

**SOAH DOCKET NO. 473-20-4071.WS
PUC DOCKET NO. 50788**

RATEPAYERS APPEAL OF THE	§	BEFORE THE STATE OFFICE
DECISION BY WINDERMERE OAKS	§	
WATER SUPPLY CORPORATION TO	§	OF
CHANGE WATER AND SEWER	§	
RATES	§	ADMINISTRATIVE HEARINGS

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S
MOTION TO ABATE PROCEEDING**

COMES NOW, Windermere Oaks Water Supply Corporation (WOWSC) and files this Motion to Abate this Proceeding.

On April 27, 2020, the Ratepayers of WOWSC (Ratepayers) filed a Petition to Appeal the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates (Ratepayers' Appeal).¹ The Public Utility Commission (PUC or Commission) referred this matter to the State Office of Administrative Hearings (SOAH) on June 23, 2020.² The SOAH Administrative Law Judge (ALJ) set the initial procedural schedule in SOAH Order No. 2.³ The parties initially scheduled mediation for October 1, 2020. However, upon the Ratepayers' request, the mediation was indefinitely postponed until an ongoing discovery dispute is resolved.

A ruling on the pending discovery dispute by the ALJ in this proceeding could irreparably harm WOWSC in pending ongoing litigation. Therefore, abating this proceeding is absolutely necessary until these concurrent matters are resolved in order to protect WOWSC's privilege.

WOWSC respectfully requests that the Honorable ALJ issue an order granting this Motion and abating this proceeding and the procedural schedule set forth in SOAH Order No. 2 until all pending related litigation is final and no longer appealable.

¹ See Ratepayers Appeal of the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates (April 27, 2020) (Petition).

² See Order of Referral (June 23, 2020).

³ See SOAH Order No. 2 – Adopting Agreed Procedural Schedule, Setting Hearing on the Merits and Prehearing Conference, Discussing Mediation (August 17, 2020).

I. EXECUTIVE SUMMARY

Ratepayers' Appeal is their third attempt in its fourth separate case against WOWSC to review privileged information relating to the same ongoing dispute. The four lawsuits, later described in more detail, consist of: (1) TOMA Integrity Inc. Lawsuit, (First Lawsuit), (2) Double F Hanger Operations, LLC Lawsuit (Second Lawsuit), (3) WOWSC's Original Petition for Declaratory Relief with the Attorney General of Texas, and Danny Flunker's subsequent Appeal (AG Lawsuit), and (4) Ratepayers' Appeal in this proceeding. Two legal proceedings other than Ratepayers' Appeal are still active (and pre-date this Appeal), with pending decisions and agreements concerning the same documents for which WOWSC claims privilege in this docket: (1) the AG Lawsuit, with the sole issue before the court consisting of a decision on the privileged documents, and (2) the Second Lawsuit.⁴

Further complicating matters, Ratepayers' Representative in this case, Patti Flunker, was a named plaintiff in the original petition for the Second Lawsuit, and is related by marriage to and/or is a member of the same household as Danny Flunker. Danny Flunker is the Intervenor in WOWSC's AG Lawsuit, and is a registered Director of TOMA Integrity Inc., whose other Directors are plaintiffs in the Second Lawsuit. The discovery dispute is directly related to the same privileged information at issue in the AG Lawsuit and the subject matter sought is core privileged information relating to the Second Lawsuit. The AG Lawsuit has a pending decision on this exact issue.

In Ratepayers' Appeal, Ratepayers' Representatives are attempting to make an end-run around (and to gain an unfair advantage in) the ongoing cases in district courts by requesting the very same documents that have been redacted due to attorney-client and work product privilege in those cases. The discovery dispute revolves around the same information for which the AG Lawsuit was initiated to withhold based on privilege. In that case, WOWSC petitioned the Attorney General of Texas (AG) to find certain information on legal invoices to be privileged

⁴ See WOWSC's Objections to Ratepayers' First Request for Information, Exhibits A-C at 18-88 (Sept. 9, 2020) (WOWSC's Objections).

under attorney-client and work product privileges. The AG agreed with WOWSC, and Danny Flunker appealed the AG's decision. Currently there is a pending settlement agreement before the court in that appeal. Additionally, these same documents are at issue and directly reflect privileged information in and about the Second Lawsuit. While Ratepayers' Request for Information (RFI) covers a broader range of privileged documents than the pending AG Lawsuit and Second Lawsuit, Ratepayers' RFI encompasses the entirety of the privileged documents at issue in those cases.

Simply put, allowing discovery of this information in Ratepayers' Appeal would have the same effect as ruling against WOWSC on the merits of the sole issue before the judge in the AG Lawsuit and will put WOWSC at a material disadvantage in the Second Lawsuit, even if such discovery in this case was provided under a protective order. Not only would allowing discovery of the requested unredacted documents in this proceeding irreparably harm WOWSC in the ongoing lawsuits, Ratepayers' attempt to review these documents is especially inappropriate because Ratepayer Representative Patti Flunker was a named plaintiff in the Second Lawsuit, and is related by marriage and/or resides with Danny Flunker, the plaintiff in the AG Lawsuit and a former plaintiff and current corporate affiliate of the plaintiffs in the suit about which he is seeking discovery of privileged information.

The combination of these lawsuits has been a collateral effort to pierce WOWSC's attorney-client and work product privileges through contested litigation. WOWSC's hands have been tied. For years, WOWSC has received and responded to several Public Information Act (PIA) requests and legal challenges from a small group of its members, which has caused WOWSC to incur substantial attorneys' fees. Without recovering these attorneys' fees in rates, WOWSC's ability to provide continuous and adequate water and wastewater service to its customers will be jeopardized. Now, the Ratepayer Representatives—who are closely related to and include the litigants of other active cases causing WOWSC's financial predicament—have appealed WOWSC's rate increase and are attempting to use the discovery process to gain access to privileged information.

Protective order or not, there is no way to un-ring the bell of Ratepayer Representatives being permitted to review WOWSC's privileged information regarding the same subject matter of the very suits currently before the district courts. Further, if WOWSC is forced to provide privileged documents to Ratepayers, or even Commission Staff, in this proceeding WOWSC will arguably have lost the protection of its privilege in all proceedings.

For the foregoing and following reasons, the ALJ should abstain from ruling on the pending discovery disputes and instead grant WOWSC's Motion to Abate this proceeding until all pending related litigation is final and no longer appealable.

II. FACTUAL BACKGROUND

A. First Lawsuit, TOMA Integrity Inc. (Final)

In December of 2017 TOMA Integrity Inc. (TOMA)—whose board of directors consisted of Danny Flunker, John Richard Dial, Stuart Bruce Sorgen, and Lawrence Ffrench—sued WOWSC for alleged violations of the Texas Open Meeting Act involving the sale of real estate by WOWSC (First Lawsuit). The plaintiffs lost this suit and were denied review by the Texas Supreme Court.

B. Second Lawsuit, Double F Hanger Operations, LLC (ACTIVE)

A second lawsuit involving the same sale of real estate by the WOWSC was filed July 9, 2018 by Double F Hanger Operations, LLC, Lawrence Ffrench, Patricia (Patti) Flunker, and Mark McDonald (Second Lawsuit).⁵ WOWSC was added as a defendant to the Second Lawsuit on or before May 14, 2019, and John Richard Dial, Stuart Bruce Sorgen and Lawrence Ffrench (Intervenor Plaintiffs) filed an Original Petition in Intervention in the Second Lawsuit seeking similar relief regarding the same transaction from the WOWSC. Later, the original plaintiffs filed a motion to remove themselves from the suit⁶ and the Intervenor Plaintiffs have effectively

⁵ See Exhibit A, Plaintiff's Original Verified Petition for Injunction and Declaratory Relief.

⁶ Including Patti Flunker.

taken over as the plaintiff in this proceeding. On August 24, 2020, the Intervenor Plaintiffs filed their Third Amended Original Petition.⁷

Danny Flunker, as well as Mr. Dial, Mr. Sorgen, and Mr. Ffrench are all registered Directors of TOMA, connecting them to the First Lawsuit.⁸

Ratepayers' Representatives' connection to this case is clear: Patti Flunker was originally a named plaintiff; Danny Flunker, who is related to Patti Flunker, is a registered Director of TOMA; and the Intervenor Plaintiffs are registered Directors of TOMA; and Mr. Dial, Mr. Sorgen and Mr. Ffrench signed the ratepayer's petition to bring this appeal.

C. Third Lawsuit, WOWSC Petition for Declaratory Relief with the Attorney General and PIA Appeal (ACTIVE)

On May 28, 2019, pursuant to the Public Information Act, Danny Flunker sent a PIA request to WOWSC for "copies of all legal invoices from 3/7/18 to today's date."⁹

On June 12, 2019 WOWSC filed its Original Petition for Declaratory Relief with the Attorney General of Texas (AG Lawsuit) to prevent the disclosure of the information – *privileged* information – that Danny Flunker sought in the PIA request.¹⁰ The AG agreed that WOWSC was entitled to most all of the relief sought in WOWSC's Petition for Declaratory Relief, and agreed that a majority of the time entries on the legal invoices was protected due to attorney-client and work product privilege.¹¹ Danny Flunker intervened to oppose the AG's proposed settlement. There is currently a settlement agreement pending which would resolve this PIA appeal, but it has not been approved and the documents are still at issue because of Mr. Flunker's opposition.

⁷ See WOWSC's Objections, Exhibit C.

⁸ See Exhibit B, TOMA Integrity Inc. Certificate of Formation.

⁹ See WOWSC's Objections, Exhibit D.

¹⁰ See *Id.*

¹¹ See WOWSC's Objections, Exhibits A and B.

D. Fourth Lawsuit, Ratepayers' Appeal of WOWSC Rates

Ratepayers (whose Representatives include Patti Flunker, and signatories include each of the Intervening Plaintiffs from the Second Lawsuit) are now seeking production of WOWSC's privileged information through their First RFI and Motion to Compel. Ratepayers' First RFI requests a broad range of privileged documents that covers the same documents at issue. Ratepayers' RFI No. 1-9 requests "all unredacted attorney invoices for the years 2018 and 2019," whereas, in the AG Lawsuit, Danny Flunker was seeking attorney invoices from March 7, 2018 through May 28, 2019. If the ALJ in Ratepayers' Appeal determines that WOWSC must produce the privileged invoices from Ratepayers' RFI No. 1-9, WOWSC will be denied the protection of its privilege for all documents relevant in the AG Lawsuit and the Second Lawsuit, both of which are still in active litigation.

III. ARGUMENT AND AUTHORITIES

WOWSC filed its Petition for Declaratory Relief with the AG to prevent disclosure of the same information Ratepayers are now seeking through discovery in a proceeding in front of the Commission. Ratepayers are using a different forum to force production of privileged documents – which the AG agrees are privileged – before the district court judge has an opportunity to rule on that very issue. Should Ratepayers be permitted to discover privileged information, the sole issue before the court in the AG Lawsuit is rendered moot. The finalization of the pending related litigation would promote judicial efficiency and uniformity regarding the discovery of the privileged invoices, or, at the very least, would prevent WOWSC from involuntarily waiving privilege to documents that are at the heart of other cases.

Additionally, requiring WOWSC to provide the privileged documents would create troubling legal precedent and policy. Ratepayers locked in active law suits with regulated water companies could simply wait until the company is forced to recover its legal fees to abuse the Commission's appellate process to gain access to privileged documents, exposing the company's litigation strategy involuntarily and putting the company at an undeniable legal disadvantage.

A. Permitting discovery of privileged information is irreversible, would remove WOWSC's privilege protection in the other lawsuits, and would rule on the sole contested issue in the Attorney General Lawsuit.

Privilege is waived if privileged communications are disclosed to a third party.¹² The Texas Supreme Court has made clear that disclosure of attorney client privileged information is an irreversible act.¹³ “Once [privileged] information has been disclosed, loss of confidentiality is irreversible . . . [t]he bell cannot be unrung, and neither dissemination nor use can be effectively restrained.”¹⁴ Further, once the attorney-client privilege has been waived, the privilege is generally lost for all purposes and in all forums.¹⁵ Having had the opportunity to assert and address the privilege claim in a judicial proceeding, the privilege holder is thereafter barred, under the doctrine of res judicata and collateral estoppel, from relitigating the resolved claim.¹⁶ Moreover, the attorney-client privilege holds a special place among privileges: it is “the oldest and most venerated of the common law privileges of confidential communications.”¹⁷ As the most sacred of all legally recognized privileges, its preservation is essential to the just and orderly operation of our legal system.¹⁸ The attorney-client privilege exists—and has been a cornerstone of our legal system for nearly 500 years—because the interests protected and secured by the promise of confidentiality are not merely significant; they are quintessentially imperative.¹⁹

By exposing the documents to Ratepayers or Commission Staff, WOWSC will have functionally lost its privilege as to the same documents at issue in all of the pending legal

¹² See Tex.R. Civ. Evid. 511(a)(1); See also *In re XL Specialty Ins. Co.*, 373 S.W.3d 46, 50 (Tex. 2012).

¹³ See *Paxton v. City of Dallas*, 509 S.W.3d 247, 261 (Tex. 2017).

¹⁴ *Id.*

¹⁵ *Genentech, Inc. v. U.S. Intern. Trade Comm'n*, 122 F.3d 1409, 1416 (Fed. Cir. 1997).

¹⁶ *Id.* at 1416-1417.

¹⁷ *Paxton*, 509 S.W.3d at 259 (quoting *U.S. v. Edwards*, 303 F.3d 606, 618 (5th Cir. 2002)).

¹⁸ *Paxton*, 509 S.W.3d at 259 (internal quotations omitted).

¹⁹ *Id.* at 261.

matters. For this reason, a protective order is improper and not sufficient to protect attorney-client or work product privileged information.²⁰

Ratepayers cannot be permitted to use discovery provisions under the Commission's rules in this Appeal to circumvent the discovery process in other pending cases, expose privileged information, and jeopardize WOWSC's position in the other lawsuits.

Once Ratepayers have viewed privileged information pertaining to a separate case *in which the Representatives are related to and/or are living with a plaintiff in one of the ongoing cases*, there is no way for them to "un-see" privileged information or ensure such information does not spill to WOWSC's opposing parties in the ongoing lawsuits. The court should not allow discovery of attorney-client and work product information in any way, including via protective order, as such action is entirely insufficient when weighed against the high bar of protection provided to attorney-client and work product privileged information and the irreversible harm of allowing closely-related opposing litigants to review such information. The documents requested by Ratepayers are broader than the documents in the other lawsuits, but encompass the entirety of the documents in the other lawsuits. This means that if the ALJ orders that the documents are not privileged in this proceeding, WOWSC's privilege for all documents in the other lawsuits will be functionally lost forever.

Should Ratepayers be permitted to discover the information the WOWSC is seeking to withhold, such disclosure would be the same as ruling on the merits of the AG Lawsuit and moot the entire appeal. It would also give the litigants opposing WOWSC in the Second Lawsuit an incredible and unprecedented advantage of having at their disposal WOWSC's legal thoughts and strategies to use to their advantage, and WOWSC's disadvantage.

²⁰ Disclosure of other types of confidential information such as patient-doctor or trade secret information may sometimes be adequately protected via a protective order; however, there is no such authority that a protective order is sufficient to protect disclosure of attorney-client or work product privileged information. See *e.g. In re Collins*, 286 S.W.3d 911 (Tex. 2009); *In re Cont'l Gen. Tire, Inc.*, 979 S.W.2d 609 (Tex. 1998).

Therefore, in order to avoid irreparably harming WOWSC in the pending litigation, by forcing WOWSC to lose its privileges, the ALJ should grant WOWSC's Motion to Abate until the pending lawsuits can be fully and finally resolved.

B. The Administrative Law Judge should abate this proceeding until the pending related litigation is final and no longer appealable.

Under 16 Texas Administrative Code (TAC) § 22.202(c), "the presiding officer has broad discretion in conducting the course, conduct, and scope of the hearing." Further, "[t]he presiding officer's authority includes, but is not limited to...abate a proceeding."

WOWSC acknowledges that, even after the other lawsuits are finalized, the documents may still be considered privileged in this case. However, alternatively, without abating this case, the decisions made by the ALJ regarding the discovery dispute over WOWSC's privileged documents could irreparably harm WOWSC.

Because the ALJ has broad discretion, including the authority to abate the proceeding, WOWSC respectfully requests that the ALJ grant WOWSC's Motion to Abate, for fairness, judicial efficiency, and to protect the integrity of the attorney-client and work product privileges from the abuse of Ratepayers' latest discovery demands for the same documents.

IV. PRAYER

For the foregoing reasons, WOWSC requests the Honorable Administrative Law Judge grant WOWSC's Motion, abating this proceeding and the procedural schedule set forth in SOAH Order No. 2 until all pending related litigation is final and no longer appealable.

Respectfully submitted,

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ROCHELLE & TOWNSEND, P.C.
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Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



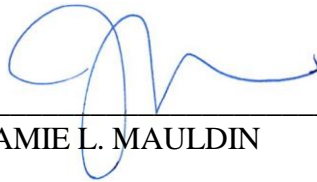
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**ATTORNEYS FOR WINDERMERE OAKS
WATER SUPPLY CORPORATION**

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 28, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN

Filed: 7/9/2018 4:51 PM
 Casie Walker, District Clerk
 Burnet County, Texas
 By: Teresa Holland, Deputy

48292
 CAUSE NO. _____

DOUBLE F HANGER OPERATIONS, LLC,	§	IN THE DISTRICT COURT
LAWRENCE R. FFRENCH, Jr.,	§	
PATRICIA FLUNKER, and	§	Burnet County - 33rd District Court
MARK A. McDONALD	§	
<i>Plaintiffs</i>	§	
	§	
v.	§	BURNET COUNTY
	§	
FRIENDSHIP HOMES & HANGARS, LLC,	§	
And BURNET COUNTY	§	
COMMISSIONERS COURT	§	
<i>Defendants</i>	§	_____ DISTRICT COURT

**PLAINTIFF'S ORIGINAL VERIFIED PETITION FOR INJUNCTION
 AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs, together "Double F Hanger" file this Original Verified Petition against Defendants Friendship Homes & Hangars, LLC ("Friendship Homes") and the Burnet County Commissioners Court ("County") seeking to challenge ownership by Friendship Homes of certain property and to enjoin the subdivision of said property.

NATURE OF THE CASE AND DISCOVERY CONTROL PLAN

1. a. Discovery will be conducted under TRCP 190.3, Level 2.
- b. Plaintiffs are all member of the Windermere Oaks Water Supply Corporation (WOWSC) seeking to protect their equitable interest in the WOWSC from unlawful transfer of WOWSC property to Defendant Friendship and its proposed subdivision, a plat for which is set before the County for approval. On December 19, 2015 and on February 22, 2016, the WOWSC Board (at the time) blatantly violated the Texas Open Meetings Act by approving sale of the property (Tract 1) to Friendship, a company owned by then-WOWSC Board member Dana Martin, without public notice or competition for sales of the land. In addition, a Right-of-First Refusal

was given to Friendship for additional WOWSC property (Tract 2), although there is no record that the WOWSC Board ever approved that Right-of-First-Refusal. At the time that the former WOWSC Board approved the property sale to Friendship Homes and Hangars, that entity did not even exist, and was not incorporated until March 1, 2016, just a few days before the property closing occurred. Suit is currently pending in *TOMA Integrity v. WOWSC*, Cause No. 47531, in the 33rd District Court, Burnet County, Texas seeking to reverse and declare void the WOWSC's Board action to approve sale of the property to Friendship.

c. Friendship is now trying to subdivide Tract 1 and create a new Lancair Lane without access to that Lane by Tract 2. The result would be to greatly diminish the value of Tract 2, giving Friendship a chance to purchase that property and then increase its value by granting an easement to Lancair Lane. This is a fraud on the interests of members of the WOWSC in Tract 2, as was the unlawful sale of Tract 1 to Friendship in the first place.

CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief of \$100,000 or less and nonmonetary mandamus and injunctive relief. TRCP 47(c)(2).

PARTIES

3. a. Plaintiff Double F Hanger Operations, LLC is a member of the WOWSC and is a Texas limited liability company who can be served by its counsel of record in this case.

b. Plaintiff Lawrence R. Ffrench is a member of the WOWSC and resident of Burnet County, Texas who can be served by his counsel of record in this case. The last 3 digits of his Driver's License is 768 and the last 3 digits of his Social Security Number is 866.

c. Plaintiff Patricia Flunker is a member of the WOWSC and resident of Burnet County, Texas who can be served by her counsel of record in this case. The last 3 digits of her

PLAINTIFF'S ORIGINAL PETITION

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Driver's License is 993 and the last 3 digits of her Social Security Number is 016.

d. Plaintiff Mark A. McDonald is a member of the WOWSC and resident of Burnet County, Texas who can be served by his counsel of record in this case. The last 3 digits of his Driver's License is 239 and the last 3 digits of his Social Security Number is 956.

e. Defendant Friendship Homes & Hangars, LLC is a Texas limited liability company who can be served through its Registered Agent, Dana Martin, at 205 Coventry Road, Spicewood, Texas 78669.

f. Defendant Burnet County Commissioners Court (The Honorable James Oakley, Burnet County Judge; The Honorable Jim Luther, Jr., Commissioner Precinct One; The Honorable Russell Graeter, Commissioner Precinct Two; The Honorable Billy Wall, Commissioner Precinct Three; The Honorable Joe Don Dockery, Commissioner Precinct Four) can be served through The Honorable Eddie Arredondo, Burnet County Attorney, at Burnet County Courthouse, 220 S. Pierce, Burnet, Texas 78611.

JURISDICTION & VENUE

4. The Court has jurisdiction over this case for the equitable relief requested and venue is mandatory in this Court.

FACTS

5. a. The facts stated in Paragraph 1 above are incorporated herein.

b. The Exhibits attached hereto also demonstrate facts related to this cause of action. The proposed plat is attached as Exhibit P-1. The Commissioners Court Meeting Notice (Item 18) is attached as Exhibit P-2. The disputed real estate transaction closing documents for sale of Tract 1 and Right-of-First-Refusal for Tract 2 are described therein and are attached as Exhibit P-3. The

Certificate of Membership in the WOWSC by Plaintiff Double F Hanger Operations, LLC is attached as Exhibit P-4. The latest petition in the pending litigation over the Open Meetings Act violation is attached as Exhibit P-5.

COUNT 1 – SUIT FOR MANDAMUS/INJUNCTIVE RELIEF

6. The facts stated above are incorporated here as the basis for this cause of action for mandamus and injunctive relief.

a. Plaintiffs' application for temporary and permanent injunction is authorized by Tex. Civ. Prac. & Rem. Code section 65.011(1)-(4).

b. Plaintiffs asks the Court to (a) enjoin the Commissioners Court from approving the plat (Item 18, Commissioners Court agenda, July 10, 2018); and (b) enjoin Friendship from taking any action to change, subdivide, trade, dispose of, or sell (to anyone other than WOWSC) any portion of the property described in Exhibit P-3 until a court determines validity of Friendship's purchase of that property.

c. It is probable that Plaintiffs will recover from Defendants after a trial on the merits because the plat is proposed to the Commissioners Court by a party who is not true and lawful owner of the property; the proposed plat would land-lock the WOWSC property (Tract 2) diminishing its value and subjecting it to a future sale, through Friendship's Right-of-First Refusal, at a below-market price, causing damage to WOWSC members.

d. If Plaintiffs' application is not granted, harm is imminent because the Commissioners Court is poised to approve the plat submitted.

e. The harm that will result if the injunctive relief is not granted is irreparable because Friendship may further sell the property to others, making retrieval of the unlawful sale of Tract 1 and invalidation of the Right-of-First-Refusal on Tract 2 impossible.

PLAINTIFF'S ORIGINAL PETITION

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f. Plaintiffs have no adequate remedy at law because the only way to protect WOWSC and its members, such as Plaintiffs, from the unlawful loss if WOWSC property is to stop further transactions until the property is returned to the WOWSC.

g. Plaintiffs are willing to post bond.

7. Plaintiffs ask the Court to declare that the WOWSC property at issue is not owned by Defendant Friendship because no valid authorization for the sale of that property, and such authorization was necessary in order for the sale to occur.

CONDITIONS PRECEDENT

8. All conditions precedent to Plaintiffs' claim for relief have been performed or have occurred.

PRAYER

For these reasons, Plaintiffs ask the Court to set this matter for hearing on injunction and mandamus to declare that the sale of property to Friendship is void, that WOWSC is still the lawful owner of Tract 1, and to enjoin Defendant Friendship from subdividing or selling or otherwise disposing of Tract 1 or Tract 2 and to grant Plaintiffs all other relief to which they may be entitled.

Respectfully submitted,

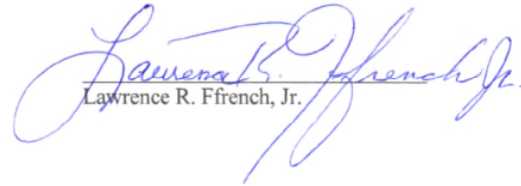


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VERIFICATION

"My name is Lawrence R. Ffrench, Jr., my date of birth is [REDACTED], and my address is 15104 Strader Circle, Austin, Texas 78734. I declare under penalty of perjury that the facts stated in this document are true and correct."

Executed in TRAVIS County, State of Texas, on July 9, 2018.


Lawrence R. Ffrench, Jr.

POSTED
July 16, 2018
 Janet Parker
 County Clerk - Burnet County, Texas
 By Shelley Doncker Deputy



FILED THIS 16th DAY OF July A.D. 20 18
Janet Parker
 COUNTY CLERK, BURNET COUNTY, TEXAS
 BY Shelley Doncker DEPUTY

BURNET COUNTY COMMISSIONERS COURT

Jim Luther, Jr
 Precinct 1

Russell Graeter
 Precinct 2

James Oakley
 County Judge

Billy Wall
 Precinct 3

Joe Don Dockery
 Precinct 4

An agenda packet containing detailed information on the items listed below is distributed to the County Judge, Commissioners, and County Clerk the Friday preceding the meeting. The agenda packet is also posted on the county website at www.burnetcountytexas.org, under Public Meetings. A hard copy of the agenda packet is available in the County Clerk's office. Our Mission Statement: The mission of Burnet County is to maintain overall efficient and effective management of county resources while providing the services mandated by state and federal law and desired by the citizens of Burnet County.

REGULAR MEETING DATE: Tuesday July 10, 2018

MEETING TIME: 9:00 a.m.

MEETING PLACE: 2nd Floor Courtroom located at 220 S. Pierce, Burnet, Texas

1. Call to Order
2. Invocation and Pledge of Allegiance to the flags.
3. Public Comments. Any person with business before the Commissioner's Court not scheduled on the agenda may speak to the Court. No formal action can be taken on these items at this meeting. Comments regarding specific agenda items should occur when the item is called. There is a 2 minute speaking limit.
4. Discussion and/or action for the approval to accept award and to sign Statement of Grant Award and the resolution for the FY 2019 ABTPA Grant Program for the Heart of Texas Auto Theft Task Force. Interlocal contracts will be approved through Commissioner's Court at a later date (Oakley/Hardin)
5. Discussion and/or action for approval to apply for a grant from the US Department of Justice's Bureau of Justice Assistance: Stop School Violence Prevention and Mental Health Training Program with the Marble Falls ISD Education Foundation being a sub-grantee. Pam Parkman is the Executive Director for the Foundation and will be assisting on the application. Application deadline is July 23, 2018 (Oakley/Dockery/Hardin)
6. Discussion and/or action regarding approval to apply for K9s4COPs grant. K9s4COPs is a non-profit foundation based in College Station dedicated to supporting Law Enforcement K9 units across the nation. Chief Cummings will be the Sheriff's office contact for this grant. The type of dog being requested is one for Narcotics Detection. Plans are to include maintenance of the dog in the next FY budget (Oakley/Boyd/Hardin)
7. Discussion and/or action regarding Order rescinding the Declaration of Disaster and Order Prohibiting Outdoor Burning for Burnet County date July 2, 2018 (Darling)
8. Discussion and/or action regarding a burn ban for the unincorporated areas of Burnet County (Darling)
9. Discussion and/or action regarding the current vacancy and the process & timing for the appointment of Constable Pct. 3 (Oakley)

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 cc agenda 1215 docx Page 5 of 5

EXHIBIT P-2



BURNET COUNTY COMMISSIONERS COURT



Jim Luther, Jr
Precinct 1

Russell Graeter
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

10. Discussion and/or action the approval of Database Access Agreement with East Texas Title Companies (Parker) 
11. Discussion and/or action regarding the appointment of Don Dudley to ESD #1 (Dockery)
12. Discussion and/or action regarding the appointment of Roberta Elmore to the ESD #8 (Graeter)
13. Discussion and/or action regarding the approval of 2018-19 TAC Health and Employee Benefits Pool renewal (Sara Ann Luther)
14. Discussion and/or action regarding the preliminary plat approval for Draper acres, Section 2, a private subdivision consisting of 18 lots on 61.34 acres out of the A.B. Spear Survey, Abst. No. 2, Burnet County, Texas (Wall)
15. Discussion and/or action for the preliminary plat approval for Oak Hollow Ranches, a public subdivision consisting of 7 lots on 118 acres out of the G. A. Brandon Svy., Abst. #1292, A.M.C. Jackson Svy. Abst. #1494 and the JR Williams Svy., Abst. # 1692, Burnet County, Texas (Graeter)
16. Discussion and/or action regarding the preliminary plat approval for Cloudwood Ranch, a private subdivision consisting of 51 Lots on 286.62 acres of land out of the Wm. B. Anderson Svy. #65, Abst. #13, Burnet County, Texas (Graeter)
17. Discussion and/or action regarding a Final plat for Clearwater Landing II, Phase 1, Plat No. 1.2 (Luther) 
18. Discussion and/or action regarding a Public hearing concerning a Replat of a portion of Tract H1-A, Tract H on Piper Lane to be known as "Lancair Lane Addition" whereby the owner is proposing to form 3 lots for construction of an Airport Hanger Complex, followed by discussion and or action on same (Dockery)
19. Discussion and/or action regarding the request from JP #1 to purchase a Dell Computer with 2 monitors to be paid out of the JP #1 technology fund (Nelson)
20. Discussion and/or action regarding the selection of Salary Grievance Committee members (Parker)
21. Discussion and/or action regarding HCHS animal shelter contract (Hardin)
22. Discussion and/or action concerning FY '19 budget topics. (Oakley)



BURNET COUNTY COMMISSIONERS COURT

Jim Luther, Jr
Precinct 1

Russell Graeter
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

23. Executive Session. Discussion with Burnet County Commissioner's Court and the County Civil Attorney(s) and/or the County Attorney in accordance with Texas Government Codes 551.071. The Commissioners Court reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters as authorized by the Texas Government Code including, but not limited to, Sections: 551/071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues), 551.0725 (Contracts being negotiated).
24. Reconvene in Open Session. (Oakley)
25. Discussion and/or action regarding items discussed in Executive Session and take up for consideration and possible action, pursuant to Chapter 262, Texas Local Government Code. (Oakley)
26. Discussion and/or action regarding Department Updates: (Oakley)
27. Acknowledgement of Receipt: (Oakley)
 - a. Notice of a public hearing for the City of Marble Falls
28. Discussion and/or action regarding contracts, agreements or grants to be approved and/or ratified: (Oakley)
 - a. Contract agreement with DIJ Construction for striping of CR 408 South
 - b. Contract agreement with DIJ Construction for striping of CR 404
 - c. Agreement with Northland Cable to upgrade the County's broadband
 - d. Reimbursement Resolution for RB 3
 - e. Reimbursement Resolution for RB 1
 - f. A Girl and a Gun Event Tourism
29. Call for Bids/Requests for Proposals/Qualifications. Discussion and/or action on bid/RFP openings or submitted bids. (Oakley)
30. The following items are part of the Consent Agenda and require no deliberation by the Commissioner's Court. Any item from this agenda may be considered separately:
 - a. Consideration and approval of any pending personnel issues within the policy.
 - b. Payroll approval.
 - c. Consideration and approval concerning budget amendments.
 - d. Consideration and approval concerning budget line item transfers.
 - e. Consideration and authorization of payment of claims previously approved by the County Auditor.
 - f. Acceptance of reports of County Officials as required by LGC 115.02 previously examined by

1/22/2015 12:31:31 PM
cc: agenda 1213.docx Page 5 of 5

EXHIBIT P-2



BURNET COUNTY COMMISSIONERS COURT

Jim Luther, Jr.
Precinct 1

Russell Graeter
Precinct 2

James Oakley
County Judge

Billy Wall
Precinct 3

Joe Don Dockery
Precinct 4

the County Auditor

g. Consideration and approval regarding Departmental equipment requests and/or property transfers.

h. Correspondence.

31. Discussion regarding any previous agenda items.

32. Calendar Review.

33. Adjournment

James Oakley, Burnet County Judge

Reviewed by: Eddie Arredondo, County Attorney

The Commissioners' Court reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters as authorized by the Texas Government Code including, but not limited to, Sections: 551.071 (Consultation with Attorney) 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations) Deliberations about Security Devices), 551.087 (Economic Development), 418.183 (Deliberations about Homeland Security Issues). Compliance with the Americans with Disabilities Act, Burnet County will provide for reasonable accommodations for persons attending Commissioners' Court. To better serve you, requests should be received 24 hours prior to the meetings. Please contact Ms. Stephanie McCormick, Commissioners' Court Coordinator, at (512) 715-5276. Please note, the location of the meeting is subject to change based upon availability of the Courtroom. If meeting location is changed, notice at the above meeting location shall be posted to ensure public access to meeting is granted.

A. Settlement Statement

U.S. Department of Housing
and Urban Development

OMB Approval No. 2502-0265



B. Type of Loan			
1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> RHS	3. <input type="checkbox"/> Conv. Unins.	6. File Number 37112
4. <input type="checkbox"/> VA	5. <input type="checkbox"/> Conv. Ins.	7. Loan Number	8. Mortgage Insurance Case Number
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals.			
D. Name and Address of Borrower FRIENDSHIP HOMES & HANGARS, LLC 424 COVENTRY ROAD SPICEWOOD, TX 78669		E. Name and Address of Seller WINDERMERE OAKS WATER SUPPLY CORPORATION 424 COVENTRY RD. SPICEWOOD, TX 78669	
		F. Name and Address of Lender ANNE MCCLURE WHIDDEN TRUST 230 COVE CREEK DRIVE SPICEWOOD, TX 78669	
G. Property Location PIPER LANE SPICEWOOD, TEXAS 78669 TRACTS H1-H2 ON PIPER LANE BURNET COUNTY, TEXAS		H. Settlement Agent SERVICE TITLE COMPANY Place of Settlement 117 MAIN STREET MARBLE FALLS, TEXAS 78654	
		I. Settlement Date 03/11/16 DD: 03/11/16	
J. SUMMARY OF BORROWER'S TRANSACTION:		K. SUMMARY OF SELLER'S TRANSACTION:	
100. GROSS AMOUNT DUE FROM BORROWER		400. GROSS AMOUNT DUE TO SELLER	
101. Contract sales price	203,000.00	401. Contract sales price	203,000.00
102. Personal property		402. Personal property	
103. Settlement charges to borrower (line 1400)	366.25	403.	
104.		404.	
105.		405.	
Adjustments for items paid by seller in advance		Adjustments for items paid by seller in advance	
106. City/town taxes	to	406. City/town taxes	to
107. County taxes	to	407. County taxes	to
108. Assessments	to	408. Assessments	to
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	203,366.25	420. GROSS AMOUNT DUE TO SELLER	203,000.00
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER		500. REDUCTIONS IN AMOUNT TO SELLER	
201. Deposit or earnest money	1,500.00	501. Excess Deposit (see instructions)	
202. Principal amount of new loan(s)	200,000.00	502. Settlement charges to seller (line 1400)	3,000.00
203. Existing loan(s) taken subject to		503. Existing loans taken subject to	
204. (P.O.C. OPTION CK \$500.00)		504. Payoff of first mortgage loan	
205.		505. Payoff of second mortgage loan	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
Adjustments for items unpaid by seller		Adjustments for items unpaid by seller	
210. City/town taxes	to	510. City/town taxes	to
211. County taxes	to	511. County taxes	to
212. Assessments	to	512. Assessments	to
213.		513.	
214.		514.	
215.		515.	
216.		516.	
217.		517.	
218.		518.	
219.		519.	
220. TOTAL PAID BY / FOR BORROWER	201,500.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	3,000.00
300. CASH AT SETTLEMENT FROM OR TO BORROWER		600. CASH AT SETTLEMENT TO OR FROM SELLER	
301. Gross amount due from borrower (line 120)	203,366.25	601. Gross amount due to seller (line 420)	203,000.00
302. Less amounts paid by/for borrower (line 220)	201,500.00	602. Less reduction amount due to seller (line 520)	3,000.00
303. CASH FROM BORROWER	1,866.25	603. CASH TO SELLER	200,000.00

SUBSTITUTE FORM 1099 SELLER STATEMENT: The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. The Contract Sales Price described on Line 401 above constitutes the Gross Proceeds of this transaction.

SELLER INSTRUCTIONS: To determine if you have to report the sale or exchange of your primary residence on your tax return, see the Schedule D (Form 1040) instructions. If the real estate was not your primary residence, complete the applicable parts of Form 4797, Form 6252, and/or Schedule D (Form 1040).

You are required by law to provide the settlement agent with your correct taxpayer identification number. If you do not provide your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law. Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

SELLER SIGNATURE

SELLER2 SIGNATURE

EXHIBIT P-3

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SETTLEMENT STATEMENT

PAGE 2

I. SETTLEMENT CHARGES:		File Number: 37112	PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700.	TOTAL SALES/BROKER'S COMMISSION based on price \$	@ =		
Division of commission (line 700) as follows:				
701.	\$ to			
702.	\$ to			
703.	Commission paid at Settlement			
704.				
800.	ITEMS PAYABLE IN CONNECTION WITH LOAN	P.O.C.		
801.	Loan Origination Fee %			
802.	Loan Discount %			
803.	Appraisal fee to			
804.	Credit report to			
805.	Lender's inspection fee to			
806.	Mtg. ins. application fee to			
807.	Assumption fee to			
808.				
809.				
810.				
811.				
812.				
813.				
814.				
815.				
900.	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901.	Interest from to @ \$ / day			
902.	Mortgage insurance premium to			
903.	Hazard insurance premium yrs. to			
904.				
905.				
1000.	RESERVES DEPOSITED WITH LENDER FOR			
1001.	Homeowner's insurance mo. @ \$ / mo.			
1002.	Mortgage insurance mo. @ \$ / mo.			
1003.	City property taxes mo. @ \$ / mo.			
1004.	County property taxes mo. @ \$ / mo.			
1005.	Annual Assessments mo. @ \$ / mo.			
1006.	mo. @ \$ / mo.			
1007.	mo. @ \$ / mo.			
1008.	Aggregate Reserve for Hazard/Flood Ins. City/County Prop Taxes, Mortgage Ins & Annual Assessments			
1100.	TITLE CHARGES			
1101.	Settlement or closing fee to			
1102.	Abstract or title search to			
1103.	Title examination to			
1104.	Title insurance binder to			
1105.	Document preparation to R. A. KLAEGER		200.00	125.00
1106.	Notary fees to			
1107.	Attorney's fees to			
(includes above item No:)				
1108.	Title insurance to SERVICE TITLE COMPANY		100.00	1,446.00
(includes above item No:)				
1109.	Lender's coverage 200,000.00 — 100.00			
1110.	Owner's coverage 203,000.00 — 1,446.00			
1111.	TAX CERTIFICATE Service Title Company			10.00
1112.				
1113.				
1200.	GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201.	Recording fees Deed \$ 20.00 ; Mortgage \$ 24.00 ; Releases \$		44.00	
1202.	City/county/stamps Deed \$; Mortgage \$			
1203.	State tax/stamps Deed \$; Mortgage \$			
1204.	WD With Vendor's Lien		20.00	
1205.	Corp Resolution			20.00
1300.	ADDITIONAL SETTLEMENT CHARGES			
1301.	Survey to Watson Surveying			1,381.25
1302.	Pest inspection to			
1303.	Rec-Memo Right of First Refus Service Title Company		2.25	17.75
1304.				
1305.				
1306.				
1307.				
1308.				
1400.	TOTAL SETTLEMENT CHARGES (enter on lines 103 and 502, Sections J and K)		366.25	3,000.00

I hereby certify that the above is a true and accurate statement of the settlement charges and disbursements made on my account or by me in this transaction, and that I have received a copy of the HUD-1 Settlement Statement.

FRIENDSHIP HOMES & HANGARS, LLC

WINDERMERE OAKS WATER SUPPLY

CORPORATION

I, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SERVICE TITLE COMPANY

08/11/15

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine or imprisonment. For details see HUD-1 Settlement Statement, Section 1001 and Section 1310.

EXHIBIT P-3

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

GF NO. 37112 STC

WARRANTY DEED WITH VENDOR'S LIEN
(Vendor's Lien Reserved and Assigned to Third Party Lender)

THE STATE OF TEXAS
COUNTY OF BURNET

§
§
§

KNOW ALL MEN BY THESE PRESENTS:

THAT THE UNDERSIGNED, WINDERMERE OAKS WATER SUPPLY CORPORATION, a Texas Corporation, hereinafter called "Grantor", whether one or more, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other valuable consideration to the undersigned in hand paid by the Grantee herein named, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by the Grantee of that one certain promissory note of even date herewith in the principal sum of Two Hundred Thousand and 00/100 (\$200,000.00) Dollars, payable to the order of ANNE MCCLURE WHIDDEN TRUST, as therein specified, providing for acceleration of maturity and for attorney's fees, the payment of which note is secured by the vendor's lien herein retained, and is additionally secured by a deed of trust of even date herewith to MARK E. MCCLURE, TRUSTEE, has GRANTED, SOLD AND CONVEYED, and by these presents does GRANT, SELL AND CONVEY unto FRIENDSHIP HOMES & HANGARS, LLC, herein referred to as the "Grantee", whether one or more, the real property described as follows, to-wit:

Being Tract H2, of Tract H on Piper Lane, a subdivision in Burnet County, Texas, according to the Plat recorded in Clerk's Document No. 201601994, Official Public Records of Burnet County, Texas.

This conveyance, however, is made and accepted subject to:

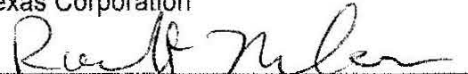
1. The Property shall be not used for any type of helicopter use.
2. Grantor retains a Fifty Foot (50') access easement over and across the West Property Line of Tract H2 as shown by plat recorded in Clerk's Document No. 201601994, Official Public Records of Burnet County, Texas.
3. Any and all restrictions, encumbrances, easements, covenants and conditions, if any, relating to the hereinabove described property as the same are filed for record in the County Clerk's Office of Burnet County, Texas.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns forever; and Grantor does hereby bind Grantor and Grantor's heirs, executors, administrators, successors and/or assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, Grantee's heirs, executors, administrators, successors and/or assigns, against every person whomsoever claiming or to claim the same or any part thereof.

But it is expressly agreed that the Vendor's Lien, as well as Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the face, tenor, effect and reading thereof, when this Deed shall become absolute. That ANNE MCCLURE WHIDDEN TRUST ("Lender"), at the instance and request of the Grantee herein, having advanced and paid in cash to the Grantor herein that portion of the purchase price of the herein described property as is evidenced by the hereinabove described Note, the Vendor's Lien, together with the Superior Title to said property, is retained herein for the benefit of said Lender and the same are hereby TRANSFERRED AND ASSIGNED to said Lender, its successors and assigns.

EXECUTED this 11th day of March, 2016.

WINDERMERE OAKS WATER SUPPLY CORPORATION
a Texas Corporation

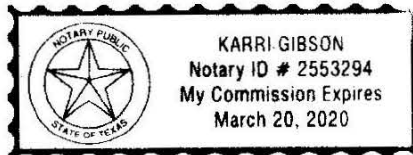

By: Robert Mebane, President

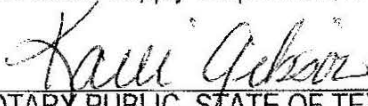
Grantee's Address:
424 COVENTRY ROAD
SPICEWOOD, TX 78669

STATE OF TEXAS

COUNTY OF BURNET

The foregoing instrument was acknowledged before me on the 13th day of March, 2016, by Robert Mebane, President of Windermere Oaks Water Supply Corporation, a Texas Corporation.




NOTARY PUBLIC, STATE OF TEXAS

OPTION AND RIGHT OF FIRST REFUSAL AGREEMENT

THE STATE OF TEXAS

COUNTY OF BURNET

KNOW ALL MEN BY THESE PRESENTS:

This agreement is entered, executed and made this 10th day of March, 2016, at Marble Falls, Burnet County, Texas by Windermere Oaks Water Supply Corporation, Grantor and Friendship Homes & Hangars, LLC, Grantee.

WHEREAS, Grantor is the owner of certain real property located in Burnet County, Texas, hereinafter referred to as "the property" and being described as follows:

Tract I: Being the remainder of the 7.0255 acres tract located in the Maria Salinas Survey No. 17, in Burnet County, Texas, currently owned by Windermere Oaks Water Supply Corporation.

Tract II: Being a 4.027 acres tract located in the Maria Salinas Survey No. 17, in Burnet County, Texas, currently owned by Windermere Oaks Water Supply Corporation.

WHEREAS, Grantor has agreed and wishes to grant to Grantee a exclusive right of first refusal in connection with the hereinabove described real property, without Grantee becoming obligated to purchase said property;

THEREFORE IT IS AGREED AS FOLLOWS:

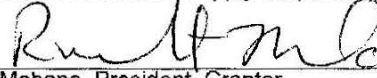
1. In consideration of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants to Grantee the exclusive right and option of first refusal in the event Grantor, his heirs or assigns ever sells the property described herein.
2. In the event Grantor, his heirs or assigns should enter into any agreement or contract to sell part or all of the property herein described, Grantor shall notify Grantee, his heirs or assigns in writing by certified mail, to the address shown for Grantee hereinafter, or to such address as Grantee may designate to Grantor in writing, the complete terms and conditions of the agreement or contract of sale. Grantee shall have 10 days from receipt of such notice of sale, to advise Grantor if Grantee elects to exercise this exclusive right of first refusal. In the event Grantee elects to exercise his rights herein, Grantee shall notify Grantor by certified mail within the said 10 day period, and shall then proceed to close the transaction under the terms and conditions of the existing agreement or contract of sale. Should the Grantee elect not to exercise his first right of refusal, he shall so notify Grantor, and Grantor shall thereafter be free to proceed under the terms and conditions of the original offer of purchase and have no further obligations under this agreement to Grantee. In the event Grantee fails to advise Grantor of his intentions within the 10 day period, Grantee shall be deemed to have waived all rights under this agreement, and Grantor shall have no further obligations to Grantee and may proceed to close the transaction without any further notice or obligation to Grantee.
3. Grantor and Grantee agree to record a memorandum of this agreement in the Official Public Records of Burnet County, Texas. The intent of this agreement is to grant Grantee

the right and option to purchase the property should Grantor ever decide to sell or transfer same.


4. This right of first refusal shall remain in effect so long as Grantor, his successors or assigns shall hold title to the herein described real property, or at the end of 20 years from the date hereof, whichever shall first occur.

EXECUTED THIS 10th DAY OF MARCH, 2016.

Windermere Oaks Water Supply Corporation

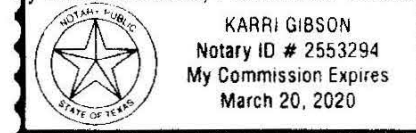

Robert Mebane, President, Grantor

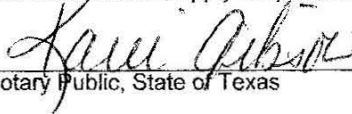
Friendship Homes & Hangars, LLC


Dana Martin, Manager, Grantee

STATE OF TEXAS
COUNTY OF BURNET

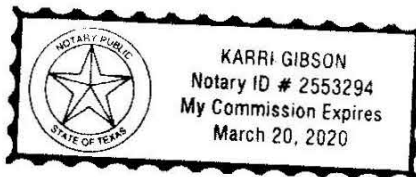
This instrument was acknowledged before me on the 13th day of March, 2016 by Robert Mebane, President of Windermere Oaks Water Supply Corporation.





Notary Public, State of Texas

STATE OF TEXAS
COUNTY OF BURNET

This instrument was acknowledged before me on the 13th day of March, 2016 by Dana Martin, Manager of Friendship Homes & Hangars, LLC.




Notary Public, State of Texas

MEMORANDUM OF RIGHT OF FIRST REFUSAL

STATE OF TEXAS

COUNTY OF BURNET

This memorandum of Right of First Refusal is executed concurrently with a formal right of first refusal contract, and both this memorandum and the first refusal contract constitute an agreement between Windermere Oaks Water Supply Corporation and Friendship Homes & Hangars, LLC referred to herein as Grantor and Grantee, relating to the following real property situated in Burnet County, Texas:

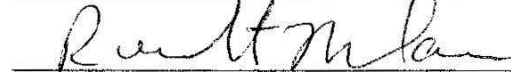
Tract I: Being the remainder of the 7.0255 acres tract located in the Maria Salinas Survey No. 17, in Burnet County, Texas, currently owned by Windermere Oaks Water Supply Corporation.

Tract II: Being a 4.027 acres tract located in the Maria Salinas Survey No. 17, in Burnet County, Texas, currently owned by Windermere Oaks Water Supply Corporation.

Windermere Oaks Water Supply Corporation, Grantor hereby grants, for valuable consideration described in the First Refusal Contract, to Friendship Homes & Hangars, LLC, Grantee the exclusive right of first refusal to buy the above described property under terms and conditions set forth in said first refusal contract. This right of First Refusal shall expire 20 years from the date hereof, unless exercised or extended prior to such date of expiration.


EXECUTED THIS 10TH DAY OF MARCH, 2016.

WINDERMERE OAKS WATER SUPPLY CORPORATION



Robert Mebane, President

FRIENDSHIP HOMES & HANGARS, LLC



Dana Martin, Manager

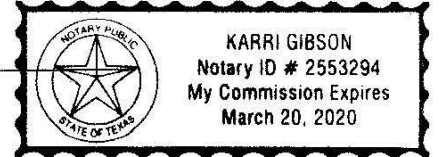
EXHIBIT P-3

STATE OF TEXAS

COUNTY OF BURNET

This instrument was acknowledged before me on the 13th day of March, 2016
by Robert Mebane, President of Windermere Oaks Water Supply Corporation.

Karri Gibson
Notary Public, State of Texas



STATE OF TEXAS

COUNTY OF BURNET

This instrument was acknowledged before me on the 13th day of March, 2016
by Dana Martin, Manager of Friendship Homes & Hangars, LLC.

Karri Gibson
Notary Public, State of Texas

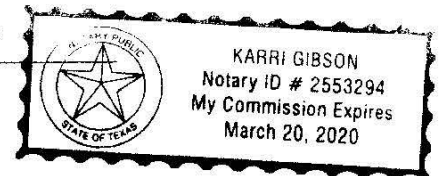


EXHIBIT P-3

GF NO. 37112

ADDITIONAL CLOSING DOCUMENTS

SERVICE TITLE COMPANY
117 Main Street
Marble Falls, Texas 78654

BUYER: FRIENDSHIP HOMES & HANGARS, LLC

SELLER: WINDERMERE OAKS WATER SUPPLY and CORPORATION

LENDER: ANNE MCCLURE WHIDDEN TRUST

PROPERTY: Tract I: Being Tract H1, of Tract H on Piper Lane, a subdivision in Burnet County, Texas, according to the Plat recorded in Clerk's Document No. 201601994, Official Public Records of Burnet County, Texas.

Tract II: Being Tract H2, of Tract H on Piper Lane, a subdivision in Burnet County, Texas, according to the Plat recorded in Clerk's Document No. 201601994, Official Public Records of Burnet County, Texas.

By initialling one or more of the following items as may be appropriate for this transaction, each SELLER and/or BUYER acknowledges their understanding of the disclosures being made by SERVICE TITLE COMPANY and affirms the representations made by them to SERVICE TITLE COMPANY as indicated. Each such disclosure or representation may jointly benefit both SERVICE TITLE COMPANY and its title insurance underwriter in interest. Singular reference to "Seller" and "Buyer" includes multiple individuals/entities identified above. Any numbered item not applying to this transaction may be crossed out.

Buyer's Initials

1) **WAIVER OF INSPECTION.** In consideration of the issuance by SERVICE TITLE COMPANY to BUYER of an Owner Policy of Title Insurance guaranteeing good and indefeasible title to the Property subject to the Policy's terms and conditions, BUYER hereby waives any obligation on the part of SERVICE TITLE COMPANY to inspect the Property. Buyer agrees to accept an Owner Policy containing the following Schedule "B" exception: "RIGHTS OF PARTIES IN POSSESSION". Within the meaning of this exception, "possession" shall include open acts or visible evidence of occupancy and any visible and apparent roadway or easement on or across all or any part of the Property, but this exception does not extend to any right, claim, or interest evidenced by a document recorded in the real estate records maintained by the County Clerk of the county in which the Property is located. Buyer agrees to be fully responsible for inspecting the Property to determine the rights of any party in possession and assumes full responsibility for obtaining possession from its present occupants.

Buyer's Initials

2) **RECEIPT OF COMMITMENT.** BUYER acknowledged having received and reviewed a copy of the preliminary Title Commitment issued in connection with the above referenced transaction and understands that BUYER's Owner Policy will contain the exceptions set forth in Schedule "B" of the Commitment, together with any additional exceptions to title resulting from the documents involved in this transaction.

Buyer's Initials

3) **UNSURVEYED PROPERTY.** BUYER understands that no up to date survey of the Property has been done in connection with this transaction and that the Owner Policy to be issued to BUYER will not provide title insurance coverage against encroachment of improvements, boundary conflicts, or other matters that would be found by a current survey. SERVICE TITLE COMPANY has not attempted to determine if the Property lies in a special flood hazard area, and SERVICE TITLE COMPANY has not made any representation concerning proximity of the Property in relation to any flood plain or flood hazard area. BUYER is advised that information concerning special flood hazard areas may be available from county or municipal offices, a qualified surveyor or land engineering company, or a private flood plain consultant.

Buyer's Initials

4) **ACCEPTANCE OF SURVEY.** BUYER has received and reviewed a copy of the survey of the property made in connection with this transaction and acknowledges being aware of any encroachment/conflict/discrepancy disclosed by the survey.

Seller's Initials

Buyer's Initials

5) **PROPERTY TAX PRORATIONS.** Property taxes for the current year have been prorated between BUYER and SELLER, who each acknowledge understanding that these prorations are based either on tax amounts for the preceding year or ON ESTIMATES OF THE APPRAISED VALUE AND/OR ESTIMATED TAX RATES for the current year. Seller agrees that any default in prior payment of property taxes, either current or delinquent, will on demand be promptly reimbursed by SELLER to SERVICE TITLE COMPANY. BUYER and SELLER each agree that, when amounts of the current year's taxes become known and payable (on or about October 1st), they will adjust any matters of re-proration and reimbursement between themselves and that SERVICE TITLE COMPANY shall have no further liability or obligation with respect to these prorations.

Buyer's Initials

6) **TAX RENDITION AND EXEMPTIONS.** Although the Central Appraisal District (CAD) may independently determine BUYER'S new ownership and billing address through deed record research, BUYER is still obligated by law to "render" the Property for taxation, by notifying the CAD of the change in the Property's ownership and of BUYER'S proper address for tax billing. BUYER is advised that current year's taxes may have been assessed on the basis of various exemptions obtained by seller (e.g., homestead or over 65). To the extent that BUYER may qualify to continue these exemptions, it is the responsibility of BUYER to satisfy requirements of the CAD within the period of time allowed. BUYER acknowledges understanding these obligations and the fact that SERVICE TITLE COMPANY assumes no responsibility for future accuracy of CAD records concerning ownership tax billing address, or status of exemptions.

Buyer's Initials

7) **HOMEOWNER'S ASSOCIATION.** BUYER acknowledged notification that ownership of the property involves membership in a Homeowner's or Property Owner's Association, to which monthly or annual dues or assessments will be owed that may be enforceable by a lien against the Property. BUYER understands that the Association (or its managing agent) should be contacted by BUYER directly to ascertain the exact amount of future dues or assessments. SERVICE TITLE COMPANY disclaims any knowledge of, and has made no representations with respect to, the Association's annual budget, pending repairs or deferred maintenance, if any, or other debt of the Association. BUYER accepts sole responsibility to obtain such information and verify its accuracy to BUYER'S satisfaction.

SELLER

BUYER

WINDERMERE OAKS WATER SUPPLY CORPORATION

FRIENDSHIP HOMES & HANGARS, LLC

ROBERT MEBANE, PRESIDENT

DANA MARTIN, Manager

STATE OF TEXAS

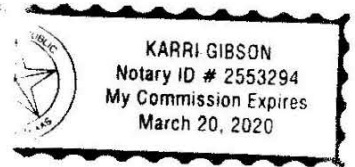
COUNTY OF BURNET

Service Title Company

GF NO. 37112

This instrument was acknowledged before me on the 15th day of March, 2016, by
DANA MARTIN, MANAGER OF FRIENDSHIP HOMES & HANGARS, LLC.

Karri Gibson
NOTARY PUBLIC, STATE OF TEXAS

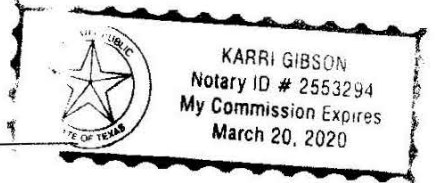


STATE OF TEXAS

COUNTY OF BURNET

This instrument was acknowledged before me on the 15th day of March, 2016, by
ROBERT MEBANE, PRESIDENT OF WINDERMERE OAKS WATER SUPPLY and CORPORATION.

Karri Gibson
NOTARY PUBLIC, STATE OF TEXAS



**TO BE FILLED IN PERSONALLY
BY SELLER OR BORROWER IN HIS OWN HANDWRITING
INDEMNITY AND AFFIDAVIT AS TO DEBTS, LIENS, AND POSSESSION**

SERVICE TITLE GF# 37112
SUBJECT PROPERTY: TRACTS H1-H2 ON PIPER LANE BURNET COUNTY, TEXAS
STATE OF TEXAS
COUNTY OF BURNET

Before me, the undersigned authority on this day personally appeared, Seller or Owner-Borrower*:

WINDERMERE OAKS WATER SUPPLY CORPORATION

personally known to me to be the person whose name is subscribed hereto and upon his oath deposes and says that no proceedings in bankruptcy or receivership have been instituted by or against him and that the marital status of affiant has not changed since the day of acquisition of said property and represents to the purchaser and/or Lender in this transaction that there are:

1. No unpaid debts for plumbing fixtures, water heaters, floor furnaces, air conditioners, radio or television antennae, carpeting, rugs, lawn sprinkling systems, venetian blinds, window shades, draperies, electric appliances, fences, street paving, or any personal property or fixtures that are located on the subject property described above, and that no such items have been purchased on time payment contracts, and there are no security interests on such property secured by financing statement, security agreement or otherwise except the following:

<u>Secured Party</u>	<u>Approximate Amount</u>
<u>HA</u>	

2. No loans or liens (including Federal or State Liens and Judgment Liens) and no unpaid governmental or association taxes or assessments of any kind on such property except the following:

<u>Creditor</u>	<u>Approximate Amount</u>
<u>NONE</u>	

3. All labor and material used in the construction of improvements on the above described property have been paid for and there are now no unpaid labor or material claims against the improvements or the property upon which same are situated, and I hereby declare that all sums of money due for the erection of improvements have been fully paid and satisfied.

4. No parties in possession other than affiant except as follows: _____

(if NONE write NONE on blank line)

*5. To be filled in if a sale - * The Seller is not a non-resident alien, foreign corporation, foreign partnership, foreign trust, foreign estate or other foreign entity (as defined in the Internal Revenue Code and Income Tax Regulations). Seller's U.S. employer identification number (or social security number) is:

(ID OR SS #): 74-2785317
Seller's address: 424 Coventry, Spicewood TX 78669

SALES PRICE: \$203,000.00

TAX PRORATION CREDIT TO SELLER: _____

This affidavit may be disclosed to the Internal Revenue Service and is furnished to Buyer to inform Buyer that withholding of tax is not required under Section 1445 of the Internal Revenue Code.

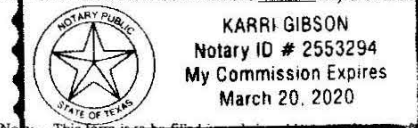
INDEMNITY: I AGREE TO PAY ON DEMAND TO THE PURCHASERS AND/OR LENDER IN THIS TRANSACTION, THEIR SUCCESSORS AND ASSIGNS, ALL AMOUNTS SECURED BY ANY AND ALL LIENS NOT SHOWN ABOVE, TOGETHER WITH ALL COSTS, LOSS AND ATTORNEY'S FEES THAT SAID PARTIES MAY INCUR IN CONNECTION WITH SUCH UNMENTIONED LIENS, PROVIDED SAID LIENS EITHER CURRENTLY APPLY TO SUCH PROPERTY, OR A PART THEREOF, OR ARE SUBSEQUENTLY ESTABLISHED AGAINST SAID PROPERTY AND ARE CREATED BY ME, KNOWN BY ME, OR HAVE AN INCEPTION DATE PRIOR TO THE CONSUMMATION OF THIS TRANSACTION.

I realize that the purchaser and/or Lender in this transaction are relying on the representations contained herein in purchasing same or lending money thereon and would not purchase same or lend money thereon unless said representations were made. If Seller or Borrower is an entity, I have authority to sign on its behalf.

Kurt M. Mc
WINDERMERE OAKS WATER SUPPLY

CORPORATION

Sworn and subscribed before me this 13th day of March, 2016.



Karri Gibson
Notary Public in and for Burnet County, Texas

*Notary Public. This form is to be filled in and signed by the owner-borrower. If there is any new construction, the contractor must also join in this form or fill in and sign a separate one.

NOTE TO BUYER: Buyer must retain until end of fifth taxable year following taxable year of transfer and must file with the Internal Revenue Service if required by regulation or otherwise.

EXHIBIT P-3

CORPORATE RESOLUTION

Date: March 10, 2016

Corporation: Windermere Oaks Water Supply Corporation

President: Robert Mebane

Secretary: Mike Madden

Date of Meeting of Board of Directors: February 22, 2016

We, the President and Secretary of the corporation, certify the following facts:

1. The corporation is organized and operating under the laws of Texas, is qualified to do business here, and is in good standing.

2. No proceeding for forfeiture of the certificate of incorporation or for voluntary or involuntary dissolution of the corporation are pending.

3. Neither the articles of incorporation nor bylaws of the corporation limit the property of the Board of Directors to pass the resolution below.

4. The President and Secretary are the persons authorized to make and sign this resolution.

5. The Secretary keeps the records and minutes of the proceeding of the Board of Directors of the corporation, and the resolution below is an accurate reproduction of the one made in those proceedings; it has not been altered, amended, rescinded, or repealed; and it is now in effect.

6. The resolution below was legally adopted on the date of the meeting of the Board of Directors, which was called and held in accordance with the law and the bylaws of the corporation, at which a quorum was present.

7. This resolution has been adopted by the Board of Directors:

It is resolved that Windermere Oaks Water Supply Corporation shall sell to Friendship Homes & Hangars, LLC all of its interest in and to the following described real property situated in Burnet County, Texas, to-wit:

Being Tract H1 and H2, of Tract H on Piper Lane, a subdivision in Burnet County, Texas, as shown by plat recorded in Clerk's Document No. 201601994, Official Public Records of Burnet County, Texas.

It is further resolved that the President and/or Secretary of the Corporation are hereby authorized to negotiate the terms and conditions of said sale.

It is Further resolved that the President and/or Secretary of said Corporation are hereby authorized to sign on behalf of the Corporation, all deeds, Affidavits, Closing Statements, Resolutions and any other documents necessary or appropriate for the sale of such property.

EXHIBIT P-3

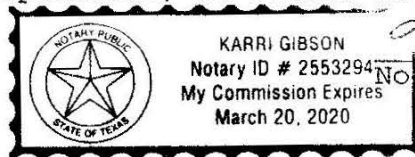
Robert Mebane
Robert Mebane, President

Mike Madden
Mike MADDEN, Secretary

STATE OF TEXAS

COUNTY OF BURNET

This instrument was acknowledged before me on the 13th day of March, 2016 by Robert Mebane, President of Windermere Oaks Water Supply Corporation, on behalf of said corporation.

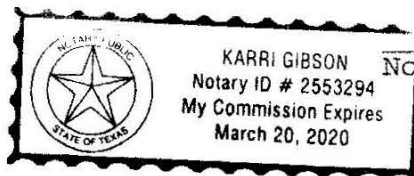


Karri Gibson
Notary Public, State of Texas

STATE OF TEXAS

COUNTY OF BURNET

This instrument was acknowledged before me on the 13th day of March, 2016 by Mike Madden, Secretary of Windermere Oaks Water Supply Corporation.



Karri Gibson
Notary Public, State of Texas

EXHIBIT P-3

NON-PROFIT



Certificate Number

365

124 Bonanza Cr.

Acct. 605

INCORPORATED UNDER THE LAWS OF THE STATE OF TEXAS

Mindenmere Oaks Water Supply Corporation

MEMBERSHIP CERTIFICATE

THIS IS TO CERTIFY that Double F Hanger Operation, LLC is a member of the above corporation incorporated under the laws of this state and is entitled to the full benefits and privileges of such membership, subject to the duties and obligations, as more fully set forth in the Corporation's By-Laws, Rules and Regulations.

IN WITNESS WHEREOF, the Corporation has caused this certificate to be executed by its duly authorized officers and its corporate seal to be hereunto affixed.

Dated

3/8/17

Doreen Hanger
Secretary/TreasurerRML
President

CAUSE NO. 47531

TOMA INTEGRITY, INC.	§	IN THE DISTRICT COURT
<i>Plaintiff</i>	§	
	§	
v.	§	BURNET COUNTY
	§	
WINDERMERE OAKS WATER SUPPLY CORPORATION	§	
<i>Defendant</i>	§	33rd DISTRICT COURT

JOHN RICHARD DIAL'S PETITION IN INTERVENTION

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiff John Richard Dial files this petition in intervention against Defendant Windermere Oaks Water Supply Corporation ("WOWSC") seeking to enforce the Texas Open Meetings Act and allege as follows:

NATURE OF THE CASE AND DISCOVERY CONTROL PLAN

1. a. Discovery will be conducted under TRCP 190.3, Level 2.
- b. Tex. Gov't Code Section 551.041 (the Texas Open Meetings Act (TOMA)) requires a governmental body like the Windermere Oaks Water Supply Corporation (WOWSC) to announce each subject its board will consider at a meeting in advance of that meeting. This fundamental requirement keeps our government from acting in secret and hiding its intentions from taxpayers/ratepayers.
- c. COUNT 1: On December 19, 2015, the WOWSC Board, without any competitive bid process or advance public announcement of their intent, sold valuable property belonging to WOWSC to a business owned by one of the Board members. To make matters worse, the Board also gave the Board member a right-of-first-refusal for the purchase of even more WOWSC property. There was no item on the meeting agenda giving fair notice to the public, or

INTERVENOR DIAL'S PETITION IN INTERVENTION

Page 1 of 8

EXHIBIT P-5

WOWSC ratepayers, that any WOWSC property would be sold. This was a blatant violation of the Texas Open Meetings Act, and the remedy is for this Court to reverse that violation and declare that Board action void.

d. COUNT 2: The WOWSC followed through a few months later, March 13, 2016, with the sale of the property to a company owned by WOWSC Board Member Dana Martin. Included in the real estate sale records is a sworn affidavit by WOWSC then-President Robert Mebane and then-Secretary Mike Madden dated March 10, 2016 asserting the WOWSC Board had adopted a resolution at its meeting on February 22, 2016 authorizing the sale and authorizing the President and Secretary to sign the closing documents for the sale. There is no mention in meeting notice or the meeting minutes at all that any such resolution was adopted by the Board on that date. Either the Board violated the Open Meetings Act (again) by voting on the resolution which was not listed on its meeting notice, or the affidavit provided to the title company in the real estate transaction is false and fraudulent. The meeting minutes show that the Board went into executive session, but the Board discussed the property sale resolution in closed session, that was still a violation of the meeting notice provision of the Act. And the Board could not have approved the resolution while in executive session without violating Open Meetings Act section 552.102.

CLAIM FOR RELIEF

2. Of the choices available for statement of relief required to be stated by TRCP 47(c)(2), Intervenor-Plaintiff seeks “monetary relief of \$100,000 or less and nonmonetary mandamus and injunctive relief.” However, as shown in this petition and its Prayer, Intervenor-Plaintiff does not seek monetary damages, and seeks only relief afforded by the Texas Open Meetings Act.

PARTIES

3. a. Plaintiff TOMA Integrity, Inc. is a nonprofit corporation formed by WOWSC

INTERVENOR DIAL’S PETITION IN INTERVENTION

Page 2 of 8

EXHIBIT P-5

ratepayers whose purpose includes, but is not limited to, encourage honesty and integrity in the management and development of properties owned or served by WOWSC and promote open government and effective public oversight of governmental actions that affect the served area. TOMA Integrity, Inc. is an interested person for purposes of TOMA plaintiff status. TOMA Integrity, Inc. can be served through its attorney-of-record in this case.

b. Defendant Windermere Oaks Water Supply Corporation is “governmental body” as defined by the Texas Open Meetings Act. *See* Tex. Gov’t Code section 551.001(3)(K) (“a nonprofit corporation organized under Chapter 67, Water Code, that provides a water supply or wastewater service, or both, and is exempt from ad valorem taxation under Section 11.30, Tax Code”). WOWSC is a defendant pursuant to TOMA section 551.142 as the governmental body who violated the meeting notice requirement of TOMA Section 551.041. WOWSC has been served.

c. Intervenor-Plaintiff Dial is an individual fee-paying resident of WOWSC whose last three digits of his driver’s license is 446, and the last three digits of his social security number is 924. Mr. Dial can be served through his attorney of record in this case. Mr. Dial’s interest in this case is as an interested person, a Director of TOMA Integrity, Inc. and resident of WOWSC who could have brought this case under the Open Meetings Act in his own name.

JURISDICTION & VENUE

4. The Court has jurisdiction over this case under TOMA section 551.142 which also makes venue mandatory in this Court.

FACTS

5. a. The facts stated in Paragraph 1 above are incorporated herein.

INTERVENOR DIAL’S PETITION IN INTERVENTION

Page 3 of 8

EXHIBIT P-5

b. TOMA section Sec. 551.041 says, “NOTICE OF MEETING REQUIRED. A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.” Courts have construed this provision. “The notice ... must be sufficiently specific to alert the general public to the topics to be considered at the upcoming meeting.” *City of Laredo v. Escamilla*, 219 S.W.#d 14, 19 (Tex. App.—San Antonio 2006 pet. denied). “To determine if the notice sufficiently informs the public of the topic under discussion, the court will focus its analysis on comparing the content of the notice given and the action taken at the meeting.” *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.—Waco 1997, no writ) (citing *Rettberg*, 873 S.W.2d at 412; *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 180 (Tex.App.—Corpus Christi 1990, writ denied) (emphasis added). “The notice must be more specific if the public has a special interest in the topic under discussion.” *Id.* The WOWSC ratepayers have a special interest in sale of WOWSC property, particularly when the property sale is an insider deal with a Board member, without competition, and at a below-market price.

COUNT 1: December 19, 2015

c. “Content of the Notice Given”: The meeting notice of the WOWSC Board for December 19, 2015 contained no action item on that agenda gave the public a hint that the Board was considering selling WOWSC property. Even though the agenda included a vague notice that the Board would “discuss” items in executive session (“5. Executive session to discuss real estate, personnel, or legal matters.”), the agenda also said, “Items 2 through 4 are posted for discussion and possible action by the Board.” So, the public was told that Item 5 was not an action item. Regardless, the vague, generic notice of Item 5 does not comply with the TOMA. *See Cox Enterprises v AISD*, 706 S.W.2d 956, 959 (Tex. 1986) (“The Act's purposes cannot be circumvented by mere reference to one of the [executive session] exceptions. The advance notice

given under section [now, 551.041] should specifically disclose the subjects to be considered at the upcoming meeting.”).

d. “The Action Taken at the Meeting”: A comparison of the agenda meeting notice to the minutes reveals the TOMA notice violation on the sale of WOWSC property to a business owned by WOWSC’s director Dana Martin. The minutes of the WOWSC Board meeting on December 19, 2015 include the following entry of action on a subject that was not included on the meeting agenda:

Out of Executive Session at 11:30 AM. Pat Mulligan made a motion to accept a proposal from Friendship Homes and Hangers to purchase 4 acres of land at the old WWTP to net \$200,000.00 to the Windermere Oaks Water Supply Corporation to be used to reduce the outstanding loan from the new waste water treatment plant. Motion seconded by Mike Madden. Board Members in favor Bob Mebane, Pat Mulligan, Mike Madden, and Dana Martin recused herself from the vote and the executive session.

The subject of this deliberation and action was not listed on the meeting notice.

COUNT 2: February 22, 2016

e. “Content of the Notice Given”:

Officers of WOWSC, in reliance on this unlawful vote of December 19, 2015, subsequently executed documents to sell the WOWSC property on March 13, 2016 and granted the buyer a right-of-first-refusal that was not even included in the motion, let alone included in an TOMA-compliant meeting notice. Included in the real estate sale records is a sworn affidavit by WOWSC then-President Robert Mebane and then-Secretary Mike Madden dated March 10, 2016 asserting the WOWSC Board had adopted a resolution at its meeting on February 22, 2016 authorizing the sale and authorizing the President and Secretary to sign the closing documents for the sale. There is no mention in meeting notice or the meeting minutes at all that any such resolution was adopted by the Board on that date. Either the Board violated the Open Meetings Act (again) by voting on

the resolution which was not listed on its meeting notice, or the affidavit provided to the title company in the real estate transaction is false and fraudulent. The meeting minutes show that the Board went into executive session, but the Board discussed the property sale resolution in closed session, that was still a violation of the meeting notice provision of the Act. And the Board could not have approved the resolution while in executive session without violating Open Meetings Act section 552.102.

f. Intervenor-Plaintiff Dial challenges all actions of the WOWSC Board to sell or agree to a right-of-first-refusal of the WOWSC property because the Board actions violated TOMA and should be declared void.

COUNT 1 – SUIT FOR MANDAMUS/INJUNCTIVE RELIEF

6. The facts stated above are incorporated here as the basis for this cause of action for mandamus and injunctive relief. *See* TOMA, Tex. Gov't Code section 551.142(a) (“Sec. 551.142. MANDAMUS; INJUNCTION. (a) An interested person, including a member of the news media, may bring an action by mandamus or injunction to stop, prevent, or reverse a violation or threatened violation of this chapter by members of a governmental body.”). Intervenor-Plaintiff brings this suit for mandamus against the Windermere Oaks Water Supply Corporation to reverse the violation of TOMA and asks the Court to declare void the action the WOWSC Board took on December 19, 2015 to sell WOWSC property and on February 22, 2016 to again authorize the sale and authorize officers to sign the closing documents, all without the required public notice.

CONDITIONS PRECEDENT

7. All conditions precedent to Intervenor-Plaintiff’s claim for relief have been performed or have occurred.

ATTORNEY FEES

8. Intervenor-Plaintiff has retained the under-signed attorney to bring this action. Intervenor-Plaintiff asks the court to award costs and reasonable and necessary attorney fees pursuant to TOMA section 551.142(b).

PRAYER

For these reasons, Intervenor-Plaintiff asks the Court to set this matter for hearing on mandamus to reverse the violation of the TOMA public-notice section 551.041 and declare void the action the WOWSC Board took on December 19, 2015 to sell WOWSC property and on February 22, 2016 to again authorize the sale and authorize officers to sign the closing documents, all without the required public notice, as enumerated above, and award Intervenor-Plaintiff costs and reasonable and necessary attorney fees, and to grant Intervenor-Plaintiff all other relief to which he may be entitled.

Respectfully submitted,



Bill Aleshire
Bar No. 24031810
AleshireLAW, P.C.
700 Lavaca, Suite 1400
Austin, Texas 78701
Telephone: (512) 320-9155
Cell: (512) 750-5854
Facsimile: (512) 320-9156

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded via electronic filing or email on this the 15th day of April, 2018, to:

COUNSEL FOR DEFENDANT:

Les Romo
Law Offices of Les Romo
102 West Morrow Street, Suite 202
P.O. Box 447
Georgetown, Texas 78627
(512) 868-5600
Fax: (512) 591-7815
State Bar No. 17225800
lesromo.lawoffice@gmail.com



Bill Aleshire

Corporations Section
P.O.Box 13697
Austin, Texas 78711-3697



Ruth R. Hughes
Secretary of State

Office of the Secretary of State

The undersigned, as Secretary of State of Texas, does hereby certify that the attached is a true and correct copy of each document on file in this office as described below:

TOMA INTEGRITY, INC.
Filing Number: 802879506

Certificate of Formation


December 11, 2017

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on October 29, 2019.



A handwritten signature in black ink, appearing to read "Ruth R. Hughes".

Ruth R. Hughes
Secretary of State

Form 202 Secretary of State P.O. Box 13697 Austin, TX 78711-3697 FAX: 512/463-5709 Filing Fee: \$25	 Certificate of Formation Nonprofit Corporation	Filed in the Office of the Secretary of State of Texas Filing #: 802879506 12/11/2017 Document #: 780508970002 Image Generated Electronically for Web Filing
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Article 1 - Corporate Name

The filing entity formed is a nonprofit corporation. The name of the entity is :

TOMA INTEGRITY, INC.

Article 2 – Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:
S. BRUCE SORGEN

C. The business address of the registered agent and the registered office address is:

Street Address:
519 AIRSTRIP RD SPICEWOOD TX 78669

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Management

☐ A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

OR

☒ B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: J. RICHARD DIAL	Title: Director
Address: 315 COVENTRY RD SPICEWOOD TX, USA 78669	
Director 2: S. BRUCE SORGEN	Title: Director
Address: 519 AIRSTRIP RD SPICEWOOD TX, USA 78669	
Director 3: DANIEL FLUNKER	Title: Director
Address: 307 COVENTRY RD SPICEWOOD TX, USA 78669	
Director 4: LAWRENCE FFRENCH	Title: Director
Address: 15104 STRADER CIRCLE AUSTIN TX, USA 78734	

Article 4 - Organization Structure

☐ A. The corporation will have members.

or

☒ B. The corporation will not have members.

Article 5 - Purpose

The corporation is organized for the following purpose or purposes:

THE CORP IS FOR THE PUBLIC GOOD OF PEOPLE WHO LIVE IN AND AROUND A

**BURNET COUNTY
WATER SUPPLY CORP.**

Supplemental Provisions / Information

Additional Provisions

Said corporation is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these articles.

No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

[The attached addendum, if any, is incorporated herein by reference.]

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Organizer

The name and address of the organizer are set forth below.

MARSHA SIHA 17350 STATE HWY 249 #220 HOUSTON TX 77064

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

MARSHA SIHA

Signature of organizer.

FILING OFFICE COPY