the purpose for which the bonds are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Bonds;

(7) to otherwise restrict the use of the proceeds of the Bonds or amounts treated as proceeds of the Bonds, as may be necessary, so that the Bonds do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage);

(8) to refrain from using the proceeds of the Bonds or proceeds of any prior bonds to pay debt service on another issue more than 90 days after the date of issue of the Bonds in contravention of the requirements of section 149(d) of the Code (relating to advance refundings); and

(9) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Bonds) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Bonds have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "Rebate Fund" is hereby established by the Issuer for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the bondholders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The Issuer understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations and, in the case of refunding bonds, transferred proceeds (if any) and proceeds of the refunded bonds expended prior to the date of issuance of the Bonds. It is the understanding of the Issuer that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Bonds, the Issuer will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Bonds under section 103 of the Code.

In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Bonds, the Issuer agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Bonds under section 103 of the Code. In furtherance of such intention, the Issuer hereby authorizes and directs the Mayor to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the Issuer, which may be permitted by the Code as are consistent with the purpose for the issuance of the Bonds.

(d) Allocation Of, and Limitation On, Expenditures for the Project. The Issuer covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Order (the "Project") on its books and records in accordance with the requirements of the Internal Revenue Code. The Issuer recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the Issuer recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Bonds, or (2) the date the Bonds are retired. The Issuer agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Bonds. For purposes hereof, the issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Disposition of Project. The Issuer covenants that the property constituting the Project will not be sold or otherwise disposed in a transaction resulting in the receipt by the Issuer of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Bonds. For purpose of the foregoing, the Issuer may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the Issuer shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(g) Reimbursement. This Ordinance is intended to satisfy the official intent requirements set forth in section 1.150-2 of the Treasury Regulations.

**Section 12. CONTROL AND DELIVERY OF BONDS.** All officers of the City are authorized to execute such documents, certificates and receipts as they may deem appropriate in order to consummate the delivery of the Bonds in accordance with the Purchase Contract.

(a) The Mayor of the City is hereby authorized to have control of the Initial Bond and all necessary records and proceedings pertaining thereto pending investigation, examination and approval of the Attorney General of the State of Texas, registration by the Comptroller of Public Accounts of the State of Texas, and registration with, and initial exchange or transfer by, the Paying Agent/Registrar.

(b) After registration by the Comptroller of Public Accounts of the State of Texas, delivery of the Bonds shall be made to the Purchaser under and subject to the general supervision and direction of the Mayor of the City, against receipt by the City of all amounts due to the City under the terms of sale.

**Section 13. SALE OF BOND.** The Bonds are hereby sold to the bidder whose bid produced the lowest net effective interest rate, pursuant to the taking of public bids therefor, on this date, and shall be delivered to a syndicate of the purchaser represented by \_\_\_\_\_ (the "Purchaser") at a price of \$\_\_\_\_\_, representing the par amount of the Bonds, plus a net reoffering premium of \$\_\_\_\_\_, less an underwriter's discount of \$\_\_\_\_\_, plus accrued interest of \$\_\_\_\_\_. The Bonds shall initially be registered in the name of CEDE & Co.

**Section 14. APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT.** Attached hereto as Exhibit "A" is a substantially final form of Paying Agent/Registrar Agreement. The Mayor or Mayor Pro-tem is hereby authorized to amend, complete or modify such agreement as necessary and are further authorized to execute such agreement and the City Secretary is hereby authorized to attest such agreement.

**Section 15. CONTINUING DISCLOSURE UNDERTAKING.** (a) Annual Reports.  
(i) The City shall provide annually to the MSRB, (i) within six months after the end of each fiscal year of the City ending in or after 2019, financial information and operating data with respect to the City of the general type included in this Official Statement being the information of the type included in Table 1 of the Official Statement and Tables 1 through 10 of Appendix A to the Official Statement and the financial statements included in Appendix D to the Official Statement if audited financial statements are then available, and (ii) if not provided as part of such financial information and operating data, audited financial statements of the City, when and if available. Any financial statements to be provided shall be (i) prepared in accordance with the accounting principles described in Appendix D to the Official Statement and (ii) audited, if the City commissions an audit of such financial statements and the audit is completed within the period during which they must be provided. If the audit of such financial statement is not complete within 12 months after any such fiscal year end, then the City shall file unaudited financial statements within such 12-month period and audited financial statements for the applicable fiscal year, when and if the audit report on such statements becomes available. Such information shall be transmitted electronically to the MSRB, in such format and accompanied by such identifying information as prescribed by the MSRB.

(ii) 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 (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB or filed with the SEC.

(b) Material Event Notices. The City shall notify the MSRB, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, of any of the following events with respect to the Bonds:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults, if material within the meaning of the federal securities laws;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. 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 events affecting the tax status of the Bonds;
- G. Modifications to rights of holders of the Bonds, if material within the meaning of the federal securities laws;
- H. Bond calls, if material within the meaning of the federal securities laws;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds, if material within the meaning of the federal securities laws;
- K. Rating changes;
- L. Bankruptcy, insolvency, receivership or similar event of the City;
- M. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into 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 within the meaning of the federal securities laws; and



- N. Appointment of a successor or additional trustee or the change of name of a trustee, if material within the meaning of the federal securities laws.
- O. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
- P. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

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 (a) of this Section by the time required by such subsection.

(c) Limitations, Disclaimers, and Amendments. (i) The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, 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 (b) hereof of any Bond calls and defeasance that cause the City to no longer be such an "obligated person".

(ii) The provisions of this Section are for the sole benefit of the registered owners 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.

(iii) UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE REGISTERED OWNER 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.

(iv) No default by the City in observing or performing its obligations under this Section shall comprise 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.

(v) The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise 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 since such offering as well as such changed circumstances and (2) either (a) the registered owners 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) determined that such amendment will not materially impair the interest of the registered owners and beneficial owners of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with subsection (a) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds.

(d) **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.

"SEC" means the United States Securities and Exchange Commission.

**Section 16. AMENDMENT OF ORDINANCE.** The City hereby reserves the right to amend this Ordinance subject to the following terms and conditions, to-wit:

(a) The City may from time to time, without the consent of any holder, except as otherwise required by paragraph (b) below, amend or supplement this Ordinance in order to (i) cure any ambiguity, defect or omission in this Ordinance that does not materially adversely affect the interests of the holders, (ii) grant additional rights or security for the benefit of the holders, (iii) add events of default as shall not be inconsistent with the provisions of this Ordinance and that shall not materially adversely affect the interests of the holders, (iv) qualify this Ordinance under the Trust Indenture Act of 1939, as amended, or corresponding provisions of federal laws from time to time in effect, (v) obtain insurance or ratings on the Bonds, (vi) obtain the approval of the Attorney General of the State Texas, or (vii) make such other provisions in regard to matters or questions arising under this Ordinance as shall not be inconsistent with the provisions of this Ordinance and

that shall not in the opinion of the City's Bond Counsel materially adversely affect the interests of the holders.

(b) Except as provided in paragraph (a) above, the holders of Bonds aggregating in principal amount 51% of the aggregate principal amount of then outstanding Bonds that are the subject of a proposed amendment shall have the right from time to time to approve any amendment hereto that may be deemed necessary or desirable by the City; provided, however, that without the consent of 100% of the holders in aggregate principal amount of the then outstanding Bonds, nothing herein contained shall permit or be construed to permit amendment of the terms and conditions of this Ordinance or in any of the Bonds so as to:

- (1) Make any change in the maturity of any of the outstanding Bonds;
- (2) Reduce the rate of interest borne by any of the outstanding Bonds;
- (3) Reduce the amount of the principal of, or redemption premium, if any, payable on any outstanding Bonds;
- (4) Modify the terms of payment of principal or of interest or redemption premium on outstanding Bonds or any of them or impose any condition with respect to such payment; or
- (5) Change the minimum percentage of the principal amount of any series of Bonds necessary for consent to such amendment.

(c) If at any time the City shall desire to amend this Ordinance under this Section, the City shall send by U.S. mail to each registered owner of the affected Bonds a copy of the proposed amendment and cause notice of the proposed amendment to be published at least once in a financial publication published in The City of New York, New York or in the State of Texas. Such published notice shall briefly set forth the nature of the proposed amendment and shall state that a copy thereof is on file at the office of the City for inspection by all holders of such Bonds.

(d) Whenever at any time within one year from the date of publication of such notice the City shall receive an instrument or instruments executed by the holders of at least 51% in aggregate principal amount of all of the Bonds then outstanding that are required for the amendment, which instrument or instruments shall refer to the proposed amendment and that shall specifically consent to and approve such amendment, the City may adopt the amendment in substantially the same form.

(e) Upon the adoption of any amendatory Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance with such amendatory Ordinance, and the respective rights, duties, and obligations of the City and all holders of such affected Bonds shall thereafter be determined, exercised, and enforced, subject in all respects to such amendment.

(f) 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 publication of the notice provided for in this Section, and shall be conclusive and binding upon all future holders of the same Bond during such period. Such consent may be revoked at any time after six months from the date of the publication of said notice by the holder who gave such consent, or by a successor in title, by filing notice with the City, but such revocation shall not be effective if the holders of 51% in aggregate principal amount of the affected Bonds then outstanding, have, prior to the attempted revocation, consented to and approved the amendment.

## **Section 17. DEFAULT AND REMEDIES.**

(a) Events of Default. Each of the following occurrences or events for the purpose of this Ordinance is hereby declared to be an Event of Default:

(i) the failure to make payment of the principal of or interest on any of the Bonds when the same becomes due and payable; or

(ii) default in the performance or observance of any other covenant, agreement or obligation of the City, the failure to perform which materially, adversely affects the rights of the Registered Owners of the Bonds, including, but not limited to, their prospect or ability to be repaid in accordance with this Ordinance, and the continuation thereof for a period of 60 days after notice of such default is given by any Registered Owner to the City.

(b) Remedies for Default.

(i) Upon the happening of any Event of Default, then and in every case, any Registered Owner or an authorized representative thereof, including, but not limited to, a trustee or trustees therefor, may proceed against the City, or any official, officer or employee of the City in their official capacity, for the purpose of protecting and enforcing the rights of the Registered Owners under this Ordinance, by mandamus or other suit, action or special proceeding in equity or at law, in any court of competent jurisdiction, for any relief permitted by law, including the specific performance of any covenant or agreement contained herein, or thereby to enjoin any act or thing that may be unlawful or in violation of any right of the Registered Owners hereunder or any combination of such remedies.

(ii) It is provided that all such proceedings shall be instituted and maintained for the equal benefit of all Registered Owners of Bonds then outstanding.

(c) Remedies Not Exclusive.

(i) No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or under the Bonds or now or hereafter existing at law or in equity; provided, however, that notwithstanding any other provision of this Ordinance, the right to accelerate the debt evidenced by the Bonds shall not be available

as a remedy under this Ordinance.

(ii) The exercise of any remedy herein conferred or reserved shall not be deemed a waiver of any other available remedy.

(iii) By accepting the delivery of a Bond authorized under this Ordinance, such Registered Owner agrees that the certifications required to effectuate any covenants or representations contained in this Ordinance do not and shall never constitute or give rise to a personal or pecuniary liability or charge against the officers, employees or trustees of the City or the City Council.

(iv) None of the members of the City Council, nor any other official or officer, agent, or employee of the City, shall be charged personally by the Registered Owners with any liability, or be held personally liable to the Registered Owners under any term or provision of this Ordinance, or because of any Event of Default or alleged Event of Default under this Ordinance.

**Section 18. CREDIT AGREEMENT.** To the extent permitted by law, the City reserves the right to enter into Credit Agreements in connection with the Bonds, upon the written opinion of the City's Director of Finance that such Credit Agreements are in the best interest of the City given the market conditions at the time. The Credit Agreements will constitute a Credit Agreement as defined in Chapter 1371 of the Texas Government Code.

**Section 19. NO RECOURSE AGAINST CITY OFFICIALS.** No recourse shall be had for the payment of principal of or interest on the Bonds or for any claim based thereon or on this Ordinance against any official of the City or any person executing any Bonds.

**Section 20. FURTHER ACTIONS.** The officers and employees of the City are hereby 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 under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the initial sale and delivery of the Bonds, the Paying Agent/Registrar Agreement, and the Official Statement. In addition, prior to the initial delivery of the Bonds, the Mayor, Director of Finance and Bond Counsel are hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement or (ii) obtain the approval of the Bonds by the Texas Attorney General's office.

In case any officer of the City whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

**Section 21. INTERPRETATIONS.** All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The

titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge to secure the payment of the Bonds.

**Section 22. INCONSISTENT PROVISIONS.** All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provisions 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 23. INTERESTED PARTIES.** Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Bonds.

**Section 24. SEVERABILITY.** The provisions of this Ordinance are severable; and in case any one or more of the provisions of this Ordinance or the application thereof to any person or circumstance should be held to be invalid, unconstitutional, or ineffective as to any person or circumstance, the remainder of this Ordinance nevertheless shall be valid, and the application of any such invalid provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

**Section 25. PAYMENT OF ATTORNEY GENERAL FEE.** The City hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of the Bonds or (ii) \$9,500, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Bonds.

**Section 26. NO PERSONAL LIABILITY.** No covenant or agreement contained in the Bonds, this Ordinance or any corollary instrument shall be deemed to be the covenant or agreement of any member of the City Council of the City or any officer, agent, employee or representative of the City Council of the City in his individual capacity, and neither the directors, officers, agents, employees or representatives of the City Council of the City nor any person executing the Bonds shall be personally liable thereon or be subject to any personal liability for damages or otherwise or accountability by reason of the issuance thereof, or any actions taken or duties performed, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty, or otherwise, all such liability being expressly released and waived as a condition of and in consideration for the issuance of the Bonds.

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**IN ACCORDANCE WITH SECTION 1201.028**, Texas Government Code, passed and approved on the first and final reading on the 9th day of September, 2019.

**THE CITY OF NEW BRAUNFELS:**

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Mayor, City of New Braunfels, Texas

**ATTEST:**

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City Secretary, City of New Braunfels, Texas

**APPROVED AS TO LEGALITY:**

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City Attorney, City of New Braunfels, Texas

[Signature Page]



**EXHIBIT A**

**PAYING AGENT/REGISTRAR AGREEMENT**





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. I)

### Presenter/Contact

*Patrick Aten, City Secretary*  
(830) 221-4010 - [paten@nbtexas.org](mailto:paten@nbtexas.org)

### **SUBJECT:**

Discuss and consider approval of the appointment of one individual to the Airport Advisory Board for a term ending May 12, 2022.

### **BACKGROUND / RATIONALE:**

The Airport Advisory Board is made up of seven members serving three-year staggered terms. Five members serve at-large, and two members must have aviation experience.

The vacancy for this position was posted from March 16, 2019, through August 15, 2019.

The following qualified applications were submitted:

- David Baum
- Michael Fogerty
- Gregory Howard
- David Lerch

### **Applicants' current & prior service on Boards and Commissions**

David Baum has no previous experience on City boards.

Michael Fogerty has no previous experience on City boards.

Gregory Howard has no previous experience on City boards.

David Lerch has no previous experience on City boards.

### **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 Airport Advisory Board for a

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term ending May 12, 2022.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

9/9/2019

Agenda Item No. J)

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Presenter/Contact

*Patrick Aten, City Secretary*  
(830) 221-4006 - [paten@nbtexas.org](mailto:paten@nbtexas.org)

**SUBJECT:**

Discuss and consider approval of the appointment of three individuals to the Library Advisory Board for two terms ending September 26, 2022, and one term ending September 26, 2021.

**BACKGROUND / RATIONALE:**

The Library Advisory Board has seven members serving three-year staggered terms. Notice of vacancies were advertised from July 16 to August 15, 2019. One vacancy ending in 2021 is due to a resignation.

Nine qualified applications were submitted for the vacancies:

- Carol Bisset
- Connie Born (incumbent)
- Kelly Briles
- Kay Cartwright
- Sarah "Faith" Coble
- Julia Hopp
- Hannah Johnson
- Marilyn Johnson
- Shannon Procknow-Johnson

**Applicants' current & prior service on Boards and Commissions**

Carol Bisset has no prior experience on City boards.

Connie Born has served on the Library Advisory Board since March 2017.

Kelly Briles has no prior experience on City boards.

Kay Cartwright has no prior experience on City boards.

Sarah Coble has no prior experience on City boards.

Julia Hopp has no prior experience on City boards.

Hannah Johnson has no prior experience on City boards.

Marilyn Johnson has no prior experience on City boards.

Shannon Procknow-Johnson has no prior experience on City boards.

**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 three individuals to the Library Advisory Board for two terms ending September 26, 2022, and one term ending September 26, 2021.



## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. A)

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Deliberate issues regarding economic development negotiations in accordance with Section 551.087, of the Texas Government Code, including but not limited to:

- Project Rethread
- Project Nautilus
- Project 2x4
- Project Maintenance







## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. B)

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Deliberate pending/contemplated litigation, settlement offer(s), and matters concerning privileged and unprivileged client information deemed confidential by Rule 1.05 of the Texas Disciplinary Rules of Professional Conduct in accordance with Section 551.071, of the Texas Government Code, specifically:

- Meet and Confer negotiations with New Braunfels Professional Fire Fighters Association





## City Council Agenda Item Report

550 Landa Street  
New Braunfels, TX

**9/9/2019**

Agenda Item No. C)

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Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the City Attorney in accordance with Section 551.074 of the Texas Government Code.

