

**CAUSE NO. 18-0998-C395**

**TERRILL W. PUTNAM**  
*Plaintiff,*

v.

**CITY OF GEORGETOWN, TEXAS,  
DALE ROSS, MAYOR OF  
THE CITY OF GEORGETOWN,  
and DAVID MORGAN,  
CITY MANAGER OF THE CITY  
OF GEORGETOWN**  
*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**IN THE DISTRICT COURT OF**

**WILLIAMSON COUNTY, TEXAS**

**395<sup>th</sup> JUDICIAL DISTRICT**

**PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

**TABLE OF CONTENTS**

I. EXECUTIVE SUMMARY .....1

II. STATEMENT OF FACTS .....1

III. ARGUMENT & AUTHORITIES .....4

    A. STANDARD FOR REVIEW .....4

    B. TEX. GOV'T CODE 552.133 DOES NOT EXCEPT FROM DISCLOSURE  
        THE CITY'S "PAYBACK ANALYSIS" DOCUMENT.....4

        1. The "payback analysis" was publicly available, and therefore not  
           "related to a competitive matter." .....5

        2. The substance of the "payback analysis" is not reasonably related to a  
           competitive matter. ....5

PRAYER & CONCLUSION .....7

CERTIFICATE OF SERVICE .....8

## INDEX OF AUTHORITIES

### **CASES:**

### **PAGE(S):**

<i>City of Garland v. Pub. Util. Com'n of Texas</i> , 165 S.W.3d 814 (Tex. App.—Austin 2005, pet. denied).....	6
<i>Colorado County v. Staff</i> , 510 S.W.3d 435 (Tex. 2017).....	6
<i>Matter of Est. of Kuyamjian</i> , 03-18-00257-CV, 2018 WL 3749834 (Tex. App.—Austin Aug. 8, 2018) .....	4

### **STATUTES:**

#### Tex. Civ. Prac. & Rem. Code

§ 37.003(a) .....	5
§ 37.004(a) .....	4
§ 37.010.....	4

#### Tex. Gov't Code

§ 552.001(a) .....	1
§ 552.001(b).....	4, 5
§ 552.021.....	5
§ 552.133.....	2, 3, 4, <i>passim</i>
§ 552.133(a-1).....	6
§ 552.133(b).....	6

### **OTHER AUTHORITIES:**

Merriam-Webster, 2019, Retrieved February 21, 2019 from <a href="https://www.merriam-webster.com/dictionary/competition">https://www.merriam-webster.com/dictionary/competition</a> .....	6
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff Terrill W. Putnam files his Motion for Summary Judgment pursuant to Tex. R. Civ. P. 166a versus Defendants City of Georgetown (the “City”), Dale Ross in his official capacity as Mayor of the City of Georgetown, and David Morgan in his official capacity as City Manager of the City of Georgetown (collectively, the “Defendants.”).

## **I. EXECUTIVE SUMMARY**

“Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.”

Tex. Gov’t Code 552.001(a).

Plaintiff, a taxpayer, resident, and electricity customer of the City of Georgetown, wanted to know the return on investment for solar panels the City installed on the roof of one of its buildings. The City fought Plaintiff for two years before turning over the bid summary sheet document (“payback analysis”) requested by Plaintiff that, it turns out, has always been published on the City’s website. Yet, the City maintains that this publicly available document remains subject to exception from disclosure as a public record through an exception to the Texas Public Information Act that has never been interpreted by Texas courts. This live, ongoing controversy is what Plaintiff asks this Court to resolve through declaratory judgment.

## **II. STATEMENT OF FACTS**

1. On November 16, 2016, Plaintiff submitted a request under the TPIA to the City of Georgetown for the “payback analysis” for the solar panels installed on the City’s Westside

Service Center roof, located at 5501 Williams Drive, Georgetown, Texas 78633. Exhibit A, Affidavit of Terrill Putnam.

2. Plaintiff made the request after observing that the City Westside Service Center contained several hundred solar panels and Georgetown City Councilman Steve Fought telling Plaintiff that a payback analysis had been performed.

3. In response on December 2, 2016, the City submitted a request for open records determination to the Texas Attorney General. Exhibit B, Letter from City of Georgetown (December 2, 2016). The City asserted the “payback analysis” exempt from disclosure pursuant to Tex. Gov’t Code 552.133, because it related to a public power utility competitive matter. Specifically, the City asserted, “it contains the rates at which the City can purchase electric power from several power providers.”

4. Based on the representations made by the City, the Texas Attorney General affirmed the City’s withholding of the withheld information. Exhibit C, Texas Attorney General OR2016-27724 (December 15, 2016).

5. Plaintiff filed suit August 14, 2018. Exhibit D, Plaintiff’s Original Petition and Request for Disclosure.

6. On October 2, 2018, the City, through its counsel, elected to release the “payback analysis” withheld by the City in response to Plaintiff’s open records request. Exhibit E, Letter from City of Georgetown (October 2, 2018). While the City elected to release the “payback analysis,” the City asserted:

The City’s decision to publicly release this document does not waive, bind, or prevent the City from in any way asserting any and all applicable exemptions and exceptions to public disclosure for similar documents, information, and data that the Requestor or any other individual may request to be produced. This disclosure shall not be construed as the City assenting to the classification of the requested document as subject to disclosure under the Texas Government Code, or any of the

legal and factual claims made by the requestor in their suit. The City maintains its position on the subject of the applicability of Section 552.133 of the Government Code to the requested material.”

7. Upon receipt of the “payback analysis,” attached to the City’s letter, Plaintiff recognized the document as being publicly available on the City’s website. Exhibit A. Plaintiff recognized the “payback analysis” document labeled as the PCI – Bid Summary Results document attached as backup to Agenda Y to its September 13, 2016, City Council meeting agenda. Exhibit A; Exhibit F, Excerpt from City Council meeting agenda (September 13, 2016).<sup>1</sup> This “payback analysis” document has been publicly available on the City’s website since September 2016 – prior to Plaintiff’s open records request.

**City of Georgetown, Texas  
City Council Regular Meeting  
September 13, 2016**

**SUBJECT:**

Consideration and possible action to authorize the Mayor to execute a contract for the installation of solar panels at the Westside Service Center in the amount of **\$271,452.00** with **Performance Contracting, Inc. (PCI) Solar Energy** as the award for RFP Number 201642 -- Christopher Foster, Resource Planning and Integration Manager

**ITEM SUMMARY:**

On July 12<sup>th</sup>, 2016, the City Council reviewed results of the RFP for Solar Energy at the Westside Service Center. Proposals were looked at that included Rooftop mounts and covered parking options. Council directed staff to negotiate with PCI as the best value bid for their rooftop design. This contract is the result of the negotiation. Work can begin immediately after execution, and is not expected to take any longer than the first quarter of 2017.

**FINANCIAL IMPACT:**

**\$271,452 as part of the purchased power for the City. GL Account # 610-5-0537-51-301**

**SUBMITTED BY:**

Christopher Foster - Resource Planning & Integration Manager

**ATTACHMENTS:**

[PCI Contract](#)

[PCI - Bid Summary Results](#)

8. The City’s “payback analysis” purports to show a summary of the bids that the City received for the installation of the solar panels on the Westside Service Center roof. Exhibit E, F. Nowhere on the then-publicly available “payback analysis” does the document describe “the rates at which the City can purchase electric power from several power providers.”

---

<sup>1</sup> Available at: <https://georgetowntx.novusagenda.com/AgendaPublic/CoverSheet.aspx?ItemID=14986&MeetingID=1822> (last accessed February 20, 2019).

9. Plaintiff intends to remain vigilant in monitoring the activities of his government, specifically the operations of its utility department, through all lawful means including future open records requests. As such, this Court’s interpretation of Tex. Gov’t Code 552.133 is important not only to resolve the current dispute over the exception from disclosure of the City’s “payback analysis” document, but also future open record requests to the City’s utility department, which the City would likely also resist under the same basis.

### **III. ARGUMENT & AUTHORITIES**

#### **A. STANDARD FOR REVIEW**

Declaratory judgments are reviewed under the same standards applicable to other judgments; thus, the denial or grant of a declaratory judgment requested through a traditional motion for summary judgment, such as occurred here, is reviewed under traditional summary-judgment standards. *Matter of Est. of Kuyamjian*, 03-18-00257-CV, 2018 WL 3749834, at \*2 (Tex. App.—Austin Aug. 8, 2018); Tex. Civ. Prac. & Rem. Code § 37.010.

The TPIA effectively places the burden of proving that information is exempt from disclosure on the government entity. “This chapter shall be liberally construed in favor of granting a request for information.” Tex. Gov’t Code § 552.001(b).

#### **B. TEX. GOV’T CODE 552.133 DOES NOT EXCEPT FROM DISCLOSURE THE CITY’S “PAYBACK ANALYSIS” DOCUMENT**

Plaintiff seeks declaratory judgment that the City’s “payback analysis” document is not exempt from disclosure under the Texas Public Information Act (TPIA) pursuant to the public power utility competitive matter exception of Tex. Gov’t Code § 552.133. A person whose rights, status, or other legal relations are affected by statute may have determined any question of construction or validity arising under the statute and obtain a declaration of rights, status, or other legal relations thereunder. Tex. Civ. Prac. & Rem. Code § 37.004(a). A court of record within its

jurisdiction has power to declare rights, status, and other legal relations whether or not further relief is or could be claimed. Tex. Civ. Prac. & Rem. Code § 37.003(a). Texas law requires liberal construction of the TPIA in favor of granting a request for information. Tex. Gov't Code § 552.001(b). While Plaintiff now has the “payback analysis” document following two years of open records requests and the filing of this lawsuit, the legal issue remains an active controversy as to whether this “payback analysis” document is subject to being withheld under the Tex. Gov't Code § 552.133 exception as claimed by the City. *See* Exhibit E.

**1. The “payback analysis” was publicly available, and therefore not “related to a competitive matter.”**

The “payback analysis” document was publicly available on the City’s website. That fact should end this court’s inquiry. While Plaintiff could not know that the “payback analysis” withheld by the City was the same document available online since September 2016, as the PCI Bid Summary Results document, the document was, is, and has always been during times relevant to this lawsuit, publicly available. Under the TPIA, “public information is available to the public.” Tex. Gov't Code § 552.021.

Furthermore, for information to be a “competitive matter,” as defined by the statute, it must give an “advantage to competitors or prospective competitors,” *if it is disclosed. Id.*, 552.133(a-1). In this case, the payback analysis was already public, and thus already disclosed to any of GUS’s competitors or prospective competitors. Put simply, the prior public disclosure of this “payback analysis” necessarily removes it from the statutory definition of “competitive matter.”

**2. The substance of the “payback analysis” is not reasonably related to a competitive matter.**

If the fact the “payback analysis” document is published by the City on its own website does not disqualify it from being subject to the § 552.133 exception, the substance of the document demonstrates its inapplicability. Section 552.133 has only been discussed once by any Texas court

since its addition to the TPIA in 2004. *City of Garland v. Pub. Util. Com'n of Texas*, 165 S.W.3d 814, 817 (Tex. App.—Austin 2005, pet. denied). In *City of Garland*, the appellate court resolved the conflict between § 552.133 and authority granted the Public Utility Commission, but did not address the substance of § 552.133, specifically the meaning of “competitive matter.” *Id.* at 817.

However, this Court’s interpretation of § 552.133 and its application to the “payback analysis” does not require a complicated inquiry. Section 552.133(b) excepts from disclosure information or records “reasonably related to a competitive matter.” Competitive matter means “a utility-related matter that is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors.” Tex. Gov’t Code 552.133(a-1). The statute does not further define “competitive.”

“In determining the ordinary and common meaning of an undefined word,” courts will “consider a variety of sources, including dictionary definitions, judicial constructions of the term, and other statutory definitions.” *Colorado County. v. Staff*, 510 S.W.3d 435, 448 (Tex. 2017). Competitive is defined as “relating to, characterized by, or based on competition,” which is defined as “the effort of two or more parties acting independently to secure the business of a third party by offering the most favorable terms.”<sup>2</sup> (Merriam-Webster, 2019). The City of Georgetown Utility Systems serves to handle connects, disconnects, and payments for water, electricity, garbage, wastewater, and stormwater drainage. Exhibit G, Georgetown Utility Systems website.<sup>3</sup>

The “payback analysis” is really a bid summary sheet of the quotes the City received for the now-constructed Westside Service Center roof solar panels. The City cannot be at a competitive disadvantage based upon disclosure of bids received from potential vendors but related to a project that has long been complete. And, the “payback analysis” document calculates

---

<sup>2</sup> <https://www.merriam-webster.com/dictionary/competition> (last accessed on February 21, 2019).

<sup>3</sup> <https://gus.georgetown.org/> (last accessed February 21, 2019).

for each of the bidding vendors the cost per watt for the cost of each bid compared to the projected production. Again, given that the bid was awarded and the solar panel project constructed, the vendors' bids are not material to the ongoing utility operations of the City.

### **PRAYER & CONCLUSION**

Plaintiff cannot explain why the City fought him for two years before turning over a one-page document available on its website the entire time. Any attempt to give Defendants the benefit of the doubt is thwarted by the City's position today that its action in withholding this "payback analysis" document was lawful under the § 552.133 exception. Given the strong presumption of transparency hard written into the TPIA, Plaintiff respectfully requests this Court declare that the City's "payback analysis" document is not exempt from disclosure as a public record under the TPIA, specifically the § 552.133 exception.

Respectfully submitted,



---

ROBERT HENNEKE  
Texas Bar No. 24046058  
[rhenneke@texaspolicy.com](mailto:rhenneke@texaspolicy.com)  
MUNERA AL-FUHAID  
Texas Bar No. 24094501  
[mal-fuhaid@texaspolicy.com](mailto:mal-fuhaid@texaspolicy.com)  
TEXAS PUBLIC POLICY FOUNDATION  
901 Congress Avenue  
Austin, Texas 78701  
Telephone: (512) 472-2700  
Facsimile: (512) 472-2728

MICHAEL E. LOVINS  
Texas Bar No. 24032555  
[michael@LTLegalTeam.com](mailto:michael@LTLegalTeam.com)  
LOVINS TROSCLAIR, PLLC  
8656 W Highway 71  
Building D, Suite 200  
Austin, Texas 78735-8004

Telephone: (512) 535-1649  
Facsimile: (512) 519-1238

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT has been served on all counsel of record on this 28<sup>th</sup> day of February, 2019, in compliance with the Texas Rules of Civil Procedure.

Jose E. de la Fuente

[jdelafuente@lglawfirm.com](mailto:jdelafuente@lglawfirm.com)

Lambeth Townsend

[ltownsend@lglawfirm.com](mailto:ltownsend@lglawfirm.com)

William A. Faulk III

[cfaulk@lglawfirm.com](mailto:cfaulk@lglawfirm.com)

Lloyd Gosselink Rochelle & Townsend, PC

816 Congress Avenue, Suite 1900

Austin, Texas 78701



---

ROBERT HENNEKE

CAUSE NO. 18-0998-C395

TERRILL W. PUTNAM  
*Plaintiff,*

v.

CITY OF GEORGETOWN, TEXAS,  
DALE ROSS, MAYOR OF  
THE CITY OF GEORGETOWN,  
and DAVID MORGAN,  
CITY MANAGER OF THE CITY  
OF GEORGETOWN  
*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF  
  
WILLIAMSON COUNTY, TEXAS  
  
  
  
  
  
  
  
395<sup>th</sup> JUDICIAL DISTRICT

**AFFIDAVIT OF ROBERT HENNEKE**

STATE OF TEXAS           §  
                                          §  
COUNTY OF TRAVIS       §

BEFORE ME, the undersigned authority, on this day personally appeared ROBERT HENNEKE, who swore and affirmed to tell the truth, and stated as follows:

“My name is Robert Henneke. I am of sound mind and capable of making this sworn statement. I am an attorney with the Texas Public Policy Foundation in Austin, Texas. I am admitted to practice in the State of Texas. I have personal knowledge of the facts written in this statement. If called upon as a witness, I could and would competently testify to the truth of each statement herein.

1. Attached as Exhibit B is a true and correct copy of a letter from the City of Georgetown dated December 2, 2016.
2. Attached as Exhibit C is a true and correct copy of a letter from the Texas Attorney General OR2016-2774 dated December 15, 2016.
3. Attached as Exhibit D is a true and correct copy of Plaintiff’s Original Petition and Request for Disclosure filed on August 14, 2018.
4. Attached as Exhibit E is a true and correct copy of a letter from the City of Georgetown dated October 2, 2018.
5. Attached as Exhibit F is a true and correct copy of excerpts of the Georgetown City Council meeting agenda dated September 13, 2016.

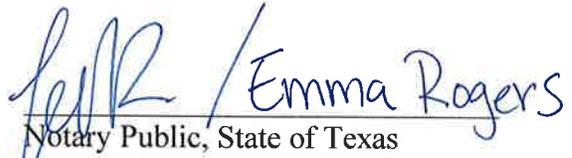
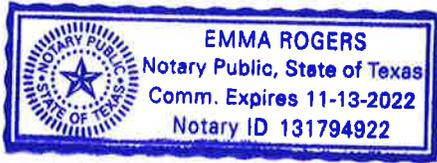
6. Attached as Exhibit G is a true and correct copy of Georgetown Utility System's website."

Further, affiant sayeth not.



ROBERT HENNEKE

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 28 day of February, 2019.



Notary Public, State of Texas

Commission Expires: 11/13/22

# **EXHIBIT A**

CAUSE NO. 18-0998-C395

TERRILL W. PUTNAM  
*Plaintiff,*

v.

CITY OF GEORGETOWN, TEXAS,  
DALE ROSS, MAYOR OF  
THE CITY OF GEORGETOWN,  
and DAVID MORGAN,  
CITY MANAGER OF THE CITY  
OF GEORGETOWN  
*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT OF  
  
WILLIAMSON COUNTY, TEXAS

395<sup>th</sup> JUDICIAL DISTRICT

AFFIDAVIT OF TERRILL W. PUTNAM

THE STATE OF TEXAS           §  
                                          §  
COUNTY OF WILLIAMSON       §

BEFORE ME, the undersigned authority, on this day personally appeared Terrill Putnam, who swore and affirmed to tell the truth, and stated as follows:

1. My name is Terrill Putnam. I am over the age of 18, of sound mind, and capable of making this sworn statement.
2. I am a resident of Georgetown, Texas. I pay taxes to the City of Georgetown and to Williamson County, Texas. I am a plaintiff in the above-captioned lawsuit.
3. On November 16, 2016, I requested, pursuant to the Texas Public Information Act, a “payback analysis” from the City of Georgetown for solar panels installed on the Westside Service Center roof, located at 5501 Williams Drive, Georgetown, Texas 78633.
4. I made the request because I observed that the Westside Service Center contained several hundred solar panels. Furthermore, Steve Fought, a Georgetown Councilman, told me that a payback analysis had been performed and that I should request such payback analysis

through the open record process. The reference number to my first request is G003151-112116.

5. In response on December 2, 2016, the City submitted a request for open records determination to the Texas Attorney General. The City asserted the “payback analysis” exempt from disclosure pursuant to Tex. Gov’t Code 552.133, because it related to a public power utility competitive matter. Specifically, because “it contains the rates at which the City can purchase electric power from several power providers.”
6. Based on the representations made by the City, the Texas Attorney General affirmed the City’s withholding of the withheld information.
7. On October 2, 2018, the City, through its counsel, elected to release the “payback analysis” withheld by the City in response to my open records request.
8. Upon receipt of the “payback analysis,” attached to the City’s letter, I recognized the document as being publicly available on the City’s website. I recognized the “payback analysis” document labeled as the PCI – Bid Summary Results document attached as backup to Agenda Y to its September 13, 2016, City Council meeting agenda.
9. This “payback analysis” document has been publicly available on the City’s website since September 2016 – prior to my open records request.
10. The City’s “payback analysis” purports to show a summary of the bids that the City received for the installation of the solar panels on the Westside Service Center roof. Nowhere on the then-publicly available “payback analysis” does the document describe “the rates at which the City can purchase electric power from several power providers.”
11. I intend to remain vigilant in monitoring the activities of his government, specifically the operations of its utility department, through all lawful means including future open records

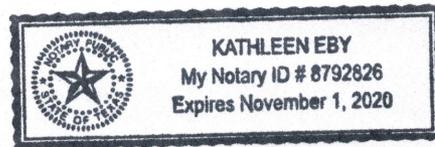
requests. As such, the interpretation of Tex. Gov't Code 552.133 is important not only to resolve the current dispute over the exception from disclosure of the City's "payback analysis" document, but also future open record requests from me to the City's utility department, which the City would likely also resist under the same basis.

Terrill Putnam  
Terrill Putnam

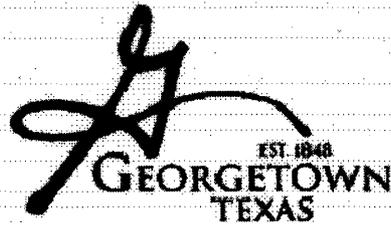
SWORN to and SUBSCRIBED before me, the undersigned authority, on the 28<sup>th</sup> day of February, 2019.

Kathleen Eby  
Notary Public, State of Texas

Commission Expires: 11-01-2020



# **EXHIBIT B**



December 2, 2016

**SENT VIA CERTIFIED MAIL**

7016 1370 0000 2790 6388

Office of the Attorney General  
Attention: Open Records Division MC-014  
P. O. Box 12548  
Austin, Texas 78711-2548

**Re: Public Information Request: G003151-112116**

Dear Sir or Madam:

The City of Georgetown ("City") received a Public Information Act Request on November 16, 2016. The Requestor is seeking copies of a "payback analysis" concerning solar panel installation and a City of Georgetown facility. A copy of the request is attached as Exhibit "A." The City seeks a determination as to the applicability of the Act to the information responsive to this request, attached as Exhibit "B."

The City believes that Section 552.133 of the Government Code exempts from disclosure information regarding public power utility competitive matters. Section 552.133 excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code §552.133(b). Section 552.133 provides, in relevant part:

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

(A) generation unit specific and portfolio fixed and variable costs, including forecasts of those costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling;

- (B) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas bids, prices, offers, and related services and strategies;
- (C) effective fuel and purchased power agreements and fuel transportation arrangements and contracts;
- (D) risk management information, contracts, and strategies, including fuel hedging and storage; and
- (E) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider.

Georgetown Utility Systems is a municipally owned utility for the purposes of Section 552.133, and the attached information is in regards to a "competitive matter" of which the City believes should not be released pursuant to Section 552.133. Specifically it reasonably relates to Subsections A through D above, because it contains the rates at which the City can purchase electric power from several power providers.

According to Section 552.301(b), a governmental body must ask for a decision from your office and state the exceptions that apply within ten (10) business days of receiving the written request. The City of Georgetown was closed on November 24 and 25, 2016 (national holiday and day thereafter), so we are in compliance within Section 552.301(b).

Thank you for your attention to this matter. The City looks forward to receiving your response to its request for a determination regarding this request.

Sincerely,



Tad Cleaves  
Assistant City Attorney  
City of Georgetown

Attachment: Exhibit "A": Open Records Act Request  
Exhibit "B": Requested Information

cc (w/o attachments): Requestor Sent Via E-Mail

# **EXHIBIT C**



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 15, 2016

Mr. Tad Cleaves  
Assistant City Attorney  
City of Georgetown  
P.O. Box 409  
Georgetown, Texas 78627-0409

OR2016-27724

Dear Mr. Cleaves:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 645587 (PIR #G003151-112116).

The City of Georgetown (the "city") received a request for the payback analysis pertaining to specified solar panels. You claim the submitted information is excepted from disclosure under section 552.133 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.133 of the Government Code excepts from disclosure a public power utility's information that is "reasonably related to a competitive matter." Gov't Code § 552.133(b). Section 552.133 provides in relevant part:

(a) In this section, "public power utility" means an entity providing electric or gas utility services that is subject to the provisions of this chapter.

(a-1) For purposes of this section, "competitive matter" means a utility-related matter that is related to the public power utility's competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. The term:

(1) means a matter that is reasonably related to the following categories of information:

...

(F) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies[.]

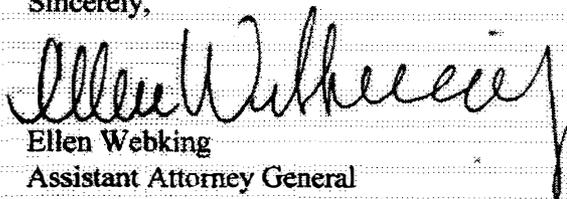
*Id.* § 552.133(a), (a-1)(1)(F). Section 552.133(a-1)(2) provides fifteen categories of information that are not competitive matters. *Id.* § 552.133(a-1)(2).

The city explains the Georgetown Utility Systems is a municipally-owned utility service and is a public power utility for purposes of section 552.133. The city asserts the submitted information pertains to the public power utility's competitive matter pursuant to subsection 552.133(a-1)(1)(F). Further, the information at issue is not among the fifteen categories of information expressly excluded from the definition of "competitive matter" by section 552.133(a-1)(2). Based on your representations and our review, we find the information at issue relates to competitive matter of a public power utility as defined by section 552.133 (a-1). Therefore, the city must withhold the submitted information under section 552.133 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 645815

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

# **EXHIBIT D**



On November 16, 2016, Terrill W. Putnam requested a “payback analysis” from the City of Georgetown for solar panels installed on the Westside Service Center roof, located at 5501 Williams Drive, Georgetown, Texas 78633, as he was told to do so by a Georgetown City Councilman. Mr. Putnam’s request is governed by the Texas Public Information Act. The Texas Public Information Act promotes the policy that citizens are entitled to complete information, unless otherwise expressly provided by law, about the affairs of government and the official acts of public officials and employees. Through the Texas Public Information Act, there are procedures for responding to a public information request, and procedures to follow if a governmental entity wishes to hold information as exempt from the Act. In response, the City of Georgetown claimed the payback analysis as exempt from public disclosure and withheld the document.

On August 28, 2017, Mr. Putnam made a second public information request to the City of Georgetown seeking documents supporting the factual basis for the City’s claimed exception from disclosure for the payback analysis. The City failed to respond to Mr. Putnam’s second request.

Accordingly, Plaintiff seeks a declaratory judgment that the records requested by Mr. Putnam are not exempt under Texas state law, and a declaratory judgment that the payback analysis is public and should be disclosed.

## **II. DISCOVERY CONTROL PLAN**

Plaintiff intends to conduct Level 2 discovery under Rule 190 of the Texas Rules of Civil Procedure.

### **III. PARTIES**

#### **A. PLAINTIFF**

*Terrill W. Putnam*

1. Plaintiff Terrill W. Putnam is a resident of Georgetown, Texas.

#### **B. DEFENDANTS**

2. Defendants are the City of Georgetown, Dale Ross in his official capacity as Mayor of the City of Georgetown, and David Morgan, in his official capacity as City Manager of the City of Georgetown.

3. The City of Georgetown is a home rule municipality headquartered in Williamson County, Texas.

4. Defendant Dale Ross is the Mayor of the City of Georgetown.

5. Defendant Morgan is the City Manager of the City of Georgetown, serving as an officer for public information.

6. Pursuant to Texas Civil Practice and Remedies Code Section 17.024(b), Defendants may be served by serving the mayor, clerk, secretary, or treasurer of the City at 405 Martin Luther King Street, Georgetown, Texas 78626. Plaintiff requests that the Clerk issue citation and service of process on all Defendants.

### **IV. JURISDICTION AND VENUE**

7. Jurisdiction is proper in this Court pursuant to Article V, Section 1 and 8 of the Texas Constitution and Sections 24.007 and 24.008 of the Texas Government Code. This Court has subject matter jurisdiction pursuant to Sections 552.321 and 552.3215 of the Texas Government Code because Plaintiff seeks to vindicate his rights under the Texas Public

Information Act via the Uniform Declaratory Judgments Act. Tex. Civ. Prac. & Rem. Code § 37.003 (LEXIS, Lexis Advanced through 2017 Reg. Sess. & 1st C.S., 85th Leg.).

8. Venue is appropriate in Williamson County pursuant to Sections 15.002(a)(1), (a)(3) and 15.005 of the Texas Civil Practice and Remedies Code, and Section 552.321(b) of the Texas Government Code because all or a substantial part of the events giving rise to the claim occurred in Williamson County.

## **V. STATEMENT OF FACTS**

### **A. MR. PUTNAM'S FIRST PUBLIC INFORMATION REQUEST**

9. On November 16, 2016, Mr. Putnam submitted an open records request seeking a “payback analysis” from the City of Georgetown, reference number G003151-112116, for solar panels installed on the Westside Service Center roof, located at 5501 Williams Drive, Georgetown, Texas 78633.

10. Mr. Putnam’s request was due to his observation that the Westside Service Center roof contained several hundred solar panels. The Westside Service Center is a project of the City of Georgetown. Georgetown City Councilman Steve Fought told Mr. Putnam that a payback analysis had been performed and that Mr. Putnam should request it through the open records process.

11. In describing the basis for his request of the payback analysis, Mr. Putnam stated, “I assume the panels are hooked to the grid and that they generate more electricity than the Center requires, is that true? Looking forward to seeing the complete analysis.”

12. On December 2, 2016, Defendants sought an open records determination from the Texas Attorney General. The City claimed that the payback analysis was “reasonably related to a

competitive matter” under Section 552.133(b) of the Texas Government Code and therefore exempt.

13. On December 15, 2016, the Office of Attorney General issued Open Records Decision OR2016-27724 in response to the City’s request for a determination. Bound to accept as true the City’s claim of an exemption from disclosure, Texas Attorney General’s response stated that the information requested by Mr. Putnam relates to competitive matter of a public power utility under section 552.133(a-1) and directed the City to withhold the requested information.

**B. MR. PUTNAM’S SECOND PUBLIC INFORMATION REQUEST**

14. Mr. Putnam submitted a second public information request to Defendants on August 28, 2017, reference number G004387-082817, requesting documents that relate to three matters: (1) documents that relate to or demonstrate how the payback analysis concerning solar panel installation is reasonably related to a competitive matter; (2) documents that relate to or support the City’s assertion that the City engages in competitive activity; and (3) documents that relate to or demonstrate that electricity generated by the solar panel installation is sold or transferred into the marketplace.

15. The City responded to Mr. Putnam’s second request on October 12, 2017. In its response, the City concluded that Mr. Putnam’s second request was a repetitive request that the City had already responded to. Additionally, the City stated that Mr. Putnam requests documents that required legal research or analysis, which the City stated it is not required to do.

16. The City did not seek an open records determination from the Texas Attorney General’s office for Mr. Putnam’s second open records request.

### **C. MR. PUTNAM'S WRITTEN COMPLAINT**

17. In response to the City's failure to produce responsive documents or seek an Attorney General ruling, Mr. Putnam filed a written complaint with the Office of Attorney General against the City on October 30, 2017. The complaint sought assistance from Office of Attorney General against the City for refusing to produce any documents in response to Mr. Putnam's second request. Specifically, Mr. Putnam sought assistance to compel the City to produce the requested documents. The written complaint also described that more than ten days passed and the City did not produce documents or seek an Open Records Decision from the Office of Attorney General, meaning that the City waived any exception to the request.

18. The Office of the Attorney General contacted the City on December 19, 2017, to notify it that Mr. Putnam filed a written complaint against the City for failing to respond appropriately to a request for information; assigned identification number 691048. The letter notified the City that the Office of the Attorney General's records did not show a request for an Attorney General decision in accordance with Section 552.301 of the Public Information Act. The letter requested a written response within ten business days of receipt notifying the Office of the Attorney General if the information will be released, whether there is no information responsive to the request, or whether the City believes the information is exempt or the City will request an Attorney General decision.

19. The City responded to the Office of Attorney General on January 5, 2018, that it did not possess any responsive information other than the payback analysis documents. The City again emailed the Office of Attorney General on May 3, 2018, stating no responsive information to Mr. Putnam's request other than the previously submitted documents exempted from disclosure as related to a competitive matter.

20. On May 31, 2018, the Office of Attorney General sent a letter to Mr. Putnam stating that the responsive information is subject to Open Records Letter Decision OR2016-27724 (2016), and the information was withheld pursuant to the ruling. Additionally, the Office of Attorney General stated that the City could find no additional information responsive to Mr. Putnam's request. As a result, the Office of Attorney General closed its file on the matter.

21. While the City of Georgetown continues to withhold the payback analysis, public statements made by Georgetown officials related to the information contained within the payback analysis contradict Georgetown's claim to the Texas Attorney General that this document needs to be withheld from the public so as to not put the City of Georgetown at a competitive disadvantage.

22. Recently in the Austin American Statesman, Georgetown Mayor Dale Ross made claims about Georgetown's energy policy that a review of the payback analysis would show the truth, specifically that Georgetown's shift to offset its "energy use with renewables" "was predominantly a financial one."<sup>3</sup>

23. The payback analysis will show, in part, whether this claim is true.

## **VI. CAUSES OF ACTION**

### **A. COUNT ONE: DECLARATORY JUDGMENT THAT THE RECORDS REQUESTED BY MR. PUTNAM'S FIRST REQUEST ARE NOT EXEMPT UNDER TEXAS LAW**

24. The preceding paragraphs are realleged and incorporated by reference.

25. The Open Records Letter Decision, OR2016-27724 (2016), based on Mr. Putnam's first public information request and not binding on the Court, *Thomas v. Cornyn*, 71 S.W.3d 473, 483 (Tex. App.—Austin 1992, no pet.), should be reversed for three reasons.

---

<sup>3</sup> See <https://www.mystatesman.com/news/opinion/commentary-georgetown-mayor-raise-glass-renewable-energy/uZC2r34tZUIcEDnGikHZPP/> (last visited August 11, 2018).

26. First, the payback analysis is within the category of public investment information under Section 552.0225 of the Texas Public Information Act, and Mr. Putnam has a right to access such information.

27. This payback analysis does not relate to a competitive matter, nor is it valid for Defendants to withhold the payback analysis pursuant to Section 552.133, relating to confidentiality of public power utility competitive matters.

28. Lastly, Section 552.001(b) of the Texas Public Information Act puts forth a clear, unequivocal policy that it shall be liberally construed in favor of granting a request for information. This policy of liberally construing in favor of granting a request for information is not only reiterated in Section 552.0025, but throughout the Texas Public Information Act. The use of the word “shall,” according to the Code Construction Act, imposes a duty on the Court to fulfill this policy interest to maintain an open, accountable government. Tex. Gov’t Code § 311.016.

29. For these reasons, pursuant to Texas’s Uniform Declaratory Judgments Act and Texas’s Public Information Act, Plaintiff requests that this Court enter a judgment declaring that the requested payback analysis is a public record subject to disclosure under the Texas Public Information Act.

**B. COUNT TWO: DECLARATORY JUDGMENT THAT THE RECORDS REQUESTED BY MR. PUTNAM’S SECOND REQUEST ARE NOT EXEMPT UNDER TEXAS LAW**

30. The preceding paragraphs are realleged and incorporated by reference.

31. Pursuant to Texas’s Uniform Declaratory Judgments Act and Texas’s Public Information Act, Plaintiff respectfully requests that this Court enter a judgment declaring that the “payback analysis” requested by Plaintiff is not exempt from disclosure pursuant to Section

552.133(b) of the Texas Government Code because the City of Georgetown does not qualify for the exception.

32. Information or records are excepted from disclosure “*if the information or records are reasonably related to a competitive matter.*” Tex. Gov’t Code 552.133(b).

33. “Competitive matter” means a utility-related matter that is related to the public power utility’s competitive activity, including commercial information, and would, if disclosed, give advantage to competitors or prospective competitors. Tex. Gov’t Code 552.133(a-1).

34. Plaintiff’s second open records request sought documents that would establish the factual basis for Defendants’ entitlement to claim the 552.133 exception.

35. By conceding that it has no records to support the factual basis for claiming the 552.133, the City demonstrates that it is not entitled to withhold the requested payback analysis pursuant to 552.133.

36. Thus, Plaintiff asks this Court to declare that the payback analysis does not fall under the 552.133 exception because it does not reasonably relate to a competitive matter. Therefore, as Georgetown does not have a valid basis to except the payback analysis from disclosure, it must be disclosed under the Texas Public Information Act.

**C. COUNT THREE: DECLARATORY JUDGMENT THAT THE PAYBACK ANALYSIS IS PUBLIC AND SHOULD BE DISCLOSED**

37. The preceding paragraphs are realleged and incorporated by reference.

38. Pursuant to Texas’s Uniform Declaratory Judgments Act and Texas’s Public Information Act, Plaintiff respectfully requests that this Court enter an injunction compelling the City of Georgetown to turn over the payback analysis from Mr. Putnam’s first public information request, and to turn over any documents that relate to Mr. Putnam’s second public information request.

## **VII. ATTORNEYS' FEES**

39. Under the Uniform Declaratory Judgments Act, Tex. Civ. Prac. & Rem. Code Ann. § 37.009, Plaintiff is entitled to recover “costs and reasonable and necessary attorney’s fees as are equitable and just.”

40. Moreover, under the Texas Public Information Act, Tex. Gov’t Code § 552.323, Plaintiff is entitled to recover in an action brought under Sections 552.321 or 552.3215 if he substantially prevails.

41. Plaintiff seeks an award of his reasonable attorneys’ fees for the preparation of this suit, prosecution of this suit, and all appeals.

## **VIII. REQUEST FOR DISCLOSURE**

42. Plaintiff requests that Defendants disclose the information and materials described in Rule 194.2 of the Texas Rules of Civil Procedure.

## **IX. PRAYER AND CONCLUSION**

**THEREFORE**, Plaintiff requests the Court issue the following relief:

- i. A declaration that the records requested by Plaintiff are not exempt under Texas law;
- ii. A declaration that the payback analysis is public and should be disclosed;
- iii. An injunction compelling the City of Georgetown to turn over the requested information;
- iv. An award to Plaintiff of his attorneys’ fees and reasonable costs; and

- v. All other and further relief that this Court may deem proper in law or equity.

Respectfully submitted,



---

ROBERT HENNEKE  
Texas Bar No. 24046058  
[rhenneke@texaspolicy.com](mailto:rhenneke@texaspolicy.com)  
TEXAS PUBLIC POLICY FOUNDATION  
901 Congress Avenue  
Austin, Texas 78701  
Telephone: (512) 472-2700  
Facsimile: (512) 472-2728

MICHAEL E. LOVINS  
Texas Bar No. 24032555  
[Michael@LTLegalTeam.com](mailto:Michael@LTLegalTeam.com)  
LOVINS TROSCLAIR, PLLC  
8656 W Highway 71  
Building D, Suite 200  
Austin, Texas 78735-8004  
Telephone: (512) 535-1649  
Facsimile: (512) 519-1238

*Attorneys for Plaintiff*

# **EXHIBIT E**

Mr. Faulk's Direct Line: (512) 322-5817  
Email: cfaulk@lglawfirm.com

October 2, 2018

Robert Henneke  
Texas Public Policy Foundation  
901 Congress Avenue  
Austin, Texas 78701

Michael E. Lovins  
Lovins Trosclair, PLLC  
8656 West Highway 71, Building D, Suite 200  
Austin, Texas 78735-8004

RE: *Terrill W. Putnam v. City of Georgetown, Texas, et al.*, Cause No. 18-0998-C395,  
395th Judicial District Court, Williamson County, Texas

Dear Messrs. Henneke and Lovins:

The City of Georgetown ("City") received a Public Information Act Request on November 16, 2016, from your client Terrill W. Putnam ("Requestor"). The Requestor sought copies of a "payback analysis" concerning a solar panel installation at the City of Georgetown facility known as the Westside Service Center ("WSSC"). The City withheld production of that document pursuant to Section 552.133 of the Government Code, a provision exempting from public disclosure information regarding public power utility competitive matters. On December 15, 2016, the Texas Attorney General agreed with the City's election to withhold public disclosure of the document pursuant to the cited provision.

The Requestor submitted a second public information request to the City on August 28, 2017, seeking the production of (1) documents that relate to or demonstrate how the payback analysis concerning solar panel installation is reasonably related to a competitive matter; (2) documents that relate to or support the City's assertion that the City engages in competitive activity; and (3) documents that relate to or demonstrate that electricity generated by the solar panel installation is sold or transferred into the marketplace. In response, the City concluded that the second request was repetitive of the first request. Additionally, the second request sought the creation of documents that necessitated legal research or analysis, which the City is not required to do. More importantly though, the City in its representations to the Attorney General, stated it had no responsive documents, other than the "payback analysis." The Attorney General agreed with the City's assessment.

As you know, the Requestor filed suit on August 17, 2018, seeking a declaratory judgment that the requested information is subject to public disclosure.

The City has elected to release the subject document, which was originally provided to the Texas Attorney General's office, to the Requestor. Attached you will find a copy of what the City has classified as the "payback analysis" concerning the solar panel installation at the WSSC. The City's decision to publically release this document does not waive, bind, or prevent the City

October 2, 2018

Page 2

from in any way asserting any and all applicable exemptions and exceptions to public disclosure for similar documents, information, and data that the Requestor or any other individual may request to be produced. This disclosure shall not be construed as the City assenting to the classification of the requested document as subject to disclosure under the Texas Government Code, or any of the legal and factual claims made by the Requestor in their suit. The City maintains its position on the subject of the applicability of Section 552.133 of the Government Code to the requested material.

By providing the Requestor the document in interest to the above cited litigation, via their legal counsel, this case is now rendered moot, as the City has responded to both of the Requestor's requests with all responsive documentation. The City respectfully requests the Requestor dismiss their suit with prejudice immediately. Please contact our office with any questions regarding this suit at your convenience.

Yours truly,

A handwritten signature in black ink, appearing to read 'William (Cody) A. Faulk', written in a cursive style.

William (Cody) A. Faulk

WAF/yl

Attachment

Company Name	Project Size	Purchase Price	Annual Production (first year)	CF
Freedom Solar	201 kW (DC kW)	\$553,938	288,628 kWh	0.163922397
Axium	185.44 kW Roof Mounted Solar Array	\$496,979.20	271000 kWh estimated	0.166825243
Solaer	200.640 kW DC STC (approximate)	\$375,450	295900 kWh	0.168353961
Circular	147,420 Watts (468)	\$274,201	208171 kWh	0.161198025
SolSystem roof only	152.1 kW-DC , 132 kW-AC	\$271,452.00	228442 kWh	0.171452031
SolSystem roof plus Carport option	315.9 kW-DC (carport 163.8 kW-DC)	\$665,225.00	476018 kWh	0.172016316

	pmt on 20 year schedule	pmt on 30 year s pmt on 40 year schedule
Freedom Solar	\$37,233	\$28,262
Axium	\$33,405	\$25,356
Solaer	\$25,236	\$19,155
Circular	\$18,431	\$13,990
SolSystem roof only	\$18,246	\$13,849
SolSystem roof plus Carport option	\$44,714	\$33,939

	Own \$/kwh 20 yr	Own \$/kwh 30 y	Own \$/kwh 40 yr	Cash Purchase price per Watt
Freedom Solar	\$0.12900	\$0.09792	\$0.08303	\$2.756
Axium	\$0.12326	\$0.09356	\$0.07934	\$2.680
Solaer	\$0.08529	\$0.06474	\$0.05489	\$1.871
Circular	\$0.08854	\$0.06720	\$0.05698	\$1.860
SolSystem roof only	\$0.07987	\$0.06062	\$0.05141	\$1.785
SolSystem roof plus Carport option	\$0.09393	\$0.07130	\$0.06046	\$2.106

# **EXHIBIT F**

# Notice of Meeting of the Governing Body of the City of Georgetown, Texas September 13, 2016

The Georgetown City Council will meet on September 13, 2016 at 6:00 PM at Council Chambers, 101 E. 7th St., Georgetown, T

The City of Georgetown is committed to compliance with the Americans with Disabilities Act (ADA). If you require assistance in participating at a public meeting due to a disability, as defined under the ADA, reasonable assistance, adaptations, or accommodations will be provided upon request. Please contact the City Secretary's Office, at least three (3) days prior to the scheduled meeting date, at (512) 930-3652 or City Hall at 113 East 8th Street for additional information; TTY users route through Relay Texas at 711.

## Statutory Consent Agenda

The Statutory Consent Agenda includes non-controversial and routine items that may be acted upon with one single vote. An item may be pulled from the Consent Agenda in order that it be discussed and acted upon individually as part of the Regular Agenda.

- A Consideration and possible action to approve the **minutes** of the Workshop and Regular Meeting held on Tuesday, August 23, 2016 and the Special Meeting held on Friday, September 9, 2016 -- Shelley Nowling, City Secretary
- B Consideration and possible action to approve the **appointment** of **Taylor Kidd**, the Chair of the Main Street Advisory Board, to the **Downtown Georgetown Tax Increment Reimbursement Zone (TIRZ)** to fill a vacancy -- Mayor Dale Ross
- C Consideration and possible action to approve the **appointment** of **Tom Crawford**, President of the Georgetown Transportation Enhancement Corporation (GTEC), to the **South Georgetown Tax Increment Reimbursement Zone (TIRZ)** -- Mayor Dale Ross
- D Consideration and possible action to approve the **appointment** of **Mark Allen** to the **Georgetown Transportation Advisory Board (GTAB)** to fill a vacancy -- Mayor Dale Ross
- E Consideration and possible action to **renew** the existing **School Resource Officer agreement** between the **Georgetown Independent School District** and the City of Georgetown, Texas to include an **amendment** to Article II, A. and Attachment A ( **annual cost for program**) of the agreement and signatures of current officials -- Wayne Nero, Chief of Police
- F Consideration and possible action to award the blanket agreement for **office supplies** to **V-Quest** of Georgetown, Texas in the estimated amount of **\$60,000.00** -- Trina Bickford, Purchasing Manager
- G Consideration and possible action to award the blanket agreement for **paper products and janitorial supplies** to **Gulf Coast Supply** in the estimated amount of **\$72,000.00** -- Trina Bickford, Purchasing Manager
- H Consideration and possible action to approve **vacating and abandoning** a portion of a **15-foot Public Utility Easement** out of the Ruidosa Irrigation Company Survey, Abstract No. 715 as described in Volume 1243, Page 603 of the Official Public Records of Williamson County, Texas and to authorize the Mayor to execute a quitclaim deed -- Travis Baird, Real Estate Service

- S **Public Hearing and First Reading** of an Ordinance **rezoning 11.5029 acres** in the Barney Low Survey from the Agriculture (AG) District to the Local Commercial (C-1) District **located at 1070 Westinghouse Road** -- Sofia Nelson, CNU-A, Planning Director (**action required**)
- T **Public Hearing and First Reading** of an Ordinance **rezoning approximately 54.537 acres** of the W. Addison Survey from the Agriculture (AG) District to the Planned Unit Development (PUD) District, located at **1951 FM 1460** -- Sofia Nelson, CNU-A, Planning Director (**action required**)
- U Consideration and possible action to approve a Resolution finding public convenience and necessity and authorizing **eminent domain** proceedings, if necessary, for acquisition of real property to effectuate certain public improvements in connection with **Mays Street Extension Project** -- Wesley Wright, P.E., Systems Engineering Director and Travis Baird, Real Estate Services Coordinator
- V Consideration and possible action to approve a Resolution for a petition for the **Voluntary Annexation of 14.459 acres** in the W. Roberts Survey -- Sofia Nelson, CNU-A, Planning Director
- W Consideration and possible action to approve a Resolution authorizing a **funding agreement** between the City of Georgetown and the **Williamson County and Cities Health District** for this agency to continue to provide services for the citizens of Georgetown— David Morgan, City Manager
- X Consideration and possible action to approve a Resolution authorizing **Strategic Partnerships for Community Services Funding Agreements** between the City of Georgetown and the Boys and Girls Club of Georgetown, Brookwood in Georgetown Vocational (BIG), CASA of Williamson County, Texas, Faith In Action Georgetown, Girls Empowerment Network (GEN), Georgetown Caring Place dba The Caring Place, Georgetown Project, Habitat for Humanity of Williamson County, Lone Star Circle of Care, Ride on Center for Kids (R.O.C.K.), Senior Center at Stonehaven, The Locker, Williamson-Burnet Opportunities, Inc. (WBCO), Williamson County Crisis Center dba Hope Alliance, and Williamson County Master Gardeners Association, and for these agencies and organizations to continue to provide services for the citizens of Georgetown - - David Morgan, City Manager
- Y Consideration and possible action to authorize the Mayor to execute a contract for the installation of **solar panels** at the Westside Service Center in the amount of **\$271,452.00** with **Performance Contracting, Inc. (PCI) Solar Energy** as the award for RFP Number 201642 -- Christopher Foster, Resource Planning and Integration Manager
- Z Consideration and possible action to approve the **Transit Development Plan** -- Nat Waggoner, AICP, PMP, Transportation Services Analyst
- AA Consideration and possible action to approve an **agreement** with the **Georgetown Health Foundation** and to authorize the Mayor to sign such agreement -- Nat Waggoner, AICP, PMP, Transportation Services Analyst
- AB Consideration and possible action to approve an **interlocal agreement (ILA)** with **Capital Metro for Transportation Services** and to authorize the Mayor to sign such agreement -- Nat Waggoner, AICP, PMP, Transportation Services Analyst
- AC **Forwarded from General Government & Finance Advisory Board (GGAF):**  
Consideration and possible action to approve **Emergicon** as the **Emergency Medical Transport Billing** vendor for the City of Georgetown -- John Sullivan, Fire Chief
- AD **Forwarded from General Government & Finance Advisory Board (GGAF):**  
Consideration and possible action to approve the purchase of a **3000 Gallon Water Tender and a Wildland Interface Fire Engine** from **Siddons-Martian Emergency Group** through the BuyBoard Contract #491-15 for a cost not to exceed \$750,000.00 -- John Sullivan, Fire Chief
- AE **Forwarded from the Georgetown Transportation Advisory Board (GTAB):**  
Consideration and possible recommendation to award a **Construction Contract** to **Smith Contracting Co. Inc.** of Austin , Texas, for **curb and gutter installation** at various locations in the City, in the amount of **\$1,057,387.75** -- Edward G. Polasek, AICP, Transportation Services Director

City of Georgetown, Texas  
City Council Regular Meeting  
September 13, 2016

SUBJECT:

Consideration and possible action to authorize the Mayor to execute a contract for the installation of **solar panels** at the Westside Service Center in the amount of **\$271,452.00** with **Performance Contracting, Inc. (PCI) Solar Energy** as the award for RFP Number 201642 -- Christopher Foster, Resource Planning and Integration Manager

ITEM SUMMARY:

On July 12<sup>th</sup>, 2016, the City Council reviewed results of the RFP for Solar Energy at the Westside Service Center. Proposals were looked at that included Rooftop mounts and covered parking options. Council directed staff to negotiate with PCI as the best value bid for their rooftop design. This contract is the result of the negotiation. Work can begin immediately after execution, and is not expected to take any longer than the first quarter of 2017.

FINANCIAL IMPACT:

**\$271,452 as part of the purchased power for the City. GL Account # 610-5-0537-51-301**

SUBMITTED BY:

Christopher Foster - Resource Planning & Integration Manager

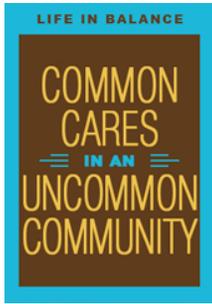
ATTACHMENTS:

PCI Contract

PCI - Bid Summary Results

Company Name	Project Size	Purchase Price	Annual Production (first year)	CF
Freedom Solar	201 kW (DC kW)	\$553,938	288,628 kWh	0.163922397
Axium	185.44 kW Roof Mounted Solar Array	\$496,979.20	271000 kWh estimated	0.166825243
Solaer	200.640 kW DC STC (approximate)	\$375,450	295900 kWh	0.168353961
Circular	147,420 Watts (468)	\$274,201	208171 kWh	0.161198025
SolSystem roof only	152.1 kW-DC, 132 kW-AC	\$271,452.00	228442 kWh	0.171452031
SolSystem roof plus Carport option	315.9 kW-DC (carport 163.8 kW-DC)	\$665,225.00	476018 kWh	0.172016316
	<b>pmt on 20 year schedule</b>	<b>pmt on 30 year s pmt on 40 year schedule</b>		
Freedom Solar	\$37,233	\$28,262	\$23,965	
Axium	\$33,405	\$25,356	\$21,501	
Solaer	\$25,236	\$19,155	\$16,243	
Circular	\$18,431	\$13,990	\$11,863	
SolSystem roof only	\$18,246	\$13,849	\$11,744	
SolSystem roof plus Carport option	\$44,714	\$33,939	\$28,779	
	<b>Own \$/kwh 20 yr</b>	<b>Own \$/kwh 30 y Own \$/kwh 40 yr</b>	<b>Cash Purchase price per Watt</b>	
Freedom Solar	\$0.12900	\$0.09792	\$0.08303	\$2.756
Axium	\$0.12326	\$0.09356	\$0.07934	\$2.680
Solaer	\$0.08529	\$0.06474	\$0.05489	\$1.871
Circular	\$0.08854	\$0.06720	\$0.05698	\$1.860
SolSystem roof only	\$0.07987	\$0.06062	\$0.05141	\$1.785
SolSystem roof plus Carport option	\$0.09393	\$0.07130	\$0.06046	\$2.106

# **EXHIBIT G**



## Georgetown Utility Systems



Site Menu ▾



### CUSTOMER SERVICES

The Georgetown Utility Systems Customer Care Center, located in the Municipal Complex at 300 Industrial Avenue, handles connects, disconnects and payments for water, electricity, garbage, wastewater, and stormwater drainage. Our walk-up lobby hours are 8 a.m. – 5 p.m., Monday through Friday. Call center hours extend until 6 p.m. on weekdays.

[New Customer Portal – Set up a New Online Account](#)

[Pay Your Utility Bill](#)

[Apply For A Permit](#)

### Connect/Disconnect Your Utilities

[Residential](#)

[Commercial](#)

[Disconnect Your Utilities](#)

### Report an Outage

[Street Light](#)

[Electric/Water](#)

### Service Offerings

+ Manage Your Consumption

+ Manage Your Billing

+ Community Programs!

+ Permitting Forms

### Contact Us

Georgetown Utility Systems (512) 930-3640

Location: 300-1 Industrial Ave., Georgetown, Texas 78626  
Lobby Hours: Monday - Friday 8 a.m. - 5 p.m.  
Call Center Hours: Monday - Friday 8 a.m. - 6 p.m.

Email: [customercare@georgetown.org](mailto:customercare@georgetown.org)

View More City Content On:



### Additional Information

- [Service Line Protection Information](#)
- [What are my collection days?](#)
- [FAQ - Billing and Service](#)
- [FAQ - Permitting](#)
- [Water Quality Report](#)
- [FAQ - Budget Billing](#)
- [FAQ - Berry Creek Interceptor](#)

### Meet the Staff!



See more [staff photos!](#)

## GEORGETOWN UTILITY SYSTEMS

- Water
- Electric
- Streets & Transportation
- Conservation Programs
- Garbage & Recycling
- Utility Maps
- Rates
- Contact Us

### What Is Your Collection Day?



### SUBSCRIBE TO OUR EMAIL

\* Email

First name

Last name

\* required

SUBMIT CLEAR



[Department Directory](#)  
[Contact Us](#)  
[Contact Webmaster](#)  
[Maps](#)

[Job Opportunities](#)  
[Privacy Policy](#)  
[Moderation Policy](#)  
[Accessibility](#)  
[Employee Email](#)